Version
as at 23 September 2026

Civil Aviation Act 2023

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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 Cities, Environment, Regions, and Transport.

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Civil Aviation Act 2023.

2 Commencement

(1) Section 10, in so far as it relates to clauses 7 to 11 and 38 of Schedule 1, comes into force on the day after the date on which this Act receives the Royal assent.

(2) The rest of this Act comes into force on a date or dates to be appointed by the Governor-General by Order in Council.

(3) Any provision that has not earlier been brought into force comes into force 24 months after the date on which this Act receives the Royal assent.

(4) An Order in Council made under this section is 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
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Part 1
Preliminary provisions

Purposes

3 Main purpose

The main purpose of this Act is a safe and secure civil aviation system.

4 Additional purposes

This Act has the following additional purposes:

(a) to maintain, enhance, and promote a transport system that contributes to environmental sustainability, economic prosperity, inclusive access, healthy and safe people, and resilience and security:

(b) to promote innovation, effectiveness, and efficiency in civil aviation:

(c) to ensure that New Zealand's obligations under international civil aviation conventions, agreements, and understandings are implemented:

(d) to preserve New Zealand's national security and national interests:

(e) to take into account the adverse effects of civil aviation on the interests of people, property, and the environment.

Interpretation provisions

5 Interpretation

In this Act, unless the context otherwise requires,—

accident has the meaning given to it in section 6

accounting period, in Part 7, has the meaning given to it in section 218

accredited medical conclusion, in Schedule 2, has the meaning given to it in clause 1(1) of Schedule 2

accredited verification body, in subpart 3 of Part 6, has the meaning given to it in section 205

actual carrier, in subpart 3 of Part 8, has the meaning given to it in section 269(1)

Additional Protocol, in subpart 2 of Part 8, has the meaning given to it in section 254

Additional Protocol No 1, in subpart 2 of Part 8, has the meaning given to it in section 254

Additional Protocol No 2, in subpart 2 of Part 8, has the meaning given to it in section 254

aerodrome—

(a) means any defined area of land or water intended or designed to be used, either wholly or partly, for the landing, departure, or surface movement of aircraft; and

(b) includes any other areas, buildings, installations, and equipment that are on or adjacent to an area mentioned in paragraph (a) and that are used in connection with that area or its administration; and

(c) where an airport operator is registered in respect of the aerodrome, includes any area included under section 222(3)(b) or 223

aerodrome control service means an air traffic control service provided for the control of aerodrome traffic

aerodrome flight information service means a service provided for the purpose of giving advice and information useful for the safe and efficient conduct of flights in the vicinity of an aerodrome

aerodrome traffic means—

(a) all traffic in the manoeuvring area of an aerodrome; and

(b) all aircraft flying in the vicinity of an aerodrome

aerodrome traffic circuit means the pattern flown by aircraft operating in the vicinity of an aerodrome

aeronautical product means anything that comprises or is intended to comprise any part of an aircraft or that is or is intended to be installed in or fitted or supplied to an aircraft, including fuel and other similar consumable items necessary for the operation of the aircraft

air service means an air transport service, whether regular or casual

air traffic means all aircraft in flight or operating on any manoeuvring area of an aerodrome

air traffic control service—

(a) means a service provided for the purposes of—

(i) preventing collisions between aircraft and between aircraft and obstructions on any manoeuvring area; and

(ii) expediting and maintaining a safe and efficient flow of air traffic; and

(b) includes—

(i) an aerodrome control service:

(ii) an area control service:

(iii) an approach control service

air traffic service includes—

(a) a flight information service:

(b) an aerodrome flight information service:

(c) an alerting service:

(d) an air traffic control service

aircraft means any machine that can derive support in the atmosphere from the reactions of the air otherwise than by the reactions of the air against the surface of the earth

aircraft flying in the vicinity of an aerodrome means any aircraft that is in, entering, or leaving an aerodrome traffic circuit

Aircraft Protocol, in subpart 4 of Part 10, has the meaning given to it in section 433(1)

airport means an aerodrome covered by a registration issued under section 222

airport operator means an aerodrome operator registered under section 222

airside security area means an area that the Director has declared to be an airside security area under section 121

Airways means Airways Corporation of New Zealand Limited, or any subsidiary of, or successor to, that company

alerting service means an air traffic service provided to notify appropriate organisations regarding aircraft in need of search and rescue aid, and to assist such organisations as required

amended Convention, in subpart 2 of Part 8, has the meaning given to it in section 254

ANZA means Australia New Zealand Aviation

ANZA mutual recognition agreements means the agreements or arrangements specified in regulations made under section 407(1)(i)

AOC means air operator's certificate

applicant, in Schedule 2, has the meaning given to it in clause 1(1) of Schedule 2

approach control service means an air traffic control service for arriving or departing controlled flights

area control service means an air traffic control service provided for controlled flights in controlled airspace

attributed flight, in subpart 3 of Part 6, has the meaning given to it in section 205(1)

Australia means the Commonwealth of Australia and, when used in a geographical sense, includes any external territory of Australia

Australian AOC with ANZA privileges has the same meaning as in section 3 of the Civil Aviation Act 1988 (Aust), and **Australian Air Operator's Certificate with ANZA privileges** has a corresponding meaning

Australian temporary stop notice has the same meaning as in section 3 of the Civil Aviation Act 1988 (Aust)

authorised aviation security service provider means AvSec and any person referred to in section 134(b) or (c) who provides aviation security services in accordance with section 136

authorised security person, in relation to a security designated aerodrome or security designated navigation installation, means an aviation security officer or a person authorised by the Director or the operator of the aerodrome or installation

aviation document means any licence, permit, certificate, or other document issued under subpart 1 or 2 of Part 4 to or in respect of any person, aircraft, aerodrome, aeronautical product, or aviation-related service

aviation examiner, in Schedule 2, has the meaning given to it in clause 1(1) of Schedule 2

aviation participant—

(a) means a person who—

(i) operates, maintains, services, or does any other act in respect of an aircraft, aerodrome, or aeronautical product; or

(ii) provides an aviation-related service; and

(b) includes (without limitation)—

(i) aircraft pilots:

(ii) flight crew members:

(iii) air traffic service personnel:

(iv) aviation security personnel:

(v) aviation examiners and medical examiners:

(vi) aerodrome operators:

(vii) aircraft engineers; and

(c) includes a person referred to in section 37(1); and

(d) includes the holder of an Australian AOC with ANZA privileges

aviation place has the meaning given to it in section 7

aviation-related service—

(a) means any equipment, facility, or service operated in support of or in conjunction with the civil aviation system, including—

(i) air services:

(ii) air traffic services:

(iii) aviation security services:

(iv) aviation meteorological services:

(v) aviation communication services:

(vi) navigation installation providers:

(vii) aviation training organisations:

(viii) aircraft design, manufacture, and maintenance organisations:

(ix) the provision of aeronautical products:

(x) aeronautical procedures:

(b) excludes any service of TAIC

aviation security dog means a dog or other animal that is being used, or is intended for use, by an aviation security officer

aviation security officer means—

(a) a person for the time being employed as such by the CAA in AvSec:

(b) subject to section 140(2), a person designated as an aviation security officer under section 140(1):

(c) when section 164 applies, a member of the Armed Forces

aviation security services means,—

(a) in relation to AvSec, the functions and duties referred to in section 138(1)(a) to (g); and

(b) in relation to any other person, the functions and duties given to them under section 136(2)

AvSec means the Aviation Security Service provided under section 23(d)

bodily sample, in subpart 6 of Part 4, has the meaning given to it in section 113

CAA means the Civil Aviation Authority of New Zealand continued by section 20

capacity, in subparts 1 and 2 of Part 6, has the meaning given to it in section 174

Cape Town Convention, in subpart 4 of Part 10, has the meaning given to it in section 433(1)

carrier, in subpart 3 of Part 8, has the meaning given to it in section 269(1)

CASA means—

(a) the Civil Aviation Safety Authority established by the Civil Aviation Act 1988 (Aust); and

(b) any successor of that authority

civil aviation legislation means—

(a) this Act; and

(b) any secondary legislation made under this Act; and

(c) in the case of a person holding an Australian AOC with ANZA privileges, the Civil Aviation Act 1988 (Aust) and regulations or orders made under that Act

Civil Aviation Records means the records maintained under section 38

class 1 non-scheduled commercial international flight, in subpart 1 of Part 6, has the meaning given to it in section 174

class 2 non-scheduled commercial international flight, in subpart 1 of Part 6, has the meaning given to it in section 174

contract, in subpart 3 of Part 8, has the meaning given to it in section 269(1)

contracting carrier, in subpart 3 of Part 8, has the meaning given to it in section 269(1)

Contracting State, in subpart 4 of Part 10, has the meaning given to it in section 433(1)

controlled airspace means an airspace of defined dimensions within which an air traffic control service is provided in accordance with airspace classification

controlled flight means any flight that is subject to an air traffic control clearance under the rules

convener, in Schedule 2, has the meaning given to it in clause 1(1) of Schedule 2

Convention means the Convention on International Civil Aviation done at Chicago on 7 December 1944, and includes the Annexes to the Convention, which contain the International Standards and Recommended Practices adopted or amended by the Council of the International Civil Aviation Organization in accordance with Articles 54, 37, and 90 of the Convention

court,—

(a) in subpart 2 of Part 8, has the meaning given to it in section 254:

(b) in subpart 3 of Part 8, has the meaning given to it in section 269(1)

DAMP has the meaning given to it in section 113

DAMP operator has the meaning given to it in section 113

dangerous goods means articles or substances that are capable of posing a risk to health, safety, property, or the environment and—

(a) are listed in, or classified in accordance with, the ICAO's Technical Instructions for the Safe Transport of Dangerous Goods by Air; or

(b) have properties that would result in the articles or substances being classified as dangerous goods under the ICAO's Technical Instructions for the Safe Transport of Dangerous Goods by Air

declaration, in subpart 4 of Part 10, has the meaning given to it in section 433(1)

deputy convener, in Schedule 2, has the meaning given to it in clause 1(1) of Schedule 2

deregistration request, in subpart 4 of Part 10, has the meaning given to it in section 433(1)

details, in subpart 20 of Part 9, has the meaning given to it in section 387

Director means the person who is for the time being the Director of Civil Aviation under section 31

Director testing, in subpart 6 of Part 4, has the meaning given to it in section 113

drug or alcohol test, in subpart 6 of Part 4, has the meaning given to it in section 113

eligible New Zealand operator, in subpart 3 of Part 6 and section 409, has the meaning given to it in section 205(2)

eligible unit, in subpart 3 of Part 6, has the meaning given to it in section 205(1)

engagement charter means an engagement charter prepared and made available to the public under section 28

excluded flight, in subpart 3 of Part 6, has the meaning given to it in section 205(1)

flight data recorder, in subpart 10 of Part 9, has the meaning given to it in section 342

flight information service means an air traffic service provided for the purpose of giving advice and information intended for the safe and efficient conduct of flights

foreign in-flight security officer means an enforcement officer or authorised person from a country other than New Zealand who is—

(a) authorised to act on an aircraft that is in flight by the State that has issued the air operating certificate (or its equivalent) under which the air operation is conducted; and

(b) subject to an in-flight security officer arrangement or agreement between New Zealand and the State that has issued the air operating certificate (or its equivalent) under which the air operation is conducted

foreign international airline, in subpart 1 of Part 6, has the meaning given to it in section 174

Guadalajara Convention, in subpart 2 of Part 8, has the meaning given to it in section 254

Hague Protocol, in subpart 2 of Part 8, has the meaning given to it in section 254

health professional means a person who is, or is deemed to be, registered with an authority established or continued by section 114 of the Health Practitioners Competence Assurance Act 2003 as a practitioner of a particular health profession

High Contracting Party, in subpart 2 of Part 8, has the meaning given to it in section 254

holder, in relation to any aviation document, includes any person lawfully entitled to exercise privileges in respect of that document

ICAO means the International Civil Aviation Organization established under the Convention, and includes any successor to the Organization

identified aerodrome activity, in Part 7 and section 411, has the meaning given to it in section 218

incident means any occurrence, other than an accident, that is associated with the operation of an aircraft and affects, or could affect, the safety of operation

in-flight security officer means a constable authorised under section 15A of the Aviation Crimes Act 1972

infringement fee, in relation to an infringement offence, means the infringement fee specified in this Act for the offence or prescribed in regulations

infringement offence means—

(a) an offence specified as an infringement offence in regulations; or

(b) an offence identified in this Act as an infringement offence

inspector means a person appointed under section 331

Inspector-General of Intelligence and Security means the person holding office under section 157 of the Intelligence and Security Act 2017

international airport means any airport designated as an airport of entry and departure for international air traffic where customs, immigration, public health, animal and plant quarantine, and similar procedures are carried out

international carriage by air, in subpart 2 of Part 6, has the meaning given to it in section 194

issuing officer has the same meaning as in section 3(1) of the Search and Surveillance Act 2012

joint venture aerodrome, in Part 7 and Schedule 3, has the meaning given to it in section 218

judicial officer means a District Court Judge, a Justice, a Community Magistrate, or a court Registrar (other than a constable)

landside security area means an area that the Minister has declared to be a landside security area under section 125

law enforcement action, in subpart 9 of Part 9, has the meaning given to it in section 339(1)

lease, in Part 7, has the meaning given to it in section 218

licence holder, in Schedule 2, has the meaning given to it in clause 1(1) of Schedule 2

licensee, in subpart 1 of Part 6, has the meaning given to it in section 174

licensing authority, in subpart 1 of Part 6, has the meaning given to it in section 174

local authority has the meaning given to it in section 5(1) of the Local Government Act 2002

manoeuvring area—

(a) means that part of an aerodrome to be used for the take-off and landing of aircraft and for the surface movement of aircraft associated with take-off and landing; but

(b) does not include areas set aside for loading, unloading, or maintenance of aircraft

medical certificate means a medical certificate—

(a) issued by the Director under Schedule 2 to an applicant or licence holder; or

(b) recognised by the Director under the rules

medical examiner means a medical examiner designated under clause 29(1) of Schedule 2

medical practitioner means—

(a) a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 114(1)(a) of the

Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of medicine; or

(b) a person in a jurisdiction other than New Zealand who is entitled, licensed, or registered to practise medicine in that jurisdiction

Minister means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act or the relevant Part or provision of this Act

Ministry means the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

Montreal Convention, in subpart 2 of Part 8, has the meaning given to it in section 254

navigation installation—

(a) means any building, facility, work, apparatus, equipment, or place (whether or not part of an aerodrome) that is intended to assist in the control of air traffic or as an aid to air navigation; and

(b) includes any land adjacent to, and used in connection with, that building, facility, work, apparatus, equipment, or place

negative result, in subpart 6 of Part 4, has the meaning given to it in section 113

new entrant has the meaning given to it in section 205(3)

New Zealand AOC with ANZA privileges means an authorisation granted under section 91

New Zealand international airline, in subpart 1 of Part 6, has the meaning given to it in section 174

New Zealand Register of Aircraft means the register of that name that is maintained under section 36

New Zealand registered aircraft means any aircraft that is for the time being registered under section 37

New Zealand temporary stop notice means a notice given under section 87(1)

non-scheduled commercial international flight, in subpart 1 of Part 6, has the meaning given to it in section 174

notified incident, in subpart 9 of Part 9, has the meaning given to it in section 339(1)

officer has the meaning given to it in section 8

operate, in relation to an aircraft, means to fly or use the aircraft, or to cause or permit the aircraft to fly, be used, or be in any place, whether or not the operator is present with the aircraft

operator,—

(a) in relation to an aircraft, means a person who causes or permits the aircraft to fly, be used, or be in any place, whether or not the person is present with the aircraft:

(b) in relation to an aerodrome, means the person who holds the aviation document for operating the aerodrome or, if there is no such person, the person who operates the aerodrome

owner, in relation to any aircraft, includes any person lawfully entitled to the possession of the aircraft for 28 days or longer

passenger, in subpart 3 of Part 8, has the meaning given to it in section 269(1)

pat down search, in subpart 2 of Part 5, has the meaning given to it in section 133

person authorised by the Director,—

(a) in subpart 16 of Part 9, has the meaning given to it in section 369; and

(b) in subpart 20 of Part 9, has the meaning given to it in section 387

pilot-in-command, in relation to an aircraft,—

(a) means the pilot on board the aircraft who is responsible for the operation and safety of the aircraft; and

(b) in the absence of a pilot on board the aircraft, means the person who the rules specify as responsible for the operation and safety of the aircraft in accordance with the rules; and

(c) in all other circumstances,—

(i) means an individual nominated by the operator to be responsible for the operation and safety of the aircraft; and

(ii) if no individual is nominated by the operator, means the operator

prescribed means prescribed by this Act or by secondary legislation made under this Act

privileges to which a medical certificate relates, in Schedule 2, has the meaning given to it in clause 1(3) of Schedule 2

Protocol No 4, in subpart 2 of Part 8, has the meaning given to it in section 254

qualifying person, in subpart 9 of Part 9, has the meaning given to it in section 339(2)

random testing, in subpart 6 of Part 4, has the meaning given to it in section 113

regulations means regulations made under this Act

relevant government agency, in Part 7, has the meaning given to it in section 218

relevant item or substance, in subpart 2 of Part 5, has the meaning given to it in section 133

removal request, in subpart 4 of Part 10, has the meaning given to it in section 433(1)

reporting period, in subpart 3 of Part 6, has the meaning given to it in section 205(1)

response officer means a person appointed under section 332

response plan, in subpart 6 of Part 4, has the meaning given to it in section 113

restricted scheduled international air service, in subpart 1 of Part 6, has the meaning given to it in section 174

rules means rules made by the Minister or Governor-General, and emergency rules made by the Director, under Part 3

safety-sensitive activity, in subpart 6 of Part 4, has the meaning given to it in section 113

safety-sensitive worker, in subpart 6 of Part 4, has the meaning given to it in section 113

scheduled international air service, in subpart 1 of Part 6, has the meaning given to it in section 174

Secretary means the chief executive of the Ministry

security area has the meaning given to it in section 133

security designated aerodrome means an aerodrome for the time being designated under section 120(1)(a) or (b)

security designated navigation installation means a navigation installation for the time being designated as a security designated navigation installation under section 120(1)(c)

security enhanced area means an area that the Director has declared to be a security enhanced area under section 121(2)

seventh freedom service, in subpart 1 of Part 6, has the meaning given to it in section 174

space requirement, in Part 7, has the meaning given to it in section 218

specified examination, in Schedule 2, has the meaning given to it in clause 1(1) of Schedule 2

State services has the same meaning as in section 5 of the Public Service Act 2020

sterile area, in subpart 2 of Part 5, has the meaning given to it in section 133

substantial customer, in Part 7, has the meaning given to it in section 219

successive carrier, in subpart 3 of Part 8, has the meaning given to it in section 269(1)

TAIC means the Transport Accident Investigation Commission established under the Transport Accident Investigation Commission Act 1990

tariff, in subpart 2 of Part 6, has the meaning given to it in section 194

testable drug, in subpart 6 of Part 4, has the meaning given to it in section 113

thing, in subpart 2 of Part 5, has the meaning given to it in section 133

unruly passenger offence—

(a) means an offence against subpart 20 of Part 9; and

(b) includes an offence to which section 391 applies

Warsaw Convention, in subpart 2 of Part 8, has the meaning given to it in section 254.

Section 5 **foreign in-flight security officer**: inserted, on 23 July 2026, by section 4 of the Civil Aviation Amendment Act 2023 (2023 No 11).

Section 5 **in-flight security officer**: inserted, on 23 July 2026, by section 4 of the Civil Aviation Amendment Act 2023 (2023 No 11).

6 Meaning of accident

(1) In this Act, unless the context otherwise requires, **accident** means an occurrence associated with the operation of an aircraft that,—

(a) in the case of an aircraft intended to be flown with any person on board, takes place between—

(i) the time that any person boards the aircraft with the intention of flight; and

(ii) the time that—

(A) all persons on board have disembarked; and

(B) the engine or any propellers or rotors have come to rest; and

(b) in the case of an aircraft intended to be flown without any person on board, takes place between—

(i) the time that the aircraft is ready to move with the purpose of flight; and

(ii) the time that—

(A) the aircraft comes to rest at the end of the flight; and

(B) the primary propulsion system is shut down.

(2) The occurrence must be one in which—

(a) a person is fatally or seriously injured as a result of—

(i) being in the aircraft; or

(ii) direct contact with any part of the aircraft, including any part that has become detached from the aircraft; or

(iii) direct exposure to jet blast; or

(b) the aircraft sustains damage or structural failure that—

(i) adversely affects the structural strength, performance, or flight characteristics of the aircraft; and

(ii) would normally require major repair or replacement of the affected component; or

(c) the aircraft is missing or is completely inaccessible.

(3) Subsection (2)(a) does not include—

(a) an injury that is self-inflicted or inflicted by another person; or

(b) an injury to a stowaway hiding outside the areas normally available to passengers and crew.

(4) In subsection (2)(b), **damage or structural failure** does not include—

(a) engine failure or damage where the damage is limited to the engine (including its cowlings or its accessories); or

(b) damage that is limited to propellers, wing tips, antennas, probes, vanes, tyres, brakes, wheels, fairings, panels, landing gear doors, windscreens, the aircraft skin (including small dents or puncture holes in the aircraft skin), minor damage to main rotor blades or landing gear, or damage resulting from hail or bird strikes (including holes in the radome).

7 Meaning of aviation place

(1) In this Act, unless the context otherwise requires, **aviation place**—

(a) means a place where an activity is being carried out, or is customarily carried out, by or on behalf of an aviation participant acting in that capacity; and

(b) includes—

(i) an aircraft (whether or not in operation) and any aerodrome, navigation installation, or communications installation used specifically for aviation purposes:

(ii) a place from which an aircraft is operated and any place where any aircraft, or any aeronautical product, is:

(iii) a place where an aircraft, or any part of or debris from an aircraft, has fallen.

(2) In this section, **place** includes—

(a) a vehicle, vessel, aircraft, ship, or other mobile structure; and

(b) any waters and any installation on land, on the bed of any waters, or floating on any waters.

8 Meaning of officer

In this Act, unless the context otherwise requires, **officer**, in relation to a body corporate,—

(a) means,—

(i) if the body corporate is a company, any person occupying the position of a director of the company by whatever name called:

(ii) if the body corporate is not a company, any person occupying a position in the body that is comparable with that of a director of a company; and

(b) includes any other person occupying a position in relation to the activities of the body corporate that allows the person to exercise significant influence over the management of its activities (for example, a chief executive); but

(c) does not include a Minister of the Crown acting in that capacity; and

(d) to avoid doubt, does not include a person who merely advises or makes recommendations to a person referred to in paragraph (a) or (b).

Application of civil aviation legislation

9 Application of civil aviation legislation

(1) Except as provided in section 367 and subpart 20 of Part 9, civil aviation legislation applies to the following:

(a) every person, aircraft, aerodrome, aeronautical product, and aviation-related service in New Zealand:

(b) every New Zealand registered aircraft whether within or outside New Zealand:

(c) every holder of an aviation document while outside New Zealand and exercising or purporting to exercise privileges accorded by that document:

(d) every foreign registered aircraft operating in New Zealand.

(2) Despite subsection (1), the Minister, acting on the recommendation of the CAA or the Director, as the case may require, may, by agreement with the appropriate foreign aeronautical authority,—

(a) transfer to the aeronautical authority in the country of a foreign operator all or part of the responsibility for a New Zealand registered aircraft operated by that foreign operator that the CAA or the Director has under civil aviation legislation:

(b) vest in the CAA or the Director, as the case may require, all or part of the responsibility for foreign registered aircraft operated by a New Zealand operator that arises under civil aviation legislation:

(c) grant exemptions from civil aviation legislation, relevant to any exercise of the Minister's powers under this subsection.

(3) Every New Zealand registered aircraft must, while being operated over the high seas, be operated in a manner that complies with the Rules of the Air contained in Annex 2 of the Convention.

(4) A holder of an aviation document who, while outside New Zealand and exercising or purporting to exercise the privileges accorded by that document, commits an act or omission that would constitute an offence if it were committed in New Zealand—

(a) is deemed to commit an offence under this Act; and

(b) may be proceeded against in New Zealand as if the act or omission had occurred within New Zealand.

(5) Subsection (4) does not apply if the act or omission is required in order to comply with the laws of any foreign State.

(6) Nothing in this section requires a person or aircraft to breach or be operated in breach of a law of a foreign State that applies to or in respect of the person or aircraft.

(7) Nothing in this Act limits the privileges or immunities of—

(a) any foreign military aircraft; or

(b) the officers and crew of any foreign military aircraft.

Compare: 1990 No 98 s 4

Transitional, savings, and related provisions

10 Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1 have effect according to their terms.

Act binds the Crown

11 Act binds the Crown

(1) This Act binds the Crown.

(2) Except as otherwise expressly provided in civil aviation legislation or under any other Act, nothing in civil aviation legislation applies to the New Zealand Defence Force.

Compare: 1990 No 98 s 3

Overview

12 Overview

(1) This Part (Part 1) deals with preliminary matters, including specifying the purposes of this Act and defining terms. Key terms are **accident**, **aircraft**, **aviation participant**, and **pilot-in-command**.

(2) Part 2—

(a) sets out the general obligations of aviation participants:

(b) sets out duties relating to pilots-in-command:

(c) continues the CAA and provides for its composition, governance, objective, and functions:

(d) provides for the Director of Civil Aviation and the Director's functions and powers:

(e) sets out regulatory functions, duties, and powers of the Secretary under the Act:

(f) sets out matters relating to the role of Airways:

(g) provides for the Register of Aircraft, Civil Aviation Records, and information services:

(h) contains general offences and liability provisions (*see* subpart 4):

(i) provides duties to notify accidents and incidents (*see* subpart 5).

(3) Part 3 provides for the making of civil aviation rules.

(4) Part 4 provides for—

(a) processes for an aviation participant to obtain an aviation document if the rules provide that an aviation document is required for the person's participation in the civil aviation system (*see* subpart 1):

(b) the recognition in New Zealand of certain Australian air operator certificates, and the granting by the Director of authority to New Zealand air operators to conduct air operations to, from, or within Australia (*see* subpart 2):

(c) certain key powers of the Director in relation to aviation document holders and aviation documents (*see* subpart 3):

(d) offences relating to aviation documents (*see* subpart 4):

(e) the requirements for, and powers relating to, medical certification (*see* subpart 5):

(f) a regime for drug and alcohol management plans and testing (*see* subpart 6).

(5) Part 5 relates to aviation security, and provides for—

(a) the designation of aerodromes and navigation installations as security designated aerodromes and navigation installations:

(b) the conducting of security checks by the Director of persons who are required under the rules to have a security check to perform their roles in the civil aviation system:

(c) the authorisation of those who provide aviation security services at aerodromes and navigation installations:

(d) the powers of aviation security officers and the Police in relation to aviation security at aerodromes and navigation installations:

(e) the consequences, for persons travelling on aircraft, and other persons present at aerodromes or navigation installations, of failure to comply with aviation security requirements, including aviation security offences.

(6) Part 6 provides for—

(a) licences for international air services and the requirements for licensees (*see* subpart 1):

(b) authorisations by the Minister relating to international air carriage competition (*see* subpart 2):

(c) a carbon offsetting and reduction scheme for international aviation (CORSIA) (*see* subpart 3).

(7) Part 7 contains provisions relating to—

(a) airport operators (*see* subpart 2):

(b) the giving of regulatory airport spatial undertakings by airport operators in relation to space requirements at airports (*see* subpart 3):

(c) the granting of exemptions by the Secretary to airport operators from the requirements of subparts 2 and 3 (*see* subpart 4):

(d) the sale of alcohol to eligible passengers arriving at, or departing from, international airports in New Zealand (*see* subpart 5).

(8) Part 8 relates to redress for passengers and others in relation to international and domestic carriage of passengers and goods by air, and—

(a) provides for international carriage of passengers and goods by air consistent with, and in accordance with, relevant international conventions (*see* subpart 2), relating to compensation for the victims of air disasters and for the loss of, or damage to, baggage:

(b) provides for liability in the case of delay in respect of domestic carriage of passengers and goods by air (*see* subpart 3), including limitation provisions:

(c) provides jurisdiction to New Zealand courts and the Disputes Tribunal in relation to liability claims against a carrier or any other person.

(9) Part 9 provides for monitoring, investigation, and enforcement, including—

(a) inspection, monitoring, and enforcement powers of the Director, CAA, and inspectors (*see* subparts 1 and 2):

(b) powers of the Director in relation to aerodromes, aircraft, and aeronautical products where the operation or use of those things may endanger people or property (*see* subpart 3):

(c) powers to seize, detain, or destroy aircraft without a person on board that are operating in breach of the law or in a manner that may endanger people or property (*see* subpart 4):

(d) powers of the Director to grant exemptions from compliance with regulations and rules (*see* subpart 5):

(e) provisions for a person to give an enforceable undertaking in relation to contraventions of civil aviation legislation (*see* subpart 6):

(f) the appointment of inspectors and response officers (*see* subpart 7):

(g) powers of entry of Airways (*see* subpart 8):

(h) protections provided to people giving accident and incident notifications, implementing a policy approach known as just culture (*see* subpart 9):

(i) protections against the use of flight data recordings against flight crew in criminal proceedings (*see* subpart 10):

(j) provisions dealing with the consequences of a court disqualifying a person from obtaining or holding an aviation document (*see* subpart 11):

(k) powers of a court to grant injunctions against breaches of civil aviation legislation (*see* subpart 12):

(l) powers of the Minister to intervene on grounds of national security in relation to participation in the civil aviation system (*see* subpart 13):

(m) general offences (*see* subpart 14) and a penalty for offences involving commercial gain (*see* subpart 15):

(n) infringement offences (*see* subpart 16) and other miscellaneous matters concerning offence proceedings (*see* subparts 17 to 19):

(o) unruly passenger offences (*see* subpart 20).

(10) Part 10 provides various regulation-making powers and miscellaneous provisions, including—

(a) powers to make regulations, airworthiness directives, and transport instruments (*see* subparts 1 to 3):

(b) the application of the Cape Town Convention and Aircraft Protocol in New Zealand (*see* subpart 4):

(c) provisions establishing a process for an applicant to review certain decisions made by the Director under this Act or a person to whom the Director has delegated powers or functions under this Act:

(d) provisions conferring rights of appeal under the Act (*see* subpart 6):

(e) provisions about the delegation of powers and functions of the Minister and the Director, the disclosure or publication of information, and information sharing (*see* subpart 7):

(f) consequential and other amendments to other legislation, repeals, and revocations.

(11) This section is only a guide to the provisions of this Act.

Part 2
Functions, powers, and duties of participants in civil aviation system

Subpart 1—Aviation participants

General requirements relating to aviation participants

13 General requirements for aviation participants

(1) An aviation participant must comply with—

(a) civil aviation legislation; and

(b) the conditions attached to any aviation document held by the aviation participant.

(2) An aviation participant who does anything for which an aviation document is required must ensure that they hold—

(a) all the necessary qualifications; and

(b) the appropriate aviation documents; and

(c) other necessary documents.

(3) An aviation participant must ensure that the activities or functions for which an aviation document has been issued are carried out by the aviation participant, and all persons for whom the aviation participant is responsible, safely and in accordance with the relevant prescribed safety and security standards and practices.

(4) An aviation participant who holds an aviation document that authorises the provision of a service within the civil aviation system—

(a) must, if required under the rules, establish and follow a management system that will ensure compliance with the relevant prescribed safety and security standards and the conditions attached to the aviation document; and

(b) must provide training and supervision to all employees of the aviation participant who are doing anything to which the document relates, so as to maintain compliance with the relevant prescribed safety and security standards and the conditions attached to the aviation document and to promote safety and security; and

(c) must provide sufficient resources to ensure compliance with the relevant prescribed safety and security standards and the conditions attached to the aviation document.

Compare: 1990 No 98 s 12

Provisions relating to pilots-in-command

14 Duties of pilot-in-command

(1) A pilot-in-command is responsible for—

(a) the safe operation of the aircraft; and

(b) the safety and well-being of all passengers and crew; and

(c) the safety of the cargo carried.

(2) The pilot-in-command has final authority to control the aircraft while in command and for the maintenance of discipline by all persons on board the aircraft.

(3) The pilot-in-command is responsible for compliance with all relevant requirements of civil aviation legislation.

(4) Subsection (3) is subject to sections 15 and 16.

Compare: 1990 No 98 s 13

15 Duties of pilot-in-command in emergencies arising in flight

(1) In an emergency arising in flight, the pilot-in-command may breach civil aviation legislation only if the pilot-in-command is satisfied that—

(a) the emergency involves a danger to life or property; and

(b) the extent of the breach goes only as far as is necessary to deal with the emergency; and

(c) there is no other reasonable means of alleviating, avoiding, or assisting with the emergency; and

(d) the degree of danger involved in complying with the provision is clearly greater than the degree of danger involved in deviating from it.

(2) If the pilot-in-command breaches civil aviation legislation in accordance with this section, the pilot-in-command must—

(a) immediately notify the relevant air traffic control service of the breach; and

(b) as soon as practicable, notify the Director of the breach and the circumstances that necessitated it; and

(c) if requested by the Director, provide to the Director a written report in respect of the breach.

Compare: 1990 No 98 s 13A(1), (2), (6)

16 Duties of pilot-in-command and operator in emergencies not arising in flight

(1) In an emergency not arising in flight, the pilot-in-command of the aircraft or the operator of the aircraft may breach civil aviation legislation only if—

(a) the emergency involves a danger to life or property that necessitates the urgent transportation of persons or medical or other supplies for the protection of life or property; and

(b) the extent of the breach goes only as far as is necessary to deal with the emergency; and

(c) there is no other reasonable means of alleviating, avoiding, or assisting with the emergency; and

(d) the degree of danger involved in deviating from the prescribed requirement is clearly less than the degree of risk in failing to attend to the emergency.

(2) Nothing in this section permits—

(a) the operation of an aircraft that is not registered in New Zealand or elsewhere; or

(b) the breach of any prescribed requirement as to the airworthiness of an aircraft; or

(c) the operation of an aircraft by a person who is not lawfully entitled to operate that aircraft.

(3) If the pilot-in-command or the operator breaches civil aviation legislation in accordance with this section, the pilot-in-command or the operator (as the case may be) must—

(a) immediately notify the relevant air traffic control service of the breach; and

(b) as soon as practicable, notify the Director of the breach and the circumstances that necessitated it; and

(c) if requested by the Director, provide to the Director a written report in respect of the breach.

Compare: 1990 No 98 s 13A(3)–(6)

17 Failure to notify emergency breach of civil aviation legislation

(1) A pilot-in-command who, without reasonable excuse, fails to comply with section 15(2) or 16(3) (which relate to the notification of breaches of civil aviation legislation that are committed during an emergency) commits an offence.

(2) A person who commits an offence against subsection (1) is liable on conviction to a fine not exceeding $15,000.

Compare: 1990 No 98 s 52A

18 Identification of pilot-in-command

(1) If a pilot-in-command of an aircraft is alleged to have committed an offence under this Act, the Director or a constable may—

(a) inform the operator of the aircraft or the holder of the certificate of registration for the aircraft of the alleged offence; and

(b) require that person to give all information in that person's possession or reasonably obtainable by that person that may lead to the identification of the pilot-in-command.

(2) The requirement under subsection (1)(b) may be given by the Director or constable orally or in writing.

(3) The operator or holder of the certificate of registration (as the case may be) must give the required information to the Director or a constable—

(a) on demand; or

(b) within 10 working days if—

(i) the information is not in the person's possession; or

(ii) the person is unable to give the required information on demand.

(4) Subsection (1) does not apply if the operator or holder of the certificate of registration has been arrested or detained in relation to the suspected offence.

Compare: 1990 No 98 s 26A

19 Failure to provide identifying information

(1) An operator of an aircraft or holder of a certificate of registration who, without reasonable excuse, fails to comply with section 18 (which relates to the identification of the pilot-in-command of an aircraft) commits an offence.

(2) An operator or holder of a certificate of registration who commits an offence against subsection (1) is liable on conviction,—

(a) in the case of an individual, to a fine not exceeding $30,000:

(b) in the case of any other person, to a fine not exceeding $100,000.

Compare: 1990 No 98 s 52C

Subpart 2—Regulatory roles

CAA

20 Civil Aviation Authority of New Zealand continued

(1) There continues to be an authority known as the Civil Aviation Authority of New Zealand.

(2) The CAA is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

(3) The Crown Entities Act 2004 applies to the CAA except to the extent that this Act expressly provides otherwise.

Compare: 1990 No 98 s 72A(1)–(1B), (10)

21 Board of CAA

(1) The Minister must appoint at least 5, but no more than 7, persons as members of the board.

(2) Without limiting section 29 of the Crown Entities Act 2004, the Minister may appoint a person as a member if the Minister considers the person will represent the public interest in civil aviation.

(3) Before appointing 2 of the members, the Minister must request, from the organisation or organisations that the Minister considers represent those who have a substantial interest in the civil aviation industry in New Zealand, the names of persons the organisation or organisations consider proper candidates for appointment to the board.

(4) A person may hold office as a member of the board concurrently with any other office, except any office or appointment under the Transport Accident Investigation Commission Act 1990.

(5) Neither the Director nor any other employee of the CAA may be a member of the board.

Compare: 1990 No 98 s 72A(4)–(8)

22 Objective of CAA

The main objective of the CAA is to undertake its functions to facilitate the operation of a safe and secure civil aviation system.

23 Functions of CAA

The CAA has the following functions:

(a) to promote civil aviation safety and security in New Zealand:

(b) to contribute to establishing, implementing, operating, delivering, monitoring, investigating, and enforcing the regulation of the civil aviation system:

(c) to promote civil aviation safety and security beyond New Zealand in accordance with New Zealand's international obligations:

(d) to provide and oversee a service to be called the Aviation Security Service, which has the functions and duties specified in section 138:

(e) to investigate and review civil aviation accidents and incidents in its capacity as the responsible safety and security authority (subject to the limitations set out in section 14(3) of the Transport Accident Investigation Commission Act 1990):

(f) to notify TAIC in accordance with section 50 of accidents and incidents notified to the CAA:

(g) to maintain and preserve records and documents relating to activities within the civil aviation system, and in particular to maintain the New Zealand Register of Aircraft and the Civil Aviation Records:

(h) to ensure the collection, publication, and provision of charts and aeronautical information, and to enter into arrangements with any other

person or organisation to collect, publish, and distribute the charts and information:

(i) to appoint and oversee the performance of the Director, including by ensuring that the Director performs efficiently and effectively:

(j) to provide to the Minister the information and advice that the Minister may at any time require:

(k) to advise, assist, or co-operate with, or to provide advice and assistance to, any government agency or local government agency, including sharing information under section 466, if the CAA is satisfied that the performance of the functions and duties of the CAA will not be compromised:

(l) to issue warnings, reports, and guidance, and to comment about any matter relating to the civil aviation system and its participants or any other persons engaged with the civil aviation system:

(m) to provide or support the provision of information and advice with respect to civil aviation, and to foster appropriate information education programmes or research with respect to civil aviation:

(n) to enter into technical or operational arrangements, or both, with civil aviation authorities of other countries:

(o) to publish its regulatory strategy in accordance with section 27:

(p) to perform any additional function that the Minister directs under section 112 of the Crown Entities Act 2004:

(q) to carry out and exercise the functions, powers, or duties that are conferred or imposed on it under this Act or under any other Act:

(r) any functions that are incidental and related to, or consequential on, the CAA's functions in paragraphs (a) to (q).

Compare: 1990 No 98 s 72B(1)

24 Duties of CAA in relation to search and rescue

The CAA must, if directed to do so by the Minister under section 199A of the Maritime Transport Act 1994, do any or all of the following:

(a) operate and maintain the search and rescue co-ordination centre established under section 199(1)(a) of the Maritime Transport Act 1994:

(b) co-ordinate, or participate in the co-ordination of, any search and rescue operation specified in section 199(1)(a) of the Maritime Transport Act 1994:

(c) perform, or participate in the performance of, any search and rescue operation specified in section 199(1)(a) of the Maritime Transport Act 1994:

(d) exercise any or all of the powers of the Minister under section 199(1)(b) and (c) and (2) of the Maritime Transport Act 1994.

Compare: 1990 No 98 s 72B(2A)

25 CAA to maintain separate accounts in respect of AvSec

The CAA must maintain separate accounts in respect of AvSec.

Compare: 1990 No 98 s 72B(3B)

26 CAA to consider delegating or contracting out of functions and powers

Subject to this Act, the CAA must, in the course of performing its functions and exercising its powers, consider whether it could most efficiently and effectively perform those functions and exercise those powers by means of its own operations or by delegating or contracting out those operations to appropriate persons.

Compare: 1990 No 98 s 72E

27 CAA must adopt and publish regulatory strategy

(1) The CAA must adopt a regulatory strategy that sets out how the CAA and the Director will perform their regulatory functions—

(a) under civil aviation legislation; and

(b) under any other Acts that confer significant regulatory functions upon the CAA or the Director.

(2) The strategy must include the following matters:

(a) key areas of focus, including the key risks being targeted within those areas; and

(b) the regulatory approach to be adopted, including in relation to monitoring, enforcement, and compliance; and

(c) how performance will be assessed; and

(d) a summary of how the strategy will be updated and reviewed.

(3) The CAA must make a copy of the strategy publicly available.

28 Engagement charter

(1) The CAA must at all times have and make available to the public an engagement charter including (but not limited to)—

(a) a statement by the CAA of the standards of service that the public can expect to apply to the carrying out of functions of the CAA and the Director under this Act; and

(b) details of the procedures to be followed under the engagement charter by a person who alleges that the standards were not met; and

(c) details of the remedies that are available under the engagement charter to the person affected where the person establishes to the satisfaction of the CAA that the standards were not met; and

(d) provision for the appointment by the CAA of an appropriate independent person to assist in the resolution of disputes arising in respect of alleged failures to meet the standards of service specified in the engagement charter.

(2) The CAA, the Director, any employee or agent of the CAA, and any agent of the Director have a public duty to observe the provisions of the engagement charter.

(3) The CAA may, in writing, amend the engagement charter, and must make the amendments available to the public.

(4) Nothing in the engagement charter limits or restricts any right to make any complaint or to bring any proceedings under any Act or rule of law.

Compare: 1990 No 98 s 72G

29 Use of words Civil Aviation Authority or CAA

(1) No person other than the CAA may, either alone or with another person, be incorporated or registered under other legislation, trade or carry on business, or perform the functions for which it was formed—

(a) under a name that contains the words "Civil Aviation Authority" or "CAA"; or

(b) under a name that so resembles the words "Civil Aviation Authority" or "CAA" as to be likely to mislead.

(2) Subsection (1) does not apply to any person who is appropriately authorised by the CAA.

Compare: 1990 No 98 s 72H

30 Use of words Aviation Security Service or AvSec

(1) No person other than AvSec may, either alone or with another person, be incorporated or registered under other legislation, trade or carry on business, or perform the functions for which it was formed—

(a) under a name that contains the words "Aviation Security Service" or "AvSec"; or

(b) under a name that so resembles the words "Aviation Security Service" or "AvSec" as to be likely to mislead.

(2) Subsection (1) does not apply to any person who is appropriately authorised by AvSec.

Compare: 1990 No 98 s 72N

Director of Civil Aviation

31 Director of Civil Aviation

(1) The board of the CAA, after consulting the Minister, must from time to time appoint a Director of Civil Aviation.

(2) The board of the CAA must also appoint the Director as chief executive of the CAA in accordance with section 117 of the Crown Entities Act 2004.

(3) Section 117(1) of the Crown Entities Act 2004 applies to the term of office of the Director.

Compare: 1990 No 98 s 72I(1)

32 Functions and powers of Director

(1) The Director has and may perform or exercise—

(a) the functions, powers, and duties that may be conferred or imposed directly on the Director under this or any other Act; and

(b) the functions and powers delegated to the Director by the board of the CAA under this Act or any other Act.

(2) Without limiting subsection (1), the Director's functions and powers include—

(a) providing leadership within the CAA in relation to those matters for which the CAA or the Director is responsible; and

(b) exercising control over entry into, activities within, and exit from the civil aviation system through aviation documents or other instruments; and

(c) monitoring and investigating the performance and competence of aviation participants; and

(d) monitoring, investigating, and enforcement in relation to matters under civil aviation legislation; and

(e) monitoring and evaluating the performance of AvSec and any person who carries out functions within the civil aviation system in a regulatory capacity; and

(f) ensuring regular reviews of the civil aviation system to promote the main and additional purposes of this Act; and

(g) entering into arrangements with CASA for the purpose of giving effect to the ANZA mutual recognition agreements; and

(h) issuing warnings, reports, or guidance, or making comment, about—

(i) any matter relating to civil aviation; or

(ii) 1 or more aviation participants; or

(iii) 1 or more persons who engage in conduct in relation to civil aviation; and

(i) co-operating with, or providing advice and assistance to, any government agency, local government agency, or aviation participant.

(3) The Director's independent functions are to—

(a) issue, suspend, revoke, and impose conditions on aviation documents and medical certificates:

(b) grant exemptions under this Act:

(c) carry out any enforcement responsibilities conferred on the Director under this or any other Act.

(4) When performing a function referred to in subsection (3),—

(a) the Director must act independently; and

(b) the Minister, the board of the CAA, and the Secretary must not give directions to the Director in relation to performing that function.

Compare: 1990 No 98 s 72I(2), (3), (3D), (4)

33 Acting Director of Civil Aviation

(1) Subsection (2) applies if—

(a) the Director is absent from duty (from whatever cause arising); or

(b) there is a vacancy in the position of Director (whether by reason of death, resignation, or otherwise).

(2) All or any of the powers and duties of the Director may be exercised and performed by—

(a) any other employee for the time being directed by the CAA to exercise and perform them; or

(b) any other person for the time being appointed by the CAA to exercise and perform them.

(3) Subsection (2) applies whether the direction has been given by the CAA or the appointment has been made by the CAA before the absence or vacancy occurs or while the absence or vacancy continues.

(4) No direction or appointment under this section, and no acts done by any employee or other person acting under a direction or appointment, may in any proceedings be questioned on the ground that—

(a) the occasion for the direction or appointment had not arisen or had ceased; or

(b) the employee or other person has not been appointed to any position to which the direction or appointment relates.

(5) No person employed within AvSec may be given any direction or appointment by the CAA under this section without the prior written approval of the Minister.

Compare: 1990 No 98 s 72J

Regulatory functions, duties, and powers of Secretary

34 Regulatory functions, duties, and powers of Secretary

The Secretary has the following regulatory functions, duties, and powers under this Act:

(a) the functions or powers that may be conferred or imposed on or delegated to the Secretary under any other provisions of this Act, including under—

(i) Part 6 (international air services and carbon offsetting and reduction scheme for international aviation (CORSIA)):

(ii) Part 7 (airports):

(iii) Part 8 (international and domestic carriage of passengers and goods by air):

(iv) sections 409 to 412 (regulations relating to CORSIA and information disclosure); and

(b) monitoring, investigating, and enforcement in relation to the matters in paragraph (a); and

(c) issuing reports or guidance, or making comment, about—

(i) any matter relating to civil aviation; or

(ii) 1 or more aviation participants; or

(iii) 1 or more persons who engage in conduct in relation to civil aviation; and

(d) collecting, analysing, and publishing statistics and other information relating to any of the main and additional purposes of this Act, including as provided in regulations made under subpart 1 of Part 10; and

(e) co-operating with, or providing advice and assistance to, any government agency, local government agency, or aviation participant; and

(f) any functions or powers that are incidental and related to, or consequential on, the Secretary's functions or powers in paragraphs (a) to (e).

Airways

35 Airways may be sole provider of certain airways services

(1) The Minister may, by notice in the *Gazette*, specify that only Airways may provide any or all of the following aviation services in New Zealand:

(a) area control services:

(b) approach control services:

(c) flight information services.

(2) Before giving a notice under subsection (1),—

(a) the Minister must have regard to the main and additional purposes of this Act; and

(b) the Minister must consult with any person who already holds an aviation document entitling the person to provide all or any of the services specified in subsection (1)(a) to (c) to which the notice will apply.

(3) This section does not apply to aerodrome control services or aerodrome flight information services.

Compare: 1990 No 98 s 99

Subpart 3—Registries and information services

36 New Zealand Register of Aircraft

The CAA must—

(a) maintain the New Zealand Register of Aircraft in accordance with prescribed requirements (if any); and

(b) enter in the register the details, as may be prescribed, of every aircraft for which a certificate of registration has been issued by the Director under section 37(2).

Compare: 1990 No 98 s 73

37 Requirement to register aircraft

(1) This section applies to a person lawfully entitled to the possession for a period of 28 days or longer of an aircraft that flies to, from, within, or over New Zealand territory.

(2) Except as otherwise provided in this Act or the rules, the person must apply to register that aircraft and hold a valid certificate of registration for that aircraft issued by any of the authorities mentioned in subsection (3).

(3) The authorities are as follows:

(a) the Director:

(b) the appropriate aeronautical authorities of a contracting State of ICAO:

(c) the appropriate aeronautical authorities of another State that is a party to an agreement with the Government of New Zealand or the CAA that provides for the acceptance of each other's registrations.

(4) No aircraft may be, or remain, registered in New Zealand if it is registered in any other country.

(5) The Director may, in accordance with any requirements of the rules, decline an application to register any aircraft.

(6) A person may appeal against a decision under this section to the District Court under section 453.

Compare: 1990 No 98 s 6

38 Civil Aviation Records

(1) The CAA must maintain and provide access to the Civil Aviation Records in accordance with prescribed requirements (if any).

(2) Copies or appropriate evidence of the following must be recorded and maintained in the Civil Aviation Records:

(a) every current aviation document:

(b) every Australian AOC with ANZA privileges:

(c) the New Zealand Register of Aircraft:

(d) all information provided under section 73 by an applicant for, or a holder of, an aviation document:

(e) any material incorporated into secondary legislation by reference under section 428:

(f) every accident and incident notification given under section 49:

(g) every airworthiness directive issued by the Director under section 429:

(h) every delegation, authorisation, and exemption granted in writing under this Act:

(i) the address for service of every current applicant for an aviation document and of every current aviation document holder:

(j) all information provided under section 39:

(k) the current engagement charter:

(l) a reviewer's report under section 447(5):

(m) a final decision made by the Director under section 448.

(3) Documents kept in the Civil Aviation Records must be made available by the CAA, in accordance with the Official Information Act 1982,—

(a) for inspection by the public free of charge; and

(b) for copying in accordance with that Act.

(4) Nothing in subsection (3) requires the CAA to make available information that may be withheld in accordance with the Official Information Act 1982 or the Privacy Act 2020.

Compare: 1990 No 98 s 74

39 Information services

(1) The CAA must ensure provision of an information service that comprises the collection and provision of—

(a) aeronautical information; and

(b) instructions relating to the safety, regularity, and efficiency of air navigation.

(2) The CAA must ensure that the information and instructions are readily available to any person on payment of a reasonable charge fixed by the CAA.

Compare: 1990 No 98 s 75

Subpart 4—General offences and liability provisions

40 Operating aircraft in careless manner

(1) A person who operates any aircraft in a careless manner commits an offence.

(2) A person who commits an offence against subsection (1) is liable on conviction,—

(a) in the case of an individual, to a fine not exceeding $30,000:

(b) in the case of any other person, to a fine not exceeding $100,000.

(3) This section is in addition to and does not limit the regulations or rules.

Compare: 1990 No 98 s 43A

41 Dangerous activity involving aircraft, aeronautical product, or aviation-related service

(1) No person may—

(a) operate, maintain, or service an aircraft, aerodrome, or aeronautical product, or provide an aviation-related service, in a manner that causes unnecessary danger to any other person or to any property; or

(b) do any other act in respect of an aircraft, aerodrome, aeronautical product, or aviation-related service in a manner that causes unnecessary danger to any other person or to any property; or

(c) cause or permit an aircraft, aerodrome, or aeronautical product to be operated, maintained, or serviced, or an aviation-related service to be provided, in a manner that causes unnecessary danger to any other person or to any property; or

(d) cause or permit any other act to be done in respect of an aircraft, aerodrome, aeronautical product, or aviation-related service in a manner that causes unnecessary danger to any other person or to any property.

(2) A person who contravenes subsection (1) commits an offence against this subsection whether or not the person knows that the unnecessary danger to any other person or to any property will be caused.

(3) A person who contravenes subsection (1) commits an offence against this subsection if the person knows, or is reckless as to whether, the unnecessary danger to any other person or to any property would be caused.

(4) A person who commits an offence against subsection (2) is liable on conviction,—

(a) in the case of an individual, to a fine not exceeding $150,000:

(b) in the case of any other person, to a fine not exceeding $1,500,000.

(5) A person who commits an offence against subsection (3) is liable on conviction,—

(a) in the case of an individual, to imprisonment for a term not exceeding 5 years or to a fine not exceeding $300,000, or both:

(b) in the case of any other person, to a fine not exceeding $3,000,000.

(6) This section is in addition to and does not limit the regulations or rules.

Compare: 1990 No 98 s 44

42 Operating aircraft in controlled airspace or restricted area without authorisation

(1) A person commits an offence if the person, without reasonable excuse,—

(a) intentionally operates an aircraft in controlled airspace or a restricted area; and

(b) knows that the person does not hold, or is reckless as to whether the person holds, the appropriate authorisation to operate the aircraft in that airspace or area.

(2) A person who commits an offence against subsection (1) is liable on conviction,—

(a) in the case of an individual, to imprisonment for a term not exceeding 3 months or to a fine not exceeding $10,000, or both:

(b) in the case of any other person, to a fine not exceeding $100,000.

(3) In this section, **restricted area** means an airspace of defined dimensions that is designated as a restricted area or as prohibited airspace under the rules.

43 Communicating false information affecting safety

(1) A person commits an offence if the person—

(a) by any means provides to another person information relating to—

(i) the safety of an aircraft, aerodrome, aeronautical product, aviation-related service, or any other facility or product used in or connected with aviation; or

(ii) the safety of any person associated with any thing referred to in subparagraph (i); and

(b) knows the information to be false or is reckless as to whether it is false.

(2) A person who commits an offence against subsection (1) is liable on conviction,—

(a) in the case of an individual, to imprisonment for a term not exceeding 12 months or to a fine not exceeding $120,000, or both:

(b) in the case of any other person, to a fine not exceeding $1,000,000.

Compare: 1990 No 98 s 56(1), (2)

44 Nuisance and trespass

(1) No action lies in respect of nuisance or trespass, by reason only of the flight of aircraft over any property at a height above the ground that, having regard to wind, weather, and all the circumstances of the case, is reasonable, as long as the provisions of this Act and of the rules are complied with.

(2) No action for nuisance may be brought in respect of the noise or vibration caused by aircraft or aircraft engines on an aerodrome if the noise or vibration is of a kind specified in the rules, as long as the provisions of the rules are complied with.

Compare: 1990 No 98 s 97(1), (2)

45 Responsibility for damage

(1) This section applies if material damage or loss is caused to property on land or water by—

(a) an aircraft in flight, taking off, landing, or alighting; or

(b) any person or article in, or falling from, an aircraft referred to in paragraph (a).

(2) Damages are recoverable from the owner of the aircraft for the damage or loss, without proof of negligence or intention or other cause of action, as if the damage or loss were caused by the person's fault.

(3) Subsection (2) does not apply where the damage or loss was caused by or contributed to by the fault of the person who suffered the damage or loss.

(4) Civil proceedings may be commenced in a court for recovery of damages under subsection (2).

(5) If damage or loss is contributed to by the fault of the person who suffered the damage or loss, the provisions of the Contributory Negligence Act 1947 as to apportionment apply.

(6) If the owner of an aircraft has hired the aircraft out to any other person for a period greater than 28 days and no pilot, commander, navigator, or operative member of the crew of the aircraft is in the employment of the owner, this section and sections 46 and 47 apply as though every reference to the owner were a reference to the person who hired the aircraft.

(7) For the purposes of this section, **fault** means negligence, breach of statutory duty, or other act or omission that gives rise to a liability in tort or would, apart from the Contributory Negligence Act 1947, give rise to the defence of contributory negligence.

Compare: 1990 No 98 s 97(3), (5), (7), (8)

46 Circumstances in which owner entitled to be indemnified for responsibility for damage

(1) This section applies if damage or loss is caused in the manner described in section 45 and—

(a) damages are recoverable from the owner of the aircraft in respect of the damage or loss only because of the provisions of section 45; and

(b) some person other than the owner is liable to pay damages in respect of the damage or loss.

(2) The owner is entitled to be indemnified by the other person referred to in subsection (1)(b) against any claim under section 45 in respect of the damage or loss.

Compare: 1990 No 98 s 97(4)

47 Responsibility for damage by descent by parachute

(1) This section applies if damage or loss is caused by a person descending from an aircraft by parachute.

(2) Damages are not recoverable under section 46 from the owner of the aircraft in respect of the damage or loss.

(3) Sections 45 and 46 apply, with any necessary modifications, as if the person descending were the owner of the aircraft.

(4) This section does not apply in respect of damage or loss caused by a person descending from an aircraft by parachute where the descent is required to avoid injury or death.

Compare: 1990 No 98 s 97(6)

48 Claim against Crown in respect of damage, loss, or injury due to service aircraft

(1) This section applies if a claim is made against the Crown under the Crown Proceedings Act 1950 in respect of any damage, loss, or injury sustained or alleged to have been sustained by or through or in connection with the use of any service aircraft.

(2) Despite section 11, sections 44 to 47 apply with respect to the aircraft as if the applicable provisions of this Act and the rules (if any) have been complied with.

(3) In this section, **service aircraft** means an aircraft that is being used exclusively for the purposes of the Armed Forces of New Zealand.

Compare: 1950 No 54 s 9(3)

Subpart 5—Duty to notify accidents and incidents

49 Duty to notify accidents and incidents to CAA

(1) The pilot-in-command of an aircraft that is involved in an accident must notify the accident to the CAA as soon as practicable.

(2) The requirement to notify an accident under subsection (1) is subject to any exception specified in the rules in relation to any circumstances or in relation to a type or class of aircraft.

(3) Every aviation participant who is involved in an incident must notify the incident to the CAA if required by, and in accordance with any requirements specified in, the rules.

(4) If, due to injury or death, or where the aircraft is missing, the pilot-in-command is unable to give the necessary notification under subsection (1), the operator must provide the necessary notification.

(5) The co-ordinator of any search and rescue operation for any aircraft must notify the CAA of the operation as soon as practicable.

(6) The CAA may, on being notified under subsection (1), (3), (4), or (5), request any additional information, in any form that the CAA considers appropriate in each specific case.

(7) The pilot-in-command, operator, or person to whom a request is made under subsection (6) must provide the additional information immediately.

(8) *See*—

(a) subpart 9 of Part 9 (which provides protections in relation to accident and incident notifications under this subpart):

(b) section 465 (which relates to disclosure or publication of information).

Compare: 1990 No 98 s 26

50 Duty of CAA to notify accidents and incidents to TAIC

(1) As soon as practicable after any accident or incident is notified to the CAA under section 49, the CAA must notify TAIC that the CAA has been notified of the accident or incident if it is—

(a) an accident involving aircraft; or

(b) a serious incident in accordance with the Convention.

(2) If the CAA has been notified of a search and rescue operation under section 49(5), the CAA must immediately notify TAIC.

Compare: 1990 No 98 s 27

51 Failure to notify accident or incident

(1) A pilot-in-command or other aviation participant who, without reasonable excuse, fails to comply with section 49(1), (3), (4), or (7) (relating to the notification of an accident or incident) commits an offence.

(2) A pilot-in-command or other aviation participant who commits an offence against subsection (1) is liable on conviction,—

(a) in the case of an individual, to a fine not exceeding $30,000:

(b) in the case of any other person, to a fine not exceeding $100,000.

Compare: 1990 No 98 s 52B

Part 3
Rules

Subpart 1—Rules made by Minister or Governor-General

Power of Minister to make rules

52 Power of Minister to make rules

(1) The Minister may make rules relating to civil aviation for all or any of the following purposes:

(a) regulating aviation participants, aircraft, aeronautical products, and aviation places, and people and things carried, or to be carried, in aircraft:

(b) regulating people, activities, and things in relation to the safety and security of civil aviation:

(c) regulating the effect or potential effect of civil aviation on people, activities, and things:

(d) providing for the implementation of New Zealand's obligations under the Convention:

(e) providing for anything this Act says may or must be provided for by rules:

(f) providing for anything incidental that is necessary for carrying out, or giving full effect to, this Act.

(2) Nothing in sections 53 to 60 limits the power under this section.

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

(4) If, under the Legislation Act 2019, a rule is not required to be published, the Minister must serve a copy of it on the persons (if any) whom the Minister considers appropriate.

(5) A rule to which subsection (4) applies—

(a) has effect only in relation to a person on whom it is served under subsection (4); and

(b) comes into force in relation to the person immediately after it is served on the person (even though it is not published).

(6) Service under subsection (4) may be effected in any way the Minister considers appropriate.

Compare: 1990 No 98 s 28(1)

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must publish it in accordance with the Legislation (Publication) Regulations 2021 However, if those regulations do not require it to be published, section 52(4) must be complied with	LA19 s 74(1)(aa)
Presentation	The Minister must present it to the House of Representatives, unless the exemption in Schedule 3 of the Legislation Act 2019 applies	LA19 s 114, Sch 3
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

53 Rules relating to designation, classification, and certification

(1) The Minister may make rules under section 52 relating to the designation, classification, and certification of all or any of the following:

(a) aircraft:

(b) aerodromes:

(c) aeronautical products:

(d) aviation-related services:

(e) aviation participants:

(f) aviation places.

(2) The Minister may make rules for either or both of the following purposes:

(a) to provide for the privileges of an air operator certificate to include conducting air operations in Australia:

(b) to allow for the mutual recognition of safety certifications in accordance with the ANZA mutual recognition agreements.

Compare: 1990 No 98 ss 28(1)(ab), 30(1)(a), (ca)

54 Rules relating to standards, specifications, restrictions, and licensing requirements

(1) The Minister may make rules under section 52 relating to the setting of standards, specifications, restrictions, and licensing requirements for all or any of those persons or things specified in section 53, including but not limited to the following:

(a) the specification of the privileges, limitations, and ratings associated with licences or other forms of approval:

(b) the setting of standards for training systems and techniques, including recurrent training requirements:

(c) the setting of medical standards for personnel:

(d) the requirement for proof of access to appropriate weather services:

(e) the specification of standards of design, construction, manufacture, maintenance, processing, testing, supply, approval, and identification of aircraft and aeronautical products:

(f) the requirements for notification of insurance coverage for air services:

(g) the provision of information to the CAA or the Director by applicants for or holders of aviation documents:

(h) the provision by aviation participants of information to any person (for example, information to passengers about rights under Part 8):

(i) the requirements relating to the classification of aviation examiners and medical examiners and any related standards and restrictions on the exercise of their functions and powers:

(j) the requirements for the grant of delegations by the Director under clause 27 of Schedule 2:

(k) the requirements for the purposes of determining suitably qualified medical examiners and establishing the criteria for standard medical assessments under clause 27 of Schedule 2:

(l) the requirements and criteria for determining medical experts acceptable to the Director for the purposes of reaching an accredited medical conclusion.

(2) The Minister may make rules under section 52 that are contemplated by or necessary for giving full effect to subpart 2 of Part 4.

(3) The Minister may make rules under section 52—

(a) prescribing the content or format, or both, of aviation documents, applications, and forms for other matters:

(b) requiring the use of forms of aviation documents, applications, or forms for other matters where the content or format, or both, of those forms is prescribed or approved by the CAA or the Director.

Compare: 1990 No 98 s 30(1)(b)

55 Rules relating to aviation documents

(1) The Minister may make rules under section 52 providing that an aviation document is required by or in respect of all or any of the following:

(a) New Zealand registered aircraft:

(b) aerodromes:

(c) aeronautical products:

(d) aviation participants.

(2) The requirements, standards, and application procedures for each aviation document, and the maximum period for which each document may be issued, must be prescribed by rules made under section 52.

(3) The Minister may make rules under section 52 specifying a particular class or classes of aviation document to which the requirements of section 75(1)(b)(ii) and 77 do not apply.

Compare: 1990 No 98 s 7(1), (2)

56 Rules relating to safety and security

The Minister may under section 52 make all or any of the following rules:

(a) rules providing for the use of aerodromes and other aviation-related facilities, including but not limited to the following:

(i) the provision of identification procedures for persons, aircraft, and any other aviation-related things:

(ii) the prevention of interference with aerodromes and other aviation-related facilities:

(b) general operating rules, air traffic rules, and flight rules, including but not limited to the following:

(i) the conditions under which aircraft may be used or operated, or under which any act may be performed in or from an aircraft:

(ii) the prevention of the operation of aircraft in a manner that endangers people or property:

(c) rules providing for the control of things likely to be hazardous to aviation safety, including but not limited to the following:

(i) the safe carriage of firearms and other dangerous or hazardous goods or substances by air:

(ii) the construction, use, or operation of anything likely to be hazardous to aviation safety:

(d) rules providing for security tiers for aerodromes, including—

(i) specifying security tiers in addition to tier 1; and

(ii) providing for the security requirements applicable to tier 1 and any other security tier:

(e) rules providing for security tiers for navigation installations and for the requirements applicable to each tier:

(f) rules relating to security areas at aerodromes, including prescribing the persons or classes of persons who may enter, pass through, and remain in different types of security area:

(g) rules providing for in-flight safety and security, including, but not limited to, the following:

(i) the possession, carriage, and use of a firearm, a weapon, ammunition, or any other equipment by an in-flight security officer on board an aircraft operated by an operator certified under Part 119 of the rules:

(ii) the carriage of a firearm, a weapon, ammunition, or any other equipment by a foreign in-flight security officer while entering, transiting, or departing from New Zealand.

Compare: 1990 No 98 s 29

Section 56(g): inserted, on 23 July 2026, by section 5 of the Civil Aviation Amendment Act 2023 (2023 No 11).

57 Rules relating to airspace

The Minister may make rules under section 52 providing for the classification, designation, special use, prohibition, and restriction of airspace and things affecting navigable airspace, including airspace used by aircraft used by the New Zealand Defence Force or a visiting force.

Compare: 1990 No 98 s 29A

58 Rules for noise abatement purposes

The Minister may make rules under section 52 prescribing flight rules, flight paths, altitude restrictions, and operating procedures for the purposes of noise abatement, including in the vicinity of aerodromes.

Compare: 1990 No 98 s 29B

59 Rules relating to national security

The Minister may make rules under section 52 prescribing when an application for an aviation document or for renewal of an aviation document is an application to which national security considerations apply, which may be—

(a) on the basis of the type of activity for which the document is sought or particular circumstances relating to that activity:

(b) on the basis of circumstances relating to an applicant or to any person who will conduct the activity for which the document is sought:

(c) on any other differential basis.

60 Rules relating to other matters

The Minister may make rules under section 52 for all or any of the following purposes:

(a) the definitions, abbreviations, and units of measurement to apply within the civil aviation system:

(b) prescribing the design and colours of the New Zealand Civil Air Ensign, and where and by whom it may be flown:

(c) providing for aviation meteorological services, search and rescue services, and civil aviation security programmes and services:

(d) providing for the conditions of operation of foreign aircraft and international flights to, from, or within New Zealand.

Compare: 1990 No 98 ss 28(1)(b), 30(1)(c), (d), (e)

61 Procedure for making rules

(1) Before making a rule, the Minister must, as the Minister in each case considers appropriate,—

(a) publish a notice of the Minister's intention to make the rule and a statement specifying the objective of the rule; and

(b) consult representative groups within the aviation industry or elsewhere, and any other persons.

(2) Before making a rule, the Minister must—

(a) be satisfied that the rule will, to the extent that is practicable, facilitate conformity with the applicable standards of ICAO relating to aviation safety and security; and

(b) be satisfied that the rule is not inconsistent with New Zealand's international obligations relating to aviation safety and security; and

(c) have regard to, and give the weight that the Minister considers appropriate in each case, to the criteria specified in section 72.

Compare: 1990 No 98 s 34

62 Requirements relating to content of rules made by Minister

Every rule made by the Minister must—

(a) be signed or otherwise authenticated by the Minister; and

(b) contain a statement specifying the objective of the rule and the extent of any consultation under section 61.

Compare: 1990 No 98 s 32(1)

Power of Governor-General to make rules

63 Governor-General may make rules

(1) Despite anything in this Part, the Governor-General may, by Order in Council, on the recommendation of the Minister, make, amend, or revoke a rule for any of the purposes for which the Minister may make, amend, or revoke a rule under this Part.

(2) Before making a recommendation under subsection (1), the Minister must—

(a) be satisfied that the rule will, to the extent that is practicable, facilitate conformity with the applicable standards of ICAO relating to aviation safety and security; and

(b) be satisfied that the rule is not inconsistent with New Zealand's international obligations relating to aviation safety and security; and

(c) have regard to, and give the weight that the Minister considers appropriate in each case to, the criteria specified in section 72.

(3) The Minister may amend or revoke a rule or an amendment to a rule made by Order in Council under subsection (1) as if the Minister had made the rule or the amendment to the rule under this Part.

(4) An order made under this section—

(a) is secondary legislation; and

(b) must be published as part of the rules as if the Minister had made the rule or the amendment to the rule.

(5) An order made under this section—

(a) is not required to be drafted by the PCO under section 67(d)(i) of the Legislation Act 2019; but

(b) may be drafted by the PCO under an agreement under section 67(d)(iii) of that Act, and in that case, must be published as required by subsection (4)(b) despite section 69(1)(c) of the Legislation Act 2019.

(6) If, under the Legislation Act 2019, the order is not required to be published, the Minister must serve a copy of it on the persons (if any) whom the Minister considers appropriate.

(7) An order to which subsection (6) applies—

(a) has effect only in relation to a person on whom it is served under subsection (6); and

(b) comes into force in relation to the person immediately after it is served on the person (even though it is not published).

(8) Service under subsection (6) may be effected in any way the Minister considers appropriate.

Compare: 1990 No 98 s 34A

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	The maker must publish it in accordance with the Legislation (Publication) Regulations 2021	LA19 s 74(1)(aa)
	However, if those regulations do not require it to be published, section 63(6) must be complied with	
Presentation	The Minister must present it to the House of Representatives, unless the exemption in Schedule 3 of the Legislation Act 2019 applies	LA19 s 114, Sch 3
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Provisions concerning rules made by Minister or Governor-General

64 Provisions concerning rules made by Minister or Governor-General

(1) This section and sections 65 and 66 apply in respect of any rule made by the Minister or the Governor-General under this Part.

(2) A rule may apply generally or with respect to different classes of persons, aircraft, aerodromes, aeronautical products, aviation participants, or aviation-related services or with respect to the same class of persons, aircraft, aerodromes, aeronautical products, aviation participants, or aviation-related services in different circumstances.

(3) A rule may apply generally throughout New Zealand or within any specified part or parts of New Zealand.

(4) The commencement of a rule may be wholly suspended until it is applied by the Minister by notice.

(5) Any rule may, on any terms and conditions that are specified in the rule,—

(a) require or provide for a matter to be determined, undertaken, or approved by the CAA, the Director, or any other person; or

(b) empower the CAA, the Director, or any other person to impose requirements or conditions as to the performance of any activity, including (but not limited to) any procedures to be followed.

(6) To avoid doubt, the terms and conditions specified in a rule may provide for—

(a) consultation to be undertaken before the exercise of any of the powers given to the CAA, the Director, or any other person by the rule; or

(b) public notice to be given of the exercise of any powers; or

(c) any other matter.

(7) A notice made under subsection (4) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

(8) If, under the Legislation Act 2019, a notice made under subsection (4) is not required to be published, the Minister must serve a copy of it on the persons (if any) whom the Minister considers appropriate.

(9) A notice to which subsection (8) applies—

(a) has effect only in relation to a person on whom it is served under subsection (8); and

(b) comes into force in relation to the person immediately after it is served on the person (even though it is not published).

(10) Service under subsection (8) may be effected in any way the Minister considers appropriate.

Compare: 1990 No 98 s 28(2)–(5A)

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must publish it in accordance with the Legislation (Publication) Regulations 2021	LA19 s 74(1)(aa)
	However, if those regulations do not require it to be published, section 64(8) must be complied with	
Presentation	The Minister must present it to the House of Representatives, unless the exemption in Schedule 3 of the Legislation Act 2019 applies	LA19 s 114
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

65 Rule prevails over bylaw if bylaw inconsistent or repugnant

If a bylaw of a local authority is inconsistent with or repugnant to any rule made under this subpart that is in force in the same locality, the rule prevails to the extent of the inconsistency.

Compare: 1990 No 98 s 28(7), (8)

66 Offences for breaches of rules

(1) No breach of a rule constitutes an offence against this Act unless that offence is prescribed in the regulations.

(2) This section is subject to the following sections:

(a) section 51(2) (which provides for a fine payable on conviction for failing to notify the CAA regarding an accident or an incident involving an aircraft):

(b) section 398(2) (which provides for a fine payable on conviction for non-compliance with commands given by the pilot-in-command):

(c) section 400(2) (which provides for an infringement offence for operating a portable electronic device on board an aircraft in breach of the rules):

(d) section 403(2) (which provides for an infringement offence for carrying, or causing to be carried, dangerous goods on an aircraft in breach of the rules).

Compare: 1990 No 98 s 28(6)

Subpart 2—Emergency rules made by Director

Power of Director to make emergency rules

67 Power of Director to make emergency rules

(1) Subject to subsection (2), the Director may, in accordance with section 69, make any emergency rules that the Director considers may be necessary to alleviate or minimise any risk of the death of or a serious injury to any person, or of damage to any property.

(2) The Director must not make emergency rules unless it is impracticable in the circumstances of the particular case for the Minister to make rules to effectively alleviate or minimise the risk concerned.

(3) The Minister may revoke any emergency rule made under subsection (1), and the revocation must be notified as if it were an emergency rule.

(4) The following are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements):

(a) emergency rules under subsection (1):

(b) a revocation under subsection (3).

(5) If, under the Legislation Act 2019, an emergency rule or a revocation is not required to be published, the Director must serve a copy of it on the persons (if any) whom the Director considers appropriate.

(6) If subsection (5) applies to an emergency rule or revocation,—

(a) it has effect only in relation to a person on whom it is served under subsection (5); and

(b) it comes into force in relation to the person immediately after it is served on the person (even though it is not published).

(7) Service under subsection (5) may be effected in any way the Director considers appropriate.

Compare: 1990 No 98 s 31(1)–(3)

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must publish it in accordance with the Legislation (Publication) Regulations 2021	LA19 s 74(1)(aa)
	However, if those regulations do not require it to be published, section 67(5) must be complied with	
Presentation	The Minister must present it to the House of Representatives, unless the exemption in Schedule 3 of the Legislation Act 2019 applies	LA19 s 114, Sch 3
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Provisions concerning emergency rules made by Director

68 Procedures relating to rules made by Director

Every emergency rule must—

(a) be signed or otherwise authenticated by the Director; and

(b) contain a statement specifying the objective of the rule and the extent of the consultation under section 69 that took place before the making of the rule; and

(c) set out fully the requirements of the rule, except where certain information is, under section 428, incorporated in the rule by reference.

Compare: 1990 No 98 s 32(2)

69 Procedure for making emergency rules

(1) Before making an emergency rule, the Director must consult with any persons, representative groups within the aviation industry or elsewhere, government departments, and Crown agencies that the Director in each case considers appropriate.

(2) Before making an emergency rule, the Director must—

(a) be satisfied that the rule—

(i) will, to the extent that is practicable, facilitate conformity with the applicable standards of ICAO relating to aviation safety and security; and

(ii) is not inconsistent with New Zealand's international obligations relating to aviation safety and security; and

(b) have regard to, and give the weight that the Director considers appropriate in each case to, the criteria specified in section 72.

Compare: 1990 No 98 s 35(1)

70 Duration of emergency rule

(1) An emergency rule may be in force for a period not exceeding 90 days, and may be renewed by the Director once only for a further period not exceeding 30 days.

(2) The Minister may, by notice, at any time while an emergency rule is in force in accordance with subsection (1) extend the duration of the rule in accordance with subsection (3) for a further period not exceeding 180 days from the date of the publication of the rule under the Legislation Act 2019.

(3) Before extending the duration of an emergency rule under subsection (2), the Minister must consult with any persons, representative groups within the aviation industry or elsewhere, government departments, and Crown agencies that the Minister considers appropriate.

(4) A notice made under subsection (2) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

(5) If, under the Legislation Act 2019, a notice made under subsection (2) is not required to be published, the Director must serve a copy of it on the persons (if any) whom the Director considers appropriate.

(6) A notice to which subsection (5) applies—

(a) has effect only in relation to a person on whom it is served under subsection (5); and

(b) comes into force in relation to the person immediately after it is served on the person (even though it is not published).

(7) Service under subsection (5) may be effected in any way the Director considers appropriate.

Compare: 1990 No 98 s 35(5), (5A), (5B), (6)

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must publish it in accordance with the Legislation (Publication) Regulations 2021 However, if those regulations do not require it to be published, section 70(5) must be complied with	LA19 s 74(1)(aa)
Presentation	The Minister must present it to the House of Representatives, unless the exemption in Schedule 3 of the Legislation Act 2019 applies	LA19 s 114
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

71 Emergency rule prevails if inconsistent with rule made under subpart 1

To the extent that an emergency rule is inconsistent with or repugnant to a rule made by the Minister or Governor-General under subpart 1, the emergency rule prevails.

Compare: 1990 No 98 s 35(6)

Subpart 3—General provisions

72 Criteria that Minister and Director must have regard to before making rules or emergency rules

The criteria referred to in sections 61(2)(c), 63(2)(c), and 69(2)(b) are—

(a) the main and additional purposes of this Act:

(b) the recommended practices of ICAO relating to aviation safety and security:

(c) the level of risk existing to aviation safety in each proposed activity or service:

(d) the nature of the activity or service for which the rule is being established:

(e) the level of risk existing to aviation safety and security in New Zealand in general:

(f) the need to maintain and improve aviation safety and security, including (but not limited to) personal security:

(g) the costs of implementing measures for which the rule is being proposed:

(h) the international circumstances in respect of—

(i) aviation safety and security; and

(ii) mutual recognition of safety certifications in accordance with the ANZA mutual recognition agreements:

(i) any other matters that the Minister or, as the case may be, the Director considers appropriate in the circumstances.

Compare: 1990 No 98 s 33

Part 4
Aviation documents, medical certification, and drug and alcohol testing

Subpart 1—Requirements for aviation documents

73 Application for aviation document

(1) An application for the grant or renewal of an aviation document must be made to the Director and be in accordance with the requirements of the rules.

(2) The applicant must include in the application the applicant's address for service in New Zealand and any other contact details required by the Director.

(3) The holder of an aviation document must promptly notify the Director of any changes to the address for service, the contact details required by the Director under subsection (2), or any other relevant new contact details.

(4) Service of any notice under this Act on a holder of, or an applicant for, an aviation document is effective service if served on the address last provided by that holder or applicant under this section.

Compare: 1990 No 98 s 8

74 Application requiring national security assessment

If an application for the grant or renewal of an aviation document falls within a category of applications specified in the rules as requiring a national security assessment, the Director must refer the application to the Minister for consideration in accordance with section 355 before granting the application.

75 Grant or renewal of aviation document

(1) After considering any application for the grant or renewal of an aviation document, the Director must, as soon as practicable, grant the application if the Director is satisfied that—

(a) all things in respect of which the document is sought meet the relevant prescribed requirements; and

(b) the applicant and any person who will have or is likely to have control over the exercise of the privileges under the document—

(i) either holds the relevant prescribed qualifications and has the prescribed experience or holds foreign qualifications that are acceptable to the Director under section 76; and

(ii) is, as determined in accordance with section 80, a fit and proper person to have such control or to hold the document; and

(iii) meets all other relevant prescribed requirements; and

(c) in the case of a New Zealand AOC with ANZA privileges,—

(i) the requirements in section 91(2) are met; and

(ii) the applicant meets or will meet the conditions in section 91(4); and

(d) it is not contrary to the interests of aviation safety and security for the document to be granted or renewed.

(2) Despite subsection (1), if the Director has referred the application to the Minister under section 74, the Director must not make a decision on the application until the earliest of the following to occur:

(a) the Minister issues a notice under section 355(2)(a) or (b) in relation to the application; or

(b) the Minister notifies the Director that the Minister will not issue a notice under section 355(2)(a) or (b) in relation to the application; or

(c) 6 months has elapsed from the date on which the Director referred the application to the Minister under section 74.

(3) If the Minister directs under section 355(2)(a) that the application not be granted, the Director must decline the application.

(4) If the Minister directs under section 355(2)(b) that conditions or restrictions be imposed on an aviation document, the Director must impose those conditions or restrictions on the aviation document if granted under subsection (1).

(5) Subsection (1)(b)(ii) does not apply in relation to an applicant for an aviation document if the aviation document is in a class specified in the rules as one to which that provision does not apply.

Compare: 1990 No 98 s 9(1)

76 Director may take into account foreign qualifications and certifications

For the purpose of granting or renewing an aviation document, the Director may, subject to any relevant provisions in the rules, accept any foreign qualifications or recognise any foreign certifications that the Director considers appropriate in each case.

Compare: 1990 No 98 s 9(2)

77 Condition of aviation document that holder, etc, continues to satisfy fit and proper person test

(1) It is a condition of every current aviation document that the holder and any person who has or is likely to have control over the exercise of the privileges under the document must continue to satisfy the fit and proper person test specified in section 75(1)(b)(ii).

(2) This section does not apply in relation to an aviation document if the aviation document is in a class specified in the rules as one to which section 75(1)(b)(ii) does not apply.

Compare: 1990 No 98 s 9(3)

78 Duration and conditions of aviation document

(1) Subject to the rules, an aviation document may be issued by the Director for such specified period and subject to the conditions that the Director considers appropriate in each case.

(2) A person in respect of whom a decision is made under this section may appeal against the decision to the District Court under section 453.

Compare: 1990 No 98 s 7(3), (4)

79 Right of appeal

(1) If the Director declines to grant an application under section 75, the applicant may appeal against the decision to the District Court under section 453.

(2) This section is subject to section 357.

Compare: 1990 No 98 s 9(4)

80 Fit and proper person test

(1) For the purpose of determining whether a person is a fit and proper person for any purpose under this Act, the Director must, having regard to the degree and nature of the person's proposed involvement in the New Zealand civil aviation system, have regard to, and give the weight that the Director considers appropriate to, the following matters:

(a) the person's history of compliance with transport safety and transport security requirements, whether inside or outside New Zealand:

(b) the person's related experience (if any) within the transport industry:

(c) the person's knowledge of the applicable civil aviation system regulatory requirements:

(d) any history of physical or mental health problems or serious behavioural problems of the person:

(e) the person's use of drugs or alcohol:

(f) any conviction of the person for a transport safety offence or an offence under the Health and Safety at Work Act 2015, whether or not—

(i) the conviction was in a New Zealand court; or

(ii) the offence was committed before the commencement of this Act:

(g) any evidence that the person has committed a transport safety offence or has contravened or failed to comply with civil aviation legislation:

(h) if a New Zealand AOC with ANZA privileges applies, the person's compliance with the conditions specified in section 91(4).

(2) The Director is not confined to consideration of the matters specified in subsection (1) and may take into account any other matters and evidence that the Director considers may be relevant.

(3) The Director may, for the purpose of determining whether a person is a fit and proper person for any purpose under this Act,—

(a) seek and receive any information (including medical reports) that the Director thinks fit; and

(b) consider information obtained from any source.

(4) Nothing in the Privacy Act 2020 prevents a person or an agency from disclosing personal information (within the meaning of that Act) to the Director in response to a request made by the Director under subsection (3).

(5) Subsection (1) applies to a body corporate with the following modifications:

(a) subsection (1)(a), (b), (c), (f), and (g) must be read as if those paragraphs refer to the body corporate and its officers:

(b) subsection (1)(d) and (e) must be read as if those paragraphs refer only to the officers of the body corporate.

Compare: 1990 No 98 s 10(1)–(4)

81 Disclosure of prejudicial information

(1) If, under section 80(1), the Director proposes to take into account any information that is or may be prejudicial to a person, the Director must, subject to subsection (2), disclose that information to the person and, in accordance with section 82, give the person a reasonable opportunity to refute or comment on it.

(2) The Director may determine not to disclose the information if,—

(a) in the case of non-disclosure to an individual of information about that individual, the Director could withhold the information under any of sections 49 to 53 of the Privacy Act 2020 had the information been requested by that individual under that Act; or

(b) in any other case, the Director could withhold the information under section 6, 7, or 9 of the Official Information Act 1982 had the information been requested under that Act.

(3) If, under subsection (2)(a), the Director determines not to disclose any information,—

(a) the Director must—

(i) inform the individual of the non-disclosure; and

(ii) inform the individual that the individual may, under the Privacy Act 2020, complain to the Privacy Commissioner about that non-disclosure; and

(b) the Privacy Act 2020 applies to that non-disclosure as if, following a request under that Act for the information that is withheld, the information had been withheld under that Act.

(4) If, under subsection (2)(b), the Director determines not to disclose any information,—

(a) the Director must—

(i) inform the person of the non-disclosure; and

(ii) inform the person that the person may seek a review by an Ombudsman of that non-disclosure under the Official Information Act 1982; and

(b) the Official Information Act 1982 applies to that non-disclosure as if, following a request under that Act for the information that is withheld, the information had been withheld under that Act.

Compare: 1990 No 98 s 10(5)–(7)

82 Rights of persons affected by proposed adverse decisions

(1) In this section and section 83, unless the context otherwise requires,—

adverse decision means a decision of the Director to the effect that a person is not a fit and proper person for any purpose under this Act

affected document holder, in relation to a person directly affected by an adverse decision, means the holder of or the applicant for the aviation document

person directly affected, in relation to any adverse decision, means the person who would be entitled under section 453 to appeal against that adverse decision

person on the basis of whose character the adverse decision arises, in relation to any adverse decision made or proposed to be made on the basis of matters referred to in section 80, means the person whom the Director assesses as not being a fit and proper person.

(2) If the Director proposes to make an adverse decision under this Act in respect of any person, the Director, by notice in writing, must—

(a) notify the person directly affected of the proposed decision; and

(b) subject to subsection (4), inform the person of the grounds for the proposed decision; and

(c) specify a date by which the person may make submissions to the Director in respect of the proposed decision, which must not be less than 21 days after the date on which the notice is given; and

(d) where appropriate, specify the date on which the proposed decision will, unless the Director otherwise determines, take effect, being a date not less than 28 days after the date on which the notice is given; and

(e) notify the person of the person's right of appeal under section 453 if the Director proceeds with the proposed decision; and

(f) specify any other matters that in any particular case may be required by this or any other Act.

(3) If the Director gives a notice under subsection (2), the Director—

(a) must also give a copy of the notice to—

(i) any person on the basis of whose character the adverse decision arises, if the person is not the person directly affected by the proposed decision; and

(ii) any affected document holder, if the Director considers that the proposed decision is likely to have a significant impact on the operations of the document holder; and

(b) may supply a copy of the notice to any other affected document holder.

(4) A notice or copy of a notice given under this section must not include or be accompanied by any information referred to in section 81(1), except to the extent that—

(a) the notice or copy is supplied to the person to whom the information relates; or

(b) the person to whom the information relates consents to the supply of that information to any other person.

(5) If any notice or copy of a notice is given to any person under this section, the person must ensure that all information that the person wishes the Director to consider in relation to the proposed decision is received by the Director within the period specified in the notice under subsection (2)(c), or within any further period that the Director may allow.

(6) The Director may request any further information from the person to whom the notice is given under this section, and may specify a reasonable time within which the information may be supplied.

Compare: 1990 No 98 s 11(1)–(4), (5)(a)

83 Determination by Director as to whether to make adverse decision

(1) The Director—

(a) must consider any submissions made in accordance with section 82(5) and made within the time period described or allowed under that subsection; and

(b) must consider any information provided in accordance with a request made under section 82(6) that is provided within the time specified by the Director under that subsection; and

(c) if, and only if, the Director is satisfied that there are extenuating circumstances, may consider any information provided in accordance with

section 82(5) or a request made under section 82(6) that is provided after the expiry of any period referred to in those subsections.

(2) After considering the matters referred to in section 82(5) and (6) in accordance with subsection (1), the Director must—

(a) finally determine whether to make the proposed adverse decision; and

(b) as soon as practicable after making the determination, notify in writing the person directly affected, and any other person of a kind referred to in section 82(3)(a), of—

(i) the Director's decision and the grounds for the decision; and

(ii) the date on which the decision will take effect; and

(iii) in the case of an adverse decision, the consequences of that decision and any applicable right of appeal specified in section 79(1), 97(5), or 98(6).

Compare: 1990 No 98 s 11(5)(b), (c), (6)

84 Powers of Director in relation to examinations, etc

For the purposes of granting or renewing aviation documents under this Act, the Director may set, conduct, and administer examinations and tests, conduct flight testing, and carry out any other functions in relation to those examinations, tests, and flight testing that the Director considers may be necessary.

Compare: 1990 No 98 s 72K

Subpart 2—Australia New Zealand Aviation mutual recognition

85 Additional purpose of subpart

(1) The purpose of this subpart (in addition to those set out in sections 3 and 4) is to implement the Australia New Zealand Aviation (**ANZA**) mutual recognition agreements.

(2) This section does not limit section 3 or 4.

Compare: 1990 No 98 s 11A

Australian Air Operator's Certificates with Australia New Zealand Aviation privileges

86 Holder of Australian Air Operator's Certificate with ANZA privileges entitled to conduct air operations in New Zealand

(1) The holder of an Australian AOC with ANZA privileges may conduct air operations to, from, or within New Zealand if the holder provides the Director with—

(a) a copy of the Australian AOC with ANZA privileges; and

(b) written notice of the following:

(i) the details of all conditions imposed by CASA in relation to the Australian AOC with ANZA privileges; and

(ii) the holder's Australian address for service and other contact details as specified by the Director; and

(iii) the holder's New Zealand address for service and other contact details as specified by the Director; and

(iv) any other prescribed information; and

(c) the holder's consent in writing to the making of inquiries to, and the exchange of information with, CASA regarding that holder's civil aviation activities.

(2) A holder of an Australian AOC with ANZA privileges must ensure that the Director is advised of every alteration to the Australian AOC with ANZA privileges or to the information provided by the holder to the Director within 7 days of the date on which the alteration is made.

Compare: 1990 No 98 s 11B

87 New Zealand temporary stop notice

(1) The Director may give the holder of an Australian AOC with ANZA privileges a written temporary stop notice that requires the holder to cease conducting all or any air operations in New Zealand for the period (which must not be more than 7 days) specified in the notice.

(2) The Director may give a New Zealand temporary stop notice only if the Director considers that, as a result of the holder conducting all or any air operations in New Zealand, there is a serious risk to civil aviation safety in New Zealand.

(3) Immediately on receiving a New Zealand temporary stop notice, the holder must cease conducting the air operations specified in the notice in New Zealand for the period specified in the notice.

(4) The Director must not delegate the power to give or revoke a New Zealand temporary stop notice.

(5) The Director may amend or revoke a New Zealand temporary stop notice before the period specified in that notice has expired.

(6) The Director must revoke a New Zealand temporary stop notice if the CAA receives notification from CASA of the Director of CASA's response to the New Zealand temporary stop notice.

Compare: 1990 No 98 s 11C

88 Contents of New Zealand temporary stop notice

(1) A New Zealand temporary stop notice must specify—

(a) the reasons why the Director considers that there is a serious risk to civil aviation safety in New Zealand; and

(b) the period for which the holder of the Australian AOC with ANZA privileges must cease conducting air operations in New Zealand.

(2) Failure to comply with subsection (1) does not invalidate the New Zealand temporary stop notice.

Compare: 1990 No 98 s 11D

89 Director to notify CASA about New Zealand temporary stop notice

As soon as practicable after giving a New Zealand temporary stop notice to the holder of an Australian AOC with ANZA privileges, the Director must give CASA a copy of the notice and any other information that CASA may require.

Compare: 1990 No 98 s 11E

New Zealand Air Operator's Certificates with Australia New Zealand Aviation privileges

90 Requirements for New Zealand AOCs with ANZA privileges

(1) Whenever the Director makes a decision under this Act in relation to a New Zealand AOC with ANZA privileges, the Director must take into account all relevant Australian and New Zealand regulatory requirements in relation to New Zealand AOCs with ANZA privileges.

(2) In making a decision under this Act in relation to a New Zealand AOC with ANZA privileges, the Director—

(a) must, if appropriate, consult CASA; and

(b) may take into account any of the following that the Director receives from CASA:

(i) advice:

(ii) guidelines:

(iii) recommendations:

(iv) other relevant information.

Compare: 1990 No 98 s 11F

91 Grant of New Zealand AOC with ANZA privileges

(1) The Director may, in accordance with this Act and the rules, grant to an air operator in New Zealand an authorisation (a **New Zealand AOC with ANZA privileges**) that will authorise the air operator to conduct air operations to, from, or within Australia.

(2) Before the Director may grant a New Zealand AOC with ANZA privileges, the Director must—

(a) be satisfied that the air operator will be conducting air operations to, from, or within New Zealand; and

(b) receive from the licensing authority written confirmation that, if the New Zealand AOC with ANZA privileges is issued to the air operator, the licensing authority considers that the air operator will be eligible to conduct air operations in Australia under the air services arrangements in place between Australia and New Zealand; and

(c) be satisfied that the air operator has complied with, or is capable of complying with, all the relevant requirements of the Civil Aviation Act 1988 (Aust) and regulations and civil aviation orders made under that Act that relate to safety; and

(d) consult with CASA.

(3) A New Zealand AOC with ANZA privileges may be granted by amending an appropriate existing aviation document or by granting an appropriate new aviation document.

(4) A New Zealand AOC with ANZA privileges is subject to the conditions that the holder—

(a) must conduct air operations to, from, or within New Zealand; and

(b) must not hold an Australian AOC with ANZA privileges authorising the holder to conduct air operations that are covered by the New Zealand AOC with ANZA privileges; and

(c) must comply with all the requirements of the Civil Aviation Act 1988 (Aust) and regulations and civil aviation orders made under that Act that apply to the holder; and

(d) must undertake the supervision of its management systems from or within New Zealand; and

(e) must ensure that the training and supervision of its employees is principally undertaken from or within New Zealand; and

(f) must ensure that the majority of resources associated with the exercise of the privileges of the AOC are situated within New Zealand; and

(g) must ensure that the people who control the exercise of the privileges of the AOC spend the majority of their time in New Zealand.

(5) A New Zealand AOC with ANZA privileges may be issued on any other conditions that the Director considers appropriate.

(6) In subsection (2), **licensing authority** has the same meaning as in section 174.

Compare: 1990 No 98 s 11G

92 Action by Director when CASA gives Australian temporary stop notice to holder of New Zealand AOC with ANZA privileges

(1) After the Director receives notification from CASA that CASA has given the holder of a New Zealand AOC with ANZA privileges an Australian temporary stop notice, the Director must—

(a) immediately consider the circumstances that gave rise to the giving of the notice; and

(b) decide, as soon as practicable and in accordance with the ANZA mutual recognition agreements, whether the Director should—

(i) suspend in whole or in part the New Zealand AOC with ANZA privileges under section 96 or 97; or

(ii) revoke in whole or in part the New Zealand AOC with ANZA privileges under section 98; or

(iii) impose conditions on the New Zealand AOC with ANZA privileges under section 96, 97, or 98; or

(iv) take any other action in relation to that New Zealand AOC holder.

(2) The Director must notify CASA of the Director's decision and of any action taken.

Compare: 1990 No 98 s 11H

93 Change of country of certification

(1) This section applies if the Director believes on reasonable grounds that—

(a) it would be in the interests of Australian and New Zealand civil aviation safety for the holder of a New Zealand AOC with ANZA privileges to conduct air operations in the Australian civil aviation system; but

(b) the holder is no longer able to comply with all the conditions specified in section 91(4).

(2) The Director must—

(a) consult with CASA; and

(b) notify the holder—

(i) that the Director believes on reasonable grounds that the holder is no longer able to comply with all the conditions specified in section 91(4); and

(ii) of the grounds for the Director's belief; and

(c) allow the holder at least 90 days from the date of the Director's notification under paragraph (b) to refute and otherwise comment on the Director's belief.

(3) If, after the process referred to in subsection (2) has been properly completed, the Director is satisfied that, in the interests of Australian and New Zealand civil aviation safety, the holder should no longer exercise ANZA privileges, the Director may do either or both of the following:

(a) amend the New Zealand AOC with ANZA privileges:

(b) withdraw the privileges attaching to the AOC.

(4) A person in respect of whom a decision is made under subsection (3) may appeal against the decision to the District Court under section 453.

Compare: 1990 No 98 s 11I

94 Delegation of Australian powers relating to Australian AOCs with ANZA privileges to employees of CAA

An employee of the CAA may, subject to any directions from the Director of CASA, perform any function or exercise any power delegated to that employee under the Civil Aviation Act 1988 (Aust) for the purpose of enabling that employee to perform the function or exercise the power in New Zealand in respect of Australian AOCs with ANZA privileges.

Compare: 1990 No 98 s 11J

95 Failure to cease conducting air operations in New Zealand

(1) A person who fails to comply with section 87(3) commits an offence.

(2) A person who commits an offence against subsection (1) is liable on conviction,—

(a) in the case of an individual, to a fine not exceeding $60,000:

(b) in the case of any other person, to a fine not exceeding $200,000.

Compare: 1990 No 98 s 46E

Subpart 3—Powers of Director in relation to aviation documents

96 Director may suspend, or impose conditions on, aviation document

(1) The Director may suspend, in whole or in part, an aviation document issued under this Act or impose conditions on an aviation document if the Director considers the action is necessary in the interests of safety and security and if the Director—

(a) considers the action is necessary to ensure compliance with civil aviation legislation; or

(b) is satisfied that the holder has failed to comply with any conditions of an aviation document or with the requirements in section 13; or

(c) is satisfied that the holder has contravened section 107(1) or 362(1); or

(d) considers that the privileges conferred on or the duties imposed on the holder by the document have been, or are being, carried out by the holder in a careless or incompetent manner; or

(e) in the case of a holder of a New Zealand AOC with ANZA privileges, has received from the Director of CASA a copy of an Australian temporary stop notice given to the holder.

(2) Without limiting subsection (1),—

(a) the Director may suspend an aviation document relating to the use of any aircraft or aeronautical product, or impose conditions on the aviation document, if the Director considers that there is reasonable doubt about the airworthiness of the aircraft or the quality or safety of the aeronautical product to which the document relates; and

(b) the Director may suspend an aviation document relating to the provision of any aviation-related service, or impose conditions on the aviation document, if the Director considers that there is reasonable doubt about the quality or safety of the service to which the document relates.

(3) The suspension of an aviation document and any conditions imposed remain in force until the Director determines what action, if any, referred to in section 97 is to be taken.

(4) However, any suspension or conditions expire 10 working days after the date on which the suspension or conditions are imposed unless, before the expiry of that 10-working-day period, the Director extends the suspension or conditions for a further specified period.

Compare: 1990 No 98 s 17(1)–(3)

97 Further provisions in relation to suspension of, or imposition of conditions on, aviation document

(1) This section applies if section 96 applies.

(2) The Director may do 1 or more of the following:

(a) impose conditions for a specified period:

(b) withdraw any conditions (other than a condition imposed in response to a direction under section 355(2)(b)):

(c) suspend an aviation document for a specified period:

(d) revoke, in whole or in part, an aviation document under section 98:

(e) impose permanent conditions under section 98.

(3) If notice of a proposed revocation of an aviation document, or notice of the proposed imposition of permanent conditions on an aviation document, is given in accordance with section 82 (as required by section 98(3)), either at the same time as the suspension of the document under this section is imposed or while the suspension is in force, the document to which the notice relates remains suspended until the Director finally decides whether to revoke the document or to impose permanent conditions on the aviation document under section 98.

(4) A person whose aviation document has been suspended or made subject to conditions must, if the document is capable of being surrendered (for example, if it is in paper form), immediately produce that document to the Director for appropriate endorsement.

(5) A person in respect of whom a decision is made under this section may appeal against the decision to the District Court under section 453.

Compare: 1990 No 98 s 17(4)–(7)

98 Director may revoke, or impose permanent conditions on, aviation document

(1) The Director may revoke, in whole or in part, or impose permanent conditions on an aviation document if the Director considers it necessary in the interests of aviation safety and security after an inspection, monitoring, or an investigation carried out under this Act.

(2) Without limiting subsection (1), the Director may revoke or impose permanent conditions on an aviation document if—

(a) the Director of CASA has advised the Director that CASA has given the holder of the document an Australian temporary stop notice; and

(b) the Director considers that the revocation or imposition of permanent conditions is necessary in the interests of aviation safety and security.

(3) If the Director proposes to act under this section, the Director must give notice in accordance with section 82, which applies as if the proposed action were a proposed adverse decision under this Act.

(4) Subsection (5) applies if an aviation document is capable of being produced or surrendered (for example, if the document is in paper form).

(5) A person whose aviation document is revoked or made subject to permanent conditions under this section must,—

(a) where the document is made subject to permanent conditions or revoked in part, immediately produce the document to the Director for appropriate endorsement:

(b) where the whole document is revoked, immediately surrender the document to the Director.

(6) A person in respect of whom a decision is made under this section may appeal against the decision to the District Court under section 453.

Compare: 1990 No 98 s 18

99 Considerations relevant to decision about taking action under section 96, 97, or 98

(1) This section applies for the purpose of—

(a) determining whether an aviation document should be suspended or made subject to conditions under section 96 or 97; or

(b) determining whether an aviation document should be revoked or made subject to permanent conditions under section 98.

(2) If this section applies, the Director may have regard to, and give the weight that the Director considers appropriate to, the following matters:

(a) the person's history of compliance with transport safety regulatory requirements:

(b) any conviction of the person for any transport safety offence, whether or not—

(i) the conviction was in a New Zealand court; or

(ii) the offence was committed before the commencement of this Act:

(c) any evidence that the person has committed a transport safety offence or has contravened or failed to comply with civil aviation legislation.

(3) The Director is not confined to consideration of the matters specified in subsection (2) and may take into account any other matters and evidence that the Director considers may be relevant.

(4) The Director may—

(a) seek and receive any information that the Director thinks fit; and

(b) consider information obtained from any source.

(5) Nothing in the Privacy Act 2020 prevents a person or an agency from disclosing personal information (within the meaning of that Act) to the Director in response to a request made by the Director under subsection (4).

Compare: 1990 No 98 s 19(1)–(4)

100 Obligations of Director in relation to disclosure or non-disclosure of information obtained under section 96, 97, or 98

(1) If the Director proposes to take into account under section 96, 97, or 98 any information that is or may be prejudicial to a person, the Director must, subject to subsections (2) and (3), disclose that information to the person and give the person a reasonable opportunity to refute or comment on it.

(2) The Director may determine not to disclose the information if,—

(a) in the case of non-disclosure to an individual of information about that individual, the Director could withhold the information under any of sections 49 to 53 of the Privacy Act 2020 had the information been requested by that individual under that Act; or

(b) in any other case, the Director could withhold the information under section 6, 7, or 9 of the Official Information Act 1982 had the information been requested under that Act.

(3) Nothing in subsection (1) requires the Director to disclose any information, or the fact of non-disclosure of that information, before suspending an aviation document or imposing conditions on an aviation document under section 96 or 97.

(4) The Director must make the disclosure under subsection (1) as soon as practicable, but, in the case of the suspension of an aviation document or the

imposition of conditions under section 96 or 97, no later than 5 working days after suspending the aviation document or imposing the conditions.

(5) If, in reliance on subsection (2) or (3), the Director determines not to disclose any information, the Director must inform the person of the fact of non-disclosure and,—

(a) in the case of non-disclosure to an individual of information about that individual, inform the individual that—

(i) the individual may, under the Privacy Act 2020, complain to the Privacy Commissioner about that non-disclosure; and

(ii) that Act applies to the non-disclosure as if, following a request under that Act for the information withheld, the information had been withheld under that Act; and

(b) in any other case, inform the person that—

(i) the person may seek a review by an Ombudsman of the non-disclosure under the Official Information Act 1982; and

(ii) that Act applies to the non-disclosure as if, following a request under that Act for the information withheld, the information had been withheld under that Act.

Compare: 1990 No 98 s 19(5)–(7)

101 Further powers of Director to amend or revoke aviation document

(1) The Director may, if requested to do so in writing by the holder of any aviation document,—

(a) amend that document in the manner requested; or

(b) revoke that document.

(2) The Director may do any of the following:

(a) amend any aviation document to reflect the fact that any privilege or duty for which the document has been granted is no longer being carried out, or is no longer able to be carried out, by the holder:

(b) revoke any aviation document if the holder is not carrying out, or able to carry out, any of the privileges or duties for which the document has been granted:

(c) amend any aviation document to correct any typographical error or obvious mistake in the document.

(3) Before taking any action under subsection (2)(a) or (b), the Director must notify the holder in writing of the proposed action and give the holder a reasonable opportunity to comment or make submissions on the proposed action.

(4) The power to amend an aviation document under this section includes—

(a) power to revoke the document and issue a new document in its place; and

(b) power to impose reasonable conditions.

(5) When the holder of an aviation document is notified that specified action is proposed under this section, the holder must, if the document is capable of being surrendered (for example, if it is in paper form), immediately produce the document to the Director.

Compare: 1990 No 98 s 20

Suspension or revocation of aviation document if prescribed fees, charges, or levies unpaid

102 Suspension or revocation of aviation document if prescribed fees, charges, or levies unpaid

(1) If any fee, charge, or levy payable under this Act is not paid by the date prescribed or fixed for the payment of that fee, charge, or levy, the Director may suspend any aviation document to which the unpaid fee, charge, or levy relates.

(2) If any fee, charge, or levy payable under this Act is not paid within 4 months after the date prescribed or fixed for the payment of that fee, charge, or levy, the Director may revoke any aviation document to which the fee, charge, or levy relates.

(3) Before suspending an aviation document under subsection (1), or revoking an aviation document under subsection (2), the Director must notify the holder of the document—

(a) that the Director intends to suspend or revoke the document; and

(b) that the person has a right of appeal under section 453 if the Director suspends or revokes the document.

(4) The holder of an aviation document that is suspended under subsection (1) or revoked under subsection (2) may appeal against the decision to the District Court under section 453.

Compare: 1990 No 98 ss 41(1)–(3), (5), 42D(3)

Subpart 4—Offences relating to aviation documents

103 Endangerment caused by holder of aviation document

(1) The holder of an aviation document must not, in respect of any activity or service to which the document relates, do or omit to do any act, or cause or permit any act or omission, that causes unnecessary danger to any other person or to any property.

(2) A person who contravenes subsection (1) commits an offence against this subsection whether or not the person knows that the act or omission will cause unnecessary danger to any other person or to any property.

(3) A person who contravenes subsection (1) commits an offence against this subsection if the person knows, or is reckless as to whether, the act or omission will cause unnecessary danger to any other person or to any property.

(4) A person who commits an offence against subsection (2) is liable on conviction,—

(a) in the case of an individual, to a fine not exceeding $90,000:

(b) in the case of any other person, to a fine not exceeding $300,000.

(5) A person who commits an offence against subsection (3) is liable on conviction,—

(a) in the case of an individual, to imprisonment for a term not exceeding 12 months, or to a fine not exceeding $150,000, or both:

(b) in the case of any other person, to a fine not exceeding $1,500,000.

(6) This section is in addition to and does not limit the regulations or rules.

Compare: 1990 No 98 s 43

104 Acting without necessary aviation document

(1) A person commits an offence if the person—

(a) operates, maintains, or services an aircraft, aerodrome, or aeronautical product, or provides an aviation-related service, or does any other act in respect of an aircraft, aerodrome, aeronautical product, or aviation-related service; and

(b) either—

(i) is required to hold a current aviation document for that activity and does not hold it; or

(ii) knows that a current aviation document is required to be held in respect of the aircraft, aerodrome, product, or service before the act in paragraph (a) may lawfully be done and knows that the appropriate aviation document is not held.

(2) A person who commits an offence against subsection (1)(b)(i) is liable on conviction,—

(a) in the case of an individual, to a fine not exceeding $10,000:

(b) in the case of any other person, to a fine not exceeding $30,000.

(3) A person who commits an offence against subsection (1)(b)(ii) is liable on conviction,—

(a) in the case of an individual, to imprisonment for a term not exceeding 12 months or to a fine not exceeding $90,000, or both:

(b) in the case of any other person, to a fine not exceeding $300,000.

(4) In proceedings for an offence against subsection (1)(b)(i), it is not necessary for the prosecution to prove that the person—

(a) knew that they were required to hold the aviation document; or

(b) knew that they did not hold the aviation document.

Compare: 1990 No 98 s 46

105 Court may disqualify person from holding aviation document or impose conditions on aviation document

(1) In addition to any penalty the court may impose under section 40, 41, or 103, the court may, on convicting any person of an offence against any of those sections,—

(a) disqualify the person convicted from holding or obtaining an aviation document or a particular aviation document for any period not exceeding 12 months that the court thinks fit; or

(b) impose on any aviation document held by or issued to the person convicted, for any period not exceeding 12 months that the court thinks fit, any restrictions or conditions, or both, that the court, having regard to the circumstances of the offence, thinks fit.

(2) Nothing in subsection (1) affects or prevents the exercise by the Director of the Director's powers under section 75.

Compare: 1990 No 98 s 45

106 Applying for aviation document while disqualified

(1) A person who, without reasonable excuse, applies for or obtains an aviation document knowing or having proper notice that they are disqualified by an order of the court from obtaining such a document commits an offence.

(2) Any aviation document in respect of which an offence is committed under subsection (1) is of no effect.

(3) A person who commits an offence against subsection (1) is liable on conviction,—

(a) in the case of an individual, to imprisonment for a term not exceeding 6 months or to a fine not exceeding $15,000, or both:

(b) in the case of any other person, to a fine not exceeding $50,000.

(4) If a person is convicted of an offence under subsection (1), the court may order the person to be disqualified from holding or obtaining an aviation document for any period not exceeding 12 months that the court thinks fit.

Compare: 1990 No 98 s 48

107 Failing to disclose information relevant to granting or holding of aviation document

(1) A person commits an offence if the person—

(a) is an applicant for an aviation document and fails, without reasonable excuse, to provide to the CAA information known to the person that the

person knows or should know is relevant to the CAA's or the Director's exercise of powers under civil aviation legislation; or

(b) is the holder of an aviation document and fails, without reasonable excuse, to provide to the CAA information known to the person that the person knows or should know is relevant to the condition specified in section 77.

(2) A person who commits an offence against subsection (1) is liable on conviction,—

(a) in the case of an individual, to imprisonment for a term not exceeding 12 months or to a fine not exceeding $30,000, or both:

(b) in the case of any other person, to a fine not exceeding $100,000.

Compare: 1990 No 98 s 49(1)(b), (c), (2)

108 Failure to provide information to Director relating to Australian AOCs with ANZA privileges

(1) A person who conducts an air operation while in breach of section 86(1) or (2) commits an offence.

(2) A person who commits an offence against subsection (1) is liable on conviction,—

(a) in the case of an individual, to a fine not exceeding $30,000:

(b) in the case of any other person, to a fine not exceeding $100,000.

Compare: 1990 No 98 s 46D

Subpart 5—Medical certification

Provisions relating to medical certification

109 Medical certification

The provisions of Schedule 2 apply to medical certification.

Offences relating to medical certification

110 Acting without required medical certificate

(1) A person who exercises the privileges of any aviation document or operates an aircraft solo commits an offence if the person—

(a) does not hold an appropriate current medical certificate issued under Schedule 2 or a medical certificate recognised by the Director under the rules; or

(b) knows or has reasonable grounds to suspect that they can no longer safely exercise the privileges to which their medical certificate relates; or

(c) fails to comply with any conditions, restrictions, or endorsements specified by the Director under clause 15(a) of Schedule 2.

(2) A person who commits an offence against subsection (1)(a) or (c) is liable on conviction to a fine not exceeding $30,000.

(3) A person who commits an offence against subsection (1)(b) is liable on conviction to imprisonment for a term not exceeding 12 months or to a fine not exceeding $30,000, or both.

Compare: 1990 No 98 s 46A

111 Fraudulent, misleading, or false statements to obtain medical certificate

(1) A person commits an offence if the person—

(a) makes or causes to be made a fraudulent statement, or knowingly or recklessly makes or causes to be made a false or misleading statement,—

(i) for the purpose of obtaining a medical certificate under Schedule 2; or

(ii) during an investigation under clause 10 or 11 of Schedule 2 or a review under clauses 19 to 21 of that schedule or an assessment under clause 4 of that schedule; or

(b) makes or causes to be made a fraudulent entry, or knowingly or recklessly makes or causes to be made a false or misleading entry, in any logbook, record, form, or report that is required to be kept, made, or used to show compliance with any conditions, restrictions, or endorsements placed on a medical certificate under Schedule 2; or

(c) makes or causes to be made a reproduction or alteration for fraudulent purposes of a medical certificate issued under Schedule 2.

(2) A person who commits an offence against subsection (1) is liable on conviction to imprisonment for a term not exceeding 12 months or to a fine not exceeding $30,000, or both.

Compare: 1990 No 98 s 46B

112 Failure to disclose medical information

(1) A person commits an offence if the person—

(a) fails, without reasonable excuse, to advise the Director of information about the person's medical condition as required by clause 8(1)(a) of Schedule 2; or

(b) fails, without reasonable excuse, to provide information required by the Director under clause 10 of Schedule 2.

(2) A person commits an offence if the person—

(a) is a licence holder and is aware of a change in the licence holder's medical condition, or the existence of any previously undetected medical condition, that may interfere with the safe exercise of the privileges to which the licence holder's medical certificate relates; and

(b) fails, without reasonable excuse, to advise the Director of information about the person's medical condition as required by clause 8(1)(a) of Schedule 2.

(3) A person who commits an offence against subsection (1) is liable on conviction to a fine not exceeding $30,000.

(4) A person who commits an offence against subsection (2) is liable on conviction to imprisonment for a term not exceeding 12 months or to a fine not exceeding $30,000, or both.

Compare: 1990 No 98 s 46C

Subpart 6—Drug and alcohol management plans and testing

113 Interpretation

In this subpart, unless the context otherwise requires,—

bodily sample means any of the following:

(a) biological fluid:

(b) biological tissue (whether living or not):

(c) breath

DAMP means a drug and alcohol management plan developed in accordance with section 114

DAMP operator means a person who—

(a) conducts an operation that involves 1 or more safety-sensitive activities; and

(b) is required under the rules to hold an aviation document for that operation; and

(c) is in a class of persons specified in the rules as a DAMP operator

Director testing means drug or alcohol testing carried out under section 116

drug or alcohol test means—

(a) a test of a person's bodily sample to determine the presence, but not the level, of alcohol or a testable drug (or both) in the sample; or

(b) a test of a person's bodily sample to determine the presence and the level of alcohol or a testable drug (or both) in the sample

negative result, in relation to a drug or alcohol test, means that the test reveals—

(a) that alcohol or a testable drug (or both) is not present in the bodily sample; or

(b) if the DAMP specifies a level of alcohol or a testable drug in relation to a test, that alcohol or a testable drug (or both) is not present in the body at or above the specified level

random testing means drug or alcohol testing of a safety-sensitive worker by a DAMP operator under section 115, where the worker—

(a) is selected for testing in a way that is non-discriminatory; and

(b) is not given advance notification of the testing

response plan means that part of a DAMP that is concerned with actions taken by the DAMP operator in relation to a safety-sensitive worker who refuses to consent to a drug or alcohol test or whose test returns a result other than a negative result, and includes reasonable arrangements and processes developed by the DAMP operator for—

(a) prohibiting the worker from performing a safety-sensitive activity; and

(b) permitting the worker to resume performing safety-sensitive activities, if the worker can do so safely

safety-sensitive activity—

(a) means an activity that—

(i) could significantly affect the health or safety of any person on board an aircraft, including the person performing the activity; or

(ii) if not performed safely, could cause or contribute to an accident or incident involving an aircraft; and

(b) includes an activity prescribed under the rules

safety-sensitive worker—

(a) means an individual employed or engaged by a DAMP operator in a role that involves the individual performing a safety-sensitive activity; and

(b) includes the DAMP operator, if the DAMP operator is an individual

testable drug, in relation to a DAMP, means a drug specified under section 114(2)(b)(i) in the DAMP.

114 DAMP operator must develop DAMP

(1) A DAMP operator must have a DAMP for the purpose of managing risks arising from drug or alcohol use by safety-sensitive workers of the DAMP operator when performing safety-sensitive activities in relation to the operator's operation.

(2) The DAMP operator must ensure that a DAMP—

(a) applies to all safety-sensitive activities; and

(b) provides for random testing of safety-sensitive workers, including by—

(i) specifying the drugs to be tested for under the DAMP; and

(ii) setting out procedures and other matters (including any permissible levels of alcohol or a testable drug) in relation to the testing; and

(c) includes a response plan; and

(d) is developed in accordance with any requirements under the rules for developing the DAMP (including consultation with affected workers).

(3) For the purpose of subsection (2)(b)(i), the DAMP operator—

(a) must specify any drug that is specified by the rules as required to be included as a testable drug in the DAMP; and

(b) may specify any other drug that could impair a safety-sensitive worker's performance of a safety-sensitive activity.

(4) The following must be done as prescribed under the rules:

(a) the keeping of records in relation to matters done under, or relevant to, the DAMP:

(b) approval and renewal of the DAMP:

(c) amendment of the DAMP:

(d) treatment of the DAMP as forming part of any other document held by the operator.

115 Random testing by DAMP operator

(1) A DAMP operator must provide for testing of safety-sensitive workers in accordance with the approved DAMP and this section.

(2) Random testing may be carried out only if the worker consents to be tested.

(3) The DAMP operator must ensure that a person who carries out random testing is competent to carry out the testing, including by having any necessary experience or qualifications.

(4) The person who carries out the random testing of a worker must,—

(a) when first approaching the worker for the purpose of random testing, give the worker a written statement that sets out the following:

(i) the statutory power to carry out the test:

(ii) a general description of how the test will be carried out, including how the bodily sample will be taken and how it will be analysed:

(iii) an explanation that the worker has the right to refuse consent to testing:

(iv) an explanation of the consequences if the worker refuses consent or returns a test result other than a negative result:

(v) that the worker will be informed of the test result (and approximately when that will happen):

(vi) any other matter prescribed by the rules; and

(b) before testing the worker,—

(i) take reasonable steps to establish the worker's identity; and

(ii) explain to the worker that the worker has the right to refuse consent; and

(iii) explain to the worker the consequences if the worker refuses consent or returns a test result other than a negative result; and

(iv) ask for the worker's consent to testing; and

(c) carry out the test only in relation to—

(i) alcohol and the testable drugs specified in the DAMP; and

(ii) the permissible levels (if any) for alcohol or testable drugs specified in the DAMP; and

(d) carry out the test in accordance with the DAMP and any requirements prescribed by the rules.

(5) As soon as practicable after the DAMP operator becomes aware of the result of a test, the DAMP operator must give the test result to the worker tested.

(6) A written statement under subsection (4)(a) must be provided to the worker on request at any time.

116 Director testing

(1) The Director may carry out drug or alcohol testing of 1 or more safety-sensitive workers of a DAMP operator.

(2) Director testing,—

(a) to the extent reasonably practicable in the circumstances, must be carried out without advance notification to the DAMP operator or to the workers selected for testing; and

(b) may be carried out at any reasonable time and in any reasonable circumstances the Director considers appropriate; and

(c) may be carried out only if the worker consents to be tested; and

(d) must be carried out by an inspector.

(3) When carrying out Director testing of a worker, an inspector must,—

(a) when first approaching the worker for the purpose of random testing, give the worker a written statement that sets out the following:

(i) the statutory power to carry out the test:

(ii) a general description of how the test will be carried out, including how the bodily sample will be taken and how it will be analysed:

(iii) that the worker has the right to refuse consent to testing:

(iv) an explanation of the consequences if the worker refuses consent or returns a test result other than a negative result:

(v) that the worker will be informed of the test result (and approximately when that will happen):

(vi) any other matter prescribed by the rules; and

(b) before testing the worker,—

(i) take reasonable steps to establish the worker's identity; and

(ii) explain to the worker that the worker has the right to refuse consent; and

(iii) explain to the worker the consequences if the worker refuses consent or returns a test result other than a negative result; and

(iv) ask for the worker's consent to testing; and

(c) carry out the test only in relation to—

(i) alcohol and the testable drugs specified in the DAMP; and

(ii) the permissible levels (if any) for alcohol or testable drugs specified in the DAMP; and

(d) carry out the test in accordance with the DAMP and any requirements prescribed by the rules.

(4) As soon as practicable after the Director becomes aware of the result of a test, the Director must give the test result to the worker tested and the DAMP operator.

(5) A written statement under subsection (3)(a) must be provided to the worker on request at any time.

(6) A failure by the Director to comply with subsection (2)(a) does not invalidate a test.

117 What happens if worker refuses consent or test result is not negative

(1) If a safety-sensitive worker refuses to consent to random testing or is tested and returns a result other than a negative result, or if the Director notifies the DAMP operator under subsection (2), the DAMP operator must—

(a) prohibit the worker from performing safety-sensitive activities until the worker is able to safely perform those activities; and

(b) implement the response plan.

(2) If a worker refuses to consent to Director testing or is tested and returns a result other than a negative result, the Director must notify the worker's DAMP operator of that fact as soon as practicable.

(3) If a worker refuses to consent to random testing or is tested and returns a result other than a negative result, the DAMP operator must, in accordance with any requirements of the rules, notify the Director of that fact as soon as practicable.

118 Tampering

(1) This section applies if a person who is carrying out a random test or Director testing suspects on reasonable grounds that a person being tested has—

(a) consumed, administered, or supplied any substance with intent to dilute, contaminate, or otherwise alter any sample:

(b) otherwise tampered with the testing.

(2) This subpart and the relevant DAMP apply as if the test returned a result other than a negative result.

119 Test results only to be used in certain prosecutions

Test results obtained by a DAMP operator from carrying out random testing or by the carrying out of Director testing under section 116 are not admissible in any criminal proceedings other than the prosecution of an offence under—

(a) this Act; or

(b) the Health and Safety at Work Act 2015.

Part 5
Aviation security

Subpart 1—Designations and security checks

120 Security designated aerodromes and navigation installations

(1) The Minister may, by notice in the *Gazette*, having regard to the main and additional purposes of this Act,—

(a) designate an aerodrome as a Tier 1 security designated aerodrome:

(b) designate an aerodrome as having any other tier of security specified in the rules:

(c) designate a navigation installation as a security designated navigation installation.

(2) The New Zealand Police and the authorised aviation security service provider or providers at a security designated aerodrome or security designated navigation installation are jointly responsible for—

(a) the prevention of the commission of crimes against the Aviation Crimes Act 1972 at that aerodrome or installation; and

(b) the protection of persons and property from dangers arising from the commission or attempted commission of such crimes.

Compare: 1990 No 98 ss 76, 82

Airside security areas

121 Airside security areas

(1) The Director may declare, by a sign or signs affixed at the perimeter of the area, that an area within any security designated aerodrome or security designated navigation installation is an airside security area.

(2) The Director may declare, by appropriate notification, that an area within an airside security area is a security enhanced area.

Compare: 1990 No 98 s 84(1), (1A)

122 Entry into airside security area

(1) Except as provided in this section, only the following persons may enter or remain in any airside security area or part of an airside security area:

(a) a constable on official duties or an aviation security officer on official duties:

(b) a person who is—

(i) authorised by the Director or a person acting under the authority of the operator of the aerodrome or navigation installation; and

(ii) bearing, in accordance with any requirements specified in the rules, evidence of the person's identity:

(c) a person or class of persons approved by the Director for the purpose of this section.

(2) The evidence of identity required by subsection (1)(b)(ii) must be the evidence of identity required under the rules or approved by the Director under the rules.

(3) Despite subsection (1),—

(a) a passenger embarking or disembarking directly through a gateway or thoroughfare in an aerodrome approved for that purpose by the aerodrome manager may pass through an airside security area or part of an airside security area forming part of the gateway or thoroughfare without the evidence of identity referred to in subsection (1)(b)(ii):

(b) a person allowed under the rules may pass through an airside security area or part of an airside security area without the evidence of identity referred to in subsection (1)(b)(ii).

Compare: 1990 No 98 s 84(2), (7), (8)

123 Providing evidence of identity and authority

(1) A person in an airside security area or part of an airside security area must, on the request of an authorised security person,—

(a) state the person's name, address, and date of birth, and the purpose of the person's presence in the airside security area or part of an airside security area, and the person's authority to enter it; and

(b) provide satisfactory evidence of the person's stated name and authority to enter the area.

(2) An authorised security person may order a person to leave an airside security area or part of an airside security area if the person fails or refuses to comply with a requirement of subsection (1)(a) or (b) when requested.

(3) If a person fails or refuses without reasonable excuse to immediately comply with an order under subsection (2), an authorised security person, and any person whom the authorised security person calls to assist the authorised security person, may use such force that is reasonably necessary to remove the person.

(4) Any person who without reasonable excuse refuses to comply with a request or order under subsection (1) or (2) and, after having been warned that the person is committing an offence under section 166, persists in its commission may be detained by an aviation security officer.

(5) A person detained under subsection (4) must as soon as practicable be delivered to a constable.

Compare: 1990 No 98 s 84(3)–(6)

124 Authorised security person may seize evidence of identity

(1) This section applies if a person produces the evidence of identity referred to in section 122(1)(b)(ii) to an authorised security person, and an authorised security person has reasonable grounds to believe that—

(a) the evidence of identity is being used in breach of civil aviation legislation; or

(b) the approval of the evidence of identity has been withdrawn or has expired.

(2) The authorised security person may seize the evidence of identity and—

(a) return it to the Director or otherwise notify the Director in accordance with the rules; or

(b) if the evidence of identity is not issued by the Director, return it to the person or agency that issued it or otherwise notify the person or agency in accordance with any requirements of the rules.

Landside security areas

125 Landside security areas

(1) The Minister may exercise the power in this section if the Minister considers that it is—

(a) necessary in order to respond to a threat to civil aviation; or

(b) necessary to enable New Zealand to be part of a concerted international response to a threat to aviation security; or

(c) otherwise necessary to support the main purpose of this Act or the additional purpose in section 4(d).

(2) The Minister may declare, by a sign or signs affixed at the perimeter of the area, that an area within any security designated aerodrome or security designated navigation installation is a landside security area.

(3) A declaration made under this section has effect for a period the Minister specifies in it, which must not be more than 30 days.

Security checks of persons

126 Director may carry out security checks

(1) The Director may carry out a security check of a person who falls within a category of persons specified in the rules as requiring a security check if—

(a) the security check is for the purpose of determining whether the person poses a threat to aviation security; and

(b) the person consents.

(2) If a person refuses consent to a security check under subsection (1), the person must not be granted any authorisation under the rules if the rules require a favourable security check determination.

(3) The Director may grant a favourable security check determination if the Director decides that the person has undergone an alternative security check that is acceptable to the Director.

(4) For the purpose of determining whether a person poses a threat to aviation security, the Director may—

(a) seek and receive any information that the Director considers relevant, including (but not limited to) a recommendation made by the New Zealand Security Intelligence Service under section 11 of the Intelligence and Security Act 2017; and

(b) give weight to any component of the information as the Director considers appropriate in the circumstances.

(5) Nothing in the Privacy Act 2020 prevents disclosure of personal information (within the meaning of that Act) by a person or an agency to the Director in response to a request made by the Director under subsection (4).

(6) If the Director determines that a person does not pose a threat to aviation security, the Director must advise the person of the favourable security check determination.

Compare: 1990 No 98 s 77F(1)–(5)

127 Reconsideration of security check determination

(1) The Director may reconsider any previous security check determination that the Director has made under section 126 if—

(a) new information is made available; or

(b) the Director has reason to suspect that the person may pose a threat to aviation security.

(2) If the Director proposes to reconsider any previous security check determination, the Director must—

(a) advise the person to whom the security check determination relates that the Director is reconsidering that determination; and

(b) complete the reconsideration of that determination within 20 working days of advising the person under paragraph (a); and

(c) if the reconsideration results in an adverse security check determination or a proposed adverse security check determination, initiate the appropriate review procedure set out in section 128 or 129; and

(d) if a favourable security check determination is required for any previous authorisation granted to the person under the rules, withdraw that authorisation for—

(i) the period of the reconsideration; and

(ii) any subsequent review period under section 128 or 129; and

(e) if a favourable security check determination is required for any previous authorisation granted to the person by any other entity, require that entity to withdraw the authorisation for—

(i) the period of the reconsideration; and

(ii) any subsequent review period under section 128 or 129.

(3) Section 126(4) and (5) applies to the reconsideration of a security check determination under this section.

(4) Nothing in this section limits the power of the Director to grant an exemption under section 322.

Compare: 1990 No 98 s 77F(6)–(8)

128 Review procedure for adverse security check determination

If the Director proposes to make an adverse security check determination with respect to a person (other than a determination to which section 129 applies), the Director must—

(a) advise the person in writing of the proposed determination and the reasons for the proposed determination; and

(b) give the person written notice that, within 20 working days of the date of the notice, the person may—

(i) seek legal advice or assistance with respect to the proposed determination:

(ii) respond to, comment on, or make submissions on the proposed determination:

(iii) provide new information relevant to the proposed determination; and

(c) give the person written notice of the date on which the proposed determination will, unless the Director decides otherwise, be made (which

must be a date that is as soon as practicable after the expiry of the 20-working-day period referred to in paragraph (b)); and

(d) consider any response, comment, submission, or new information that the person provides along with the information on which the proposed determination was made; and

(e) make a final determination and inform—

(i) the person of the final determination and the reasons for the final determination; and

(ii) any other affected party of the final determination, but not the reasons for the final determination.

Compare: 1990 No 98 s 77G(2)

129 Review procedure for adverse security check determination made wholly or partly on recommendation under Intelligence and Security Act 2017

(1) If the Director makes an adverse security check determination with respect to a New Zealand person based on a recommendation made by the New Zealand Security Intelligence Service under section 11 of the Intelligence and Security Act 2017, the Director must advise the New Zealand person that the person may, in accordance with section 171 of that Act, make a complaint regarding the recommendation to the Inspector-General of Intelligence and Security.

(2) If the Director proposes to make an adverse security check determination based on a recommendation made by the New Zealand Security Intelligence Service and on information other than that recommendation, the Director must—

(a) follow the procedure set out in section 128 with respect to the information other than the recommendation and advise the person that the proposed determination is based on—

(i) a recommendation made by the New Zealand Security Intelligence Service; and

(ii) information other than the recommendation; and

(b) then follow the procedure set out in subsection (1) with respect to the recommendation if—

(i) the Director is satisfied that the information other than the recommendation is no longer sufficient to support an adverse security check determination; and

(ii) the person is a New Zealand person.

(3) For the purposes of this section, **New Zealand person** has the meaning given to it in section 4 of the Intelligence and Security Act 2017.

Compare: 1990 No 98 s 77G(1), (3), (5)

130 Consequences of final adverse security check determination

If the Director makes a final adverse security check determination, the Director must—

(a) revoke any authorisation granted to the person by the Director under the rules, if a favourable security check determination is required under the rules for the authorisation; and

(b) require any other entity to revoke any authorisation granted to the person, if a favourable security check determination is required under the rules for the authorisation.

Compare: 1990 No 98 s 77G(4)

131 Offence to carry out activity while authorisation withdrawn or after authorisation revoked

(1) A person commits an offence if the person carries out an activity that requires an authorisation—

(a) during a period when that authorisation has been withdrawn under section 127(2)(d) or (e); or

(b) if that authorisation has been revoked under section 130.

(2) A person who commits an offence against subsection (1) is liable on conviction to a fine not exceeding $10,000.

Compare: 1990 No 98 s 77H

132 Offence to fail to comply with Director's requirement to withdraw or revoke authorisation

(1) A person commits an offence if the person fails, without reasonable excuse, to comply with the Director's requirement to—

(a) withdraw an authorisation under section 127(2)(e); or

(b) revoke an authorisation under section 130(b).

(2) A person who commits an offence against subsection (1) is liable on conviction to a fine not exceeding $35,000.

Compare: 1990 No 98 s 77I

Subpart 2—Aviation security services and aviation security powers

133 Interpretation

In this subpart,—

data means information in digital format and other intangible material in an electronic device

electronic device or **device** means anything that contains data (including an electronic communication device or any other data storage device)

pat down search means a search of a clothed person in which the person conducting the search does all or any of the following:

(a) runs or pats their hand over the body of the person being searched, whether outside or inside the clothing (other than any underclothing) of the person being searched:

(b) inserts their hand inside any pocket or pouch in the clothing (other than any underclothing) of the person being searched:

(c) for the purpose of permitting a visual inspection, requires the person being searched to do all or any of the following:

(i) open their mouth:

(ii) display the palms of their hands:

(iii) display the soles of their feet:

(iv) lift or rub their hair

relevant item or substance means—

(a) dangerous goods:

(b) any item or substance specified in section 11(1) of the Aviation Crimes Act 1972:

(c) any item or substance not already included in paragraph (a) or (b) that is specified in a direction under section 152 or 154

security area means a landside security area or an airside security area

sterile area means the area at an aerodrome, between the passenger inspection and screening station and the aircraft, into which access is strictly controlled

thing includes, without limitation, an item, a substance, or a vehicle.

Provision of aviation security services

134 Aviation security service providers

Aviation security services may be provided by—

(a) AvSec, at any security designated aerodrome or security designated navigation installation; or

(b) the operator of a security designated aerodrome or security designated navigation installation, at that aerodrome or navigation installation; or

(c) an airline, at a security designated aerodrome at which the airline is operating.

Compare: 1990 No 98 s 79(1)

135 Responsibility of Minister

The Minister must ensure that aviation security services are provided at all Tier 1 security designated aerodromes and at all security designated navigation installations.

Compare: 1990 No 98 s 77

136 Requirements for provider of aviation security services

(1) No person referred to in section 134(b) or (c), and no person employed or engaged by the person, may provide aviation security services at an aerodrome or, as the case may be, a navigation installation, except in accordance with a current aviation document for the services issued under this Act.

(2) The holder of an aviation document referred to in subsection (1) has only those functions and duties (which may be all or any of the functions and duties of AvSec) that are prescribed under the regulations or rules.

(3) To avoid doubt, neither AvSec nor any person employed to work in AvSec is required to have an aviation document for the provision of aviation security services.

Compare: 1990 No 98 ss 79(2), (3), 81(1)

137 Minister may specify only AvSec to provide security at aerodrome or installation

(1) Despite section 134, but subject to subsection (3), the Minister may by notice in the *Gazette* specify that only AvSec may provide aviation security services at all or any security designated aerodromes or security designated navigation installations.

(2) Before giving a notice under subsection (1), the Minister—

(a) must have regard to the main and additional purposes of this Act; and

(b) must consult with any person who already holds an aviation document entitling the person to provide aviation security services at a security designated aerodrome or security designated navigation installation to which the notice will apply.

(3) Despite anything in section 134, the Minister may at any time, in the event of an emergency or other crisis, appoint AvSec to provide aviation security services at any security designated aerodrome or security designated navigation installation, even though another authorised aviation security service provider is providing aviation security services.

(4) Any appointment made under subsection (3) has effect for a period specified by the Minister, which must not be more than 10 days.

Compare: 1990 No 98 s 79A

138 Functions and duties of AvSec

(1) AvSec has the following functions and duties:

(a) to carry out—

(i) crew, passenger, and baggage searching for all international aircraft passenger services:

(ii) the directions of the Minister or the Director under section 152 or 154:

(iii) aerodrome security patrols and patrols of security designated navigation installations:

(b) to review, inquire into, and keep itself informed on security techniques, systems, devices, practices, and procedures related to the protection of civil aviation and persons employed in or using it:

(c) to undertake, or encourage or supervise, any experimental or research work in respect of any aspect of aviation security that the Director specifies:

(d) for the purpose of better carrying out any of its functions under this Act, to co-operate with the Police, government departments, airport operators, operators, authorities administering the airport security services of other countries, and any appropriate international organisation:

(e) to provide security support services to the New Zealand Police when requested by the Commissioner of Police, but only if—

(i) the Commissioner of Police is satisfied that the provision of those services is necessary to enable the New Zealand Police to carry out its security duties; and

(ii) the Minister and the CAA agree that the provision of those services will not compromise aviation security:

(f) to co-operate with, or to provide advice and assistance to, any government agency or local government agency when requested to do so by the Minister, but only if the Minister and the CAA agree that the performance of the functions and duties of AvSec will not be compromised:

(g) to carry out or exercise any other functions, powers, or duties that are conferred or imposed on it under this Act or any other legislation.

(2) AvSec is not required to perform the functions and duties in subsection (1) at an aerodrome or navigation installation to the extent that an authorised aviation security service provider is performing those functions and duties at that aerodrome or navigation installation under an aviation document in accordance with section 136.

(3) Nothing in subsection (1) limits the powers, functions, duties, or responsibilities of the Police under this Act or any other legislation, or the generality of section 135.

Compare: 1990 No 98 s 80

139 Requirements for AvSec to comply with prescribed requirements for provision of aviation security services

(1) All or any requirements prescribed under the rules or regulations that apply to the holder of an aviation document for the provision of aviation security services apply to AvSec.

(2) Subsection (1) is subject to anything in the rules or regulations that—

(a) specifically provides that a requirement does not apply to AvSec; or

(b) in any other way provides differently for AvSec.

140 Person who holds aviation document for aviation security service must designate aviation security officers

(1) A person who holds an aviation document for an aviation security service must designate persons employed by the person to be aviation security officers.

(2) An officer designated under subsection (1) has, in relation to the aerodrome or navigation installation at which the person is employed, all the powers of an aviation security officer under this Part.

Compare: 1990 No 98 s 81

Searching powers at aerodromes and navigation installations

141 Searching powers of aviation security officers

(1) An aviation security officer may, at a security designated aerodrome or a security designated navigation installation, for the purpose of detecting any relevant item or substance, undertake reasonable searching of—

(a) a person or thing—

(i) at a screening point immediately before the person or thing enters a landside security area; or

(ii) while the person or thing is present in a landside security area; or

(iii) at a screening point immediately before the person or thing enters a sterile area; or

(iv) while the person or thing is present in a sterile area; or

(v) at a screening point immediately before the person or thing enters a security enhanced area; or

(vi) while the person or thing is present in a security enhanced area:

(b) any place within the aerodrome or installation:

(c) any of the following at any place within the aerodrome or installation:

(i) a crew member or passenger and any thing in the person's possession:

(ii) a thing to be carried on an aircraft:

(iii) any thing that is found unattended:

(iv) a vehicle:

(v) an aircraft.

(2) In relation to an electronic device, the power in this section does not authorise an aviation security officer or any other person to access data in the device or to access data that is not in the device.

(3) No provision in subsection (1) limits or affects any other provision in that subsection.

(4) A search under this section may be done at the request of an aerodrome operator or the Police, or on the initiative of an aviation security officer.

Compare: 1990 No 98 ss 80(a)(ii), (ab), 80A(1), 80B(1), 80C(1)

142 Requirements and incidental powers relating to manner of searching persons

(1) With respect to a search of a person under section 141, a person must, if directed to do so by an aviation security officer,—

(a) remove, raise, lower, or open any outer clothing, including (but not limited to) any coat, jacket, jumper, cardigan, or similar article that the person is wearing, to enable the search to be carried out, except where the person has no other clothing, or only underclothing, under the outer clothing:

(b) remove any gloves, footwear (including socks or stockings), head coverings, belts, jewellery, or other accessories:

(c) allow an aviation security officer to carry out a pat down search.

(2) The search of a person may include a search (whether involving physical contact or not) of—

(a) any outer clothing of the person removed, raised, lowered, or opened for the purposes of the search of the person; and

(b) any head covering, gloves, or footwear (including socks or stockings) of the person removed for the purposes of the search of the person.

(3) If a search of a person is made by means other than solely an aviation security dog or a mechanical or electrical or electronic or other similar device, the person must be searched by—

(a) an aviation security officer who is of the same sex as the person being searched; or

(b) if the person being searched reasonably requests, a person of a different sex.

Compare: 1990 No 98 s 80G

143 Consent requirements for searching

(1) The power of search in section 141 may be exercised only,—

(a) in the case of the search of a person, with the consent of the person:

(b) in the case of the search of a thing, with the consent of the person in possession of the thing.

(2) If a person is at a screening point, the person is taken for all purposes to consent to—

(a) any searching of the person that involves no physical contact with the person being searched:

(b) any searching of baggage presented by the person for carriage, including the use of reasonable force to open the baggage.

(3) Subsection (2) does not apply to a search described in that subsection if the person refuses before the search begins to undergo the search or to allow a search of an item in the person's possession.

(4) A person (including a person to whom subsection (2) applies) may withdraw their consent at any time before a search is finished but, if the person does so, the person is treated for the purposes of this subpart and subpart 3 as if they had refused consent to the search.

(5) A person is taken for all purposes to consent to the searching of the person's baggage while it is temporarily under the control, or in the charge, of—

(a) an airline operator or other person at an aerodrome for the purpose of transporting it within the aerodrome or loading it or any other similar purpose; or

(b) a government agency for the purpose of inspecting it or exercising any other regulatory function.

(6) This section is subject to section 144.

144 Circumstances where consent to searching not required

(1) The power in section 141(1)(c)(iii) to search an unattended thing may be exercised without consent.

(2) The power in section 141 may be exercised without consent to search anything other than a person if an aviation security officer has reasonable grounds to suspect that—

(a) there is an imminent risk to aviation safety and security; and

(b) the risk requires an immediate response.

(3) This section applies despite anything in section 12(1) of the Aviation Crimes Act 1972 relating to a requirement for consent.

145 Power to require drivers to stop vehicles in security enhanced areas for searching

(1) An aviation security officer who is in uniform may signal or request the driver of a vehicle in a security enhanced area to stop the vehicle as soon as is

practicable for the purpose of searching the vehicle, and any thing or person in the vehicle, under section 141.

(2) The driver of a vehicle that is stopped by an aviation security officer must remain stopped for as long as is reasonably necessary for the aviation security officer to search the vehicle, and any thing or person in the vehicle.

(3) A person commits an offence and is liable on conviction to a fine not exceeding $2,500 if the person, without lawful authority or reasonable excuse, fails to—

(a) stop a vehicle in a security enhanced area as soon as is practicable when required to do so by an aviation security officer; or

(b) remain stopped for as long as is reasonably necessary for the aviation security officer to search the vehicle, and any thing or person in the vehicle.

(4) In proceedings for an offence against subsection (3),—

(a) the prosecutor need not assert absence of lawful authority or reasonable excuse in the charging document; and

(b) the burden of proving that the defendant had lawful authority or a reasonable excuse lies on the defendant.

Compare: 1990 No 98 s 80H

146 Powers of aviation security officer in relation to person who is not searched or refuses consent to searching

(1) This section applies if a person—

(a) is required to be subject to a search at a screening point immediately before entering into a landside security area, a sterile area, or a security enhanced area and attempts to enter without having undergone searching; or

(b) is required to be subject to a search while in a landside security area, a sterile area, or a security enhanced area and attempts to remain in that area without having undergone searching; or

(c) refuses to consent to searching immediately before entry into, or while in, a landside security area, a sterile area, or a security enhanced area.

(2) An aviation security officer may,—

(a) if the person is outside the landside security area or, as the case may be, the sterile area or security enhanced area, deny the person entry into that area:

(b) if the person is in the landside security area or, as the case may be, the sterile area or security enhanced area, require the person to—

(i) leave the area:

(ii) remove any thing in the person's possession from the area.

(3) An aviation security officer may—

(a) prevent a person from entering a landside security area or, as the case may be, a sterile area or security enhanced area if the person is denied entry under subsection (2)(a):

(b) remove a person from a landside security area or, as the case may be, a sterile area or security enhanced area if the person is required to leave under subsection (2)(b).

(4) An aviation security officer may detain a person who—

(a) attempts to enter when denied entry under subsection (2)(a), or refuses to leave when required to leave under subsection (2)(b), and persists in that refusal (or attempt) after being warned that the person commits an offence by not complying:

(b) refuses to be searched at a screening point immediately before entering into a landside security area, a sterile area, or a security enhanced area, if the aviation security officer has reasonable grounds to suspect that—

(i) an offence against the Aviation Crimes Act 1972 has been, is being, or is likely to be committed, whether by the person or by any other person; or

(ii) a search of the person refusing to consent is likely to disclose evidence that an offence against the Aviation Crimes Act 1972 has been, is being, or is likely to be, committed, whether by the person or any other person.

(5) A person detained under subsection (4) must be delivered to a constable as soon as practicable.

(6) An aviation security officer, or any person assisting an aviation security officer, may use reasonable force, or any assistance that is reasonably necessary in the circumstances, to—

(a) prevent a person from entering a landside security area, a sterile area, or a security enhanced area under subsection (3)(a):

(b) remove a person from a landside security area, a sterile area, or a security enhanced area under subsection (3)(b):

(c) detain a person under subsection (4).

Compare: 1990 No 98 s 80E

147 Powers of constable in relation to person who is not searched or refuses consent to searching

(1) This section applies if —

(a) a person is not searched, or refuses consent to searching, before entry into, or while being in, a landside security area, a sterile area, or a security enhanced area; and

(b) a constable has reasonable grounds to suspect that—

(i) an offence against the Aviation Crimes Act 1972 has been, is being, or will be committed, whether by the person or by any other person; and

(ii) a search of the person, or any thing in the person's possession, is likely to disclose evidence that an offence against the Aviation Crimes Act 1972 has been, is being, or will be committed, whether by the person or by any other person.

(2) The refusal of a person to consent to the searching of the person, or any thing in the person's possession, does not of itself constitute reasonable grounds for suspecting that an offence against the Aviation Crimes Act 1972 has been, is being, or will be, committed.

(3) A constable may, without a warrant,—

(a) search the person, and any thing in the person's possession; and

(b) detain the person for the purposes of the search; and

(c) take possession of any item or substance found in the course of the search that is specified in section 11(1) of the Aviation Crimes Act 1972.

(4) In relation to an electronic device, the power in subsection (3) does not authorise a constable to access data in the device or to access data that is not in the device.

(5) A constable exercising the power of search under subsection (3) must, before the search is conducted, and on any subsequent request,—

(a) provide evidence of the constable's identity to the person to be searched; and

(b) inform the person to be searched that the search is authorised under this section; and

(c) if not in uniform, provide evidence, if asked, of the constable's identity to the person to be searched.

(6) If a constable exercises the power of search under subsection (3), the constable must, within 3 working days after the day on which the constable exercises the power, give to the Commissioner of Police a written report on the exercise of the power and the circumstances in which it came to be exercised.

Compare: 1990 No 98 s 80F

148 Consequences for passenger of refusal to consent to searching

Section 12(2) and (3) of the Aviation Crimes Act 1972 applies in respect of searching under this subpart.

Dealing with item or substance suspected when searching

149 Item or substance suspected entering into, or in, sterile area

(1) This section applies if—

(a) the presence of a relevant item or substance is suspected by an aviation security officer when searching a person or thing under section 141 of this Act or section 12 of the Aviation Crimes Act 1972 immediately before entry into, or in, a sterile area; and

(b) an aviation security officer has reasonable grounds to believe that, if the item or substance is a relevant item or substance, there is no lawful authority or reasonable excuse for the item or substance to be carried on an aircraft or into a sterile area.

(2) The aviation security officer may seize and detain the item or substance for the purpose of determining whether it is a relevant item or substance and whether there is lawful authority or reasonable excuse for the item or substance to be carried on an aircraft or into a sterile area.

(3) If the aviation security officer determines that the item or substance may be lawfully carried into, or remain in, an aircraft or a sterile area, the aviation security officer must,—

(a) if practicable, return the item or substance to the person from whom it was seized; or

(b) if it is impracticable to return the item or substance to the person from whom it was seized, deliver the item or substance to the carrier of the aircraft that the person boarded or intended to board when the item or substance was seized.

(4) If the aviation security officer determines that there is no lawful authority or reasonable excuse for the item or substance to be carried on an aircraft or into a sterile area, the aviation security officer may—

(a) detain the item or substance until it is dealt with in accordance with paragraphs (b) to (d); or

(b) deliver the item or substance to the operator of an air service, the aerodrome, or a delivery service; or

(c) dispose of or destroy the item or substance; or

(d) deliver the item or substance to a constable.

(5) Despite subsections (3) and (4), if the aviation security officer has reasonable grounds to believe that an item or a substance poses an imminent risk to safety and security, the aviation security officer may destroy or otherwise dispose of the item or substance.

(6) If an aviation security officer delivers an item or a substance to a constable under subsection (4)(d), the aviation security officer must record the delivery and the relevant details of the seizure.

Compare: 1990 No 98 s 80B(3)–(7)

150 Item or substance suspected entering into, or in, landside security area or security enhanced area

(1) This section applies if—

(a) a relevant item or substance is suspected by an aviation security officer when searching a person or thing under section 141 of this Act or section 12 of the Aviation Crimes Act 1972 immediately before entry into, or in, a landside security area or a security enhanced area; and

(b) an aviation security officer has reasonable grounds to believe that, if the item or substance is a relevant item or substance, there is no lawful authority or reasonable excuse for the item or substance to be carried on an aircraft or into a landside security area or security enhanced area.

(2) The aviation security officer may seize and detain the item or substance for the purpose of determining whether it is a relevant item or substance and whether there is lawful authority or reasonable excuse for the item or substance to be carried on an aircraft or into a landside security area or a security enhanced area.

(3) If the aviation security officer determines that there is no lawful authority or reasonable excuse for the item or substance to be carried into or remain in the landside security area or security enhanced area, the aviation security officer must—

(a) detain the item or substance until it is delivered to a constable or, if the Director agrees, destroyed or otherwise disposed of; or

(b) deny entry into the landside security area or security enhanced area to any person in possession of the item or substance; or

(c) direct the person in possession of the item or substance to leave the landside security area or security enhanced area, with or without—

(i) the item or substance:

(ii) any vehicle used to transport the item or substance.

(4) If the aviation security officer determines that the item or substance may be lawfully carried into or remain in the landside security area or security enhanced area, the aviation security officer must, if practicable, return the item or substance to the person from whom the item or substance was seized.

(5) Despite anything in this section, if the aviation security officer has reasonable grounds to believe that the item or substance poses an imminent risk to safety and security, the aviation security officer may destroy or otherwise dispose of the item or substance.

(6) An aviation security officer must make a record of any item or substance seized under this section and the person from whom it was seized.

Compare: 1990 No 98 s 80C(3)–(6)

151 Items or substances suspected that may be imminent risk

(1) This section applies if—

(a) an aviation security officer is searching a person or thing under section 141 at a place in the aerodrome or installation to which section 149 or 150 applies and suspects the presence of a relevant item or substance; and

(b) the aviation security officer has reasonable grounds to believe that, if the item or substance is a relevant item or substance, it may pose an imminent risk to aviation safety and security.

(2) The aviation security officer may seize and detain the item or substance for the purpose of determining whether it is a relevant item or substance and whether it poses an imminent risk to aviation safety and security.

(3) If the aviation security officer determines that the item or substance poses an imminent risk to aviation safety and security, the aviation security officer may—

(a) deliver the item or substance to a constable; or

(b) destroy or otherwise dispose of the item or substance.

(4) If the aviation security officer determines that the item or substance does not pose an imminent risk to aviation safety and security, the aviation security officer must,—

(a) if practicable, return the item or substance to the person from whom it was seized; or

(b) if it is impracticable to return the item or substance to the person from whom it was seized,—

(i) deliver the item or substance to the aerodrome operator; or

(ii) deliver the item or substance to the operator of an air service or delivery service; or

(iii) deliver the item or substance to a constable.

(5) An aviation security officer must make a record of any item or substance seized under this section and the person from whom it was seized.

Directions relating to searching and seizing

152 Power of Minister to require searching and seizing

(1) The Minister may exercise the power in this section if the Minister considers that it is—

(a) necessary to improve or enhance aviation security; or

(b) necessary to enable New Zealand to be part of a concerted international response to a threat to aviation security; or

(c) otherwise necessary to support the main or additional purposes of this Act.

(2) The Minister may, by notice, direct an authorised aviation security service provider that all or any of the powers conferred on aviation security officers under this subpart be used by its aviation security officers to detect any item or substance specified in the direction.

(3) The direction may—

(a) direct that the powers be exercised in respect of any class of passenger service, aircraft, aerodrome, navigation installation, or thing, or on any other differential basis specified in the direction:

(b) direct that the powers be exercised at a particular place or particular places at an aerodrome or navigation installation (within any limits as to places in section 141):

(c) authorise the Director to direct that aviation security officers not carry out the direction in relation to a particular flight or in other particular circumstances if the Director considers that searching is not necessary in that case or in those circumstances.

(4) If the direction specifies an item or a substance that is not within the meaning of paragraph (a) or (b) of the definition of relevant item or substance in section 133, the direction may—

(a) specify the item or substance with reference to—

(i) the item or substance being present in, above, or below a particular quantity; or

(ii) the item or substance being in particular packaging; or

(iii) any other circumstance; or

(b) specify the item or substance and authorise the Director to determine the matters described in paragraph (a)(i) to (iii) in relation to the item or substance.

(5) Sections 149 to 151 apply if any item or substance specified in the direction is suspected.

(6) An authorised aviation security service provider directed under this section must ensure that the direction is complied with.

(7) A notice made under subsection (2) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1990 No 98 s 77A(1), (1A)

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	The maker must publish it in accordance with the Legislation (Publication) Regulations 2021	LA19 s 74(1)(aa)

Presentation	The Minister must present it to the House of Representatives, unless the exemption in Schedule 3 of the Legislation Act 2019 applies	LA19 s 114, Sch 3
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

153 Further provisions in relation to direction by Minister

(1) Before giving a direction under section 152, the Minister must consult—

(a) the Director; and

(b) as the Minister in each case considers appropriate and practical, representative groups in the aviation industry.

(2) A direction made under section 152 takes effect on the date specified in the notice, which may be a date before the notice is published under the Legislation Act 2019 if the Minister—

(a) considers that urgent action is required; and

(b) has consulted the Director before that date; and

(c) has notified all affected parties (other than persons boarding an aircraft) before that date.

(3) If a direction takes effect on a date before the notice is published under the Legislation Act 2019, the direction expires 28 days after that date.

Compare: 1990 No 98 s 77A(2)–(8)

154 Power of Director to require searching and seizing

(1) The Director may exercise the power in this section if the Director has reasonable grounds to believe that a security risk exists.

(2) The Director may, by notice, direct an authorised aviation security service provider that all or any of the powers conferred on aviation security officers under this subpart be used by its aviation security officers to detect any item or substance specified in the direction.

(3) The direction may—

(a) direct that the powers be exercised in respect of any class of passenger service, aircraft, aerodrome, navigation installation, or thing, or on any other differential basis specified in the direction:

(b) direct that the powers be exercised at a particular place or particular places at an aerodrome or navigation installation (within any limits as to places in section 141):

(c) provide that the Director may direct that aviation security officers not carry out the direction in relation to a particular flight or in other particular circumstances if the Director considers that searching is not necessary in that case or in those circumstances.

(4) If the direction specifies an item or a substance that is not within the meaning of paragraph (a) or (b) of the definition of relevant item or substance in section 133, the direction may—

(a) specify the item or substance with reference to—

(i) the item or substance being present in, above, or below a particular quantity; or

(ii) the item or substance being in particular packaging; or

(iii) any other circumstance; or

(b) specify the item or substance but provide that the Director may further determine the matters described in paragraph (a)(i) to (iii) in respect of the item or substance.

(5) Sections 149 to 151 apply if any item or substance specified in the direction is suspected.

(6) An authorised aviation security service provider directed under this section must ensure that the direction is complied with.

(7) A notice made under subsection (2) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1990 No 98 s 77B(1), (1A)

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must publish it in accordance with the Legislation (Publication) Regulations 2021	LA19 s 74(1)(aa)
Presentation	The Minister must present it to the House of Representatives, unless the exemption in Schedule 3 of the Legislation Act 2019 applies	LA19 s 114, Sch 3
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

155 Further provisions in relation to direction by Director

(1) Before giving a direction under section 154, the Director must, to determine whether the direction is necessary to meet the security risk, consult, as the Director in each case considers appropriate and practical, representative groups in the aviation industry, government departments, and relevant Crown agencies.

(2) A direction made under section 154 takes effect on the date specified in the notice, which may be a date before the notice is published under the Legislation Act 2019, if the Director—

(a) considers that urgent action is required; and

(b) has notified all affected parties (other than persons boarding an aircraft) before that date.

(3) If a direction takes effect on a date before the notice is published under the Legislation Act 2019, the direction expires 28 days after that date.

Compare: 1990 No 98 s 77B(2)–(7)

Other rights and powers of aviation security officers

156 Right of access for aviation security officers

(1) An aviation security officer while on duty may at any time enter any security designated aerodrome or a security designated navigation installation, or any aircraft, building, or place in any part of a security designated aerodrome or security designated navigation installation, for the purpose of exercising and carrying out the officer's powers, functions, and duties under this Act.

(2) Unless the aviation security officer is accompanied by a constable, the power of entry conferred by subsection (1) is limited to peaceful and non-forcible entry.

(3) Despite subsection (1), if the Police have taken command of any situation at an aerodrome or navigation installation, the rights of aviation security officers to enter any part of the aerodrome or navigation installation or any aircraft, building, or place are subject to any limitations that the senior constable present at the aerodrome or navigation installation specifies.

(4) Where an aircraft or a vehicle is not being used for commercial purposes, subsection (1) does not apply unless the aviation security officer has reasonable grounds to believe that there is in that vehicle or aircraft a person or thing likely to endanger the aerodrome or installation or any of its facilities or any person.

Compare: 1990 No 98 s 83

157 Use of aids and devices for searching

Section 12(6) and (7) of the Aviation Crimes Act 1972 applies to searching carried out under section 141.

158 Use of dogs

Without limiting section 157, an aviation security officer may use an aviation security dog to—

(a) conduct searching under this Part:

(b) assist with any patrol of a security designated aerodrome or security designated navigation installation:

(c) assist the aviation security officer to exercise or perform any other functions and duties under this Act.

159 Power of aviation security officer to seize and detain dangerous goods detected by government agency or carrier

(1) This section applies if—

(a) an item or a substance is identified by an employee of a government agency or carrier of an aircraft; and

(b) the item or substance was—

(i) taken on board an aircraft at a security designated aerodrome in New Zealand; or

(ii) carried on an aircraft that has landed at a security designated aerodrome in New Zealand from any place within or outside New Zealand; and

(c) the person referred to in paragraph (a) has reason to believe that the item or substance is dangerous goods and may not lawfully be carried on an aircraft.

(2) The person referred to in subsection (1) may seize and detain the item or substance and may give it to, or draw it to the attention of, an aviation security officer.

(3) An aviation security officer may seize and detain the item or substance for the purpose of determining whether the item or substance is dangerous goods and whether there is lawful authority or reasonable excuse for the item or substance to be carried on an aircraft.

(4) If the aviation security officer determines that the item or substance is dangerous goods and may not lawfully be carried on an aircraft, the aviation security officer may—

(a) detain the item or substance until it is dealt with in accordance with paragraphs (b) to (e); or

(b) dispose of or destroy the item or substance; or

(c) deliver the item or substance to a constable; or

(d) retain the item or substance if required for investigative or evidential purposes; or

(e) return the item or substance to the agency or carrier that identified it or, if practicable, to its owner or the person entitled to possession of it.

(5) If the aviation security officer determines that the item or substance is not dangerous goods, the aviation security officer must,—

(a) if practicable, return the item or substance to its owner or the person entitled to possession of it; or

(b) if it is impracticable to return the item or substance to its owner or the person entitled to possession of it, deliver the item or substance to the agency or carrier that identified it.

Aviation Crimes Act 1972

160 Relationship of this subpart to Aviation Crimes Act 1972

Except as provided in this subpart,—

(a) nothing in this subpart limits or affects the Aviation Crimes Act 1972; and

(b) nothing in the Aviation Crimes Act 1972 limits or affects this subpart.

Powers of arrest

161 Power of arrest for crimes against Aviation Crimes Act 1972 or Arms Act 2026

(1) Every aviation security officer is justified in arresting without warrant any person on or in the vicinity of any security designated aerodrome or security designated navigation installation if the officer has reasonable grounds to believe that an offence has been or is being committed by the person against any of the following legislation:

(a) sections 3, 4, 5, 5A, and 11 of the Aviation Crimes Act 1972:

(b) sections 14, 17, 19, 21, 32, 35, 254, 256, 257, and 258 of the Arms Act 2026.

(2) An aviation security officer may—

(a) search a person arrested under subsection (1):

(b) seize any item or substance that may be evidence of an offence against legislation specified in subsection (1), if the officer has reasonable grounds to believe that—

(i) the person has an item or a substance hidden or in clear view on or about the person's body that is evidence of an offence against legislation specified in subsection (1); and

(ii) the item or substance poses a threat to the safety of the officer or any other person; and

(iii) immediate action is necessary to address the threat.

(3) An aviation security officer may use reasonable force, or any assistance that is reasonably necessary in the circumstances, to—

(a) arrest a person under subsection (1):

(b) search a person under subsection (2):

(c) seize an item or a substance under subsection (2).

(4) To avoid doubt, an aviation security officer may search a person under this section whether or not an aviation security officer has previously searched the person under another section of this Act or under the Aviation Crimes Act 1972.

(5) An aviation security officer who undertakes a search under this section must, within 3 working days of the search, give the Director a written report of the search, the circumstances in which it was conducted, and the matters that gave rise to the reasonable grounds to believe required by subsection (2)(b).

(6) Any person called upon to do so by an aviation security officer is justified in assisting the officer in good faith to arrest any person.

(7) An aviation security officer must as soon as may be practicable deliver any person the officer arrests, and any item or substance the officer seizes, to a constable.

(8) An aviation security officer may seize an item or a substance in the possession of a person that the aviation security officer arrests if the aviation security officer has reasonable grounds to believe that the item or substance is evidence of an offence against legislation specified in subsection (1).

Compare: 1990 No 98 s 85

Section 161 heading: amended, on 23 September 2026, by section 394 of the Arms Act 2026 (2026 No 47).

Section 161(1)(b): replaced, on 23 September 2026, by section 394 of the Arms Act 2026 (2026 No 47).

162 Arrest of persons delivered to Police

(1) If an aviation security officer delivers a person to a constable under this Part, the constable must accept delivery of the person if the constable has reasonable grounds to suspect the person of an act or omission that is an offence against section 166 or any legislation specified in section 161(1).

(2) A constable who accepts delivery of a person under subsection (1) may immediately arrest the person.

(3) An aviation security officer who detains any person in accordance with section 123(4) and delivers the person to a constable, and any person who at the aviation security officer's request and in good faith assists an aviation security officer in doing so, is justified in detaining and delivering the person and in using any force that may be reasonably necessary to do so.

Compare: 1990 No 98 s 86

In-flight security

Heading: inserted, on 23 July 2026, by section 6 of the Civil Aviation Amendment Act 2023 (2023 No 11).

162A Director may approve firearms, weapons, ammunition, and other equipment for carriage and use by in-flight security officers

The Director may approve firearms, weapons, ammunition, and other equipment for carriage and use on board an aircraft by an in-flight security officer.

Section 162A: inserted, on 23 July 2026, by section 6 of the Civil Aviation Amendment Act 2023 (2023 No 11).

162B Foreign in-flight security officers

(1) Despite section 11 of the Aviation Crimes Act 1972, the Director may, in accordance with any requirements of the rules, authorise a person or class of persons described in subsection (2) to—

(a) disembark from an aircraft:

(b) board an aircraft:

(c) pass through a—

(i) security area:

(ii) security enhanced area:

(iii) sterile area.

(2) The authorisation under subsection (1) may be of—

(a) a foreign in-flight security officer who is accompanied by a constable and is carrying a firearm, a weapon, ammunition, or any other equipment; or

(b) a class of foreign in-flight security officers who are accompanied by a constable and are carrying a firearm, a weapon, ammunition, or any other equipment.

(3) Before granting an authorisation under subsection (1), the Director must consult the Commissioner of Police and other affected parties that the Director considers appropriate.

(4) To avoid doubt, the authorisation of a foreign in-flight security officer by the State that has issued the air operating certificate (or its equivalent) under which the air operation is conducted applies only while the aircraft is in flight.

Section 162B: inserted, on 23 July 2026, by section 6 of the Civil Aviation Amendment Act 2023 (2023 No 11).

Powers of Police under this Act

163 Powers of Police

Every constable has and may exercise all or any of the powers conferred on an aviation security officer under civil aviation legislation.

Compare: 1990 No 98 s 87

Powers of members of Armed Forces when providing aviation security services

164 Powers of members of Armed Forces when providing aviation security services

(1) This section applies to a member of the Armed Forces who has been authorised under section 9 of the Defence Act 1990 to provide aviation security services.

(2) When providing aviation security services, the member of the Armed Forces has and may exercise all or any of the powers conferred on an aviation security officer under civil aviation legislation.

Protection of aviation security officers

165 Protection of aviation security officers

An aviation security officer is not subject to personal liability in respect of any act done under sections 149 to 151 in good faith and in the exercise of powers or the performance of duties under this Act.

Compare: 1990 No 98 s 80I

Subpart 3—Aviation security offences

166 Refusal to give particulars or to leave airside security area or security enhanced area

(1) A person commits an offence if, on being found in an airside security area or security enhanced area, the person—

(a) refuses to state the person's name, address, and date of birth and the purpose of the person's presence in, and their authority to enter, the airside security area or security enhanced area after—

(i) having been informed that the person is in an airside security area or security enhanced area; and

(ii) having been requested by an authorised security person to state those particulars; or

(b) refuses to leave the airside security area or security enhanced area immediately after being ordered by an authorised security person to do so.

(2) A person who commits an offence against subsection (1) in relation to—

(a) an airside security area is liable on conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding $2,500, or both:

(b) a security enhanced area is liable on conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding $5,000, or both.

Compare: 1990 No 98 s 54

167 Being present in security area without being searched or when not authorised

(1) A person commits an infringement offence if—

(a) the person—

(i) is present in an airside security area; and

(ii) is required under subpart 2 to be searched before entering that area, or that part of the area where the person is present; and

(iii) has not been searched as required; or

(b) the person is present in an airside security area or security enhanced area in breach of section 122.

(2) A person commits an infringement offence if the person—

(a) is present in a landside security area; and

(b) is required under subpart 2 to be searched before entering that area, or that part of the area where the person is present; and

(c) has not been searched as required.

(3) A person who commits an infringement offence against this section is liable to—

(a) an infringement fee of $1,000; or

(b) a fine imposed by a court not exceeding $2,500.

168 Offence to impersonate aviation security officer

(1) A person who is not an aviation security officer but, by words, conduct, demeanour, or the assumption of the dress, name, designation, or description of an aviation security officer, holds themselves out as being an aviation security officer commits an offence.

(2) A person who commits an offence against subsection (1) is liable on conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding $15,000, or both.

Compare: 1990 No 98 s 55(1)(a)

169 Offence to obstruct aviation security officer or authorised security person

(1) A person who wilfully obstructs, or incites or encourages any person to obstruct, an aviation security officer or an authorised security person in the execution of the person's duty commits an offence.

(2) A person who commits an offence against subsection (1) is liable on conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding $7,500, or both.

Compare: 1990 No 98 s 55(1)(b)

170 Threatening or assaulting aviation security officer or authorised security person

(1) A person who threatens or assaults an aviation security officer or an authorised security person acting in the execution of their duty commits an offence.

(2) A person who commits an offence against subsection (1) is liable on conviction to imprisonment for a term not exceeding 12 months or to a fine not exceeding $15,000, or both.

171 Obstruction or interference with aviation security dog

(1) A person commits an offence if the person—

(a) intentionally interferes with an aviation security dog; or

(b) does any act with the intention of impairing the effectiveness of an aviation security dog.

(2) A person who commits an offence against subsection (1) is liable on conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding $5,000, or both.

172 Killing or injuring aviation security dog

(1) A person who, without lawful authority or reasonable excuse, and intentionally, kills, maims, wounds, or otherwise injures an aviation security dog commits an offence.

(2) A person who commits an offence against subsection (1) is liable on conviction to imprisonment for a term not exceeding 24 months or to a fine not exceeding $15,000, or both.

173 Security check offences

(1) A person commits an offence if the person, in relation to a security check of the person under section 126,—

(a) provides information that the person knows is false or misleading in a material particular; or

(b) fails to disclose, without reasonable excuse, information that the person knows to be materially relevant.

(2) A person who commits an offence against subsection (1) is liable on conviction to imprisonment for a term not exceeding 12 months or to a fine not exceeding $10,000, or both.

Compare: 1990 No 98 s 56A

Part 6
International aviation

Subpart 1—International air services licensing

174 Interpretation in this Part

In this Part, unless the context otherwise requires,—

capacity, in relation to a scheduled international air service, means the service provided on a route or routes with reference to 1 or more of the following:

(a) number of aircraft:

(b) types of aircraft:

(c) number of seats:

(d) volume or weight of cargo:

(e) any other differential basis

class 1 non-scheduled commercial international flight means a non-scheduled commercial international flight (or a series of flights) where the flight routing or frequency requires or would require the operator to hold a certificate under the rules

class 2 non-scheduled commercial international flight means a non-scheduled commercial international flight (or a series of flights) where the flight routing or frequency does not require or would not require the operator to hold a certificate under the rules

foreign international airline means an air transport enterprise of a country or territory other than New Zealand that—

(a) is offering or operating a scheduled international air service; or

(b) intends to offer or operate a scheduled international air service

licensee means the holder for the time being of a licence issued under this Part

licensing authority, in relation to scheduled international air service licences, means the Minister or the Secretary, as determined under section 178

New Zealand international airline means an air transport enterprise that—

(a) is designated, or seeking to be designated, as an airline that is entitled to offer air transport services as a New Zealand airline under an air services agreement (or similar arrangement) between New Zealand and any other country or territory; or

(b) has its principal place of business in New Zealand and is operating, or seeking to operate, a scheduled international air service under the single aviation market arrangements set out in the air services agreement in force between New Zealand and Australia

non-scheduled commercial international flight means a flight (or a series of flights) that—

(a) is offered otherwise than under an international air services licence; and

(b) is engaged in the carriage of passengers, cargo, or mail for remuneration or hire between New Zealand and 1 or more points in any other country or territory

restricted scheduled international air service means a scheduled international air service that is subject to any restriction in relation to capacity or route of flights that is stipulated in an air services agreement (or similar arrangement) between New Zealand and any other country or territory

scheduled international air service,—

(a) if a particular series of flights has been determined under section 175 to be a scheduled international air service, includes that series of flights; and

(b) in relation to a New Zealand international airline, includes a seventh freedom service

seventh freedom service means a series of flights between 1 or more points in 1 country or territory other than New Zealand and 1 or more points in another country or territory other than New Zealand, if—

(a) the airline is designated by New Zealand as a seventh freedom service under the air services agreement (or similar arrangement) between New Zealand and each country or territory in which the service is being performed; and

(b) the service is performed according to the traffic rights allocated to the airline under those agreements (or arrangements); and

(c) the service is a scheduled service.

Compare: 1990 No 98 s 87A

Licensing authority may determine that service is scheduled international air service

175 Licensing authority may determine whether service is scheduled international air service

(1) The licensing authority may determine in a particular case that a series of flights performed by aircraft between New Zealand and 1 or more points in any other country or territory is a scheduled international air service.

(2) In making a determination, the licensing authority may take into account—

(a) the substantive nature of the flights; and

(b) the manner in which the flights are operated, including the regularity and frequency of the flights; and

(c) the manner in which the flights are open to use by members of the public.

(3) In this section, **licensing authority** means,—

(a) where the determination is made as part of considering an application for a licence under this subpart, the licensing authority that is considering the application; and

(b) in any other case, the person who would in accordance with section 178 be the licensing authority if an application were to be made in respect of the particular series of flights concerned.

Licence-related provisions

176 Licence for scheduled international air service

(1) A person who wishes to carry on in New Zealand any scheduled international air service must apply, in accordance with this Act, for a scheduled international air service licence.

(2) Any scheduled international air service in New Zealand must be conducted—

(a) in accordance with civil aviation legislation; and

(b) in conformity with the terms and conditions of the appropriate licence.

Compare: 1990 No 98 s 87B

177 Application for licence

An application for a licence under this Part must—

(a) be made to the Ministry; and

(b) be in the form (if any) that the Secretary requires; and

(c) include the information and documents—

(i) as may be required by the regulations; or

(ii) that are specified by the Secretary.

Compare: 1990 No 98 s 87C

178 Licensing authority

(1) The licensing authority for the grant of scheduled international air service licences is—

(a) the Minister, if the applicant is—

(i) a New Zealand international airline, and the application relates to a restricted scheduled international air service; or

(ii) a foreign international airline of a country or territory with which New Zealand does not have an air services agreement (or similar arrangement); or

(b) the Secretary, in all other cases.

(2) The licensing authority is responsible for—

(a) determining applications for scheduled international air service licences, taking into account the matters specified in section 180; and

(b) exercising jurisdiction in respect of scheduled international air service licences in accordance with this Part.

Compare: 1990 No 98 ss 87D, 87L

179 Notice of application for restricted scheduled international air service

If an application relating to a restricted scheduled international air service is made by a New Zealand international airline in accordance with section 177, the Secretary must—

(a) give notice on the Ministry's Internet site of the receipt of the application; and

(b) specify in the notice a time, not less than 21 days from the date of the notice, within which the Secretary will receive written representations from any person relating to the application.

Compare: 1990 No 98 s 87E

180 Consideration of application for scheduled international air service licence

(1) In considering and determining any application for a scheduled international air service licence, the licensing authority—

(a) must take into account the following matters:

(i) the main and additional purposes of this Act:

(ii) any relevant international agreement, convention, or arrangement to which New Zealand is a party:

(iii) in relation to an application for a restricted scheduled international air service licence made by a New Zealand international airline, any written representations received by the Secretary in relation to the application in accordance with section 179(b):

(b) may take into account any other matter that the licensing authority thinks fit in the public interest.

(2) If the granting of a licence would be contrary to any agreement, convention, or arrangement referred to in subsection (1)(a)(ii), the licensing authority must refuse to grant the licence.

Compare: 1990 No 98 ss 87F, 87M

181 Grant of licence

(1) The licensing authority, after considering the application in accordance with section 180, may—

(a) refuse it; or

(b) grant it (either in whole or in part)—

(i) unconditionally; or

(ii) subject to conditions that the licensing authority thinks relevant.

(2) The scheduled international air service licence may be in a form that the licensing authority thinks fit.

(3) Without limiting subsection (1), the licensing authority, in granting a scheduled international air service licence, may specify—

(a) the countries or territories, or points within those countries or territories, that may be served and the route or routes that may be followed:

(b) the maximum capacity that may be provided:

(c) a date before which the service must commence.

(4) If the licensing authority grants a licence, the Ministry must give notice in the *Gazette* that the licence has been granted.

Compare: 1990 No 98 ss 87G, 87N

182 Duration of licence

(1) A licence granted under section 181—

(a) takes effect on the date stated in the licence; and

(b) may be granted—

(i) for a term that the licensing authority considers appropriate in the particular case; and

(ii) for an indefinite term, if the licensing authority thinks fit.

(2) A licence, subject to subsection (3), continues in effect beyond the date of expiry of the licence if—

(a) an application is made under section 183 for the renewal of the licence; and

(b) the application is not disposed of before the date of expiry of the licence.

(3) If subsection (2) applies, the scheduled international air service licence expires when the application is disposed of.

Compare: 1990 No 98 ss 87H, 87O

183 Renewal of licence

(1) The licensing authority may renew a licence granted under section 181.

(2) An application for the renewal of a licence granted under section 181 must—

(a) be lodged with the Ministry not less than 1 month before the date on which the licence expires; or

(b) be lodged with the Ministry not less than 3 months before the date on which the licence expires, if the licence includes a restricted scheduled international air service for a New Zealand international airline.

(3) If the licence includes a restricted scheduled international air service for a New Zealand international airline, the Secretary must—

(a) publish a notice of the application for renewal of a licence; and

(b) specify in the notice a time, not less than 21 days from the date of the notice, within which the Secretary will receive written representations from any person relating to the application.

(4) The licensing authority must consider and determine an application for renewal of a licence in accordance with the requirements of section 180(1)(a) and (b), which applies with any necessary modifications.

(5) A licence renewed under this section—

(a) takes effect from the date of the expiry of the licence for which the renewal is granted; and

(b) may be granted—

(i) for a term that the licensing authority considers appropriate in the particular case; and

(ii) for an indefinite term, if the licensing authority thinks fit.

Compare: 1990 No 98 ss 87I, 87P

184 Variation of terms and conditions of licence

(1) The licensing authority may do any of the things specified in subsection (2) in relation to a scheduled international air service licence granted under section 181—

(a) if the scheduled international air service licence is in force; and

(b) on—

(i) the licensing authority's own volition; or

(ii) the application of the licensee.

(2) The things referred to in subsection (1) are—

(a) amend any of the terms and conditions of the licence:

(b) revoke any of the terms and conditions of the licence:

(c) add any new terms or conditions to the licence.

(3) If the licensing authority intends to exercise the power under subsection (1)(b)(i), the licensing authority must give notice of that intention to the licensee in accordance with the following:

(a) if the proposed variation relates to, or involves, a restricted scheduled international air service, the authority must give not less than 21 days' notice in writing:

(b) in any other case, the authority must give not less than 21 days' notice in writing unless the licensee and the licensing authority agree on a shorter period.

(4) If the proposed variation relates to, or involves, a restricted scheduled international air service, the licensing authority must—

(a) give public notice of the licensing authority's intention to consider exercising a power under this section, if any proposed variation involves—

(i) a change or an addition to the route or routes to be operated; or

(ii) an increase in the capacity of the service to be provided; and

(b) specify in the notice a time, not less than 21 days from the date of the notice, within which the Secretary will receive written representations from any person regarding the proposed variation.

(5) The licensing authority must consider and determine an application under this section in accordance with the requirements of section 180(1)(a) and (b), which applies with any necessary modifications.

(6) If the licensing authority varies the terms or conditions of a licence that relates to, or includes, a restricted scheduled international air service, the licensing authority must give notice in the *Gazette* of the fact of, and the terms and conditions of, that variation.

Compare: 1990 No 98 ss 87J, 87Q

185 Holder of licence may operate non-scheduled international flights without authorisation under section 189

If a person holds a licence under this subpart, the person is entitled to carry on specified non-scheduled commercial international flights, without authorisation under section 189, to or from the countries or territories that may be served under the licence, within the capacity limits, if any, of the licence.

Compare: 1990 No 98 s 87Z

Requirements on licensees

186 Proof of insurance against liability

(1) The licensing authority may ask an applicant or a licensee (as the case may be) to provide proof of insurance against liability that may arise out of, or in connection with, the operation of the service in respect of—

(a) the death of, or bodily injury to, any person; and

(b) the loss of, or damage to, any property.

(2) The licensing authority may exercise the power in this section at 1 or more of the following times:

(a) before granting a licence:

(b) before renewing a licence:

(c) at any other time while the licence is in force.

(3) If the licensing authority exercises the power under this section, the applicant or licensee must provide the proof of insurance to the licensing authority's satisfaction within any reasonable time that is specified by the licensing authority.

Compare: 1990 No 98 s 87ZA

187 Returns to be made

(1) The Secretary may, by notice in writing to a relevant person, require the relevant person to make—

(a) financial and statistical returns and statements as at specific dates, or in relation to specified periods, or on the occurrence of specified events, including on an ongoing basis; or

(b) financial and statistical returns and statements that the Secretary requires from time to time.

(2) The relevant person must provide the Secretary with financial and statistical returns and statements to the Secretary's satisfaction within any reasonable time that is specified by the Secretary.

(3) In this section, **relevant person** means a person who is carrying out—

(a) a scheduled international air service under a licence; or

(b) a class 1 non-scheduled commercial international flight.

Compare: 1990 No 98 s 87ZB

Suspension and revocation of licences

188 Suspension and revocation of licences

The Minister may suspend a licence granted under this Part for a period that the Minister thinks fit, or revoke a licence granted under this Part, if—

(a) the licensee has failed to comply with any civil aviation legislation; or

(b) the service authorised by the licence is not commenced on the date specified in the licence; or

(c) the Minister is satisfied that the service authorised by the licence has not been or is not being carried on in conformity with the terms and conditions of the licence; or

(d) the service authorised by the licence has been terminated; or

(e) the licence—

(i) has been granted under, or in accordance with, any convention, agreement, or arrangement between the Government of New Zealand and the Government of any other country or territory; and

(ii) that convention, agreement, or arrangement has been terminated or has ceased to bind or apply to the Government of New Zealand or the Government of that other country or territory; or

(f) the licence—

(i) has been granted under, or in accordance with, any convention, agreement, or arrangement referred to in paragraph (e)(i); and

(ii) circumstances have occurred, or any condition has been fulfilled, following which the Minister, or the Government of New Zealand, has become entitled under, or in accordance with, the convention, agreement, or arrangement to revoke the licence.

Compare: 1990 No 98 ss 87ZC, 87ZD

Class 1 non-scheduled commercial international flights

189 Class 1 non-scheduled commercial international flights must be authorised by Secretary

(1) This section applies to class 1 non-scheduled commercial international flights between—

(a) New Zealand; and

(b) 1 or more points in any other country or territory.

(2) No person may operate a class 1 non-scheduled commercial international flight referred to in subsection (1), except as authorised by the Secretary.

(3) The Secretary must not authorise a series of non-scheduled commercial international flights under this section—

(a) if the effect of authorisation would circumvent any convention, agreement, or arrangement between the Government of New Zealand and the Government of any other country or territory; and

(b) unless the flights have all other necessary approvals to operate.

(4) Nothing in subsections (1) to (3) applies to any class 2 non-scheduled commercial international flight.

(5) This section is subject to section 185.

Compare: 1990 No 98 s 87ZE

Miscellaneous provisions

190 Additional requirements of regulations and rules

No aircraft is exempt from the operation of any regulation or rules made under this Act only because it is being used in connection with—

(a) a scheduled international air service under a licence granted under this Part; or

(b) a non-scheduled commercial international flight.

Compare: 1990 No 98 s 87ZF

191 This subpart not in force in Tokelau

(1) This subpart is not in force in Tokelau.

(2) However, regulations may be made under section 4 of the Tokelau Act 1948 bringing this subpart, with or without modifications, into force in Tokelau.

Compare: 1990 No 98 s 87ZG

Offences

192 Carrying on scheduled international air service without licence or contrary to licence

(1) A person commits an offence if the person—

(a) carries on a scheduled international air service in New Zealand without a licence granted under this subpart; or

(b) is the holder of a licence granted under this subpart, and carries on a scheduled international air service in New Zealand in a manner contrary to the terms and conditions of the licence.

(2) A person who commits an offence against subsection (1) is liable on conviction,—

(a) in the case of an individual, to a fine not exceeding $30,000:

(b) in the case of any other person, to a fine not exceeding $200,000.

Compare: 1990 No 98 s 49A

193 Operating unauthorised non-scheduled commercial international flight or carrying on non-scheduled commercial international flight contrary to licence

(1) A person commits an offence if the person—

(a) operates a non-scheduled commercial international flight to which section 189 applies contrary to the provisions of that section; or

(b) is the holder of a licence under this subpart and carries on a non-scheduled commercial international flight in a manner contrary to the terms and conditions of the licence.

(2) A person who commits an offence against subsection (1) is liable on conviction,—

(a) in the case of an individual, to a fine not exceeding $30,000:

(b) in the case of any other person, to a fine not exceeding $200,000.

Compare: 1990 No 98 s 49B

Subpart 2—International air carriage competition

194 Interpretation in this subpart

In this subpart, unless the context otherwise requires,—

capacity has the meaning given to it in section 174

international carriage by air means the carriage by air of persons, baggage, or cargo—

(a) between New Zealand and any place outside New Zealand; or

(b) where that carriage is purchased, sold, or arranged in New Zealand, between places outside New Zealand

tariff means a statement—

(a) that is expressed to apply—

(i) to 1 or more specified airlines; or

(ii) to all airlines other than 1 or more specified airlines; or

(iii) to all airlines; and

(b) that specifies—

(i) the fares, rates, and charges applicable to international carriage by air between specified points (irrespective of whether direct, indirect, or involving any stopovers) that may, at any time, be provided by the airlines to which it is expressed to apply; and

(ii) any conditions subject to which the fares, rates, and charges, or any of them, are to apply to international carriage by air between those points; and

(iii) any conditions subject to which international carriage by air between those points is to be provided on such fares, rates, and charges.

Compare: 1990 No 98 s 88(1)

195 When person may apply for authorisation

(1) A person may apply to the Minister for an authorisation in accordance with this subpart if—

(a) the person is conducting, or intends to conduct, international carriage by air; and

(b) the person wishes to—

(i) enter into a contract or an arrangement, or arrive at an understanding, where all parties to the contract, arrangement, or understanding are, or will be, conducting international carriage by air in co-operation with each other; or

(ii) give effect to a provision of a contract or an arrangement or understanding where all parties to the contract, arrangement, or understanding are, or will be, conducting international carriage by air in co-operation with each other; and

(c) the person considers that—

(i) the contract, arrangement, or understanding would, or might, contravene section 27 of the Commerce Act 1986; or

(ii) the contract, arrangement, or understanding would, or might, contravene section 30 of the Commerce Act 1986 and section

31 of that Act does not apply to the contract, arrangement, or understanding.

(2) The application must be made in any form and manner required by the Minister.

(3) This section is subject to section 204.

196 Actions following receipt of application for authorisation

(1) If the Minister receives a properly completed application for authorisation in accordance with section 195, the Minister must—

(a) give public notice of—

(i) the Minister's intention to consider exercising the power to grant an authorisation; and

(ii) the details of the application for authorisation as the Minister thinks fit; and

(b) specify in the notice a reasonable time within which the Minister will receive written representations from any person regarding the application for authorisation.

(2) In relation to any application, the Minister may consult with any person who, in the Minister's opinion, is able to assist the Minister to determine the application.

197 Further provisions relating to application for authorisation

(1) On receipt of an application for authorisation that is incomplete, not in accordance with any other requirements of the Minister, or not accompanied by the prescribed fee, the Minister may, at the Minister's discretion,—

(a) accept the application and do the things referred to in section 196(1) in respect of that application; or

(b) return the application to the person by or on whose behalf it was made; or

(c) decline to register the application until the application is completed in accordance with section 195(2) or accompanied by the prescribed fee (as relevant).

(2) If the Minister declines to register an application under subsection (1)(c), the Minister must immediately notify the person by or on whose behalf the application was made.

(3) The Minister may require the following persons to provide, and those persons must provide, within the time the Minister specifies, further documents or information in relation to the application for authorisation for the purpose of enabling the Minister to exercise the Minister's functions under this subpart:

(a) the person making the application:

(b) any person on whose behalf the application was made:

(c) any person to whom the application relates.

(4) Despite section 196(1) and subsection (3) of this section, if the Minister is of the opinion that the matters to which an application relates are, for reasons other than those arising from the application of any provision of this Act, unlikely to be proceeded with, the Minister may, in the Minister's discretion, return the application to the person by or on whose behalf the application was made.

(5) Any person who has applied to the Minister for an authorisation may, at any time, by notice in writing to the Ministry, withdraw the application.

198 Powers of Minister to prohibit disclosure of information, documents, and evidence

(1) The Minister may, in relation to any application for authorisation, make an order prohibiting—

(a) the publication or communication of all or any information, document, and evidence which is given to, or obtained by, the Ministry under this subpart:

(b) the giving of any evidence involving any information, document, or evidence referred to in paragraph (a).

(2) An order may be expressed to have effect for the period specified in the order.

(3) However, no order has effect,—

(a) if the order was made in connection with any application for authorisation, after the expiry of 20 working days from the date on which the Minister makes a final determination in respect of that application; or

(b) if the application is withdrawn before the Minister makes a final determination, after the date on which the application is withdrawn.

(4) On the expiry of an order, the Official Information Act 1982 applies in respect of any information, document, or evidence that was the subject of that order.

(5) A person who, contrary to an order, publishes or communicates any information, document, or evidence that was the subject of that order commits an offence and is liable on conviction,—

(a) in the case of an individual, to a fine not exceeding $7,500:

(b) in the case of any other person, to a fine not exceeding $25,000.

Compare: 1986 No 5 s 100

199 Minister may authorise international carriage by air

(1) The Minister may, in relation to an application for an authorisation under this subpart, authorise a provision or provisions of a contract, an arrangement, or an understanding where—

(a) all parties to the contract, arrangement, or understanding are conducting international carriage by air in co-operation with each other; and

(b) the provision or provisions relate to—

(i) a specified activity carried out for the purposes of the co-operation; or

(ii) an activity that is ancillary to a specified activity and that is reasonably necessary for the purpose of the co-operation.

(2) The Minister may grant an authorisation if the Minister is satisfied that—

(a) granting the authorisation will contribute to the main purpose or any of the additional purposes of this Act; and

(b) giving effect to the provisions of the contract, arrangement, or understanding to which the application relates will in all the circumstances result, or be likely to result, in a benefit to the public that would outweigh any lessening in competition that would result, or would be likely to result, from those provisions.

(3) When granting an authorisation, the Minister must—

(a) specify the duration of the authorisation:

(b) specify any conditions that apply to the authorisation.

(4) In subsection (1), **specified activity** means—

(a) the scheduling, capacity, or frequency of services:

(b) the fixing of tariffs:

(c) the conditions and benefits associated with tariffs:

(d) frequent flyer schemes:

(e) lounge access and other preferential services:

(f) revenue sharing or profit sharing, or both.

Compare: 1990 No 98 s 88(2), (4)

200 Minister must notify proposed decision to grant or decline authorisation

If the Minister intends to grant or decline an application for authorisation, the Minister must—

(a) give public notice of the Minister's intention to grant or decline the application; and

(b) specify a time within which the Minister will receive written representations from any person regarding the proposed decision to grant or decline the authorisation.

201 Minister must notify final decision to grant or decline authorisation

After the Minister makes a final decision to grant or decline an authorisation, the Minister must give public notice of that final decision with the Minister's reasons for the decision.

202 Further powers of Minister in relation to authorisations

(1) The Minister may take 1 or more of the following actions in accordance with this section:

(a) vary the duration of an authorisation (even if the duration to be varied is stated as indefinite):

(b) vary or revoke the conditions that apply to an authorisation or specify new conditions:

(c) revoke an authorisation.

(2) The Minister may take an action under subsection (1) only if the Minister is satisfied that—

(a) the authorisation was given on information that was false or misleading in a material particular; or

(b) there has been a material change of circumstance; or

(c) a condition upon which the authorisation was granted has not been complied with.

(3) The Minister must not take an action under subsection (1), unless the Minister—

(a) has given the person to whom the authorisation was given, and any other person who in the opinion of the Minister is likely to have an interest in the matter, a reasonable opportunity to make submissions to the Minister; and

(b) has had regard to those submissions.

203 Authorisation of tariffs by Minister in specified circumstances

(1) The Minister may authorise any tariff in respect of international carriage by air in the circumstances in subsection (2).

(2) The circumstances are—

(a) that the relevant places of departure and destination in relation to the international carriage by air are within the territories of 2 countries, one of which is New Zealand (irrespective of whether there is to be a break in the carriage or a transhipment); and

(b) that an agreement, an arrangement, or an understanding contains a provision that requires the tariff to be subject to an authorisation by the Minister.

Compare: 1990 No 98 s 90(1)

204 Application of Commerce Act 1986

(1) Nothing in sections 27, 30, and 30C to 33 of the Commerce Act 1986 applies to, or in respect of,—

(a) the negotiation or conclusion of any contract, arrangement, or understanding—

(i) if, and to the extent that, it contains a provision relating to international carriage by air; and

(ii) if, and only if, that provision is not given effect to before its authorisation under section 199; or

(b) any provision of a contract, an arrangement, or an understanding relating to international carriage by air if, and only if, it is not given effect to before its authorisation under section 199.

(2) Every authorisation by the Minister under section 199 is declared to be a specific authorisation by legislation for the purposes of section 43 of the Commerce Act 1986.

Compare: 1990 No 98 s 91

Subpart 3—Carbon offsetting and reduction scheme for international aviation (CORSIA)

205 Interpretation

(1) In this subpart, unless the context otherwise requires,—

accredited verification body means an entity accredited by the Secretary to verify emissions reports under this subpart

attributed flight—

(a) means a flight attributed to an eligible New Zealand operator in accordance with the regulations; but

(b) does not include any flight that is an excluded flight

eligible unit means an emissions unit approved under the regulations

excluded flight means a flight that—

(a) is principally for medical, firefighting, humanitarian, or search and rescue purposes; or

(b) is conducted on behalf of the New Zealand Government for non-commercial purposes in the exercise of New Zealand's functions or duties as a sovereign State

New Zealand operator means a person who—

(a) has a registered place of business in New Zealand; and

(b) operates an air transport service offering air transport services to 1 or more places outside New Zealand as a New Zealand airline

regulations means regulations made under section 409

reporting period means a reporting period prescribed by the regulations.

(2) A person is an **eligible New Zealand operator** in relation to a calendar year if the person—

(a) is a New Zealand operator; and

(b) in the previous calendar year produced from its attributed flights annual emissions of greater than an amount prescribed by the regulations.

(3) A person is a **new entrant** if—

(a) the person meets the criteria specified in subsection (2)(a) and (b) for the first time on or after the date on which this subpart comes into force; and

(b) the activity in respect of which the person meets those criteria is not in whole or in part a continuation of an activity previously performed by another person.

206 Eligible New Zealand operator must provide contact details

(1) An eligible New Zealand operator must ensure that it provides to the Secretary all contact details required by the Secretary for the purpose of this subpart.

(2) The eligible New Zealand operator must promptly notify the Secretary of any changes to the contact details required by the Secretary under subsection (1) or any other relevant new contact details.

207 Emissions monitoring plan

(1) An eligible New Zealand operator must develop, implement, and maintain an emissions monitoring plan for monitoring and recording fuel used in attributed flights.

(2) An emissions monitoring plan must be approved under subsection (6) before it is implemented.

(3) No material change to an emissions monitoring plan may be implemented unless it is approved under subsection (6).

(4) A draft plan, or a proposed amendment to a plan, must be submitted to the Secretary in accordance with any prescribed requirements.

(5) The Secretary may require the operator to provide, and the operator must provide, within the time the Secretary specifies, further documents or information in relation to the plan, or proposed amendment to a plan, that the Secretary considers necessary to make a decision under subsection (6).

(6) The Secretary must approve an emissions monitoring plan, or an amendment to a plan, if the Secretary is satisfied that the plan complies, or as proposed to be amended will comply, with the requirements of the regulations.

208 Emissions reports

(1) An eligible New Zealand operator must submit emissions reports to the Secretary.

(2) Each emissions report must—

(a) be submitted by the time specified in the regulations; and

(b) meet all other requirements of the regulations; and

(c) be verified in accordance with section 212.

209 Secretary may determine emissions if eligible New Zealand operator fails to submit emissions report

(1) This section applies if an eligible New Zealand operator fails to submit an emissions report to the Secretary under section 208 by the time referred to in section 208(2)(a).

(2) The Secretary may estimate the operator's emissions for the relevant reporting period—

(a) using the information available to the Secretary; and

(b) in accordance with the regulations.

(3) The regulations apply with any necessary modifications where the calculation is made under subsection (2).

210 Calculation of offsetting requirements for eligible New Zealand operator

The Secretary must calculate the offsetting requirements for each reporting period for each eligible New Zealand operator in accordance with the regulations and advise the operator of these requirements.

211 Emissions unit cancellation reports

(1) An eligible New Zealand operator must submit emissions unit cancellation reports to the Secretary for each reporting period.

(2) Each emissions unit cancellation report must—

(a) be submitted by the time specified in the regulations; and

(b) meet all other requirements of the regulations; and

(c) be verified in accordance with section 212.

212 Verification of reports

Emissions reports and emissions unit cancellation reports must be verified by an accredited verification body—

(a) by the time specified in the regulations; and

(b) in accordance with all other requirements of the regulations.

213 Secretary may request emissions information from New Zealand operator

(1) This section applies to a person who—

(a) is a New Zealand operator; and

(b) is not already complying with the other provisions of this subpart as an eligible New Zealand operator.

(2) The Secretary may request the emissions information prescribed in the regulations from any person to whom this section applies for the purpose of monitoring whether the person may be required to comply with the other requirements of this subpart.

(3) Any emissions information requested under subsection (2) must—

(a) be submitted by the time specified in the regulations or any other time that the Secretary specifies; and

(b) meet any other requirements of the regulations.

214 Application of sections 207 to 213 subject to regulations about new entrants

Sections 207 to 213 are subject to any regulations that relate to a new entrant.

215 Eligible New Zealand operator may request that information be treated as confidential

(1) An eligible New Zealand operator may, when providing any information to the Secretary under this subpart,—

(a) state that the operator considers that—

(i) the whole or part of the information is confidential; and

(ii) public disclosure of the information concerned would harm the operator's commercial interests; and

(b) request that the information be treated as confidential.

(2) The eligible New Zealand operator must when making a request under subsection (1) include an explanation of the reasons why public disclosure of the information concerned would harm its commercial interests.

216 Sharing of information between Secretary and ICAO

(1) The Secretary may provide ICAO with any information, or a copy of any document, that—

(a) the Secretary holds in relation to the performance or exercise of the Secretary's functions, duties, or powers under this subpart; and

(b) it is necessary or desirable to provide to ICAO for the performance or exercise of the functions, duties, or powers of ICAO under Annex 16, Vol IV of the Convention.

(2) If the Secretary determines that any information or document should be treated as confidential, the Secretary must impose reasonable conditions relating to the provision of the information or document, including conditions consistent with Annex 16, Vol IV of the Convention relating to—

(a) the publication, storage, and use of, or access to, anything provided:

(b) the copying, returning, or disposing of copies of any document provided.

(3) This section applies despite anything to the contrary in any contract, deed, or document.

217 Offences relating to CORSIA

(1) A person commits an offence if the person—

(a) operates an attributed flight without an emissions monitoring plan contrary to section 207:

(b) fails to provide an emissions report required under section 208:

(c) fails to complete the carbon offsetting requirements calculated by the Secretary under section 210:

(d) fails to provide an emissions unit cancellation report required under section 211.

(2) A person who commits an offence against subsection (1) is liable on conviction,—

(a) in the case of an individual, to a fine not exceeding $50,000:

(b) in the case of any other person, to a fine not exceeding $250,000.

Part 7
Airports

Subpart 1—Interpretation

218 Interpretation in this Part

In this Part and in Schedule 3, unless the context otherwise requires,—

accounting period has the meaning given to it in section 5(1) of the Financial Reporting Act 2013

identified aerodrome activity means any of the following:

(a) the provision, within a security area of an aerodrome, of—

(i) a hangar; or

(ii) a facility or service for aircraft refuelling, flight catering, waste disposal, or freight storage; or

(iii) a security, customs, or quarantine service for freight:

(b) any other activity to enable—

(i) aircraft to be serviced or maintained within a security area of the aerodrome; or

(ii) freight that is transported (or to be transported) by aircraft to be handled within a security area of the aerodrome:

(c) any activity to enable aircraft to land or take off, including the provision of—

(i) an aerodrome or part of an aerodrome; or

(ii) an air traffic service; or

(iii) aerodrome lighting; or

(iv) a service to maintain or repair an aerodrome or part of an aerodrome; or

(v) a rescue, fire, safety, or environmental hazard control service; or

(vi) an aerodrome supervisory or security service:

(d) any activity, other than the provision of space for retail activities, in relation to aircraft passengers who are in a security area of an aerodrome, including the provision of—

(i) a passenger seating area or thoroughfare or an airbridge; or

(ii) a flight information or public address system; or

(iii) a facility or service for operating customs, immigration, or quarantine checks or control; or

(iv) a facility for collecting duty-free items; or

(v) a facility or service for operating aviation security or Police services:

(e) any activity in a passenger terminal to enable the check-in of aircraft passengers, including the provision of a baggage handling service:

(f) the holding of land, or of any other facility or asset, for an activity under any of paragraphs (a) to (e) in the future (whether or not the land or other facility or asset is used for another purpose in the meantime)

joint venture aerodrome means an aerodrome operated as a joint venture by and between the Crown and another person

lease includes any form of tenancy or a licence to occupy or use premises or an appliance

relevant government agency means any part of the State services (within the meaning of section 5 of the Public Service Act 2020) that is listed on the Ministry's Internet site as a relevant government agency for the purposes of this Part

space requirement means a requirement under legislation for an airport operator to provide space or amenities for a relevant government agency to carry out or exercise functions, powers, or duties at an airport, including—

(a) a requirement under section 37 of the Biosecurity Act 1993 to make arrangements, facilities, or systems available:

(b) a requirement under section 385 of the Immigration Act 2009 to provide or maintain operating areas, accommodation, facilities, buildings, equipment, or storage:

(c) a requirement under section 70 of the Customs and Excise Act 2018 to provide or maintain operating areas, accommodation, facilities, buildings, equipment, or storage, or to store goods:

(d) a requirement under the rules to make areas, facilities, or systems available for the provision of aviation security services by AvSec:

(e) a requirement under the Health Act 1956 for Health New Zealand to undertake any functions or duties set out in that Act

substantial customer has the meaning given to it by section 219.

Compare: 1966 No 51 s 2; 1990 No 98 s 92

219 Meaning of substantial customer

(1) For the purposes of this Part, a person is a **substantial customer** of an airport operator if subsection (2) or (3) applies (or they both apply).

(2) This subsection applies if the person paid, or was liable to pay, the airport operator an amount—

(a) relating to identified aerodrome activities undertaken during the airport operator's last accounting period; and

(b) exceeding 5% of the total revenue paid or payable to the airport operator in relation to identified aerodrome activities undertaken during that period.

(3) This subsection applies if the person is authorised in writing to represent, and exercise the powers of a substantial customer under this subpart in relation to, a number of persons and—

(a) those persons in aggregate paid, or were liable to pay, the airport operator an amount—

(i) relating to identified aerodrome activities undertaken during the airport operator's last accounting period; and

(ii) exceeding 5% of the total revenue paid or payable to the airport operator in relation to identified aerodrome activities undertaken during that period; and

(b) the person has provided the airport operator with a copy of the authorisations for inspection.

Compare: 1966 No 51 s 2A

Subpart 2—Airport operators

220 Secretary must maintain register of airport operators and airports

(1) The Secretary must maintain a register of airport operators on the Ministry's Internet site in accordance with prescribed requirements (if any).

(2) The register must state, for each airport operator,—

(a) the aerodrome and any other area that the registration of the operator under section 222 covers; and

(b) the name of the operator; and

(c) when the operator was registered; and

(d) if the registration has been suspended or cancelled, that fact and the date on which the suspension or cancellation took effect; and

(e) any space requirements that apply in relation to the airport operator; and

(f) whether a regulatory airport spatial undertaking has been accepted under section 243; and

(g) any other prescribed information.

(3) The Secretary may include in the register any other information that the Secretary thinks fit.

(4) The Secretary must update the register if the Secretary becomes aware that there is a change or error in the information on the register (for example, a change in the name of an airport operator).

221 Applications for registration

(1) The operator of an aerodrome, or the proposed operator of an aerodrome not yet in operation, in which there is or will be a space requirement must apply to the Secretary to be registered in relation to the aerodrome.

(2) The operator of any other aerodrome, or the proposed operator of any other aerodrome not yet in operation, may apply to the Secretary to be registered in relation to the aerodrome.

(3) An application under this section may be made by 2 or more people acting jointly as the operator or proposed operator.

(4) An application under this section must be made in the manner specified by the Secretary on the Ministry's Internet site.

(5) The applicant must provide the Secretary with the information required by the Secretary to assist in determining the application.

Compare: 1966 No 51 s 3

222 When aerodrome operator may or must be registered

(1) After receiving an application under section 221, the Secretary must register the applicant, and provide the applicant with written notice of the registration, if satisfied that—

(a) the persons or representatives of the persons the Secretary considers will be substantially affected by the registration have been consulted; and

(b) registering the operator in relation to the aerodrome is consistent with the main and additional purposes of this Act; and

(c) there is no reason to believe that the applicant will not comply with their airport operator obligations.

(2) The notice to the applicant under subsection (1) must specify the area covered by the registration.

(3) That area—

(a) must include the aerodrome; and

(b) may include any other area that the Secretary is satisfied is being used, or held for future use, for the purposes of the airport.

223 Area covered by registration may be varied

(1) An airport operator may apply to the Secretary for the area covered by a registration notified to it under section 222 to be varied.

(2) After receiving an application under subsection (1), the Secretary must vary the area by amending the register, and must provide written notice of the variation to the airport operator, if satisfied that—

(a) the persons or representatives of the persons the Secretary considers will be substantially affected by the variation have been consulted; and

(b) making the variation is consistent with the main and additional purposes of this Act; and

(c) there is no reason to believe that, as a result of the variation, the airport operator will not comply with their airport operator obligations.

(3) The notice under subsection (2) must specify the area as varied that is covered by the registration.

224 Registration may cover 2 or more airports

(1) The same registration may cover 2 or more airports.

(2) In that case,—

(a) a reference in this Act to the airport covered by the registration is taken instead to be a reference to each of the airports severally; and

(b) the decision to add another airport to a registration must be made on the same basis as a decision to register the airport operator under section 222; and

(c) the registration may be suspended or cancelled in respect of 1 of those airports as if the airport operator were separately registered in relation to each airport; and

(d) a reference in this Act to a registration being issued, suspended, or cancelled is to be taken to be a reference to the registration being issued, added to, suspended, or cancelled, in relation to 1 or more of those airports.

225 Secretary may suspend or cancel registration

(1) The Secretary may, by written notice to the airport operator, suspend (for a specified period or until a specified requirement is met) or cancel a registration under section 222 in relation to an airport if—

(a) the airport operator, by written notice, requests the Secretary to do so; or

(b) the Secretary is satisfied that—

(i) the airport operator is not carrying on the business or undertaking of operating the airport (for example, due to insolvency); or

(ii) the airport operator does not hold an aviation document that, under the rules, is required to operate the airport.

(2) Despite subsection (1), the registration of an airport operator that has space requirements must not be cancelled unless a new airport operator is first registered for the airport.

(3) A person in respect of whom a decision is made under subsection (1) may appeal against the decision to the District Court under section 453.

226 Airport to be operated commercially

(1) An airport operated by an airport operator must be operated as a commercial undertaking unless—

(a) the airport operator—

(i) is a local authority; and

(ii) provides in its planning documents that the airport is not to be operated as a commercial undertaking; or

(b) the airport operator is a council-controlled organisation that—

(i) provides in its constitution, or any other rule or document constituting the council-controlled organisation or governing its activities, that the airport is not to be operated as a commercial undertaking; and

(ii) is not a specified airport company; or

(c) the airport operator—

(i) is a local authority; and

(ii) is a shareholder in, a member of, or otherwise forms part of a company or an entity that is a council-controlled organisation that—

(A) provides in its constitution, or any other rule or document constituting the council-controlled organisation or governing its activities, that the airport is not to be operated as a commercial undertaking; and

(B) is not a specified airport company.

(2) In this section,—

council-controlled organisation has the meaning given in section 6(1) and (4) of the Local Government Act 2002

local authority has the meaning given in section 5(1) of the Local Government Act 2002

specified airport company has the meaning given in section 56A of the Commerce Act 1986.

227 Airport to be Government work

(1) For the purposes of the Public Works Act 1981, an airport operated by an airport operator that is not a local authority must be treated as a Government work—

(a) that the Crown is authorised to construct, undertake, establish, manage, operate, or maintain; and

(b) for which the Crown is responsible.

(2) This section is subject to section 234.

228 Acquisition or taking of land for airport

(1) This section applies in respect of an airport operated by an airport operator that is not a local authority.

(2) The airport operator may apply to the Minister of Lands to have land required for the airport acquired or taken under Part 2 of the Public Works Act 1981 and, if the Minister of Lands agrees, that land may be taken or acquired.

(3) The effect of any Proclamation taking land for the purposes of subsection (2) is to vest the land in the airport operator instead of the Crown.

(4) Any land held under an enactment or in any other manner by the Crown or a local authority may, with the consent of the Crown or that authority, be set apart for the airport in the manner provided in sections 50 and 52 of the Public Works Act 1981 (with the necessary modifications).

(5) The setting apart of land under subsection (4)—

(a) must be on the terms and conditions (including price) that may be agreed between the Crown or local authority and the airport operator; and

(b) is not subject to sections 40 and 41 of the Public Works Act 1981.

(6) Land set apart as described in subsections (4) and (5) vests in the airport operator.

(7) Any claim for compensation under the Public Works Act 1981 in respect of land acquired or taken in accordance with this section must be made against the Minister of Lands.

(8) All costs and expenses incurred by the Minister of Lands in respect of the acquisition or taking of land in accordance with this section (including any compensation payable by the Minister) is recoverable from the airport operator as a debt due to the Crown.

(9) For the purposes of this section, an interest in land, including a leasehold interest, may be acquired or taken as if references to land were references to an interest in land.

229 Holding and disposal of land

(1) This section applies in respect of an airport operated by an airport operator that is not a local authority.

(2) The chief executive may lodge a caveat under section 138 of the Land Transfer Act 2017 against dealings in relation to any land forming part of the airport to protect any interest of persons to have that land offered to them under section 40(2) of the Public Works Act 1981.

(3) It is the chief executive and not the airport operator who must comply with sections 40 and 41 of that Act and, where relevant, section 134 of Te Ture Whenua Maori Act 1993 in relation to any disposal of the land.

(4) In this section, **chief executive** means the chief executive within the meaning of section 4 of the Cadastral Survey Act 2002.

(5) For the purposes of this section,—

(a) the rights of persons referred to in subsection (2) are an interest in land for the purposes of section 138 of the Land Transfer Act 2017; and

(b) in stating that interest, it is sufficient for the caveat to refer to sections 40 to 42 of the Public Works Act 1981 and this section.

230 Airport operators may set charges

(1) An airport operator may set charges for identified aerodrome activities provided, operated, or managed by the airport operator.

(2) If the charge is, or is proposed to be, payable by a substantial customer, the airport operator must consult the customer—

(a) before fixing or altering the amount of the charge; and

(b) within 5 years after fixing or altering the amount of the charge.

(3) If the charge is, or is proposed to be, payable by a passenger, the airport operator must consult all of its substantial customers—

(a) before fixing or altering the amount of the charge; and

(b) within 5 years after fixing or altering the amount of the charge.

(4) Despite subsections (2) and (3), the airport operator need not consult a substantial customer under this section if the substantial customer has consented in writing to not being consulted (and has not withdrawn that consent).

(5) If the airport operator is a specified airport company as defined in section 56A of the Commerce Act 1986 and specified airport services of the operator are subject to negotiate/arbitrate regulation or price-quality regulation under Part 4 of that Act, consultation about those specified airport services that has occurred or will occur, whether by the airport operator or otherwise, with the substantial customer for the purposes of that Act may be treated as consultation for the purpose of this section.

(6) A failure by an airport operator to comply with this section does not affect the validity or enforceability of any deed, agreement, right, or obligation entered into, obtained, or incurred by the airport operator.

(7) Section 43 of the Commerce Act 1986 does not apply (and, accordingly, Part 2 of that Act applies) in relation to the charge.

(8) This section does not limit the application of Part 4 of the Commerce Act 1986.

(9) No charge may be set under this section for the carrying out of an activity for which a charge is payable under regulations made under section 407 or 415.

(10) In this section, **charge** includes a fee, a due, or rent payable under a lease.

Compare: 1966 No 51 ss 4A, 4B

231 Airport operators must consult concerning capital expenditure plans

(1) This section applies if—

(a) an airport operator proposes an item or a programme of identified capital expenditure; and

(b) the total of any expenditure for the item or under the programme, and any related capital expenditure, that will or is likely to be incurred by the airport operator by the end of the following 5-year period exceeds the relevant amount.

(2) The airport operator must consult all of its substantial customers about the proposed item or programme of identified capital expenditure before approving it.

(3) Despite subsection (2), the airport operator need not consult a substantial customer under this section if the substantial customer has consented in writing to not being consulted (and has not withdrawn that consent).

(4) If the airport operator is a specified airport company as defined in section 56A of the Commerce Act 1986 and specified airport services of the operator are subject to negotiate/arbitrate regulation or price-quality regulation under Part 4 of that Act, consultation about those specified airport services that has occurred or will occur, whether by the airport operator or otherwise, with the substantial customer for the purposes of that Act may be treated as consultation for the purpose of this section.

(5) A failure by an airport operator to comply with this section does not affect the validity or enforceability of any deed, agreement, right, or obligation entered into, obtained, or incurred by the airport operator.

(6) In this section,—

following 5-year period, in relation to an item or a programme of identified capital expenditure, means the period beginning with the date on which the airport operator approves the item or programme and ending with the date on which 5 accounting periods have been completed following that approval date

identified capital expenditure means capital expenditure relating to identified aerodrome activities

related capital expenditure, in relation to an item or a programme of identified capital expenditure, means capital expenditure connected with the identified capital expenditure

relevant amount, in relation to a proposal by an airport operator with annual passenger movements (during the most recently ended accounting period preceding the proposal) that are specified in the first column of the following table, means the amount specified for those passenger movements in the second column of the table:

Annual passenger movements of airport operator	Amount ($)
Less than 1,000,000	5,000,000
1,000,000 or more but not more than 3,000,000	10,000,000
More than 3,000,000	30,000,000

Compare: 1966 No 51 ss 4C, 9B

232 Airport operators must consult concerning spatial plans

(1) This section applies if an airport operator proposes to approve a spatial plan for the airport.

(2) Before approving the spatial plan, the airport operator must consult the substantial customers of the operator, and the relevant government agencies, that the operator considers appropriate having regard to the plan's subject matter.

(3) Despite subsection (2), the airport operator need not consult a customer or agency under this section if the customer or agency has consented in writing to not being consulted (and has not withdrawn that consent).

(4) A failure by an airport operator to comply with this section does not affect the validity or enforceability of any deed, agreement, right, or obligation entered into, obtained, or incurred by the airport operator.

(5) In this section, **spatial plan** means a document setting out a plan, strategy, or statement of intent, for the future development of land or infrastructure at the airport.

233 Airport operators may vary leases in certain circumstances

(1) This section applies if—

(a) an airport operator has leased buildings, installations, or land (or any part of them) within the land that is registered as an airport; and

(b) during the term of the lease, the building, installation, or land is required for the purposes of the airport.

(2) The airport operator may terminate the lease as to the whole of the property leased or as to so much of it as is required for the purposes of the airport.

(3) No action may be brought in any court for the payment of damages or compensation in respect of the termination except an action for the payment of compensation provided for in the lease under subsection (4).

(4) A lease referred to in subsection (1) may contain a provision requiring the airport operator to pay the lessee on the termination of the lease under subsection (1) compensation for improvements effected by the lessee during the term of the lease.

(5) Compensation for improvements effected by the lessee must be an amount agreed between the parties or, failing agreement, an amount determined by arbitration under the Arbitration Act 1996.

(6) If the amount of compensation for improvements is submitted for arbitration under the Arbitration Act 1996, this subsection is to be treated as a submission within the meaning of that Act.

Compare: 1966 No 51 s 6(3)–(6)

234 Application of other Acts to airport subdivisions and laying out of access roads

Parts 8 and 9 of the Public Works Act 1981, Part 21 of the Local Government Act 1974, and section 11 and Part 10 of the Resource Management Act 1991 do not apply to the subdivision of an airport by an airport operator or to the laying out of access roads to the land subdivided.

Compare: 1966 No 51 s 6(8)

235 Airport bylaws

(1) An airport operator may, in respect of the airport that it operates, make bylaws for all or any of the following purposes:

(a) the good rule and management of the airport:

(b) more effectively carrying out functions and powers of the airport operator in respect of the airport:

(c) protecting property used in connection with the airport from damage or injury:

(d) prescribing precautions to be taken to protect people or property from accidents or damage:

(e) regulating (other than on a road as defined in section 2(1) of the Land Transport Act 1998)—

(i) traffic, whether pedestrian or vehicular; and

(ii) the provision and use of parking places for vehicles at the aerodrome:

(f) prescribing the times, terms, and conditions on which the public may enter or be in the airport:

(g) providing for facilities to be established and maintained at the airport to receive and store lost property.

(2) Bylaws under subsection (1)(g) may provide for—

(a) lost property to be sold by auction if it is unclaimed after being held by the airport operator for at least 3 months:

(b) publicising, in what the operator considers to be a fair and reasonable manner, the proposed sale of lost property:

(c) despite paragraphs (a) and (b), disposing of perishable or valueless lost property in any manner determined by the operator.

(3) Bylaws made under subsection (1) may—

(a) provide differently for different types of persons, vehicles, roads or other places within the airport, aviation participants, or aviation-related services or on any other differential basis; or

(b) provide differently for the same class of person, vehicle, road or other place within the airport, aviation participant, or aviation-related service or any other thing in different circumstances.

(4) Bylaws made under subsection (1) are not invalid merely because they confer any discretion on, or allow any matter to be determined or approved by, the airport operator or any other person or allow the airport operator or any other person to impose requirements as to the performance of any activities.

(5) Bylaws made under this section by an airport operator are secondary legislation for the purposes of the Legislation Act 2019, but section 161A of the Local Government Act 2002 applies to them as if they were made by a local authority.

Compare: 1966 No 51 s 9(1), (1A), (2)

236 Consultation

(1) Section 156 of the Local Government Act 2002 applies to a bylaw made under section 235 by an airport operator that is a local authority as if that bylaw had been made under that Act.

(2) An airport operator must not make a bylaw under section 235 unless it has consulted—

(a) the CAA; and

(b) the Secretary; and

(c) any government agency operating at the airport to which the content of the proposed bylaw may be relevant; and

(d) the Police; and

(e) any other person who the airport operator considers may be substantially affected by the proposed bylaw.

(3) The airport operator must—

(a) give notice in writing to the persons and agencies specified in subsection (2) of the airport operator's proposal to make, amend, or replace a bylaw; and

(b) give those persons and agencies a reasonable time, which must be specified in the notice, to make submissions on the proposal.

Compare: 1998 No 110 s 22AD

237 Publication and proof of bylaws

(1) As soon as practicable after a bylaw is made, the airport operator must give public notice of the making of the bylaw, stating—

(a) the date on which the bylaw comes into force; and

(b) that copies of the bylaw may be inspected and obtained at the office of the airport operator on payment of a specified amount.

(2) An airport operator must—

(a) keep copies of all its bylaws at the office of the airport operator; and

(b) make the bylaws available at all reasonable times on an Internet site maintained by or on behalf of the airport operator; and

(c) supply to any person, on request and on payment of a reasonable charge, a copy of any of its bylaws.

(3) The production of any document purporting to contain a printed copy of any bylaw made under section 235 and authenticated by the airport operator that made it is, until the contrary is proved, sufficient evidence of the existence and provisions of the bylaw.

Compare: 1998 No 110 s 22AE

238 Minister may amend, replace, or disallow bylaws

(1) The Minister may amend, replace, or disallow, either wholly or in part, any bylaw made by an airport operator under section 235 (whether before or after the commencement of this section) if the bylaw—

(a) is inconsistent with any enactment; or

(b) is unreasonable or undesirable to the extent that it relates to or may affect traffic.

(2) On any disallowance under subsection (1), the bylaw must, to the extent to which it is disallowed, be treated as having been revoked.

(3) Any disallowance under subsection (1) takes effect either on the day after the notice of disallowance is published under the Legislation Act 2019 (*see* subsection (4)) or on a later date that may be specified in the notice.

(4) A notice made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1998 No 110 s 22AC

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must publish it in accordance with the Legislation (Publication) Regulations 2021	LA19 s 74(1)(aa)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

239 Enforcement of bylaws

(1) A person who breaches a bylaw in force under this subpart commits an offence and is liable on conviction to a fine not exceeding $500.

(2) If a person commits a continuing breach of a bylaw in force under this subpart, then, despite anything in any other Act, the District Court may, on application by the airport operator, grant an injunction restraining the further continuation of the breach by the person.

(3) An injunction may be granted under subsection (2)—

(a) even though proceedings for the offence constituted by the breach have not been taken; or

(b) if the person is convicted of an offence constituted by the breach,—

(i) in the proceedings for the offence, in substitution for or in addition to any penalty imposed for the offence; or

(ii) in subsequent proceedings.

Compare: 1966 No 51 s 9(8)

240 Joint venture aerodromes

The provisions of Schedule 3 have effect.

Subpart 3—Regulatory airport spatial undertakings

241 Giving of regulatory airport spatial undertaking by airport operator

(1) This section applies if—

(a) 1 or more space requirements apply in relation to an airport; or

(b) 1 or more relevant government agencies have notified an airport operator that they intend in the future to impose 1 or more space requirements on the airport (and have not withdrawn that notification).

(2) The operator must provide the Secretary with a regulatory airport spatial undertaking setting out, to the Secretary's satisfaction, how the operator will meet the space requirements.

(3) A regulatory airport spatial undertaking offered under this section must—

(a) specify the space requirements and relevant government agencies concerned; and

(b) specify projects, milestones, and implementation time frames to meet the space requirements and the related obligations (if any); and

(c) be made in the manner specified by the Secretary; and

(d) comply with any prescribed requirements relating to the content, form, timing, and publication of regulatory airport spatial undertakings.

(4) An operator giving a regulatory airport spatial undertaking under this section must provide the Secretary with the information required by the Secretary to assist the Secretary in deciding whether the regulatory airport spatial undertaking complies with this section.

242 Consultation and timing requirements

(1) An airport operator must make reasonable efforts to obtain the relevant government agencies' endorsement of a regulatory airport spatial undertaking and consult with substantial customers before providing the undertaking to the Secretary under section 241(2).

(2) The agencies—

(a) must not unreasonably withhold or delay their endorsement; and

(b) must make reasonable efforts to co-ordinate their response.

(3) The operator must take all reasonable steps to ensure that the undertaking is given and accepted—

(a) before the end of the 9-month period beginning with,—

(i) if section 241(1)(a) applies, the date on which the space requirement arises; or

(ii) if section 241(1)(b) applies, the date on which the relevant government agency notifies the operator that it intends to impose the space requirement; or

(b) by any other deadline specified by the Governor-General by Order in Council made on the recommendation of the Minister.

(4) An Order in Council made under this section is 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
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

243 Decision and notification

On receiving the regulatory airport spatial undertaking under section 241, the Secretary may—

(a) accept the undertaking if it meets the requirements of section 241(2) and (3); or

(b) refer the undertaking back to the operator, specifying any matters that must be addressed before the undertaking is resubmitted.

244 When regulatory airport spatial undertaking is enforceable

A regulatory airport spatial undertaking takes effect and becomes enforceable on the date on which notice of the Secretary's decision to accept the undertaking is given to the operator who gave the undertaking, or at any later date specified by the Secretary.

245 Review by airport operator of regulatory airport spatial undertaking

(1) An airport operator that has given a regulatory airport spatial undertaking that is in effect in accordance with section 244 must review it—

(a) if notified by a relevant government agency that—

(i) there has been, or is proposed to be, a significant change to the agency's space requirements; or

(ii) the undertaking does not meet the requirements or no longer meets them; and

(b) in any case, at intervals of no more than 5 years.

(2) The airport operator must give a copy of a review under subsection (1) to the Secretary.

(3) If, as a result of the review, the operator determines, or is notified in writing by the Secretary, that the undertaking no longer meets the requirements of section 241(2) and (3), the operator must vary the undertaking to meet those requirements or give a replacement undertaking that meets them.

(4) Sections 241 to 244 apply to the variation or replacement in the same manner as they apply to the undertaking being varied or replaced.

246 Compliance with regulatory airport spatial undertaking

An airport operator must not contravene a regulatory airport spatial undertaking that is in effect in accordance with section 244.

247 Secretary may make direction orders

(1) The Secretary may make an order under this section (a **direction order**) if satisfied on reasonable grounds that an airport operator has contravened, or is likely to contravene, a provision of this subpart or a regulatory airport spatial undertaking that is in effect in accordance with section 244.

(2) The direction order may—

(a) direct the operator to comply with the provision or the undertaking:

(b) specify any reasonable steps that the operator must take in order to comply with the provision or undertaking, or to avoid or mitigate any actual or potential adverse effects of a contravention:

(c) specify a reasonable period within which the operator must comply with the provision or undertaking:

(d) require the operator to report to the Secretary stating how and when the provision or undertaking has been, or will be, complied with.

(3) The Secretary may make a direction order under this section only if the Secretary first takes the following steps:

(a) give the person to whom the direction order is proposed to be directed written notice—

(i) that the Secretary may make a direction order under this section; and

(ii) of the reasons why the Secretary is considering exercising that power; and

(b) give the notice referred to in paragraph (a) at least 5 working days before the Secretary makes the direction order; and

(c) give each person to whom notice of the direction order must be given, or the person's representative, an opportunity to make written submissions and to be heard on the matter within that notice period.

248 Secretary must give notice of direction orders

If the Secretary makes a direction order under section 247, the Secretary—

(a) must, as soon as is reasonably practicable, give written notice to the person to whom the direction order is directed of—

(i) the terms and conditions of the direction order; and

(ii) the reasons for the direction order; and

(iii) any other information the Secretary thinks relevant in the circumstances; and

(b) may also make the notice or any part of the notice available on its Internet site; and

(c) may also give notice to any other person of those matters.

249 Secretary may apply to court if airport operator fails to comply with direction order

(1) The Secretary may apply to the District Court for an order under this section if—

(a) the Secretary has made a direction order under section 247; and

(b) the Secretary believes that the airport operator has failed to comply with the direction order.

(2) If the court is satisfied that the airport operator has failed to comply with the direction order, the court may make the following orders:

(a) an order directing the operator to comply with the direction order; and

(b) any other order that the court considers appropriate in the circumstances, including orders directing the operator to pay to the Secretary—

(i) the costs of the proceedings; and

(ii) the reasonable costs of the Secretary in monitoring compliance with the direction order in the future.

(3) This section does not prevent proceedings being brought for the contravention or alleged contravention of space requirements to which the regulatory airport spatial undertaking to which the direction order relates.

250 Consequences of failing to comply with direction orders

(1) An airport operator must comply with a direction order given to the operator.

(2) A person who refuses or fails, without reasonable excuse, to comply with a direction order commits an offence and is liable on conviction,—

(a) in the case of an individual, to a fine not exceeding $50,000:

(b) in the case of any other person, to a fine not exceeding $250,000.

(3) If an airport operator commits an offence against this section, any officer of the operator who participates in, directs, authorises, acquiesces in, or assents to the conduct comprising the offence also commits an offence and is liable on conviction to a fine not exceeding $50,000.

Subpart 4—Exemptions from requirements of subparts 2 and 3

251 Exemptions from requirements of subparts 2 and 3

(1) The Secretary may exempt an airport operator or any class of airport operators from all or any of the requirements of the following:

(a) section 230(2) and (3) (airport operators may set charges):

(b) section 231 (airport operators must consult concerning capital expenditure plans):

(c) section 232 (airport operators must consult concerning spatial plans):

(d) section 241 (giving of regulatory airport spatial undertaking by airport operator):

(e) section 242 (consultation and timing requirements):

(f) section 245 (review by airport operator of regulatory airport spatial undertaking).

(2) The Secretary must not grant an exemption under subsection (1) unless the Secretary is satisfied that—

(a) the extent of the exemption is not broader than is reasonably necessary to address the matters that gave rise to the proposed exemption; and

(b) the exemption is consistent with the main purpose of the Act; and

(c) it is appropriate to grant the exemption after considering—

(i) the additional purposes of the Act; and

(ii) any other matters that the Secretary considers appropriate in the circumstances.

(3) When determining whether to grant an exemption under subsection (1) from section 230(2) or (3), 231, or 232, the Secretary may take into account whether—

(a) services of the airport operator are subject to price-quality regulation or negotiate/arbitrate regulation under Part 4 of the Commerce Act 1986; and

(b) consultation in respect of those services has occurred or will occur pursuant to determinations made under Part 4 of that Act.

(4) The Secretary may grant an exemption under subsection (1) on any terms and conditions that the Secretary thinks fit.

(5) A class exemption is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

(6) In this section, **class exemption** means an exemption granted under subsection (1) that relates to more than 1 airport operator.

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must publish it in accordance with the Legislation (Publication) Regulations 2021	LA19 s 74(1)(aa)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Subpart 5—Sale of alcohol at international airports

252 Sale of alcohol at international airports

(1) Alcohol may be sold at any international airport to any passenger on an aircraft departing from or arriving in New Zealand for consumption on or off the airport premises if the passenger is of or over the purchase age as defined in section 5 of the Sale and Supply of Alcohol Act 2012.

(2) Unless alcohol sold under the authority of subsection (1) has been entered by the passenger concerned for home consumption in accordance with the Customs and Excise Act 2018,—

(a) the buyer must not deliver it, and no person may deliver it on behalf of the buyer, to any other person within New Zealand; and

(b) no person may consume it within New Zealand.

(3) A person commits an offence if the person—

(a) sells alcohol at any international airport to any passenger on an aircraft departing from or arriving in New Zealand who is under the age referred to in subsection (1); or

(b) fails to comply with subsection (2).

(4) A person who commits an offence against subsection (3) is liable on conviction to a fine not exceeding $2,500.

(5) Nothing in the Sale and Supply of Alcohol Act 2012 applies to the sale of alcohol under the authority of this section or of any regulations made under section 426.

Compare: 1990 No 98 s 96(1), (2), (4)–(6)

Section 252(3)(a): amended, on 19 May 2026, by section 129 of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

Part 8
International and domestic carriage of passengers and goods by air

Subpart 1—Additional purpose of Part

253 Additional purpose of Part

(1) The purpose of this Part (in addition to those set out in sections 3 and 4) is to provide effective redress for passengers and others in relation to international and domestic carriage of passengers and goods by air.

(2) This section does not limit section 3 or 4.

Subpart 2—International carriage by air

254 Interpretation in this subpart

In this subpart, unless the context otherwise requires,—

Additional Protocol means the Additional Protocol—

(a) that is included in the Warsaw Convention with reference to Article 2 of that Convention; and

(b) that appears before the Additional Provisions of the Hague Protocol affecting the Warsaw Convention in the amended Convention, as set out in Schedule 4

Additional Protocol No 1 means Additional Protocol No 1 to amend the Warsaw Convention, which opened for signature at Montreal on 25 September 1975

Additional Protocol No 2 means Additional Protocol No 2 to amend the Warsaw Convention and the Hague Protocol, which opened for signature at Montreal on 25 September 1975

amended Convention means the Convention—

(a) that is the Warsaw Convention as amended by the following protocols:

(i) the Hague Protocol:

(ii) Additional Protocols Nos 1 and 2, and Protocol No 4:

(b) the English text of which is set out in Schedule 4

court,—

(a) in relation to an arbitration allowed by the Montreal Convention, the amended Convention, or the Guadalajara Convention, includes an arbitrator; and

(b) includes the Disputes Tribunal, except in any matters relating to liability for passenger injury or death

Guadalajara Convention means the Convention, Supplementary to the Warsaw Convention, for the Unification of Certain Rules Relating to International Carriage by Air Performed by a Person Other than the Contracting Carrier,—

(a) which opened for signature at Guadalajara on 18 September 1961:

(b) the English text of which is set out in Schedule 5

Hague Protocol means the Protocol to amend the Warsaw Convention that opened for signature at the Hague on 28 September 1955

High Contracting Party has the same meaning as in Article 40A of the amended Convention

Montreal Convention means the Convention for the Unification of Certain Rules for International Carriage by Air,—

(a) which opened for signature at Montreal on 28 May 1999:

(b) the English text of which is set out in Schedule 6

Protocol No 4 means Protocol No 4 to amend the Warsaw Convention and the Hague Protocol that opened for signature at Montreal on 25 September 1975

Warsaw Convention means the Convention for the Unification of Certain Rules Relating to International Carriage by Air, which opened for signature at Warsaw on 12 October 1929, and includes the Additional Protocol to that Convention.

Compare: 1990 No 98 s 91A

255 Application of Guadalajara Convention

In this Part, references to the amended Convention or to any Article of that Convention are, where applicable and subject to any necessary modifications, to be read as references to that Convention or Article as supplemented by the Guadalajara Convention.

Compare: 1990 No 98 s 91B

256 Conventions to have force of law

(1) This section relates to the Montreal Convention, the amended Convention, and the Guadalajara Convention (**the Conventions**).

(2) The Conventions have the force of law in New Zealand in relation to any carriage by air to which any of the Conventions, as the case may require, applies.

(3) However, the Conventions have the force of law in New Zealand only to the extent that they relate to the rights and liabilities of carriers, carriers' servants and agents, passengers, consignors, consignees, and other persons.

(4) The Conventions apply in New Zealand—

(a) subject to this subpart; and

(b) irrespective of the nationality of the aircraft performing the carriage by air.

(5) Each version of Article 22 of the amended Convention set out in Schedule 4 applies in the circumstances outlined in the heading of that version.

Compare: 1990 No 98 s 91C

257 Inconsistency between French and English texts

(1) If there is any inconsistency between the English text of the amended Convention set out in Schedule 4 and the corresponding text in French, the text in French prevails.

(2) If there is any inconsistency between the English text of the Guadalajara Convention set out in Schedule 5 and the corresponding text in French, the text in French prevails.

(3) The Secretary of Foreign Affairs and Trade may give a certificate stating that a document to which the certificate is annexed is a true copy of the authentic text in the French language of 1 or more of the following:

(a) Additional Protocol No 1:

(b) Additional Protocol No 2:

(c) the Guadalajara Convention:

(d) the Hague Protocol:

(e) Protocol No 4:

(f) the Warsaw Convention.

(4) Any certificate given must be received in evidence in any proceedings and, in the absence of proof to the contrary, is sufficient evidence of the matters stated in the certificate.

Compare: 1990 No 98 s 91D

258 Fatal accidents

References in section 4 of the Deaths by Accidents Compensation Act 1952 to a wrongful act, neglect, or default include references to any occurrence that gives rise to a liability under—

(a) Article 17(1) of the Montreal Convention; or

(b) Article 17 of the amended Convention.

Compare: 1990 No 98 s 91E

259 Contributory negligence

The provisions of the Contributory Negligence Act 1947 are the provisions of the law of New Zealand under which a court may exonerate a carrier wholly or partly from the carrier's liability for the purposes of—

(a) Article 20 of the Montreal Convention; or

(b) Article 21 of the amended Convention.

Compare: 1990 No 98 s 91F

260 Limitation of liability

(1) The limitations on liability referred to in Articles 21 and 22 of the Montreal Convention or in Article 22 of the amended Convention apply whatever the nature of the proceedings by which liability may be enforced.

(2) Without limiting subsection (1),—

(a) the limitations on liability apply where proceedings are brought by a person (**person A**) to obtain contribution from another person (**person B**) if person B is the carrier or a servant or an agent of the carrier; and

(b) the limitation for each passenger referred to in Article 21 of the Montreal Convention or in paragraph (1) of Article 22 of the amended Convention applies to the aggregate liability of the carrier in—

(i) all proceedings that may be brought against the carrier under the law of New Zealand; and

(ii) any proceedings brought against the carrier outside New Zealand.

(3) A court or the Disputes Tribunal (as relevant) before which proceedings are brought to enforce a liability that is limited by Article 21 or Article 22 of the Montreal Convention or Article 22 of the amended Convention may, at any stage of the proceedings, make any order that appears to the court or the Disputes Tribunal (as relevant) to be just and equitable, in view of—

(a) Article 21 or Article 22 of the Montreal Convention or Article 22 of the amended Convention; and

(b) any other proceedings which have been, or are likely to be, commenced in New Zealand or elsewhere to enforce the liability in whole or in part.

(4) A court or the Disputes Tribunal (as relevant) before which proceedings are brought to enforce a liability that is limited by Article 21 or Article 22 of the Montreal Convention or Article 22 of the amended Convention has jurisdiction, where the liability is, or may be, partly enforceable in other proceedings in New Zealand or elsewhere, to—

(a) award an amount less than the court would have awarded if the limitation applied solely to the proceedings before the court; or

(b) make any part of its award conditional on the result of any other proceedings.

(5) Subsection (4) does not limit the powers conferred on a court or the Disputes Tribunal by subsection (3).

(6) Unless the context otherwise requires, references in this section to Article 22 of the amended Convention are, subject to any necessary modifications, to be read as references to that Article as applied or supplemented by—

(a) Article 25A of the amended Convention; and

(b) Articles V and VI of the Guadalajara Convention.

Compare: 1990 No 98 s 91G

261 Value of special drawing right

(1) For the purposes of Article 23 of the Montreal Convention or Article 22 of the amended Convention, the value of 1 special drawing right must be treated as equal to a sum in New Zealand currency that is fixed by the International Monetary Fund as being the equivalent of 1 special drawing right for—

(a) the date of judgment; or

(b) any other relevant date; or

(c) if no sum has been fixed for that date, the last preceding date for which a sum has been fixed.

(2) For the purposes of subsection (1), a certificate may be given by, or on behalf of, the Secretary to the Treasury stating that—

(a) a particular sum in New Zealand currency has been fixed as the equivalent of 1 special drawing right for a particular date; or

(b) no sum has been fixed for that date, and that a particular sum has been fixed for the date most recently preceding a particular date.

(3) Any certificate given must be received in evidence in any proceedings and, in the absence of proof to the contrary, is sufficient evidence of the value of 1 special drawing right in New Zealand currency.

(4) Unless the context otherwise requires, references in this section to Article 22 of the amended Convention are, subject to any necessary modifications, to be read as references to that Article as applied or supplemented by—

(a) Article 25A of the amended Convention; and

(b) Articles V and VI of the Guadalajara Convention.

Compare: 1990 No 98 s 91H

262 Time for bringing proceedings

(1) No action against a carrier's servant or agent that arises out of damage to which this Part relates may be brought after more than 2 years if the servant or agent was acting within the scope of the person's employment.

(2) For the purposes of subsection (1), the period of 2 years is calculated from the earliest of the following dates:

(a) the date of arrival at the destination:

(b) the date the aircraft ought to have arrived:

(c) the date carriage stopped.

(3) Neither Article 35 of the Montreal Convention nor Article 29 of the amended Convention applies to any proceedings for contribution between tortfeasors.

(4) Despite subsection (3), no action may be brought by a person to obtain a contribution from a carrier—

(a) in respect of a tort to which either of the following applies:

(i) Article 35 of the Montreal Convention:

(ii) Article 29 of the amended Convention; and

(b) after the expiry of 2 years from the time when judgment is obtained against the person seeking to obtain the contribution.

Compare: 1990 No 98 s 91I(1)–(4)

263 Further provisions in relation to time for bringing proceedings

(1) The following provisions have effect as if references in those provisions to an action included references to an arbitration:

(a) section 262:

(b) Article 35 of the Montreal Convention:

(c) Article 29 of the amended Convention.

(2) Subsections (3) and (4) (which determine the time at which an arbitration is deemed to have commenced) apply for the purposes of subsection (1).

(3) An arbitration (whether under legislation or under an arbitration agreement) must be treated as being commenced in the same manner as provided in Article 21 of Schedule 1 of the Arbitration Act 1996.

(4) If the High Court orders that an award be set aside, it may also order that the period between the commencement of the arbitration and the date of the setting aside order must be excluded in computing the time prescribed by this section for the commencement of civil proceedings (including arbitration) with respect to the dispute referred.

(5) Subsections (2) to (4) do not limit or affect section 39 of the Limitation Act 2010.

Compare: 1990 No 98 s 91I(5)–(9)

264 Actions against High Contracting Parties

(1) Every High Contracting Party to the amended Convention is to be regarded as having submitted to the jurisdiction of the court in the circumstances described in subsection (2).

(2) Subsection (1) applies where any action is brought in a court in New Zealand by a High Contracting Party, to enforce a claim in respect of carriage undertaken by that Party, in accordance with—

(a) Article 28 of the amended Convention; or

(b) Article VIII of the Guadalajara Convention.

(3) Rules of court may provide for the manner in which any action is to be commenced and carried on.

(4) This section does not—

(a) authorise the issue of execution against the property of any High Contracting Party; or

(b) apply to any High Contracting Party to the amended Convention that has availed itself of the provisions of the Additional Protocol.

Compare: 1990 No 98 s 91J

265 Actions against Parties to Montreal Convention

(1) Every Party to the Montreal Convention is to be regarded as having submitted to the jurisdiction of the court in the circumstances described in subsection (2).

(2) Subsection (1) applies if any action is brought in a court in New Zealand by a Party to the Montreal Convention, to enforce a claim in respect of carriage undertaken by that Party, in accordance with Article 46 of the Montreal Convention.

(3) Rules of court may provide for the manner in which any action is to be commenced and carried on.

(4) This section does not authorise the issue of execution against the property of any Party to the Montreal Convention.

Compare: 1990 No 98 s 91JA

266 Designation of Parties

(1) The Governor-General may, by Order in Council, certify—

(a) the identity of—

(i) the High Contracting Parties to the amended Convention; or

(ii) the Parties to the Guadalajara Convention; or

(iii) the Parties to the Hague Protocol; or

(iv) the Parties to Additional Protocol No 1; or

(v) the Parties to Additional Protocol No 2; or

(vi) the Parties to Protocol No 4; or

(vii) the High Contracting Parties to the Warsaw Convention; or

(viii) the Parties to the Montreal Convention; or

(b) the territories in respect of which the parties referred to in paragraph (a)(i), (ii), (iii), (iv), (v), (vi), (vii), or (viii) are respectively parties; or

(c) to what extent the parties referred to in paragraph (a)(i), (ii), (iii), (iv), (v), (vi), or (vii) have availed themselves of the Additional Protocol.

(2) An Order in Council under this section is sufficient evidence of the matters certified in it.

(3) An Order in Council under this section may contain transitional and other consequential provisions that the Governor-General considers to be desirable.

(4) An Order in Council certifying the identity of Parties under subsection (1)(a) must specify the date on and from which any Party became or ceased to be a Party.

(5) An Order in Council made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1990 No 98 s 91K

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
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

267 Article 40A of amended Convention

(1) Paragraph (2) of Article 40A of the amended Convention does not extend references in the amended Convention to the territory of a High Contracting Party to include any territory in respect of which that High Contracting Party is not a Party.

(2) Subsection (1) does not apply to references in the amended Convention to the territory of any State, whether a High Contracting Party or not.

Compare: 1990 No 98 s 91L

268 Power to exclude aircraft in use for military purposes

(1) The Governor-General may, by Order in Council, direct that subsection (2) applies or ceases to apply to New Zealand or any other State specified in the order.

(2) The Montreal Convention or the amended Convention does not apply to the carriage of persons, cargo, and baggage for the military authorities of a State to which this subsection applies if—

(a) the carriage is undertaken in aircraft registered in that State; and

(b) the whole capacity of the aircraft has been reserved by, or on behalf of, those authorities.

(3) An Order in Council made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1990 No 98 s 91M

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
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Subpart 3—Domestic carriage by air

269 Interpretation in this subpart

(1) In this subpart, unless the context otherwise requires,—

actual carrier means a person, other than the contracting carrier, who—

(a) performs the whole or part of the carriage contracted for by the contracting carrier with the authority of the contracting carrier; but

(b) is not, in relation to that carriage, a successive carrier

carrier includes a contracting carrier and an actual carrier

contract includes an arrangement made without consideration

contracting carrier—

(a) means a person who, as a principal, makes a contract for carriage with a passenger, or with a person acting on behalf of the passenger; and

(b) includes a successive carrier

court includes the Disputes Tribunal

passenger means a person carried under a contract for carriage other than a person—

(a) assigned by the carrier for duty as a member of the crew of the aircraft; or

(b) carried for the sole purpose of receiving or giving instruction in the control or navigation of an aircraft in flight

successive carrier means a person who performs part of the carriage if the carriage—

(a) is performed by 2 or more persons in successive stages; and

(b) has been regarded by the parties as a single operation, whether it has been agreed on by a single contract or by 2 or more contracts.

(2) If any question arises as to whether an actual carrier has authority from a contracting carrier to perform any carriage, that authority is, in the absence of proof to the contrary, to be presumed.

Compare: 1990 No 98 s 91U

270 Application of this subpart

(1) This subpart applies to any carriage by air (other than international carriage described in subsection (3)) in which, according to the contract between the parties,—

(a) the place of departure and the place of destination are both in New Zealand; and

(b) there is no agreed stopping place outside New Zealand.

(2) Subsection (1) applies even if the aircraft in which the carriage takes place is at the same time engaged in the international carriage described in subsection (3).

(3) The international carriage referred to in subsections (1) and (2) is carriage in which, according to the contract between the parties, the place of departure and the place of destination, whether or not there is a break in the carriage or a transhipment, are—

(a) within the territories of 2 countries; or

(b) within the territory of a single country if there is an agreed stopping place within the territory of another country.

(4) This section applies subject to section 272.

Compare: 1990 No 98 s 91V

271 Combined carriage

If a contract of carriage made with an air carrier provides for the carriage to be performed partly by air and partly by a mode of carriage other than by air, this subpart applies only to the carriage by air.

Compare: 1990 No 98 s 91ZM

272 Exclusions

This subpart does not apply to—

(a) any carriage by air on a single flight in respect of which, according to the contract between the parties, the place of departure and the intended place of destination are the same; or

(b) any other types of flights that are excluded from the application of this subpart by the regulations.

Compare: 1990 No 98 s 91W

273 Provisions if carriage performed by actual carrier

If the whole or any part of any carriage to which this subpart applies is performed by an actual carrier,—

(a) both the contracting carrier and the actual carrier are subject to any liability imposed by this subpart as follows:

(i) the contracting carrier is liable in respect of the whole of the carriage contemplated in the contract between the contracting carrier and the passenger; and

(ii) the actual carrier is liable solely in respect of the carriage that the actual carrier performs:

(b) any special agreement under which the contracting carrier assumes obligations not imposed by this subpart, or any waiver of rights conferred

by this subpart, does not affect the actual carrier unless agreed to by the actual carrier.

Compare: 1990 No 98 s 91X

274 Liability of carrier in respect of delay

(1) A carrier is liable under this section for damage caused by delay in the carriage of passengers.

(2) Despite subsection (1), a carrier is not liable for damage caused by delay if the carrier proves that the delay—

(a) arose by reason of—

(i) meteorological conditions; or

(ii) compliance with instructions, advice, or information given by an air traffic control service; or

(iii) obedience to orders or directions given by a lawful authority; or

(b) was made necessary by *force majeure*; or

(c) was necessary for the purpose of saving or attempting to save life.

(3) This section does not limit or affect the liability of a carrier under any other enactment or rule of law.

Compare: 1990 No 98 s 91Z

275 Provisions if carriage performed by successive carriers

If carriage is performed or is to be performed by successive carriers, the contracting carrier who is liable is the successive carrier who performed or was to perform the carriage where the delay occurred.

Compare: 1990 No 98 s 91Y

276 Avoidance of liability

The carrier is not liable under this subpart if the carrier proves that—

(a) the carrier, or the carrier's servants or agents, took all necessary measures to avoid the damage; or

(b) it was not possible for the carrier, or the carrier's servants or agents, to take those measures.

Compare: 1990 No 98 s 91ZA

277 Limitation of liability

(1) The liability of the carrier in respect of damage caused by delay is limited to the lesser of—

(a) the amount of damage proved to have been sustained as a result of the delay; and

(b) an amount representing 10 times the sum paid for the carriage.

(2) Despite subsection (1), the carrier may, by special contract, increase the amount of the carrier's liability under that subsection.

(3) This subpart does not affect any rule of law relating to remoteness of damage.

Compare: 1990 No 98 s 91ZC

278 Contracting out

(1) The provisions of this subpart have effect despite anything to the contrary in any contract or in any bylaws made by a carrier purporting to relieve the carrier of liability.

(2) A provision of a contract of carriage or any bylaw that has the effect of overriding or limiting a carrier's liability under this subpart (whether directly or indirectly) is unenforceable.

(3) Subsections (1) and (2) are subject to subsection (4).

(4) Nothing in subsection (1) or (2) applies in respect of a provision that—

(a) imposes a stricter duty on the carrier than would be imposed under this subpart; or

(b) provides a more advantageous remedy against the carrier than would be provided under this subpart.

Compare: 1986 No 121 s 5C; 1990 No 98 s 91ZD

279 Wilful or reckless misconduct

The limits of liability referred to in section 277 do not apply if it is proved that the damage resulted from an act or omission of the carrier done—

(a) with intent to cause damage; or

(b) recklessly as to whether damage would result.

Compare: 1990 No 98 s 91ZE(1)

280 Just and equitable orders and awards

(1) In proceedings to enforce a liability that is limited by this subpart, a court may, at any stage of the proceedings, make any order that appears to the court to be just and equitable in view of—

(a) this subpart; and

(b) any other proceedings that have been, or are likely to be, commenced in New Zealand or elsewhere to enforce the liability in whole or in part.

(2) Without limiting subsection (1), the court may, if the liability is, or may be, enforceable in other proceedings in New Zealand or elsewhere,—

(a) award an amount less than the court would have awarded if the limitation applied solely to the proceedings before the court; or

(b) make any part of its award conditional on the result of any other proceedings.

Compare: 1990 No 98 s 91ZI

281 Application of limitation on liability

(1) The limitations on liability referred to in section 277 apply if—

(a) a person (**person A**) brings proceedings against another person (**person B**) to obtain a contribution from person B; and

(b) person B is the carrier, or a servant or an agent of the carrier.

(2) Person A must not bring proceedings referred to in subsection (1) to obtain a contribution from person B later than 2 years after the time when judgment is obtained against person A.

(3) This subpart does not affect proceedings brought against any person other than the carrier, or servant or agent of the carrier.

Compare: 1990 No 98 s 91ZJ

282 Relationship between carriers

This subpart does not—

(a) prevent a carrier from entering into special contractual arrangements with another carrier; or

(b) affect the rights and obligations of the carriers between themselves.

Compare: 1990 No 98 s 91K

283 Limitation of actions

(1) An action must not be brought under this subpart against a carrier later than 2 years after the later of the following dates:

(a) the date on which the aircraft arrived at the destination:

(b) if the aircraft did not arrive at the destination,—

(i) the date on which the aircraft ought to have arrived at the destination; or

(ii) the date on which the carriage stopped.

(2) Despite subsection (1), application may be made to the court, after giving notice to the intended defendant, for leave to bring an action at any time within 6 years after the date on which the cause of action accrued as provided in subsection (1).

(3) On application under subsection (2), the court may grant leave accordingly if it considers that it is just to do so and if it considers that—

(a) the delay in bringing the action was caused by—

(i) mistake of fact; or

(ii) mistake of any matter of law other than the provisions of this subsection; or

(iii) any other reasonable cause; or

(b) the intended defendant was not materially prejudiced in the defendant's defence or otherwise by the delay.

(4) If the court grants leave under subsection (3), that leave may be subject to any conditions that the court thinks just to impose.

(5) This section applies subject to section 281.

Compare: 1990 No 98 s 91ZL

Part 9
Monitoring, investigation, and enforcement

Subpart 1—Powers of entry and inspection

284 Powers of entry and inspection

(1) Subject to section 285, for the purpose of performing any function of the Director, the CAA, or an inspector under this Act, or for the purposes of the ANZA mutual recognition agreements, any inspector may, at any reasonable time, enter any aviation place and—

(a) conduct examinations, tests, inquiries, and inspections:

(b) be accompanied and assisted by any other person, and bring into the aviation place any equipment necessary, to carry out the inspector's functions:

(c) take photographs and measurements and make sketches and recordings:

(d) require the aviation participant or a person who is or appears to be in charge of the aviation place to ensure that the aviation place or any place or thing in the aviation place specified by the inspector is not disturbed for a reasonable period pending examination, testing, inquiry, or inspection:

(e) require the aviation participant or a person who is or appears to be in charge of the aviation place to—

(i) produce information relating to the aviation place, the activities carried out there, or the people who carry out those activities; and

(ii) produce information relating to the aviation participant's compliance with relevant civil aviation legislation; and

(iii) permit the inspector to examine and make copies of, or take extracts from, the information:

(f) require the aviation participant or a person who is or appears to be in charge of the aviation place to make or provide statements, in any form and manner that the inspector specifies.

(2) An inspector may do any of the things referred to in subsection (1), whether or not—

(a) the inspector or the person the inspector is dealing with is in the aviation place; or

(b) the place is still an aviation place; or

(c) the aviation participant is still operating at the place; or

(d) in respect of any information, the information is—

(i) in the place; or

(ii) in the place where the inspector is; or

(iii) in another place.

(3) In the case of a person holding an Australian AOC with ANZA privileges, the power conferred by subsection (1) may be exercised only at the request of CASA.

(4) Nothing in this section affects the application of section 60 of the Evidence Act 2006.

(5) For the purpose of this section, if the inspector considers that it is necessary to enter any other building or land in order to get to the aviation place, the inspector may do so after taking any steps that the inspector considers reasonable in the circumstances to obtain the consent of the occupier of the building or place.

(6) In this section, **information** includes any document.

Compare: 1990 No 98 s 15(2); 2015 No 70 s 168

285 Power to enter homes or marae

(1) Despite section 284(1), (2), and (5), an inspector must not, except with the consent of an occupier or pursuant to a warrant issued under subsection (2),—

(a) enter an aviation place or a former aviation place that is, or is within, a home, a marae, or a building associated with a marae; or

(b) enter an aviation place or a former aviation place through a home, a marae, or a building associated with a marae.

(2) An issuing officer may, on an application made by an inspector in the manner provided in subpart 3 of Part 4 of the Search and Surveillance Act 2012, issue a warrant to enter a home (or part of a home), a marae (or part of a marae), or a building associated with a marae (or part of a building associated with a marae) if the issuing officer is satisfied that there are reasonable grounds to believe that the home, marae, or building associated with a marae—

(a) is an aviation place or a former aviation place or has an aviation place or a former aviation place within it; or

(b) is the only practicable means through which the inspector may enter the aviation place or former aviation place.

(3) A warrant issued under subsection (2) authorises an inspector to enter the home or marae only to exercise the powers specified in section 284.

Compare: 1990 No 98 s 24(4)–(5A); 2015 No 70 s 169

286 Notice of entry

(1) If an inspector enters an aviation place or a former aviation place under this Act and is unable, despite reasonable efforts, to find any person in charge, the inspector must before leaving the place leave a written notice stating—

(a) the inspector's identity; and

(b) the inspector's contact information; and

(c) the date and time of entry; and

(d) the inspector's reasons for entering.

(2) In this section, **contact information** includes—

(a) the name of the inspector; and

(b) 1 or more of the following:

(i) telephone number:

(ii) email address:

(iii) physical or postal address.

Compare: 2015 No 70 s 171

287 Power to take samples and other objects and things

(1) An inspector who enters an aviation place or a former aviation place under section 284 or 285 may take or remove a sample of any material, substance, or thing (including, without limitation, an aircraft or aeronautical product) for analysis, or seize and retain any material, substance, or thing, for the purpose of—

(a) monitoring activities being carried out in the aviation place; or

(b) determining the nature of any material or substance in the aviation place; or

(c) determining whether relevant civil aviation legislation has been, is being, or is likely to be complied with; or

(d) gathering evidence to support the taking of enforcement action under this Act.

(2) This section does not allow an inspector to take a sample from a person's body unless the inspector has the person's informed consent to the taking of the sample.

(3) If an inspector removes or retains any sample, material, substance, or thing under subsection (1), the inspector must,—

(a) at the time the inspector removes or retains the sample, material, substance, or thing or as soon as practicable after doing so, give the aviation participant written notice of—

(i) what has been (or is being) removed or retained; and

(ii) why it has been (or is being) removed or retained; and

(iii) where it will be kept in the meantime; and

(b) subject to subsections (4) and (5), within 5 working days of removing or retaining any sample, material, substance, or thing, give the aviation participant written notice of whether the inspector intends to return it or destroy it.

(4) If it is practicable to do so, the inspector must return the sample, material, substance, or thing to its owner—

(a) when it is no longer required for any purpose under relevant civil aviation legislation (or any other legislation); or

(b) if a court earlier orders its return.

(5) The inspector may destroy any removed or retained sample, material, substance, or thing if—

(a) it is perishable and has become rotten or has otherwise deteriorated; or

(b) it is perishable and is likely to become rotten or perish before it can be dealt with under subsection (4); or

(c) it is likely to pose a risk to public health.

(6) In addition, sections 154, 155, and 159 of the Search and Surveillance Act 2012 apply in relation to any sample, material, substance, or thing removed or retained.

(7) The provisions of the Search and Surveillance Act 2012 referred to in subsection (6) apply as if—

(a) the reference in section 159(1) of that Act to a person described in section 156(2) were to—

(i) any person from whom the sample, material, substance, or thing was seized:

(ii) the aviation participant:

(iii) any other person who, in the opinion of the inspector, may be affected by the forfeiture of the sample, material, substance, or thing; and

(b) references to a thing were to any sample, material, substance, or thing; and

(c) references to seized or produced were to removed or retained; and

(d) references to the person in whose custody the thing is were to the inspector; and

(e) all other necessary modifications were made.

(8) Any sample, material, substance, or thing forfeited to the Crown may be destroyed or otherwise disposed of as the inspector directs.

Compare: 2015 No 70 s 172

288 Power of entry (by consent or under warrant) where Director suspects contravention of relevant civil aviation legislation

(1) The Director may authorise a specified person to enter and search a place, vehicle, or other thing for the purpose of ascertaining whether a person has engaged in or is engaging in conduct that contravenes or may contravene relevant civil aviation legislation if the Director is satisfied that there are reasonable grounds—

(a) to suspect that the person has engaged in or is engaging in conduct that constitutes or may constitute such a contravention; and

(b) to believe that the search will find evidential material in or on any part of the place, vehicle, or thing.

(2) A specified person authorised under subsection (1) may enter and search the place, vehicle, or other thing if—

(a) the occupier of the place, or the person in charge of the vehicle or thing, (as the case may be) consents; or

(b) the specified person obtains a warrant under subsection (3).

(3) An issuing officer may issue a search warrant in relation to a place, vehicle, or thing, on an application made in the manner provided by subpart 3 of Part 4 of the Search and Surveillance Act 2012 by a specified person authorised under subsection (1), if the issuing officer is satisfied that there are reasonable grounds—

(a) to suspect that a person has engaged in or is engaging in conduct that contravenes or may contravene any provision of relevant civil aviation legislation; and

(b) to believe that the search will find evidential material in or on any part of the place, vehicle, or thing.

(4) In this section, **specified person** means—

(a) an inspector; or

(b) a constable; or

(c) an employee of the CAA; or

(d) any other person who the Director is satisfied is suitably qualified and trained, or belongs to a class of persons who are suitably qualified and trained, to act under this section.

(5) Despite subsection (4), a constable may apply for a warrant to be issued under subsection (3) without an authorisation from the Director under subsection (1).

(6) Subpart 2 of Part 3 and Part 4 of the Search and Surveillance Act 2012 apply, with any necessary modifications, to any search under this section.

(7) Despite subsection (6), sections 118 and 119 of the Search and Surveillance Act 2012 apply only in respect of a constable.

Compare: 2015 No 70 s 173

289 Continuation of powers of entry and inspection without search warrants

An inspector who, in the course of exercising a power under section 284 or 285, finds evidence of contravention of relevant civil aviation legislation is not required to obtain a search warrant under section 288 to continue exercising powers under section 284 or 285.

Compare: 2015 No 70 s 174

290 Limitation relating to powers under sections 284 and 288

The right of access and the powers conferred by sections 284 and 288 must not be used to gain access to, to inspect, or to require the production or surrender of a record specified in section 14C(2)(a) or (b) of the Transport Accident Investigation Commission Act 1990.

Compare: 1990 No 98 s 24(3A)

291 Requirement to conduct or undergo examinations, tests, inquiries, inspections, or monitoring

(1) For the purpose of performing any function of the Director, the CAA, or an inspector under this Act, or for the purposes of the ANZA mutual recognition agreements, any inspector may direct an aviation participant or a person who is or appears to be in charge of an aviation place to undergo or conduct examinations, tests, inquiries, inspections, or monitoring.

(2) In the case of an aviation participant who is a holder of a New Zealand AOC with ANZA privileges, the power in subsection (1) includes the power to direct the aviation participant or a person who is or appears to be in charge of an aviation place to undergo or conduct examinations, tests, inquiries, inspections, or monitoring in Australia.

(3) Nothing in this section authorises an inspector to direct a person to undergo a medical test or medical examination.

Compare: 1990 No 98 s 15(1)

292 Power to require name, address, and date of birth

(1) An inspector may require a person to provide the person's name, residential address, and date of birth if—

(a) the inspector finds the person committing an offence against relevant civil aviation legislation; or

(b) the inspector finds the person in circumstances that lead, or has information that leads, the inspector to reasonably suspect the person has committed an offence against relevant civil aviation legislation.

(2) When requiring a person to provide the person's name, residential address, and date of birth, the inspector must—

(a) tell the person the reason for the requirement; and

(b) warn the person that it is an offence to fail to provide the person's name, residential address, and date of birth unless the person has a reasonable excuse.

(3) If the inspector reasonably believes that the name, residential address, or date of birth a person provides is false, the inspector may require the person to give evidence of its correctness.

Compare: 2015 No 70 s 175

293 Duty to assist inspectors

(1) An aviation participant must give all reasonable assistance to enable an inspector to enter, inspect, examine, inquire, or exercise any other power under relevant civil aviation legislation.

(2) A person who breaches subsection (1) commits an offence and is liable on conviction,—

(a) in the case of an individual, to a fine not exceeding $10,000:

(b) in the case of any other person, to a fine not exceeding $50,000.

Compare: 2015 No 70 s 176

294 Immunity of inspectors and persons assisting inspectors or Director

(1) An inspector is immune from civil and criminal liability for any act done in good faith in the exercise, or intended exercise, of the inspector's powers under relevant civil aviation legislation if—

(a) the power is exercised by the inspector in a reasonable manner; and

(b) the inspector believes on reasonable grounds that the preconditions for the exercise of that power have been satisfied.

(2) A person is immune from civil and criminal liability for any act done in good faith and in a reasonable manner when called on to assist an inspector or the Director to exercise the inspector's or the Director's powers under relevant civil aviation legislation.

(3) In any civil proceeding in which a person asserts that the person has an immunity under this section, the onus is on that person to prove those facts necessary to establish the basis of the claim.

295 Offence to fail to provide inspector with correct name, residential address, and date of birth

(1) A person must not, without reasonable excuse, refuse or fail to comply with a requirement under section 292(1) or (3).

(2) A person who breaches subsection (1) commits an offence and is liable on conviction to a fine not exceeding $10,000.

Compare: 2015 No 70 s 178

296 Offence to impersonate inspector

(1) A person who is not an inspector must not, in any way, hold themselves out to be an inspector.

(2) A person who breaches subsection (1) commits an offence and is liable on conviction to a fine not exceeding $10,000.

Compare: 2015 No 70 s 180

297 Failure to comply with inspection or monitoring requirement

(1) A person who, without reasonable excuse, fails to comply with any direction under section 291 commits an offence.

(2) A person who commits an offence against subsection (1) is liable on conviction,—

(a) in the case of an individual, to a fine not exceeding $60,000:

(b) in the case of any other person, to a fine not exceeding $200,000.

Compare: 1990 No 98 s 44A

Subpart 2—Improvement notices and non-disturbance notices

Improvement notices

298 Power to issue improvement notices

(1) This section applies if an inspector reasonably believes that a person—

(a) is contravening a provision of civil aviation legislation; or

(b) is likely to contravene a provision of civil aviation legislation.

(2) The inspector may issue an improvement notice requiring the person to—

(a) remedy the contravention; or

(b) prevent a likely contravention from occurring; or

(c) remedy the things or activities causing the contravention or likely to cause a contravention.

(3) A person in respect of whom a decision is made under subsection (1) may appeal against the decision to the District Court under section 453.

Compare: 2015 No 70 s 101

299 Content of improvement notices

(1) An improvement notice must state—

(a) that the inspector believes the person—

(i) is contravening civil aviation legislation; or

(ii) is likely to contravene civil aviation legislation; and

(b) the provision the inspector believes is being, or is likely to be, contravened; and

(c) briefly, how the provision is being, or is likely to be, contravened; and

(d) a reasonable period within which the person is required to remedy—

(i) the contravention or likely contravention; or

(ii) the things or activities causing the contravention or likely to cause a contravention.

(2) An improvement notice may include recommendations concerning—

(a) the measures that could be taken to remedy the contravention, or prevent the likely contravention, to which the notice relates:

(b) the things or activities causing the contravention, or likely to cause a contravention, to which the notice relates.

Compare: 2015 No 70 s 102

300 Compliance with improvement notice

(1) A person who has been issued with an improvement notice must comply with the notice within the period specified in the notice.

(2) A person who breaches subsection (1) commits an offence and is liable on conviction,—

(a) in the case of an individual, to a fine not exceeding $50,000:

(b) in the case of any other person, to a fine not exceeding $250,000.

(3) It is not an offence to fail to comply with recommendations in an improvement notice.

Compare: 2015 No 70 s 103

301 Extension of time for compliance with improvement notices

(1) This section applies if a person has been issued with an improvement notice.

(2) An inspector may, by written notice given to the person, extend the compliance period for the improvement notice.

(3) However, the inspector may extend the compliance period only if the period has not ended.

(4) In this section, **compliance period**—

(a) means the period stated in the improvement notice under section 299(1); and

(b) includes any extension of that period under this section.

Compare: 2015 No 70 s 104

Non-disturbance notices

302 Power to issue non-disturbance notice

(1) An inspector may issue a non-disturbance notice to an aviation participant or person who manages or controls an aviation place if the inspector reasonably believes that it is necessary to do so to facilitate the performance or exercise of the inspector's functions or powers.

(2) A person in respect of whom a decision is made under subsection (1) may appeal against the decision to the District Court under section 453.

Compare: 2015 No 70 s 108

303 Content of non-disturbance notice

(1) A non-disturbance notice may require a person to—

(a) preserve the site at which a notifiable event has occurred for a specified period; or

(b) prevent the disturbance of a particular site (including the operation of plant) in other circumstances for a specified period that is reasonable in the circumstances.

(2) A non-disturbance notice must specify the period (not exceeding 7 days) for which it applies and set out—

(a) the obligations of the person to whom the notice is issued; and

(b) the measures to be taken to preserve a site or prevent the disturbance of a site; and

(c) the penalty for contravening the notice.

(3) A non-disturbance notice does not prevent any action—

(a) to assist an injured person; or

(b) to remove a deceased person; or

(c) that is essential to make the site safe or to prevent a further notifiable event; or

(d) done by, or under the direction of, a constable acting in the execution of the constable's duties; or

(e) for which an inspector or the Director has given permission.

(4) A non-disturbance notice does not apply to the site of any accident or incident being investigated by the Transport Accident Investigation Commission.

(5) In this section,—

notifiable event means an accident or incident required under section 49 to be notified

site includes any plant, substance, structure, or thing associated with the site.

Compare: 2015 No 70 s 109

304 Compliance with non-disturbance notice

(1) A person must not, without reasonable excuse, refuse or fail to comply with a non-disturbance notice issued to the person.

(2) A person who breaches subsection (1) commits an offence and is liable on conviction,—

(a) in the case of an individual, to a fine not exceeding $50,000:

(b) in the case of any other person, to a fine not exceeding $250,000.

Compare: 2015 No 70 s 110

305 Issue of subsequent non-disturbance notices

(1) If an inspector considers it necessary to do so, the inspector may issue 1 or more subsequent non-disturbance notices to a person, whether before or after the expiry of the previous notice.

(2) A subsequent non-disturbance notice issued under subsection (1) must comply with section 303.

Compare: 2015 No 70 s 111

General provisions relating to improvement notices and non-disturbance notices

306 General provisions relating to improvement notices and non-disturbance notices

(1) A notice must be in writing.

(2) A notice may be addressed to any person under the person's legal name or usual business name or style.

Compare: 2015 No 70 s 112

307 Changes to improvement notice or non-disturbance notice by inspector

An inspector may make minor changes to a notice—

(a) for clarification; or

(b) to correct errors or references; or

(c) to reflect changes of address or other circumstances.

Compare: 2015 No 70 s 113

308 Director may vary or cancel improvement notice or non-disturbance notice

Except as provided in section 307, a notice issued by an inspector may be varied or cancelled only by the Director.

Compare: 2015 No 70 s 114

309 Formal irregularities or defects in improvement notice or non-disturbance notice

A notice is not invalid merely because of—

(a) any defect, irregularity, omission, or want of form in the notice unless it causes or is likely to cause a miscarriage of justice; or

(b) a failure to use the correct name of the person to whom the notice is issued if the notice sufficiently identifies the person and is issued to the person in accordance with section 310.

Compare: 2015 No 70 s 115

310 Issue of improvement notice or non-disturbance notice

(1) A notice may be issued to a person—

(a) by delivering it personally to the person; or

(b) by sending it to the person—

(i) by post to the person's usual or last known place of residence or business; or

(ii) by electronic transmission; or

(c) by leaving it for the person at the person's usual or last known place of residence or business with a person who appears to be 16 years or over and who appears to reside or work there; or

(d) by leaving it for the person at the aviation place to which the notice relates with a person who is or appears to be in charge of that place; or

(e) if the person holds an aviation document, by delivering the notice to the person's address for service provided under this Act; or

(f) in a manner prescribed in the regulations.

(2) Regulations may prescribe the steps a person to whom a notice is issued must take to bring it to the attention of other persons.

(3) A notice posted under subsection (1)(b)(i) is to be treated as having been received on the seventh day after the date on which it was posted.

Compare: 2015 No 70 s 116

311 Display of notice at aviation place by person issued with improvement notice or non-disturbance notice

(1) Unless an inspector permits otherwise, a person to whom a notice is issued must, as soon as practicable, display a copy of the notice in a prominent place at or near any aviation place, or part of an aviation place, at which activity is being carried out that is affected by the notice.

(2) If a notice is displayed under subsection (1) and is in force, no person may intentionally—

(a) remove or destroy the notice; or

(b) damage or deface the notice.

(3) A person who breaches subsection (1) or (2) commits an offence and is liable on conviction,—

(a) in the case of an individual, to a fine not exceeding $5,000:

(b) in the case of any other person, to a fine not exceeding $25,000.

Compare: 2015 No 70 s 117

312 Inspector may display improvement notice or non-disturbance notice

An inspector who issues a notice may, either before or after issuing the notice, display a copy of the notice in a prominent place at or near any aviation place, or part of an aviation place, at which activity is being carried out that is affected by the notice.

Compare: 2015 No 70 s 118

Subpart 3—Detention, seizure, prohibitions, or conditions in relation to aircraft, aerodrome, or aeronautical product

313 Director or specified person may obtain search warrant to detain aircraft, seize aeronautical products, and impose prohibitions and conditions in relation to aerodromes, aircraft, and aeronautical products

(1) An issuing officer may issue a search warrant in relation to a place, vehicle, or thing, on an application made in accordance with subsection (2), if the issuing officer is satisfied that there are reasonable grounds to believe that the operation or use of any aerodrome, aircraft, or aeronautical product or a class of aircraft or aeronautical products may endanger people or property.

(2) An application made for the purpose of subsection (1)—

(a) must be made in the manner provided by subpart 3 of Part 4 of the Search and Surveillance Act 2012:

(b) may be made by the Director or a specified person as defined in section 288.

(3) A warrant issued under subsection (1) may authorise the Director to do all or any of the following:

(a) prohibit or impose conditions on the operation or use of the aerodrome:

(b) detain the aircraft or any aircraft of that class:

(c) seize the aeronautical product or any aeronautical products of that class:

(d) prohibit or impose conditions on the operation of the aircraft or aircraft of that class:

(e) prohibit or impose conditions on the use of any aeronautical product or any aeronautical products of that class.

Compare: 1990 No 98 s 21(1)

314 Director's power to detain aircraft, seize aeronautical products, and impose prohibitions and conditions in relation to aerodromes, aircraft, and aeronautical products where prompt action necessary

If the Director has reasonable grounds to believe that the operation or use of any aerodrome, aircraft, or aeronautical product or any class of aircraft or aeronautical products may endanger people or property and that prompt action is necessary to prevent the danger, the Director may do all or any of the following:

(a) prohibit or impose conditions on the operation or use of the aerodrome:

(b) prohibit or impose conditions on the operation of the aircraft or all aircraft of that class:

(c) prohibit or impose conditions on the use of the aeronautical product or aeronautical products of that class:

(d) detain particular aircraft or seize particular aeronautical products where necessary in order to prevent their operation or use.

Compare: 1990 No 98 s 21(2)

315 Obligations of Director if action taken under section 313 or 314

(1) Any detention or seizure under section 313 or 314 may be maintained for only as long as the Director considers necessary in the interest of safety and security.

(2) Despite subsection (1), if aircraft, aeronautical products, or parts of aircraft or aeronautical products are required for the purpose of evidence in any prosecution under this Act, the Director may retain those aircraft, products, or parts for as long as the Director considers necessary for that purpose.

(3) The owner, operator, or other person for the time being in charge of an aircraft detained or an aeronautical product seized under section 313 or 314 may request the Director to provide the reasons for the detention or seizure.

(4) If a request is made under subsection (3), the Director must provide the Director's reasons to the requester in writing.

(5) Part 4 of the Search and Surveillance Act 2012, except subparts 2 and 3, applies in respect of any detention, or seizure under section 313 or 314.

(6) A person in respect of whom any decision is made under section 313 or 314 may appeal against the decision to the District Court under section 453.

(7) The Director must notify any prohibitions or conditions imposed under section 313 or 314, whether or not of a permanent nature, to any persons whom the Director considers it necessary to notify.

(8) The notification under subsection (7) may be made by any means of communication that the Director considers appropriate in the circumstances.

Compare: 1990 No 98 s 21(3)–(6)

Subpart 4—Seizure, etc, of aircraft without person on board

316 Power to seize, detain, or destroy aircraft without person on board

(1) This section applies if a constable or a response officer has reasonable grounds to believe that—

(a) an aircraft that is designed to be operated without a pilot on board is being, or is about to be,—

(i) operated in the commission of an offence under civil aviation legislation; or

(ii) used in the commission of an imprisonable offence under any other Act; or

(iii) operated in a manner that may endanger people or property; and

(b) it is necessary to take action to prevent the offending from being committed or continuing, or to avert the danger; and

(c) the aircraft has no person on board.

(2) The constable or response officer may do all or any of the following:

(a) enter a place, vehicle, or other thing and search for the aircraft:

(b) prevent the aircraft from taking off:

(c) seize the aircraft and anything being used, or that may be used, to control the aircraft:

(d) detain the aircraft and anything being used, or that may be used, to control the aircraft:

(e) destroy the aircraft.

(3) A constable or response officer may act under subsection (2) only to the extent necessary to prevent the offending from being committed or continuing, or to avert the danger.

(4) When exercising a power under this section, a constable must have regard to any directions or limitations that the Director has given under section 332(4) that would apply to a response officer exercising the power.

317 Power to enter homes or marae

(1) Despite section 316, a constable or a response officer must not, in taking action under that section, except with the consent of an occupier or under the authority of a warrant issued under subsection (2),—

(a) enter a home, a marae, or a building associated with a marae; or

(b) enter a place through a home, a marae, or a building associated with a marae.

(2) An issuing officer may, on an application made by a constable or a response officer in the manner provided in subpart 3 of Part 4 of the Search and Surveillance Act 2012, issue a warrant to enter a home (or part of a home), a marae (or part of a marae), or a building associated with a marae (or part of a building associated with a marae) if the issuing officer is satisfied on reasonable grounds that entry is necessary to exercise the powers specified in section 316.

(3) A warrant issued under subsection (2) authorises a constable or a response officer to enter the home or marae only to exercise the powers specified in section 316.

318 Provision relating to seizure or detention of aircraft in operation without a person on board

The power under section 316 to seize or detain an aircraft in operation includes the power to use reasonable means (including electronic, mechanical, or physical) to bring the aircraft under control of the person seizing or detaining it.

319 Requirement to give reasons for action under section 316

(1) The owner, operator, or other person for the time being in charge of an aircraft that is detained, seized, or destroyed under section 316 may request a constable or response officer to provide the reasons for the detention, seizure, or destruction.

(2) If a request is made under subsection (1), the constable or response officer must provide the person requesting with reasons in writing for the detention, seizure, or destruction.

320 Provisions relating to seizure or detention of aircraft under section 316

(1) Any detention or seizure under section 316 may be maintained for only as long as the constable or response officer considers necessary to prevent the danger to people or property or the commission of an offence.

(2) Despite subsection (1), if a seized item is required for the purpose of evidence in any prosecution under this or any other Act, the Commissioner or the CAA may retain it in accordance with the Search and Surveillance Act 2012.

(3) Part 4 of the Search and Surveillance Act 2012, except subparts 2 and 3, applies in respect of a power of search, detention, or seizure exercised under section 316.

321 Immunities in relation to exercise of power under section 316

(1) A constable or response officer is immune from civil and criminal liability for any act done in good faith in order to exercise a power under section 316 if—

(a) the power is exercised by that person in a reasonable manner; and

(b) the person believes on reasonable grounds that the preconditions for the exercise of that power have been satisfied.

(2) A person is immune from civil and criminal liability for any act done in good faith and in a reasonable manner when called on to assist a constable or response officer to exercise a power under section 316, or in order to examine or analyse any thing that is seized.

(3) In any civil proceeding in which a person asserts that the person has an immunity under this section, the onus is on that person to prove those facts necessary to establish the basis of the claim.

Subpart 5—Exemptions from compliance with regulations and rules

322 Director may grant exemptions from compliance with regulations and rules

(1) The Director may, if the Director thinks it appropriate,—

(a) exempt any 1 or more named aviation participants, aeronautical products, aircraft, aerodromes, aviation-related services, or other things from 1 or more specified requirements in a regulation or rule made under this Act; or

(b) exempt any class of aviation participant, aeronautical product, aircraft, aerodrome, aviation-related service, or other thing from 1 or more specified requirements in a regulation or rule made under this Act.

(2) The power under subsection (1)—

(a) must not be used to provide an exemption from the requirements of a rule if the relevant rule specifically provides that no exemptions from its requirements may be granted; and

(b) may be used to allow an exemption from the requirement of a regulation only if the regulations specify that this section and section 323 apply to that requirement.

(3) The Director must not grant an exemption under subsection (1) unless the Director is satisfied that—

(a) the extent of the exemption is no broader than is reasonably necessary to address the matters that gave rise to the proposed exemption; and

(b) the exemption is consistent with the main purpose of this Act; and

(c) it is appropriate to grant the exemption after considering—

(i) the additional purposes of this Act; and

(ii) consistency with relevant international standards (if any); and

(iii) any other matter that the Director considers appropriate in the circumstances.

(4) The Director must notify the number and nature of exemptions granted under subsection (1)(a) in the *Gazette* at intervals not longer than 3 months.

(5) An exemption granted under subsection (1)(b) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

(6) The Director's reasons for granting an exemption under subsection (1)(b) must be published with the exemption.

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must publish it in accordance with the Legislation (Publication) Regulations 2021	LA19 s 74(1)(aa)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

323 General provisions relating to exemptions

(1) This section applies to exemptions under section 322.

(2) The Director may grant an exemption on any terms and conditions that the Director thinks fit.

(3) An exemption—

(a) takes effect on the date specified in the exemption (which, for an exemption under section 322(1)(b), must not be a date earlier than the date on which the exemption is published under the Legislation Act 2019); and

(b) expires on the earlier of the following to occur unless it is sooner replaced or revoked:

(i) an expiry date specified in the notice:

(ii) the close of the day that is 5 years after the date on which it took effect.

(4) A breach of a term or condition of an exemption is a breach of the relevant provision in the regulation or rule to which the exemption relates (unless the terms of the exemption provide otherwise).

(5) An exemption may be replaced before or when it expires.

Subpart 6—Enforceable undertakings

324 Director may accept enforceable undertakings

(1) The Director may accept an enforceable undertaking given by a person in writing in connection with a matter relating to a contravention or an alleged contravention by the person of civil aviation legislation.

(2) However, the Director may refuse to accept the undertaking if it does not provide for the reimbursement of any costs and expenses of the Director incurred in relation to—

(a) the undertaking; and

(b) the contravention or alleged contravention.

(3) The giving of an enforceable undertaking does not constitute an admission of guilt by the person giving it in relation to the contravention or alleged contravention to which the undertaking relates.

(4) To avoid doubt, the costs and expenses of the Director include any costs or expenses incurred in relation to an employee, an agent, or a contractor of the CAA.

Compare: 2015 No 70 s 123

325 Notice of decision and reasons for decision

(1) The Director must give the person seeking to make an enforceable undertaking written notice of—

(a) its decision to accept or reject the undertaking; and

(b) the reasons for the decision.

(2) The Director must publish, on an Internet site maintained by or on behalf of the CAA, notice of a decision to accept an enforceable undertaking and the reasons for the decision.

Compare: 2015 No 70 s 124

326 When enforceable undertaking is enforceable

An enforceable undertaking takes effect and becomes enforceable when the Director's decision to accept the undertaking is given to the person who made the undertaking, or at any later date specified by the Director.

Compare: 2015 No 70 s 125

327 Compliance with enforceable undertaking

(1) A person must not contravene an enforceable undertaking given by the person that is in force.

(2) A person who breaches subsection (1) commits an offence and is liable on conviction,—

(a) in the case of an individual, to a fine not exceeding $50,000:

(b) in the case of any other person, to a fine not exceeding $250,000.

Compare: 2015 No 70 s 126

328 Contravention of enforceable undertaking

(1) The Director may apply to the District Court for an order if a person contravenes an enforceable undertaking.

(2) If the court is satisfied that the person who made the enforceable undertaking has contravened the undertaking, the court may make either or both of the following orders:

(a) an order directing the person to comply with the undertaking:

(b) an order discharging the undertaking.

(3) In addition to the orders referred to in subsection (2), the court may make any other order that the court considers appropriate in the circumstances, including orders directing the person to pay to the Director—

(a) the costs of the proceedings; and

(b) the reasonable costs of the Director in monitoring compliance with the enforceable undertaking in the future.

(4) This section does not prevent proceedings being brought for the contravention or alleged contravention of civil aviation legislation to which the enforceable undertaking relates.

Compare: 2015 No 70 s 127

329 Withdrawal or variation of enforceable undertaking

(1) A person who has given an enforceable undertaking may at any time, with the written agreement of the Director,—

(a) withdraw the undertaking; or

(b) vary the undertaking.

(2) However, the provisions of the undertaking cannot be varied to provide for a different alleged contravention of this Act or regulations or rules.

(3) The Director must publish on an Internet site maintained by or on behalf of the CAA notice of the withdrawal or variation of an enforceable undertaking.

Compare: 2015 No 70 s 128

330 Proceedings for alleged contravention

(1) Subject to this section, no proceedings (whether civil or criminal) for a contravention or an alleged contravention of this Act or regulations or rules may be brought against a person if an enforceable undertaking is in effect in relation to that contravention.

(2) No proceedings may be brought for a contravention or an alleged contravention of this Act or regulations or rules against a person who—

(a) has made an enforceable undertaking in relation to that contravention; and

(b) has completely discharged the enforceable undertaking.

(3) The Director may accept an enforceable undertaking in relation to a contravention or an alleged contravention before proceedings in relation to that contravention have been completed.

(4) If the Director accepts an enforceable undertaking before the proceedings are completed, the Director must take all reasonable steps to have the proceedings discontinued as soon as practicable.

Compare: 2015 No 70 s 129

Subpart 7—Inspectors and response officers

331 Appointment of inspectors

(1) The Director may, by notice in writing, appoint any person as an inspector, including—

(a) an employee of the State services:

(b) a statutory officer:

(c) a prescribed person:

(d) an employee of the CAA:

(e) an authorised security person.

(2) The Director must not appoint a person as an inspector unless the Director is satisfied that the person has appropriate experience, technical competence, and qualifications relevant to the functions and powers proposed to be carried out and exercised by an inspector under this Act.

(3) An inspector may be appointed to perform and exercise those functions and powers of an inspector under this Act that the Director specifies in the notice of the inspector's appointment.

(4) An inspector's functions and powers are subject to any conditions or limitations specified in the notice of the inspector's appointment.

(5) However, the performance or exercise of a function or power by an inspector is not invalid merely because it did not comply with the conditions specified in the notice of the inspector's appointment.

Compare: 2015 No 70 s 163

332 Appointment of response officers

(1) The Director may, by notice in writing, appoint any person as a response officer, including—

(a) an employee of the State services (within the meaning of the Public Service Act 2020):

(b) a statutory officer:

(c) a prescribed person:

(d) an employee of the CAA:

(e) an authorised security person.

(2) The Director must not appoint a person as a response officer unless the Director is satisfied that the person has appropriate experience, technical competence, and qualifications relevant to the functions and powers proposed to be carried out and exercised by a response officer under this Act.

(3) A response officer may be appointed to perform and exercise the functions and powers under subpart 4 that the Director specifies in the notice of the officer's appointment.

(4) A response officer's functions and powers are subject to any conditions or limitations specified in the notice of the officer's appointment.

(5) However, the performance or exercise of a function or power by a response officer is not invalid merely because it did not comply with the conditions specified in the notice of the officer's appointment.

(6) Sections 333 to 335 apply with any necessary modifications in respect of response officers appointed under this section as if references to an inspector were to a response officer.

333 Identity cards

(1) The Director must give each inspector an identity card that—

(a) states the person's name and appointment as an inspector; and

(b) includes any other matter prescribed by regulations or rules.

(2) An inspector must, when performing or exercising functions and powers under this Act, produce the inspector's identity card for inspection on request.

(3) A person who ceases to be an inspector must as soon as practicable return the identity card to the Director.

Compare: 2015 No 70 s 164

334 Suspension and ending of appointment of inspectors

(1) The Director may suspend or end the appointment of an inspector at any time.

(2) To avoid doubt, a person's appointment as an inspector ends when the person ceases to be eligible for appointment as an inspector.

Compare: 2015 No 70 s 165

335 Inspectors subject to Director's directions

(1) An inspector (whether or not an employee) is subject to directions from the Director in the performance or exercise of the inspector's functions and powers.

(2) A direction under subsection (1) may be of a general nature or may relate to a specified matter or specified class of matter.

(3) A failure to comply with a direction under subsection (1) does not invalidate the exercise of an inspector's power.

Compare: 2015 No 70 s 166

336 Director has powers of inspector and response officer

The Director has all the powers that an inspector or a response officer has under this Act.

Compare: 2015 No 70 s 167

Subpart 8—Powers of entry of Airways

337 Meaning of equipment for purposes of section 338

(1) In section 338, **equipment**—

(a) means equipment—

(i) used for the purpose of carrying out the functions of Airways; and

(ii) installed before 1 January 1988; and

(b) includes cables, wires, navigational aids, or other equipment.

(2) A certificate given by Airways containing a statement that any equipment was installed before 1 January 1988—

(a) is admissible in evidence in any proceedings; and

(b) in the absence of proof to the contrary, constitutes proof of that statement.

Compare: 1990 No 98 s 25(1), (2)

338 Powers of entry of Airways

(1) Airways may—

(a) enter onto any land for the purpose of gaining access to equipment; and

(b) perform any act or operation necessary for the purpose of inspecting, maintaining, or repairing equipment.

(2) The power to enter onto land conferred by subsection (1) is subject to the following conditions:

(a) entry may be made only—

(i) by an officer, employee, or agent of Airways authorised by Airways in writing; or

(ii) by persons under the immediate control of an officer, employee, or agent of Airways authorised by Airways in writing:

(b) reasonable notice of the intention to enter must be given:

(c) notice must be given in accordance with Part 10 of Te Ture Whenua Maori Act 1993 in the circumstances set out in that Part:

(d) entry may be made only at reasonable times:

(e) the officer, employee, or agent must carry and produce on initial entry, and subsequently if required to do so, evidence of the person's identity and authority.

(3) Subsection (2) does not apply if the entry is necessary in circumstances of probable danger to life or property.

(4) Any equipment owned by Airways that is fixed to, or installed over or under, the land and is not owned by Airways—

(a) is taken to be lawfully fixed or installed; and

(b) must continue to be fixed or installed until Airways otherwise decides.

(5) No person other than Airways has any interest in any equipment referred to in subsection (4) by reason only of having an interest in the land.

Compare: 1990 No 98 s 25(1), (2)–(5)

Subpart 9—Protections in relation to accident and incident notifications under subpart 5 of Part 2

Interpretation

339 Interpretation in this subpart

(1) In this subpart, unless the context otherwise requires,—

law enforcement action means the filing of a charging document under this Act in relation to, or issuing an infringement notice under this Act to, a person who is alleged to have committed an offence under this Act

notified incident is an incident that has come to the attention of the CAA because of a notification under section 49(3) by any person.

(2) A person is a **qualifying person** in relation to a notified incident if—

(a) the person (**person A**)—

(i) notifies the incident to the CAA in accordance with section 49(3); or

(ii) is employed or engaged by a person (**person B**), or is receiving training from person B, and notified information relating to the incident to person B in accordance with person B's safety management system in circumstances where person B is required to notify the incident to the CAA in accordance with section 49(3); and

(b) the notification person A provided under paragraph (a)(i) or (ii) is—

(i) a full and accurate account of the incident; and

(ii) provided in accordance with any requirements (for example, as to timeliness of notifications) specified in the rules.

Restriction on admissibility of accident and incident notifications

340 Restriction on admissibility of accident and incident notifications

(1) An accident notification provided by an individual under section 49(1) or (4) is not admissible as evidence in a criminal proceeding against that individual, except in a criminal proceeding that concerns the falsity of the notification.

(2) An incident notification provided under section 49(3) is not admissible as evidence in a criminal proceeding against an individual if—

(a) the individual provided the incident notification to the CAA under section 49(3); or

(b) the individual while employed or engaged by a person (**person B**), or while receiving training from person B, notified information relating to the incident to person B in accordance with person B's safety management system, and person B was required to provide, and person B provided, the incident notification to the CAA in accordance with section 49(3).

(3) Nothing in subsection (2) applies if the criminal proceeding is a criminal proceeding that concerns the falsity of the notification.

Limitations on Director's powers to take law enforcement action

341 When Director may take law enforcement action

(1) The Director may take law enforcement action, in relation to a notified incident, against a person who is a qualifying person in relation to the incident only if the Director is satisfied that the public interest in taking action in the circumstances outweighs any adverse impact that the action will have on further accident or incident notifications.

(2) Without limiting subsection (1), the Director may be satisfied as to the matter in subsection (1) if the Director is satisfied that any 1 or more of the following apply:

(a) the behaviour of the person in respect of which enforcement action would be taken is, or appears to be, a major departure from the standard of care expected of a reasonable person in the circumstances:

(b) the person recklessly caused unnecessary danger to any other person or to any property:

(c) the behaviour of the person in respect of which enforcement action would be taken caused unnecessary danger to any other person or to any property, and that behaviour repeats previous behaviour of the same or of a similar kind by the person.

Subpart 10—Protection of flight data recording from use in criminal proceedings against flight crew

342 Interpretation

In this subpart,—

flight data recorder, in relation to an aircraft, means—

(a) a flight data recorder that is required to be installed in any aircraft (whether or not it is required to be installed in that aircraft) for the purpose of complementing an accident or incident investigation; or

(b) any other data recording device approved for installation under the rules and installed in the aircraft for the purpose of complementing an accident or incident investigation

flight data recording means data recorded on a flight data recorder and any reproduction of that data in usable form.

343 Admissibility of flight data recording against flight crew in criminal proceedings

(1) A flight data recording from an aircraft is not admissible against a member of the flight crew of the aircraft in any criminal proceedings under this or any other Act.

(2) Subsection (1) is subject to any order of a court made under subsection (3).

(3) A court may order that the whole or part of a flight data recording from an aircraft is admissible against a member of the flight crew of the aircraft in a criminal proceeding if the court is satisfied that it is in the interests of justice after having regard to any adverse impact the admission of the whole or part of the recording may have on future accident and incident investigations.

(4) An application for an order under subsection (3) may be made only by a person who has commenced the criminal proceeding.

(5) Nothing in subsection (1) affects the admissibility of a flight data recording from an aircraft in criminal proceedings against a person other than a member of the flight crew of the aircraft.

344 This subpart does not limit or affect application of Part 3 of Transport Accident Investigation Commission Act 1990

This subpart does not limit or affect the application of Part 3 of the Transport Accident Investigation Commission Act 1990 in relation to a cockpit voice recording or cockpit video recording as defined in section 14A of that Act.

Subpart 11—Disqualification

345 Effect of disqualification by court

(1) If the holder of an aviation document is disqualified by an order of a court from holding or obtaining an aviation document, the document is suspended while the disqualification is in force, and is of no effect during the period of suspension.

(2) Subsection (3) applies if the holder of an aviation document is disqualified from holding or obtaining an aviation document and the disqualification will expire before the term of the document expires.

(3) The document continues to be of no effect on the expiration of the disqualification and until the holder of it undergoes and passes any tests and fulfils any requirements that the Director may specify.

Compare: 1990 No 98 s 59

346 Commencement of period of disqualification

If an order is made disqualifying any person from holding or obtaining an aviation document, the period of disqualification commences on the date on which the order is made or any later date the court making the order directs.

Compare: 1990 No 98 s 60

347 Retention and custody of document

(1) If a court makes an order disqualifying the holder of an aviation document from holding or obtaining a document and the document is capable of being surrendered (for example, if it is in paper form), the person in respect of whom the order is made must immediately, and whether or not demand is made, surrender the document to—

(a) the registry of the court where the order was made; or

(b) the CAA.

(2) If an aviation document is surrendered under this section, it must immediately be forwarded to the Director.

(3) The Director must—

(a) endorse the terms of the disqualification on the document; and

(b) retain it until the disqualification has expired or been removed and the person entitled to the document has made a request in writing for its return.

(4) If the person entitled to the document is a person to whom section 345(3) applies, the document must not be returned to the person until the person has passed the tests and fulfilled the requirements referred to in that provision.

Compare: 1990 No 98 s 61

348 Removal of disqualification

(1) Subject to this section, any person who by order of a court is disqualified for a period exceeding 6 months from holding or obtaining an aviation document may, after the expiration of 6 months after the date on which the order of disqualification became effective, apply to the court that made the order to remove the disqualification.

(2) On an application under this section, the court may, having regard to the character of the applicant and the applicant's conduct subsequent to the order, the nature of the offence, and any other circumstances of the case,—

(a) remove the disqualification from a date the court may specify; or

(b) refuse the application.

(3) If the disqualification was ordered by the District Court, an application under this section must be made to a District Court Judge.

(4) The application must be made to the registry of the court in which the order was made.

(5) Notice of every application under this section must be served on the Director, who has a right to appear and be heard in respect of the matter.

Compare: 1990 No 98 s 62

349 Particulars of disqualification orders, etc, to be sent to Director

Particulars of the following orders made by a court must be sent by the Registrar of the court to the Director:

(a) an order disqualifying a person from holding or obtaining an aviation document or imposing restrictions or conditions (or both) on any aviation document held by or issued to any person:

(b) an order under section 348 removing any disqualification.

Compare: 1990 No 98 s 63

350 Appeals against disqualification by court

(1) For the purposes of Part 6 of the Criminal Procedure Act 2011, an order of the District Court by which a person is disqualified from holding or obtaining an aviation document is deemed to be a sentence or part of a sentence, as the case may be.

(2) If a notice of appeal against an order referred to in subsection (1) is filed, the court may, if it thinks fit, defer the operation of the order pending the appeal, but otherwise the order has immediate effect.

(3) If a person who is disqualified by an order of the District Court from holding or obtaining an aviation document applies for a removal of that disqualification and the application is refused,—

(a) the person may appeal against the refusal to the High Court in accordance with Part 6 of the Criminal Procedure Act 2011; and

(b) that Part applies with any necessary modifications as if the refusal were a sentence.

(4) If a person who is disqualified by an order of the High Court from holding or obtaining an aviation document applies for a removal of that disqualification and the application is refused,—

(a) the person may appeal against the refusal to the Court of Appeal in accordance with Part 6 of the Criminal Procedure Act 2011; and

(b) that Part applies with any necessary modifications as if the refusal were a sentence.

(5) If an application is made to the Court of Appeal for leave to appeal to that court against a sentence of the High Court that is or includes an order of disqualification, the High Court may, if it thinks fit, defer the operation of the order pending the application for leave to appeal and, if leave is granted, pending the appeal.

(6) If an appeal is made to the High Court or leave to appeal to the Court of Appeal is granted under this section, whether in whole or in part, the Registrar of the High Court must send notice of that fact to the Director, who has a right to appear and be heard in respect of the matter.

(7) In determining the expiry of the period for which a person is disqualified from holding or obtaining an aviation document, any time during which the operation of the disqualification order is deferred under this section must be disregarded.

Compare: 1990 No 98 s 64

Subpart 12—Injunctions

351 Court may grant injunctions

(1) A court may, on application by the Director, the Secretary, or any other person, grant an injunction—

(a) restraining a person from engaging in conduct that constitutes or would constitute a breach of civil aviation legislation:

(b) requiring a person to do an act or a thing if—

(i) the person has refused or failed, or is refusing or failing, or is proposing to refuse or fail to do that act or thing; and

(ii) the refusal or failure was, is, or would be a breach of civil aviation legislation.

(2) An injunction may be granted under this section—

(a) even though proceedings for any offence constituted by the breach have not been taken; or

(b) if the person is convicted of an offence constituted by the breach,—

(i) in the proceedings for the offence, in substitution for or in addition to any penalty imposed for the offence; or

(ii) in subsequent proceedings.

Compare: 1966 No 51 s 9(10); 2013 No 69 s 480

352 When court may grant restraining injunctions

(1) A court may grant an injunction restraining a person from engaging in conduct of a particular kind if—

(a) it is satisfied that the person has engaged in conduct of that kind; or

(b) it appears to the court that, if an injunction is not granted, it is likely that the person will engage in conduct of that kind.

(2) The court may grant an interim injunction restraining a person from engaging in conduct of a particular kind if in its opinion it is desirable to do so.

(3) Subsections (1)(a) and (2) apply whether or not it appears to the court that the person intends to engage again, or to continue to engage, in conduct of that kind.

(4) Subsections (1)(b) and (2) apply whether or not—

(a) the person has previously engaged in conduct of that kind; or

(b) there is an imminent danger of substantial damage to any other person if the person engages in conduct of that kind.

Compare: 2013 No 69 s 481

353 When court may grant performance injunctions

(1) A court may grant an injunction requiring a person to do an act or a thing if—

(a) it is satisfied that the person has refused or failed, or is refusing or failing, to do that act or thing; or

(b) it appears to the court that, if an injunction is not granted, it is likely that the person will refuse or fail, or continue to refuse or fail, to do that act or thing.

(2) The court may grant an interim injunction requiring a person to do an act or a thing if in its opinion it is desirable to do so.

(3) Subsections (1)(a) and (2) apply whether or not it appears to the court that the person intends to refuse or fail again, or to continue to refuse or fail, to do that act or thing.

(4) Subsections (1)(b) and (2) apply—

(a) whether or not the person has previously refused or failed to do that act or thing; or

(b) if there is an imminent danger of substantial damage to any other person if the person refuses or fails to do that act or thing.

354 Undertaking as to damages not required by Director or Secretary

(1) If the Director or the Secretary applies to a court for the grant of an interim injunction under this subpart, the court must not, as a condition of granting an interim injunction, require the Director or the Secretary to give an undertaking as to damages.

(2) In determining the application for the grant of an interim injunction, the court must not take into account that the Director or Secretary (as the case may be) is not required to give an undertaking as to damages.

Compare: 2013 No 69 s 482

Subpart 13—Powers of Minister to intervene on grounds of national security

355 Powers of Minister to intervene on grounds of national security

(1) Subsection (2) applies if the Minister, after taking into account the advice of the intelligence and security agencies, is satisfied that the action is necessary in the interests of national security.

(2) The Minister may, by written notice,—

(a) direct that an application referred to the Minister under section 74 not be granted; or

(b) direct that restrictions or conditions be imposed on an aviation document issued to a person under this Act; or

(c) disqualify a person from holding or obtaining an aviation document or a particular aviation document; or

(d) prohibit a person from operating, maintaining, servicing, or doing any other act in respect of any aircraft, aerodrome, aeronautical product, or aviation-related service.

(3) A notice given under subsection (2)(b), (c), or (d) may apply for any period not exceeding 24 months that the Minister thinks fit.

356 Giving of notice and related matters

(1) A notice given under section 355(2) must be served on—

(a) the person in respect of whom it is given; and

(b) the Director.

(2) The Minister must inform the person in respect of whom a notice is given under section 355(2) of—

(a) the reasons for the decision (except to the extent that the Minister considers that providing reasons would involve a disclosure of information that would be likely to prejudice the security or defence of New Zealand or the international relations of the Government of New Zealand); and

(b) the review procedure available in relation to the notice under section 357.

(3) A notice given under section 355(2) is (subject only to section 357) conclusive evidence of the matters stated in it, and the advice given by an intelligence and security agency to the Minister must not be challenged, reviewed, or called into question in any court.

(4) When a notice given under section 355(2)(b) is served under subsection (1), the holder of the aviation document must immediately, whether or not demand is made, and if the document is capable of being produced (for example, if the document is in paper form) produce the document to the Director for appropriate endorsement.

(5) Service under subsection (1) may be effected in any way the Minister considers appropriate.

357 Review procedure in relation to notice under section 355

(1) If the Minister gives a notice under section 355(2), the person in respect of whom the notice is given may, in accordance with section 171 of the Intelligence and Security Act 2017, make a complaint to the Inspector-General of Intelligence and Security in relation to any advice given by an intelligence and security agency to the Minister.

(2) If the Inspector-General of Intelligence and Security sends a report to the Minister in accordance with section 185 of the Intelligence and Security Act 2017, the Minister may withdraw or confirm the notice.

(3) In this section, **Inspector-General of Intelligence and Security** means the person holding office under section 157 of the Intelligence and Security Act 2017.

358 Effect of disqualification by Minister

(1) If the holder of an aviation document is disqualified by a notice under section 355(2)(c) from holding or obtaining an aviation document, the document is suspended while the disqualification continues in force and is of no effect during the period of suspension.

(2) Subsection (3) applies if the holder of an aviation document is disqualified from holding or obtaining a document and the disqualification will expire before the term of the document expires.

(3) The document continues to be of no effect on the expiry of the disqualification and until the holder of it undergoes and passes any tests and fulfils any requirements that the Director may specify.

359 Commencement of period of disqualification by Minister

If a notice is given under section 355(2)(c) disqualifying any person from holding or obtaining an aviation document, the period of disqualification commences on the date on which the notice is served under section 356(1).

360 Retention and custody of document following disqualification by Minister

(1) If the holder of an aviation document is disqualified by a notice under section 355(2)(c) from holding or obtaining an aviation document, the person must immediately after the notice is served, whether or not demand is made, and if the document is capable of being produced (for example, if the document is in paper form), surrender the document to the Director.

(2) The Director must—

(a) endorse the terms of the disqualification on the document; and

(b) retain the document until the disqualification has expired or been removed and the person entitled to the document has made a request in writing for its return.

(3) If the person entitled to the document is a person to whom section 345(3) applies, the document must not be returned to the person until the person has passed the tests and fulfilled the requirements referred to in that provision.

361 Offences relating to breach of notice given by Minister on national security grounds

(1) A person commits an offence if the person—

(a) intentionally fails or refuses to comply with any restriction or condition imposed by a notice under section 355(2)(b); or

(b) applies for or obtains an aviation document while disqualified by a notice under section 355(2)(c) from obtaining such a document; or

(c) intentionally does any act contrary to the terms of a prohibition in a notice under section 355(2)(d).

(2) Any aviation document in respect of which an offence is committed under subsection (1)(b) is of no effect.

(3) A person who commits an offence against subsection (1) is liable on conviction,—

(a) in the case of an individual, to imprisonment for a term not exceeding 12 months or to a fine not exceeding $60,000, or both:

(b) in the case of any other person, to a fine not exceeding $200,000.

(4) If a person is convicted of an offence under subsection (1)(b), the court may order the person to be disqualified from holding or obtaining an aviation document for any period not exceeding 12 months that the court thinks fit.

Subpart 14—General offences

362 Communicating false or misleading information

(1) A person who, by any means, provides to the Secretary, the CAA, or the Director information relevant to the Secretary's, the CAA's, or the Director's performance or exercise of functions or powers under civil aviation legislation, knowing the information to be false or misleading, commits an offence.

(2) A person who commits an offence against subsection (1) is liable on conviction,—

(a) in the case of an individual, to imprisonment for a term not exceeding 12 months or to a fine not exceeding $30,000, or both:

(b) in the case of any other person, to a fine not exceeding $100,000.

Compare: 1990 No 98 s 49(1)(a), (2)

363 Obstruction of inspector or other person authorised by Director or Secretary

(1) A person commits an offence who intentionally obstructs or intentionally impedes—

(a) an inspector or a response officer exercising their functions or powers under this Act; or

(b) any other person who is authorised by the Director or the Secretary and acting in the performance or exercise of any functions or powers conferred on the person under this Act.

(2) Subsection (1) applies only where the inspector, response officer, or other person obstructed or impeded is in uniform or produces evidence of the person's authority.

(3) A person who breaches subsection (1) commits an offence and is liable on conviction,—

(a) in the case of an individual, to a fine not exceeding $10,000:

(b) in the case of any other person, to a fine not exceeding $50,000.

Compare: 1990 No 98 s 50

364 Trespass

(1) A person commits an offence if the person, without reasonable excuse, enters or remains within any aerodrome, or any building or area in which technical facilities or services for civil aviation are operated, when directed not to enter or not to remain by—

(a) a person authorised by the Director in writing for that purpose or a constable; or

(b) a notice posted by a person referred to in paragraph (a), the Director, or an aviation security officer.

(2) A person who commits an offence against subsection (1) is liable on conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding $2,500, or both.

Compare: 1990 No 98 s 51

365 Failure to maintain accurate records

(1) A person commits an offence if the person contravenes any requirement under this Act—

(a) to make accurate entries in a record; or

(b) to maintain an accurate record; or

(c) to provide to the Secretary, the CAA, the Director, or any other person an accurate record when required to do so.

(2) A person who commits an offence against subsection (1) is liable on conviction,—

(a) in the case of an individual, to a fine not exceeding $15,000:

(b) in the case of any other person, to a fine not exceeding $50,000.

Compare: 1990 No 98 s 52

366 Breach of emergency rule, prohibition, or condition

(1) A person who, without reasonable excuse, acts in breach of or fails to comply with any emergency rule made under section 67 or any prohibition or condition notified under section 315(7) commits an offence.

(2) A person who commits an offence against subsection (1) is liable on conviction,—

(a) in the case of an individual, to a fine not exceeding $30,000:

(b) in the case of any other person, to a fine not exceeding $100,000.

Compare: 1990 No 98 s 53

367 Flight over foreign country without authority or for improper purpose

(1) This section applies to—

(a) any aircraft that is registered or required to be registered in New Zealand under this Act:

(b) any other aircraft operated by a person who is normally resident in New Zealand or whose principal place of business is in New Zealand.

(2) A person who, being the operator or pilot-in-command of an aircraft to which this section applies that is being flown over a foreign country or territory, knowingly allows that aircraft to be used for a purpose that is prejudicial to the security of, the public order or public health of, or the safety of air navigation in relation to, that country or territory commits an offence.

(3) In any prosecution for an offence against subsection (2), where it is proved by the prosecution that the aircraft was used for any purpose described in subsection (2), in the absence of evidence to the contrary it is presumed that the defendant knew that the aircraft was being used for that purpose.

(4) A person commits an offence if the person is the operator or pilot-in-command of an aircraft to which this section applies that is being flown over any foreign country or territory, and knowingly fails to comply with any direction that is given in respect of the aircraft by the appropriate aeronautical authority of that country or territory where—

(a) the flight is not duly authorised; or

(b) the appropriate aeronautical authority has reasonable grounds to believe that the aircraft is being or will be used for a purpose that is prejudicial to the security of, the public order or public health of, or the safety of air navigation in relation to, that country or territory.

(5) Subsection (4)—

(a) does not apply if the lives of persons on board the aircraft or the safety of the aircraft would be endangered by compliance with the direction:

(b) is without prejudice to any other requirement to comply with directions given by an aeronautical authority.

(6) For the purposes of this section, **appropriate aeronautical authority** includes any person, whether a member of the military authorities or the civil authorities of the foreign country or territory, who is authorised under the law of the foreign country or territory to issue directions to aircraft flying over that country or territory.

(7) A person who commits an offence against subsection (2) or (4) is liable on conviction,—

(a) in the case of an individual, to imprisonment for a term not exceeding 12 months or to a fine not exceeding $60,000, or both:

(b) in the case of any other person, to a fine not exceeding $200,000.

Compare: 1990 No 98 s 53A

Subpart 15—Additional penalty for offences involving commercial gain

368 Additional penalty for offences involving commercial gain

(1) In addition to any penalty the court may impose under section 41, 103, 104, 217, 250, or 297, the court may, on convicting a person of an offence specified in any of those sections, order the person to pay an amount not exceeding 3 times the value of any commercial gain resulting from the commission of that offence if the court is satisfied that the offence was committed in the course of producing a commercial gain.

(2) For the purpose of subsection (1), the value of any gain must be assessed by the court, and is recoverable in the same manner as a fine.

Compare: 1990 No 98 s 47

Subpart 16—Infringement offences

369 Interpretation

In this subpart, **person authorised by the Director** means,—

(a) in the case of an unruly passenger offence that is an infringement offence, a person authorised by the Director under subpart 20:

(b) in relation to any other infringement offence, a person authorised by the Director under section 372(1).

370 Application of this subpart to offences for breach of airport bylaws

If regulations made under section 407(1)(d) provide that a breach of an airport bylaw made under section 235 is an infringement offence,—

(a) the airport operator that made the bylaw may, in writing, authorise a person to issue infringement notices under this Act for the purpose of enforcing the infringement offences; and

(b) this subpart applies as if—

(i) references to the Director or a person authorised by the Director were to the airport operator and any person authorised by the operator; and

(ii) references to the enforcement authority were to the airport operator.

371 Infringement offences

(1) A person who is alleged to have committed an infringement offence may—

(a) be proceeded against by the filing of a charging document under section 14 of the Criminal Procedure Act 2011; or

(b) be issued with an infringement notice under section 373.

(2) Proceedings commenced in the way described in subsection (1)(a) do not require the leave of a District Court Judge or Registrar under section 21(1)(a) of the Summary Proceedings Act 1957.

(3) *See*—

(a) section 21 of the Summary Proceedings Act 1957 for the procedure that applies if an infringement notice is issued; and

(b) section 406 of this Act for the modifications to that procedure that apply in the case of an unruly passenger offence that is an infringement offence.

372 Who may issue infringement notices

(1) The Director may, in writing, authorise a person to issue infringement notices under this Act, except for the purpose of subpart 2 of Part 7.

(2) Subsection (1) is subject to section 462(2)(c).

373 When infringement notice may be issued

The Director or a person authorised by the Director may issue an infringement notice to a person if the Director or person authorised by the Director believes on reasonable grounds that the person is committing, or has committed, an infringement offence.

374 Revocation of infringement notice before payment made

(1) The Director or a person authorised by the Director may revoke an infringement notice before—

(a) the infringement fee is paid; or

(b) an order for payment of a fine is made or deemed to be made by a court under section 21 of the Summary Proceedings Act 1957.

(2) The Director or a person authorised by the Director must take reasonable steps to ensure that the person to whom the notice was issued is made aware of the revocation of the notice.

(3) The revocation of an infringement notice before the infringement fee is paid is not a bar to any further action as described in section 371(1)(a) or (b) against the person to whom the notice was issued in respect of the same matter.

375 What infringement notice must contain

An infringement notice must be in the form prescribed in regulations and must contain the following particulars:

(a) details of the alleged infringement offence that fairly inform a person of the time, place, and nature of the alleged offence:

(b) the amount of the infringement fee:

(c) the address of the enforcement authority:

(d) how the infringement fee may be paid:

(e) the time within which the infringement fee must be paid:

(f) a summary of the provisions of section 21(10) of the Summary Proceedings Act 1957:

(g) a statement that the person served with the notice has a right to request a hearing:

(h) a statement of what will happen if the person served with the notice neither pays the infringement fee nor requests a hearing:

(i) any other matters prescribed in regulations.

376 How infringement notice may be served

(1) An infringement notice may be served on the person who the Director or a person authorised by the Director believes is committing or has committed the infringement offence by—

(a) delivering it to the person or, if the person refuses to accept it, bringing it to the person's notice; or

(b) leaving it for the person at the person's last known place of residence with another person who appears to be of or over the age of 14 years; or

(c) leaving it for the person at the person's place of business or work with another person; or

(d) sending it to the person by prepaid post addressed to the person's last known place of residence or place of business or work; or

(e) sending it to the person at the person's last address for service provided under section 73 (if that address is not an electronic address); or

(f) sending it to an electronic address of the person in any case where the person does not have a known place of residence or business in New Zealand.

(2) Unless the contrary is shown,—

(a) an infringement notice (or a copy of it) sent by prepaid post to a person under subsection (1) is to be treated as having been served on the person on the fifth working day after the date on which it was posted:

(b) despite paragraph (a), an infringement notice in respect of an unruly passenger offence sent by prepaid post is to be treated as having been served on the defendant when it was posted:

(c) an infringement notice sent to a valid electronic address is to be treated as having been served at the time the electronic communication first enters an information system that is outside the control of the enforcement authority.

377 Payment of infringement fees

(1) Except as provided in subsection (2), all infringement fees paid in respect of infringement offences must be paid into a Crown Bank Account.

(2) An enforcement authority that is an airport operator may retain the portion of the infringement fees received by it under this Act that the Minister of Finance from time to time approves.

378 Reminder notices

A reminder notice must be in the form prescribed in the regulations and must include the same particulars, or substantially the same particulars, as the infringement notice.

Subpart 17—Charging documents and burden of proof

379 Limitation period for prosecutions brought by Director

(1) Despite section 25 of the Criminal Procedure Act 2011, proceedings for an offence under this Act brought by the Director may be brought within the longest of the following applicable periods:

(a) within 12 months after the date on which the incident, situation, or set of circumstances to which the offence relates first became known, or ought reasonably to have become known, to the Director:

(b) if an enforceable undertaking has been given in relation to the offence under subpart 6, within 6 months after—

(i) the enforceable undertaking is contravened; or

(ii) it comes to the notice of the Director that the enforceable undertaking has been contravened; or

(iii) the Director has agreed under section 329 to the withdrawal of the enforceable undertaking.

(2) Subsection (1)(a) is subject to section 380.

380 Extension of time if Director needs longer to decide whether to bring prosecution

(1) This section applies if the Director considers that the Director will not be able to file a charging document by the end of the 12-month period specified in section 379(1)(a).

(2) The District Court may, on application by the Director made before the end of the 12-month period specified in section 379(1)(a), extend the time available for filing a charging document for a further period not exceeding 12 months from the date of expiry of the 12-month period specified in section 379(1)(a).

(3) The court must not grant an extension under subsection (2) unless it is satisfied that—

(a) the Director reasonably requires longer than the 12-month period to decide whether to file a charging document; and

(b) the reason for requiring the longer period is that the investigation of the events and issues surrounding the alleged offence is complex or time-consuming; and

(c) it is in the public interest in the circumstances that a charging document is able to be filed after the 12-month period expires; and

(d) filing the charging document after the 12-month period expires will not unfairly prejudice the proposed defendant in defending the charge.

(4) The court must give the following persons an opportunity to be heard:

(a) the Director:

(b) the proposed defendant:

(c) any other person who has an interest in whether or not a charging document should be filed.

381 Burden of proof of exceptions, etc, for offences

(1) This section applies to—

(a) an offence against this Act that is prescribed in regulations under section 407(1)(b) (which relates to prescribing offences for breaches of regulations or rules); and

(b) an offence against any of the following sections:

(i) section 17 (failure to notify emergency breach of Act, regulations, or rules):

(ii) section 19(1) (failure to provide identifying information):

(iii) section 51(1) (failure to notify accident or incident):

(iv) section 107(1) (failure to disclose information relevant to granting or holding of aviation document):

(v) section 112(1) (failure to disclose medical information required by Director):

(vi) section 132(1) (failure to comply with Director's requirement to withdraw or revoke authorisation):

(vii) section 173(1)(b) (failure to disclose materially relevant information in security check):

(viii) section 250 (failing to comply with direction order):

(ix) section 297(1) (failure to comply with inspection or monitoring request):

(x) section 364(1) (trespass):

(xi) section 366(1) (breach of emergency rule, prohibition, or condition):

(xii) section 396 (interference with aircraft):

(xiii) section 405(2) (failure to comply with requirements relating to information and verification):

(xiv) section 413(1) (failure to comply with any information disclosure requirements):

(xv) section 422(1) (failure to make return):

(xvi) section 422(2) (failure to maintain records).

(2) Any exception, exemption, proviso, excuse, or qualification, whether it does or does not accompany the description of the offence,—

(a) may be proved by the defendant; but

(b) need not be negatived in the charging document, and, whether or not it is so negatived, no proof in relation to the matter is required on the part of the prosecutor.

(3) Subsection (2)(b) is subject to section 17(4) of the Criminal Procedure Act 2011.

Compare: 1990 No 98 ss 65AA, 100A

Subpart 18—Evidence and proof

382 Evidence and proof in offence-related proceedings: aviation documents and New Zealand Register of Aircraft

(1) This section and section 383 apply in any proceedings for an offence against this Act.

Aviation document

(2) In the absence of proof to the contrary, a copy of any aviation document is sufficient to prove the contents of that document if the copy of the document is certified correct by—

(a) the Director; or

(b) any employee of the CAA authorised to do so by the Director.

(3) Unless the contrary is proved, an official certificate is sufficient evidence of the matter certified.

(4) In subsection (3), **official certificate** means a certificate—

(a) to the effect that on a specified date a person or an organisation was or was not the holder of—

(i) an aviation document; or

(ii) a specified type of aviation document; and

(b) signed or otherwise authenticated by—

(i) the Director; or

(ii) any employee of the CAA authorised to do so by the Director.

New Zealand Register of Aircraft

(5) Evidence of the contents of the New Zealand Register of Aircraft maintained under section 36 may be given by a certificate signed or otherwise authenticated by—

(a) the Director; or

(b) any employee of the CAA authorised in that behalf by the Director.

(6) Unless the contrary is proved, every certificate is sufficient evidence of the matters stated in it.

Written statement in relation to medical certificate

(7) Unless the contrary is proved, a written statement is sufficient evidence of the matter stated.

(8) In subsection (7), **written statement** means a statement signed or otherwise authenticated by the Director to the effect that on a specified date a person was or was not the holder of a medical certificate issued under—

(a) Schedule 2; or

(b) the rules before the commencement of the Civil Aviation (Medical Certification) Amendment Act 2001.

Compare: 1990 No 98 s 71(1)

383 Evidence and proof in offence-related proceedings: other matters

Material incorporated by reference

(1) In the absence of evidence to the contrary, a certified copy of material incorporated by reference is sufficient evidence that the material produced is the material incorporated by reference.

Certificates generally

(2) Unless the contrary is proved, it is presumed that every certificate purporting to have been certified or given under this section has been certified or given by—

(a) the Director; or

(b) an employee of the CAA authorised by the Director to certify documents or give certificates under this section.

Licence

(3) A licence granted under Part 6 may be proved by producing a copy of that licence that is certified as correct by the Secretary.

384 Evidence and proof of rule in any proceedings

(1) Unless the contrary is proved, and without limiting any other method of proof, the production in any proceedings of a copy of an item specified in subsection (2) is sufficient evidence of—

(a) the rule; and

(b) the fact that it has been made in accordance with Part 3.

(2) The items for the purposes of subsection (1) are—

(a) a rule purporting to have been made by the Minister under subpart 1 of Part 3; or

(b) any emergency rule purporting to have been made by the Director under section 67.

Compare: 1990 No 98 s 71(2)

Subpart 19—General provisions relating to proceedings

385 State of mind of employees and agents attributed

State of mind of individual in civil proceedings

(1) Subsection (2) applies in any civil proceedings under this Act in respect of any conduct engaged in by an individual, being conduct in relation to which civil aviation legislation applies.

(2) If it is necessary to establish the state of mind of the individual, it is sufficient to show that an employee or agent of the individual acting within the scope of the employee's or agent's actual or apparent authority had that state of mind.

State of mind of person other than individual in civil or criminal proceedings

(3) Subsection (4) applies in any civil or criminal proceedings under this Act in respect of any conduct engaged in by a person other than an individual, being conduct in relation to which civil aviation legislation applies.

(4) If it is necessary to establish the state of mind of the person, it is sufficient to show that an employee or agent of the person acting within the scope of the employee's or agent's actual or apparent authority had that state of mind.

Meaning of state of mind

(5) In this section, **state of mind**, in relation to a person, includes the knowledge, intention, opinion, belief, or purpose of the person and the person's reasons for that intention, opinion, belief, or purpose.

Compare: 2015 No 70 s 160

386 Conduct of employees and agents attributed

(1) Conduct engaged in on behalf of an individual (**person A**) by any of the following must be treated, for the purposes of this Act, as having been engaged in also by person A:

(a) an employee or agent of person A, acting within the employee's or agent's actual or apparent authority:

(b) any other person at the direction or with the consent or agreement (whether express or implied) either of person A or an employee or agent of person A, given within the scope of the actual or apparent authority of the employee or agent.

(2) Conduct engaged in on behalf of a person other than an individual (**person B**) by any of the following must be treated, for the purposes of this Act, as having been engaged in also by person B:

(a) an employee or agent of person B acting within the scope of the employee's or agent's actual or apparent authority:

(b) any other person at the direction or with the consent or agreement (whether express or implied) of an employee or agent of person B, given

within the scope of the actual or apparent authority of the employee or agent.

Compare: 2015 No 70 s 161

Subpart 20—Unruly passenger offences

Preliminary provisions

387 Interpretation in this subpart

In this subpart, unless the context otherwise requires,—

details, in relation to a person who is alleged to have committed an offence, means the person's full name, address, and date of birth

person authorised by the Director means a person authorised by the Director under section 389.

Compare: 1990 No 98 s 65A(6)

388 Application of this subpart

(1) This subpart applies to any unruly passenger offence committed—

(a) on an aircraft in New Zealand, regardless of the nationality of the aircraft:

(b) on an aircraft in flight outside New Zealand, regardless of the nationality of the aircraft, if the next landing of the aircraft is in New Zealand.

(2) For the purposes of this subpart, an aircraft is **in flight** from the time that all its external doors are closed after embarkation until the time that any external door is opened for disembarkation.

(3) However, in the case of a forced landing, an aircraft is **in flight**,—

(a) if the forced landing occurs in a place within the territorial limits of a country, until the time that competent authorities of that country assume responsibility for the aircraft and for persons and property on board the aircraft; or

(b) if the forced landing occurs in a place that is not within the territorial limits of any country, until the time that competent authorities of any country assume responsibility for the aircraft and for persons and property on board the aircraft.

Compare: 1990 No 98 s 65A(1)–(3)

389 Exercise of powers under this subpart

(1) The Director may authorise an aviation security officer or any other person to exercise a power or perform a function under this subpart.

(2) A person authorised by the Director under subsection (1) must carry evidence of authority issued by the Director that specifies—

(a) the name of, and the office or offices held by, the person; and

(b) the powers and functions that the person is authorised to exercise and perform under this subpart.

(3) A constable may exercise and perform all or any of the powers and functions that may be conferred on a person authorised by the Director under this subpart.

(4) This section does not limit section 331.

Compare: 1990 No 98 s 65A(4)–(5)

390 Liability for offences against this subpart despite extraterritoriality

A person who commits an act or omission on an aircraft in flight outside New Zealand that would be an offence against this subpart if it occurred within New Zealand is, subject to this Act, liable as if the act or omission had occurred in New Zealand.

Compare: 1990 No 98 s 65B

391 Liability for offences under Summary Offences Act 1981 despite extraterritoriality

(1) A person is liable under the Summary Offences Act 1981 if—

(a) the person commits an act or omission on an aircraft in flight outside New Zealand; and

(b) that act or omission, if it occurred in New Zealand, would be an offence against 1 or more of the following provisions of that Act:

(i) section 3 (disorderly behaviour):

(ii) section 7 (fighting in public place):

(iii) section 9 (common assault):

(iv) section 11 (wilful damage):

(v) section 27 (indecent exposure).

(2) For the purposes of the provisions specified in subsection (1)(b), a reference to a **public place** in any of those provisions includes an aircraft in flight outside New Zealand.

Compare: 1990 No 98 s 65C

392 Liability for offence on foreign aircraft outside New Zealand

(1) An infringement notice may be issued under section 373, or proceedings commenced, for an unruly passenger offence committed on a foreign aircraft outside New Zealand if—

(a) the pilot-in-command—

(i) makes (in the form and manner required by the Director) a request to the Director or a person authorised by the Director to issue an infringement notice or to commence proceedings; and

(ii) provides an undertaking in the form and manner required by the Director that the pilot-in-command (or the operator of the aircraft) has not made and will not make a similar request to the authorities of any other State; and

(b) in the case of proceedings, the Attorney-General consents.

(2) A person may, in respect of an unruly passenger offence, be arrested, charged, remanded in custody, or released on bail before the Attorney-General decides whether to consent to proceedings.

(3) Despite subsection (1)(b), proceedings for an unruly passenger offence committed on a foreign aircraft outside New Zealand may be commenced without the Attorney-General's consent if—

(a) particulars of the infringement notice are provided under section 406(2); or

(b) the defendant requests a hearing in respect of the infringement offence to which the infringement notice relates.

(4) In any proceedings for an offence under this subpart, the pilot-in-command's request and undertaking, if made in the prescribed form or forms, are—

(a) admissible in evidence; and

(b) in the absence of proof to the contrary, sufficient evidence of the matters stated in the form or forms.

Compare: 1990 No 98 s 65D

393 Proceedings for offences

(1) This subpart does not affect the liability of a person under any other enactment.

(2) Subsection (1) is subject to section 391.

Compare: 1990 No 98 s 65E(3), (4)

Unruly passenger offences

394 Passenger endangering safety

(1) No person who is a passenger on an aircraft may act in a manner that endangers the aircraft or any person in the aircraft.

(2) A person who acts in breach of subsection (1) and who knows, or is reckless as to whether, their action will endanger the aircraft or any person in the aircraft commits an offence.

(3) A person who commits an offence against subsection (2) is liable on conviction to imprisonment for a term not exceeding 2 years or to a fine not exceeding $10,000, or both.

Compare: 1990 No 98 s 65F

395 Disruptive conduct towards crew member

(1) A person commits an offence if, while in an aircraft, the person—

(a) uses any threatening, offensive, or insulting words towards a crew member; or

(b) behaves in a threatening, offensive, insulting, or disorderly manner towards a crew member; or

(c) behaves in a manner that interferes with a crew member's performance of the crew member's duties; or

(d) intentionally interferes with a crew member's performance of the crew member's duties.

(2) A person who commits an offence against subsection (1)(a), (b), or (c) is liable on conviction to a fine not exceeding $5,000.

(3) A person who commits an offence against subsection (1)(d) is liable on conviction to imprisonment for a term not exceeding 2 years or to a fine not exceeding $10,000, or both.

(4) It is a defence in a prosecution under subsection (1)(a) for using offensive or insulting words if the defendant proves that the defendant had reasonable grounds to believe that the defendant's words would not be overheard or seen by a crew member.

(5) In this section, **words** includes—

(a) words that are written, printed, gestured, or spoken; and

(b) any pictorial representation or visual description of words.

Compare: 1990 No 98 s 65G

396 Interference with aircraft

(1) A person who tampers or, without reasonable excuse, interferes with any aircraft, or any component of an aircraft, or its equipment, including, but not limited to, smoke detectors, commits an offence.

(2) A person who commits an offence against subsection (1) is liable on conviction to a fine not exceeding $10,000.

Compare: 1990 No 98 s 65H

397 Intoxicated person on aircraft

(1) No person may—

(a) board an aircraft when intoxicated; or

(b) become intoxicated on an aircraft.

(2) This section does not apply to a person under medical care.

(3) In proceedings for an offence against subsection (1),—

(a) the prosecutor need not assert, in the charging document, that the defendant was not a person under medical care; and

(b) the burden of proving that the defendant was under medical care lies on the defendant.

(4) A person who breaches subsection (1)(a) commits an infringement offence and is liable to—

(a) an infringement fee of $1,000; or

(b) a fine imposed by a court not exceeding $5,000.

(5) A person who breaches subsection (1)(b) commits an infringement offence and is liable to—

(a) an infringement fee of $600; or

(b) a fine imposed by a court not exceeding $3,000.

(6) In this section,—

alcohol has the same meaning as in section 5(1) of the Sale and Supply of Alcohol Act 2012

intoxication, in relation to a person, means the pilot-in-command, or senior flight attendant authorised by the pilot-in-command for this purpose, has reasonable grounds to believe that the person is under the influence of alcohol or an intoxicating substance to such an extent as to—

(a) be incapable of properly looking after themself; or

(b) behave in a manner that is hazardous to the operation of the aircraft or to the health or safety of persons on the aircraft; or

(c) offend against the good order and discipline required on an aircraft

person under medical care means a person who—

(a) is under the supervision of an attendant; and

(b) has become intoxicated as a result of taking prescription medication in accordance with a medical authorisation.

Compare: 1990 No 98 s 65I

398 Non-compliance with commands given by pilot-in-command

(1) A person who fails to comply with any commands given to the person directly by the pilot-in-command, or indirectly by the pilot-in-command through a crew member, in accordance with the pilot-in-command's duties under section 14 or the rules commits an offence.

(2) A person who commits an offence against subsection (1) is liable on conviction to a fine not exceeding $5,000.

Compare: 1990 No 98 s 65J

399 Offensive behaviour or words

(1) A person commits an offence if, on any aircraft, the person—

(a) behaves in a threatening, offensive, insulting, or disorderly manner; or

(b) uses threatening, offensive, or insulting words.

(2) A person who commits an offence against subsection (1) is liable on conviction to a fine not exceeding $2,500.

(3) It is a defence in a prosecution under subsection (1)(b) for using offensive or insulting words if the defendant proves that the defendant had reasonable grounds to believe that the defendant's words would not be overheard or seen.

Compare: 1990 No 98 s 65K

400 Portable electronic devices must not be operated

(1) No person may operate a portable electronic device on board an aircraft in breach of the rules.

(2) A person who breaches subsection (1) commits an infringement offence and is liable to—

(a) an infringement fee of $500; or

(b) a fine imposed by a court not exceeding $2,500.

Compare: 1990 No 98 s 65L

401 Non-compliance with seating and safety belt instructions

(1) A person must comply with an instruction given by a crew member, passenger information sign, or placard to—

(a) occupy a seat or berth; or

(b) fasten and keep fastened about the person any safety belt or safety harness installed, or provided by a crew member.

(2) A person who breaches subsection (1) commits an infringement offence and is liable to—

(a) an infringement fee of $500; or

(b) a fine imposed by a court not exceeding $2,500.

Compare: 1990 No 98 s 65M

402 No smoking

(1) No person may smoke—

(a) when instructed not to smoke by a crew member, passenger information signs, or placards; or

(b) while on any aircraft that is carrying passengers for hire or reward on any internal flight; or

(c) while on any aircraft operated by a New Zealand international airline carrying passengers on any route.

(2) A person who breaches subsection (1) commits an infringement offence and is liable to—

(a) an infringement fee of $500; or

(b) a fine imposed by a court not exceeding $2,500.

(3) In this section,—

internal flight has the same meaning as in section 2(1) of the Smokefree Environments and Regulated Products Act 1990

New Zealand international airline has the meaning given in section 174

to smoke means to smoke, hold, or otherwise have control over an ignited product, weed, or plant, and includes to vape, and **smoke**, **smoked**, and **smoking** have corresponding meanings

to vape has the same meaning as in section 2(1) of the Smokefree Environments and Regulated Products Act 1990.

Compare: 1990 No 98 s 65N

403 Dangerous goods

(1) No person may carry, or cause to be carried, any dangerous goods on an aircraft in breach of the rules.

(2) A person who breaches subsection (1) commits an infringement offence and is liable to—

(a) an infringement fee of $500; or

(b) a fine imposed by a court not exceeding $2,500.

Compare: 1990 No 98 s 65O

Requirement for passenger to provide information

404 Requirements relating to information and verification

(1) The Director or a person authorised by the Director (the **Director or person**) may require a passenger to provide the passenger's details to the Director or person, if the Director or person has reasonable grounds to suspect that the passenger has committed an unruly passenger offence other than an offence against section 394 or 395(1)(d).

(2) If the Director or person has reasonable grounds to suspect that any details provided are false or misleading, the Director or person may require the passenger to give the verification of those details that it is reasonable in the circumstances to require the passenger to provide.

(3) The verification must be inspected without delay and returned to the passenger as soon as practicable after the inspection has concluded.

Compare: 1990 No 98 s 65P(3), (4), (7)

405 Consequences for failure to comply with requirements

(1) A constable may arrest a passenger without warrant if the passenger,—

(a) without reasonable excuse, refuses or fails to comply with a requirement under section 404(1) or (2); and

(b) persists in that refusal or failure after being warned by the Director or person authorised by the Director that the passenger may be arrested for committing an offence by that refusal or failure.

(2) The passenger commits an offence and is liable on conviction to a fine not exceeding $1,000 if, without reasonable excuse, the passenger—

(a) refuses or fails to comply with a requirement under section 404(1) or (2); or

(b) gives to the Director or person authorised by the Director in response to the requirement details that are materially false or misleading.

Compare: 1990 No 98 s 65P(5), (6)

406 Modifications to infringement offence procedure under the Summary Proceedings Act 1957 for unruly passenger offence that is infringement offence

(1) This section applies if an infringement notice is issued under section 373 in respect of an unruly passenger offence that is an infringement offence.

(2) The Director or a person authorised by the Director may provide particulars of the infringement notice in accordance with section 21(4) and (4A) of the Summary Proceedings Act 1957, after a period of 14 days from the date of service of the infringement notice or a copy of the infringement notice, if—

(a) the infringement fee for the offence has not by then been paid to the Director as specified in the notice; and

(b) the Director has not by then received at the address specified in the notice a request for a hearing in respect of that offence.

(3) The Summary Proceedings Act 1957 applies as if the infringement notice were a reminder notice served under section 21(2) of that Act, and that Act and any regulations made under that Act apply, with all necessary modifications, to the alleged offence as if—

(a) the reference in section 21(1)(b) to providing particulars of a reminder notice under that section were a reference to providing particulars of the infringement notice under subsection (2) of this section; and

(b) subsection (2) of this section were in the place of section 21(3); and

(c) the reference in section 21(3A) to the particulars of a reminder notice not having been provided under section 21(3) were a reference to the particulars of the infringement notice not having been provided under subsection (2) of this section; and

(d) every reference in section 21(4), (4A), and (4B) to particulars of a reminder notice were a reference to the particulars of an infringement notice and every reference to the contents of a reminder notice were a reference to the contents of an infringement notice; and

(e) the reference in section 21(4)(a) to parts of the reminder notice were a reference to parts of the infringement notice; and

(f) the reference in section 21(4C) to particulars of a reminder notice were a reference to particulars of an infringement notice; and

(g) the reference in section 21(4C) to the reminder notice were a reference to the infringement notice; and

(h) the reference in section 21(5) to the verification of particulars of a reminder notice provided under section 21(3) were a reference to the verification of particulars of an infringement notice provided under subsection (2) of this section; and

(i) the references in sections 21(6)(b) and 21(10)(a) to a period of 28 days after the service of a reminder notice were references to the period of 14 days after the service of the infringement notice; and

(j) each reference in sections 21A, 21B, and 78B to a reminder notice were a reference to an infringement notice and each reference in sections 21A and 78B to the reminder notice were a reference to the infringement notice; and

(k) the references to reminder notices in the definition of defendant in section 2, and in section 212, and in any other relevant provisions of that Act or in any regulations made under that Act, were references to the infringement notice.

Compare: 1990 No 98 s 65S

Part 10
Regulations and miscellaneous provisions

Subpart 1—Regulations

Regulations generally

407 Regulations

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

(a) prescribing, or providing for the fixing of, fees and charges payable under this Act:

(b) prescribing those breaches of the regulations or rules that constitute offences against this Act:

(c) prescribing those breaches of the regulations or rules that constitute infringement offences against this Act:

(d) prescribing those breaches of airport bylaws made under section 235 that constitute infringement offences against this Act and prescribing infringement fees not exceeding $200 for those offences:

(e) specifying the offences in this Act that are infringement offences:

(f) prescribing the maximum fine for each offence prescribed under paragraph (b) or (c), which,—

(i) in the case of an individual, must not exceed $10,000; and

(ii) in the case of any other person, must not exceed $50,000:

(g) prescribing infringement fees for infringement offences (other than those to which paragraph (d) applies), which,—

(i) in the case of an individual, must not exceed $3,000; or

(ii) in the case of any other person, must not exceed $15,000:

(h) prescribing the information and documents that applicants for scheduled international air services licences under subpart 1 of Part 6 may be required to supply, and the time within which they must supply the information or documents:

(i) specifying, for the purposes of subpart 2 of Part 4, the agreements or arrangements between the Governments of Australia and New Zealand regarding mutual recognition of aviation-related certification:

(j) prescribing matters relating to maintenance, operation, access, and search of registers under this Act, including the New Zealand Register of Aircraft, the Civil Aviation Records, the register of current medical certificates, and the register of airport operators:

(k) providing for anything this Act says may or must be provided for by regulations:

(l) providing for anything incidental that is necessary for carrying out, or giving full effect to, this Act.

(2) If regulations may prescribe the manner in which something must be done, the regulations may provide for—

(a) by whom, when, where, and how the thing must be done:

(b) the form of the thing:

(c) what information or other evidence or documents must be provided in connection with the thing:

(d) requirements with which information, evidence, or documents that are provided in connection with the thing must comply.

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

Compare: 1990 No 98 s 100(1)

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
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

408 Provisions relating to regulations generally

(1) Regulations made under this Act may—

(a) provide differently for different types of persons, aircraft, aerodromes, aeronautical products, aviation participants, or aviation-related services or on any other differential basis; or

(b) provide differently for the same class of person, aircraft, aerodrome, aeronautical product, aviation participant, or aviation-related service or any other thing in different circumstances.

(2) Regulations made under this Act are not invalid merely because they confer any discretion on, or allow any matter to be determined or approved by, the Secretary, the CAA, or the Director or any other person or allow the Secretary, the CAA, or the Director or any other person to impose requirements as to the performance of any activities.

Compare: 1990 No 98 s 100(2), (4)

Regulations relating to carbon offsetting and reduction scheme for international aviation

409 Regulations relating to carbon offsetting and reduction scheme for international aviation

(1) The Governor-General may, by Order in Council, on the recommendation of the Minister, make regulations for the purposes of subpart 3 of Part 6 providing for—

(a) how an eligible New Zealand operator may be attributed to New Zealand for the purpose of Annex 16, Vol IV of the Convention:

(b) how flights are to be attributed to an eligible New Zealand operator:

(c) reporting periods and the time by which any plan, report, or other thing must be submitted to the Secretary:

(d) the content of an emissions monitoring plan:

(e) the method or methods by which fuel emissions may be calculated (including the reduction of emissions from the use of sustainable fuels):

(f) the method or methods by which fuel use may be monitored:

(g) procedures for dealing with gaps in information about fuel use:

(h) the method or methods by which the Secretary may calculate offsetting requirements:

(i) eligible units and the requirements for an eligible New Zealand operator to cancel eligible units:

(j) requirements in relation to the verification of reports:

(k) persons preparing verification reports to submit the reports to the Secretary:

(l) the manner in which any matter may be documented or proved:

(m) requirements for the keeping of records by any person for any purposes under subpart 3 of Part 6:

(n) requirements for the supply of information to the Secretary by an eligible New Zealand operator and the process for dealing with inconsistencies in the information:

(o) matters concerning the application of subpart 3 of Part 6 to a person who has been an eligible New Zealand operator, including, without limitation, the time by which the operator must submit for approval, and implement, its first emissions monitoring plan:

(p) the emissions information required to be provided for the purpose of section 213:

(q) any other matter necessary or desirable to implement Annex 16, Vol IV of the Convention.

(2) Regulations made 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
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Information disclosure

410 Regulations relating to information disclosure by aviation participants

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

(a) requiring any aviation participant or class of aviation participants to provide information in relation to their activities, which may include (without limitation) information about—

(i) passengers and air freight carried:

(ii) take-offs and landings made:

(iii) how often services provided by the aviation participant are on time:

(iv) rights of passengers, consignors, consignees, and other persons under Part 8:

(v) airfare trends:

(b) requiring any aviation participant or class of aviation participants to make the information to which any regulations made under paragraph (a) apply—

(i) available to all or any of the Secretary, the CAA, or any other specified person:

(ii) publicly available:

(c) prescribing the manner in which information must be made available.

(2) Nothing in regulations made under this section may require the provision of information in any circumstances that would be in breach of the information privacy principles in section 22 of the Privacy Act 2020.

(3) Regulations made 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
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

411 Regulations requiring information disclosure by specified aviation participants

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

(a) requiring a specified aviation participant to make publicly available in the prescribed manner prescribed information in relation to any or all of its specified aviation activities, which may include, without limitation, information about—

(i) prices, terms, and conditions:

(ii) costs, pricing policies, and pricing methodologies:

(iii) cost allocation policies and methodologies:

(b) requiring a specified aviation participant to prepare and make publicly available in the prescribed manner prescribed financial statements—

(i) in relation to the aviation participant; and

(ii) in relation to any of the aviation participant's subsidiaries or any part or division of the participant (whether or not including subsidiaries), as if the subsidiary or part or division were a separate and unrelated entity:

(c) prescribing the manner in which the information and financial statements must be made publicly available:

(d) requiring that the information and financial statements must be provided to the Secretary or any other person in the prescribed manner:

(e) prescribing the manner in which the information and financial statements must be provided to the Secretary or any other person:

(f) prescribing any standard or standards that the prescribed financial statements must comply with:

(g) prescribing any methodology or methodologies that must be used in preparing prescribed financial statements:

(h) prescribing requirements relating to audit, assurance, approval or certification of the information or financial statements:

(i) exempting, or providing for the exemption of, any person or persons, or any class or classes of persons, from all or any of the requirements of the regulations.

(2) Regulations made under this section do not apply to a specified airport company within the meaning of section 56A of the Commerce Act 1986.

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

(4) In this section,—

specified aviation activities means,—

(a) in the case of an airport operator, identified aerodrome activities:

(b) in the case of a provider of an air traffic service, air traffic services

specified aviation participant means,—

(a) subject to subsection (2), every aviation participant who is an airport operator; and

(b) every aviation participant who provides an air traffic service.

Compare: 1966 No 51 s 9A

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
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

412 Information to be supplied by aviation participants to Secretary

(1) A person who is required by regulations made under section 410 or 411 to make available statements or other information must supply to the Secretary any further statements, reports, agreements, particulars, and other information requested in writing by the Secretary for the purpose of monitoring the person's compliance with those regulations within 30 days after receipt of the request.

(2) All statements, reports, agreements, particulars, and other information supplied by a specified aviation participant (as defined in section 411(4)) to the Secretary under subsection (1) must be verified in the prescribed manner.

Compare: 1966 No 51 s 9C; 1990 No 98 s 99B

413 Offences in relation to information disclosure

(1) A person commits an offence if the person—

(a) fails, without reasonable excuse, to comply with any information disclosure requirements prescribed in regulations made under—

(i) section 410; or

(ii) section 411; or

(b) fails, without reasonable excuse, to comply with a request made under section 412(1).

(2) A person who commits an offence against subsection (1) is liable on conviction to a fine not exceeding $200,000.

Compare: 1990 No 98 s 99C

International carriage by air

414 Regulations for international carriage by air

(1) The Governor-General may, by Order in Council, on the recommendation of the Minister, make regulations—

(a) prescribing any advance payments for compensation that carriers must make to natural persons under Article 28 of the Montreal Convention:

(b) prescribing any arrangements for making advance payments for compensation that carriers must make to natural persons under Article 28 of the Montreal Convention:

(c) amending Schedule 6 to bring up to date the text of the Montreal Convention set out in that schedule:

(d) replacing Schedule 6 to set out, in an up-to-date form, the text of the Montreal Convention.

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

Compare: 1990 No 98 s 91T

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
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Fees and charges

415 Regulations relating to fees and charges

(1) The Governor-General may, by Order in Council, on the recommendation of the Minister, make regulations prescribing, or providing for the fixing of, fees and charges payable for all or any of the following purposes:

(a) to provide funds to establish, maintain, and operate works, facilities, and services under this Act:

(b) to pay the costs and expenses that the Secretary or the CAA or any of their employees incur in exercising functions, powers, and duties, and in providing services, under this Act:

(c) to reimburse the Secretary and the reviewer for costs directly and indirectly associated with the reviewer's functions under subpart 5 of Part 10:

(d) to reimburse the CAA and the convener for costs directly and indirectly associated with the Director's functions and the convener's functions relating to medical certification under Schedule 2:

(e) generally for the purposes of civil aviation.

(2) Without limiting subsection (1), the regulations may authorise the Minister to, by notice, fix fees and charges in respect of any matter specified in the regulations.

(3) Different rates of fees and charges may be prescribed or fixed in respect of different classes of persons, aircraft, aerodromes, aeronautical products, aviation participants, or aviation-related services or on the basis of different times of use, or on any other differential basis.

(4) The regulations may—

(a) specify the persons by whom and to whom any fees or charges are payable:

(b) prescribe, or provide for the payment of, penal or overtime or additional fees or charges or rates for work or services carried out outside normal working hours or at weekends or on statutory holidays:

(c) prescribe additional charges for reimbursement of travelling time, accommodation, and other expenses:

(d) require returns to be made by persons by whom any fees or charges are payable, and prescribe conditions relating to the making of such returns:

(e) provide for the refund or waiver of any fee or charge in whole or in part, in any specified case or class of cases.

(5) The power to prescribe, or provide for the fixing of, fees and charges in respect of any matter under this Act includes the power to prescribe, or provide for the fixing of, fees or charges, or both, in respect of any matter.

(6) This section does not limit section 407.

(7) Neither this section nor section 407 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.

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

(9) If the regulations authorise the Minister to fix fees and charges as set out in subsection (2),—

(a) a notice given by the Minister is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements); and

(b) the regulations must contain a statement to that effect.

Compare: 1990 No 98 s 38

Legislation Act 2019 requirements for secondary legislation referred to in subsection (8)		
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
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Legislation Act 2019 requirements for secondary legislation referred to in subsection (9)(a)		
Publication	The maker must publish it in accordance with the Legislation (Publication) Regulations 2021, unless it is published by PCO	LA19 ss 69, 73, 74(1)(aa)
Presentation	The Minister must present it to the House of Representatives, unless it is excluded by section 114(2) of the Legislation Act 2019	LA19 s 114
Disallowance	It may be disallowed by the House of Representatives, unless it is excluded by section 115 of the Legislation Act 2019	LA19 ss 115, 116

This note is not part of the Act.

Section 415(9)(b): editorial change made by the PCO, on 3 June 2025, under sections 86(1) and 87(l)(i) of the Legislation Act 2019 (2019 No 58).

416 Rebate of fees or charges

(1) The person or authority to whom any fees or charges are payable under the regulations may grant a rebate of fees or charges to any person who is liable to pay the fees or charges.

(2) Every rebate of fees or charges granted under subsection (1) must—

(a) be based on the quantity of services used by the person liable to pay the fees or charges; and

(b) be offered on an equal percentage basis to any other person using a similar quantity of services; and

(c) be granted in accordance with the regulations.

Compare: 1990 No 98 s 39

417 Payment of fees and charges

(1) Subject to the regulations, every application under this Act must be accompanied by payment of all relevant prescribed fees and charges.

(2) The regulations may—

(a) prescribe a date by which any fee or charge is payable:

(b) authorise the CAA or the Secretary to fix the date by which the fee or charge is payable:

(c) provide for a discount for early payment of any fee or charge or a penalty for late payment, or both, on an equal basis to persons liable to pay the fee or charge.

Compare: 1990 No 98 s 40

Levies

418 Governor-General may impose levies

(1) The Governor-General may, by Order in Council, made on the recommendation of the Minister, make regulations imposing on all or any aviation participants a levy—

(a) for the purpose of enabling the CAA to carry out its functions under this Act and any other Act:

(b) for the purpose of enabling the Secretary to carry out the Secretary's functions under this Act:

(c) for the purpose of enabling the reviewer to carry out their functions under subpart 5 of Part 10.

(2) The regulations may provide for a levy (whether for the purpose in subsection (1)(a) to (c), or 2 of those purposes, or all) to be payable to the CAA or the Secretary.

(3) Without limiting subsection (1), regulations may prescribe—

(a) the rate of levy; and

(b) to the extent that the regulations do not set an actual rate, how the actual rate of the levy is to be set; and

(c) when and how the levy is to be paid; and

(d) how the rate of the levy, and any variation of the rate, is to be notified; and

(e) how levy payments are to be received, handled, and accounted for.

(4) The Minister must not make any recommendation under subsection (1) in respect of a levy for the purpose in subsection (1)(a) unless—

(a) the CAA has requested that the Minister make the recommendation; and

(b) the Minister is satisfied that the CAA has consulted with persons, representative groups within the aviation industry or elsewhere, government departments, and Crown agencies as the Minister considers appropriate.

(5) The Minister must not make any recommendation under subsection (1) in respect of a levy for the purpose in subsection (1)(b) or (c) unless the Minister is satisfied that those persons, representative groups within the aviation industry or elsewhere, government departments, and Crown agencies as the Minister considers appropriate have been consulted.

(5A) Regulations made under this section must not impose a levy in respect of the costs that are otherwise recovered or otherwise to be recovered under the Airports (Cost Recovery for Processing of International Travellers) Act 2014.

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

Compare: 1990 No 98 s 42A

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
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 418(5A): inserted, on 19 May 2026, by section 130 of the Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21).

419 Basis on which levies may be imposed

(1) Different rates of levies may be imposed or varied under section 418 in respect of different classes of persons, aerodromes, aircraft, aeronautical products, aviation participants, or aviation-related services, or on the basis of different times of use or on any other differential basis.

(2) Without limiting subsection (1), the rate of any levy imposed or varied under section 418 may be calculated according to any one of, or any combination of 1 or more of, the following factors:

(a) the quantity of aviation fuel purchased by any person:

(b) the number of passengers able to be carried on any aircraft:

(c) the number of passengers actually carried on any aircraft:

(d) the amount of freight able to be carried on any aircraft:

(e) the amount of freight actually carried on any aircraft:

(f) the distance flown by any aircraft:

(g) aircraft size or capacity:

(h) the purpose for which any aircraft or aeronautical product is used or for which an aviation-related service is supplied:

(i) any other basis whatever that relates to the use, capacity, or size of—

(i) any aircraft; or

(ii) any aeronautical product; or

(iii) any aviation-related service; or

(iv) any privileges exercisable under any aviation document.

Compare: 1990 No 98 s 42B

420 Other provisions relating to levies

(1) A levy imposed under section 418 must be applied for any or all of the purposes described in section 418(1) for which the levy was imposed.

(2) Regulations made under section 418 may—

(a) specify—

(i) the persons who are liable to pay the levy (**levy payers**); and

(ii) the place at which the levy is payable:

(b) either—

(i) prescribe a date by which, or the occurrence of an event on or after which, any levy is payable; or

(ii) authorise the CAA to fix the date by which the levy is payable:

(c) require levy payers—

(i) to make returns; and

(ii) to maintain records relating to returns of a levy imposed under section 418:

(d) prescribe conditions relating to levy payers making returns:

(e) prescribe conditions for the purpose of auditing records relating to levy returns under section 421:

(f) provide for the refund or waiver of any levy in whole or in part, in any specified case or class of cases.

Compare: 1990 No 98 s 42D

421 Director may audit levy returns

(1) The Director may audit the records relating to the returns of any levy imposed under section 418.

(2) The Director may, for the purpose of the audit,—

(a) request a levy payer, with reasonable notice, to give access to the levy payer's records relating to levy returns; and

(b) access those records at any reasonable time.

(3) The Director must not charge, or recover from, a levy payer any cost incurred or to be incurred by the Director or the Director's agents in respect of an audit of records relating to levy returns.

422 Offences in relation to levy orders

(1) A person who, without reasonable excuse, fails to make a return as required by regulations made under section 418 commits an offence.

(2) A person who, without reasonable excuse, fails to maintain records as required by regulations made under section 418 commits an offence.

(3) A person who makes a return required to be made by the person by regulations made under section 418 knowing that the return is false or misleading in a material particular commits an offence.

(4) A person who commits an offence against subsection (1) or (2) is liable on conviction,—

(a) in the case of an individual, to a fine not exceeding $5,000:

(b) in the case of any other person, to a fine not exceeding $25,000.

(5) A person who commits an offence against subsection (3) is liable on conviction,—

(a) in the case of an individual, to imprisonment for a term not exceeding 12 months or to a fine not exceeding $10,000, or both:

(b) in the case of any other person, to a fine not exceeding $50,000.

Recovery of fees, charges, and levies

423 Recovery of fees, charges, and levies

(1) If a fee, charge, or levy is payable under this Act in respect of any function, power, duty, or service performed or exercised by the CAA or the Director in respect of any aircraft, the person whose name appears on the New Zealand Register of Aircraft in respect of that aircraft is liable to pay that fee, charge, or levy.

(2) Any person who would otherwise be liable to pay a fee, charge, or levy under subsection (1) is not liable if the person—

(a) proves—

(i) that during any relevant period of use of the aircraft the person was not entitled, whether alone or together with some other person, to possession of the aircraft; or

(ii) that another person was lawfully or unlawfully in possession of the aircraft; and

(b) has taken all reasonable steps to supply the CAA with information that would identify another person who, instead of the person on the Register of Aircraft, was lawfully or unlawfully in possession of the aircraft at the time the function, power, duty, or service was performed or exercised in respect of the aircraft.

Compare: 1990 No 98 s 42

424 Recovery of fee, charge, or levy as debt due to Crown

Any fee, charge, or levy payable under regulations made under this Part is recoverable in any court of competent jurisdiction as a debt due to the Crown.

Processing application or providing service may be declined if fee, charge, or levy unpaid

425 Processing application or providing service may be declined if fee, charge, or levy unpaid

(1) The CAA, the Director, the Secretary, or other person asked to process an application or provide a service under this Act may decline to process that application or provide that service until—

(a) the appropriate fee, charge, or levy has been paid; or

(b) arrangements acceptable to the CAA, the Director, the Secretary, or other person for payment of the fee, charge, or levy have been made; or

(c) an outstanding debt in relation to any fee, charge, or levy payable under this Act or the regulations has been paid.

(2) The CAA, the Director, the Secretary, or other person must not decline to process the application or provide the service under subsection (1) if declining to process the application or provide the service would put the safety of any person at risk.

Compare: 1990 No 98 ss 41(4), 42D(3)

Control of sale of alcohol at international airports

426 Regulations to control sale of alcohol at international airports

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

(a) prescribing the circumstances and conditions relating to the control of the sale of alcohol at international airports to passengers on aircraft departing from, or arriving in, New Zealand who are of, or over, the age referred to in section 252(1):

(b) prescribing—

(i) offences in respect of the breach of, or non-compliance with, any provision of any regulations made under this section; and

(ii) fines, not exceeding $1,000, that may, on conviction, be imposed in respect of any offence prescribed by regulations made under this section.

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

Compare: 1990 No 98 s 96(3)

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
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Regulations providing for transitional matters

427 Regulations providing for transitional matters

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations—

(a) providing transitional and savings provisions concerning the coming into force of this Act that may be in addition to, or in place of, the transitional and savings provisions in Schedule 1:

(b) providing that, subject to such conditions as may be specified in the regulations, during a specified transitional period,—

(i) specified provisions of this Act (including definitions) do not apply:

(ii) specified terms have the meaning given to them by the regulations:

(iii) specified provisions repealed or amended or revoked by this Act continue to apply:

(c) providing for any other matters necessary for facilitating or ensuring an orderly transition from the provisions of any enactments replaced by this Act to the provisions of this Act.

(2) No regulations made under this section may be made, or continue in force, later than 2 years after the date of commencement of this section.

(3) Regulations made 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
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Incorporation of material by reference in secondary legislation

428 Incorporation by reference in secondary legislation

(1) The following, whether in written or electronic form, may be incorporated by reference in secondary legislation made under this Act:

(a) any standards, requirements, or recommended practices of international aviation organisations:

(b) any standards, requirements, or rules—

(i) prescribed under law by any other contracting State of ICAO:

(ii) of the Standards Council, or a body or an organisation outside New Zealand that has functions corresponding to the functions of the Standards Council:

(iii) of any aviation sport or aviation recreation organisation:

(c) any other material or document that, in the opinion of the following person, is too large or impractical to print as part of the secondary legislation:

(i) in the case of the Minister making a rule, the Minister; and

(ii) in the case of the Director making a rule, the Director; and

(iii) in the case of an Order in Council made on the recommendation of the Minister, the Minister.

(2) A copy of any material incorporated by reference in secondary legislation, including any amendment to, or replacement of, the material, must be—

(a) certified as a correct copy of the material by the Secretary or the Director (as the case may be); and

(b) retained by the Director.

(3) The Legislation Act 2019 applies (as modified by this section) as if the material were incorporated in reliance on section 64 of that Act.

(4) Unless otherwise provided in the secondary legislation,—

(a) section 66 of the Legislation Act 2019 (effect of amendments to material incorporated by reference) does not apply; and

(b) any amendment (within the meaning of that section) of that material has immediate legal effect as part of the secondary legislation that incorporates it.

(5) Clauses 1 and 4(1) of Schedule 2 of the Legislation Act 2019 do not apply.

(6) The rest of that Schedule 2 applies as if references to the chief executive of the administering agency were references,—

(a) in the case of the Minister making a rule, to the Minister; and

(b) in the case of the Director making a rule, to the Director; and

(c) in the case of an Order in Council made on the recommendation of the Minister, to the Minister.

Subpart 2—Airworthiness directives

429 Airworthiness directives

(1) Without limiting section 32(2), the Director may, by notice in writing, issue an airworthiness directive in respect of aircraft, or aeronautical products, of a particular design if the Director believes on reasonable grounds—

(a) that an unsafe condition exists in any aircraft or aeronautical product; and

(b) that the condition is likely to exist or develop in any other aircraft, or aeronautical products, of the same design.

(2) The Director must give notice in the *Gazette* of an airworthiness directive issued under subsection (1).

(3) An airworthiness directive comes into force on the date specified in the directive, which may be a date earlier than its notification in the *Gazette* under subsection (2), if—

(a) the Director considers that urgent action is required; and

(b) the Director notifies the affected parties before the directive comes into force; and

(c) notification of the issuing of the directive is given in the *Gazette* not later than 28 days after the directive comes into force.

Compare: 1990 No 98 s 72I(3A)–(3C)

Subpart 3—Transport instruments

430 Regulations or rules may provide for transport instruments

(1) A regulation or rule made under this Act may provide for any matter that could be included in that regulation or rule to be dealt with in a transport instrument, but must not do so unless,—

(a) in the case of the Governor-General making the regulation or rule, the Minister has advised the Governor-General that the Minister is satisfied that the subject matter is appropriate to be in a transport instrument rather than in the regulation or rule itself; or

(b) in the case of the Minister making the rule, the Minister is satisfied that the subject matter is appropriate to be in a transport instrument rather than in the rule itself; or

(c) in the case of the Director making the rule, the Director is satisfied that the subject matter is appropriate to be in a transport instrument rather than in the rule itself.

(2) A regulation or rule that provides for a transport instrument must specify whether the Secretary or the Director may make the instrument.

(3) A regulation or rule that provides for a transport instrument may—

(a) provide for a particular transport instrument as amended or replaced from time to time:

(b) provide for any transport instrument that may be made for the purposes of that regulation or rule (even if the instrument has not been made at the time the regulation or rule is made):

(c) provide for any requirements in relation to the instrument or its creation.

(4) A transport instrument provided for in a regulation or rule is part of that regulation or rule.

(5) To avoid doubt,—

(a) a transport instrument has effect only to the extent that a regulation or rule made under this Act refers to it; and

(b) a breach of a transport instrument is a breach of the regulation or rule that provides for the instrument.

(6) If a regulation or rule provides for a transport instrument,—

(a) a transport instrument made under the regulation or rule is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements); and

(b) the regulation or rule must contain a statement to that effect.

(7) If, under the Legislation Act 2019, the transport instrument is not required to be published, the maker of the instrument must serve a copy of it on the persons (if any) whom the maker considers appropriate.

(8) A transport instrument to which subsection (7) applies—

(a) has effect only in relation to a person on whom it is served under subsection (7); and

(b) comes into force in relation to the person immediately after it is served on the person (even though it is not published).

Legislation Act 2019 requirements for secondary legislation referred to in subsection (6)(a)

Publication	The maker must publish it in accordance with the Legislation (Publication) Regulations 2021, unless it is published by PCO	LA19 ss 69, 73, 74(1)(aa)

Presentation	The Minister must present it to the House of Representatives, unless it is excluded by section 114(2) of the Legislation Act 2019	LA19 s 114
Disallowance	It may be disallowed by the House of Representatives, unless it is excluded by section 115 of the Legislation Act 2019	LA19 ss 115, 116

This note is not part of the Act.

431 Specified person may make transport instruments

(1) A specified person may make a transport instrument.

(2) A specified person must not delegate the power to make, amend, or revoke a transport instrument.

(3) In this section and section 432, **specified person** means 1 or more of the following:

(a) the Secretary:

(b) the Director.

432 Procedures relating to transport instruments

(1) The specified person must not make a transport instrument unless satisfied that all persons and organisations that the specified person thinks appropriate have been consulted, having regard to the subject matter of the proposed instrument.

(2) Subsection (1) does not apply to a transport instrument that amends another transport instrument if the specified person is satisfied that the amendment is minor or technical.

Subpart 4—Cape Town Convention and Aircraft Protocol

433 Interpretation in this Part

(1) In this Part, unless the context otherwise requires,—

Aircraft Protocol means the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment,—

(a) which opened for signature at Cape Town on 16 November 2001; and

(b) the English text of which is set out in Schedule 8

Cape Town Convention means the Convention on International Interests in Mobile Equipment,—

(a) which opened for signature at Cape Town on 16 November 2001; and

(b) the English text of which is set out in Schedule 7

Contracting State means a State that is a party to the Cape Town Convention and the Aircraft Protocol

declaration means a declaration made by New Zealand under the Cape Town Convention or the Aircraft Protocol

deregistration request means a request for the removal of the registration of an aircraft from the New Zealand Aircraft Register

removal request means a request for the removal of an irrevocable deregistration and export request authorisation from the New Zealand Aircraft Register.

(2) In this Part, any term defined in the Cape Town Convention or the Aircraft Protocol and used in this Part has the same meaning as in the Cape Town Convention or the Aircraft Protocol.

Compare: 1990 No 98 s 104

434 Cape Town Convention and Aircraft Protocol to have force of law

(1) The provisions of the Cape Town Convention and the Aircraft Protocol have the force of law in New Zealand.

(2) Despite subsection (1), the operation of the Cape Town Convention and the Aircraft Protocol in New Zealand is subject to any declaration that New Zealand has made under the Convention or Protocol.

Compare: 1990 No 98 s 105

435 Cape Town Convention and Aircraft Protocol to have effect in place of New Zealand law in certain circumstances

(1) The provisions of the Cape Town Convention and the Aircraft Protocol have effect in place of any other New Zealand law to the extent that the Convention or the Protocol applies to a matter to which the other law applies.

(2) Despite subsection (1), the operation of the Cape Town Convention and the Aircraft Protocol in New Zealand is subject to any declaration that New Zealand has made under the Convention or Protocol.

Compare: 1990 No 98 s 106

436 Governor-General may issue copies of declarations

(1) If New Zealand makes a declaration under the Cape Town Convention or the Aircraft Protocol, the Governor-General may, by Order in Council, issue a copy of the declaration.

(2) An Order in Council made under subsection (1) must state the date on which—

(a) New Zealand made the relevant declaration; and

(b) the declaration takes or took effect.

(3) An Order in Council made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1990 No 98 s 107

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

Disallowance It is not disallowable because an exemption applies under LA19 s 115(d), Sch 3 Schedule 3 of the Legislation Act 2019

This note is not part of the Act.

437 Certificates about Contracting States

(1) The Secretary of Foreign Affairs and Trade may sign a certificate that states whether, in respect of any specified day or period,—

(a) a State is a Contracting State:

(b) a declaration made under the Cape Town Convention or the Aircraft Protocol is effective in respect of a Contracting State and, if so, that specifies the contents of that declaration.

(2) A certificate signed or otherwise authenticated under subsection (1) is conclusive evidence for all purposes of the matters stated in the certificate.

Compare: 1990 No 98 s 108

438 Irrevocable deregistration and export request authorisations

(1) A debtor must submit an irrevocable deregistration and export request authorisation to the Director if the debtor—

(a) is the holder of a certificate of registration for a New Zealand registered aircraft; and

(b) issues an irrevocable deregistration and export request authorisation substantially in the form annexed to the Aircraft Protocol.

(2) A submission under subsection (1) must be accompanied by the prescribed fee (if any).

(3) If the Director receives a submission under subsection (1), the CAA must record the irrevocable deregistration and export request authorisation on the New Zealand Register of Aircraft.

Compare: 1990 No 98 s 109

439 Deregistration requests

(1) An authorised party (or the authorised party's certified designee) may, in accordance with the relevant irrevocable deregistration and export request authorisation recorded under section 438(3), submit a deregistration request in the prescribed form to the Director.

(2) In a request submitted under subsection (1), the authorised party must certify in writing that—

(a) the aircraft is not subject to any registered interest that ranks in priority to the international interest that the authorised party holds in the aircraft; or

(b) if the aircraft is subject to a registered interest that ranks in priority to the international interest that the authorised party holds in the aircraft,

the holder of the higher-ranking registered interest has consented to the deregistration and exportation of the aircraft.

(3) A request under subsection (1) must be accompanied by the prescribed fee (if any).

(4) If the Director receives a request under subsection (1) that is accompanied by the applicable statement specified in subsection (2), the Director must revoke the relevant certificate of registration—

(a) as soon as practicable; but

(b) in any event, within 5 working days of receiving the request.

(5) If the Director revokes a certificate of registration under subsection (4), the CAA must remove the registration from the New Zealand Register of Aircraft.

Compare: 1990 No 98 s 110

440 Removal requests

(1) An authorised party (or the authorised party's certified designee) may, in accordance with the relevant irrevocable deregistration and export request authorisation recorded under section 438(3), submit a removal request in writing to the Director.

(2) A debtor may, in accordance with the relevant irrevocable deregistration and export request authorisation recorded under section 438(3), submit a removal request in writing to the Director if the debtor—

(a) has obtained the written consent of the authorised party to do so; and

(b) provides a copy of the written consent to the Director with the removal request.

(3) A removal request under subsection (1) or (2) must be accompanied by the prescribed fee (if any).

(4) If the Director receives a removal request under subsection (1) or (2), the Director must cancel the relevant irrevocable deregistration and export request authorisation—

(a) as soon as practicable; but

(b) in any event, within 5 working days of receiving the request.

(5) If the Director cancels an irrevocable deregistration and export request authorisation under subsection (4), the CAA must remove the authorisation from the New Zealand Register of Aircraft.

Compare: 1990 No 98 s 111

441 Director must prescribe and publish forms for requests

The Director must prescribe and publish, on an Internet site maintained by, or on behalf of, the CAA, the forms that an authorised party (or the authorised

party's certified designee) must use to make a request for the deregistration of an aircraft under section 439.

Compare: 1990 No 98 s 112

442 Director must not exercise certain powers

The Director must not exercise any power that the Director may exercise under this Act in relation to a certificate of registration if the exercise of that power would interfere with, or be contrary to, any right or obligation arising under this Part.

Compare: 1990 No 98 s 113

Subpart 5—Review of Director's decisions

443 Interpretation

In this subpart, unless the context otherwise requires,—

applicant means—

(a) a person in respect of whom a decision is made; or

(b) the owner, operator, or person for the time being in charge of an aircraft or aeronautical product that is the subject of a decision

decision—

(a) means a decision specified in the regulations that is made by the Director under this Act or a person to whom the Director has delegated functions or powers under this Act; and

(b) includes the process by which a decision referred to in paragraph (a) is made

final decision means a decision made by the Director under section 448

reviewer means a person appointed as a reviewer or an interim reviewer under section 449.

444 Relationship between review and appeal under section 453

(1) This section applies if an applicant has made an application for a review under section 446 of a decision that is also appealable under section 453.

(2) An applicant must not appeal against the decision under section 453—

(a) unless the applicant withdraws or is deemed to have withdrawn the application for review; or

(b) until the Director has notified the applicant of a final decision under section 448.

(3) The time for bringing an appeal under section 453 begins on the earlier of the following:

(a) the day on which an applicant withdraws or is deemed to have withdrawn their application; or

(b) the day on which the applicant is notified of a final decision under section 448.

Provisions relating to reviews

445 Decision under review

(1) An applicant may apply under section 446 for a review of a decision.

(2) A decision under review remains in force until the Director makes a final decision under section 448.

446 Application for review

(1) An application for review must—

(a) be made by an applicant in writing; and

(b) be made within 20 working days after the date on which the applicant was notified of the decision to which the application relates; and

(c) identify the aspects of the decision that the applicant is applying to have reviewed.

(2) The reviewer may reject an application for review if satisfied that the application—

(a) does not adequately identify the aspects of the decision that the applicant is applying to have reviewed; or

(b) is trivial, frivolous, or vexatious; or

(c) is otherwise an abuse of process.

(3) If the reviewer rejects an application for review, the application is deemed to have been withdrawn.

447 Review procedure

(1) The reviewer must, as soon as practicable, review the decision.

(2) The reviewer—

(a) may draw on the advice and expertise of any person who the reviewer is satisfied is suitably qualified and experienced to assist the reviewer in assessing the decision that is under review; and

(b) may regulate the procedure of the review, subject to subsection (4); and

(c) may require the applicant, the Director, or any other person to provide evidence to the reviewer regarding any matter at issue with respect to the decision that is under review; and

(d) must receive and consider all relevant evidence provided under this section; and

(e) must have regard to the purposes of this Act and the Director's duties under this Act when carrying out the review.

(3) The applicant, Director, or other person—

(a) must provide evidence requested by the reviewer under subsection (2)(c); and

(b) may provide relevant evidence to the reviewer regarding any matter at issue with respect to the decision that is under review; and

(c) must participate in the review process either directly or through a nominated representative.

(4) A review must be conducted in private between the parties and any persons whom the reviewer has drawn on for advice or expertise or has required to provide evidence.

(5) The reviewer must, as soon as practicable, report their recommendations to the applicant and the Director in writing.

448 Final decision

(1) The Director must, within 10 working days of receiving the reviewer's report,—

(a) make a final decision on whether to accept any or all of the reviewer's recommendations; and

(b) notify the applicant, in writing, of the final decision and the reasons for the final decision.

(2) If the parties agree, the Director may, at any time before the reviewer reports their recommendations to the Director, make a final decision in the applicant's favour.

(3) If the Director makes a final decision under subsection (2),—

(a) the Director must notify the applicant, in writing, of a final decision made under subsection (2) and the reasons for the final decision; and

(b) the applicant is deemed to have withdrawn the application on the day the applicant receives the notification under paragraph (a).

General provisions

449 Appointment of reviewer

(1) The Minister must—

(a) appoint 1 or more reviewers for a period of no longer than 3 years; and

(b) consult the Director, and other parties as the Minister thinks fit, before making an appointment; and

(c) take into account any representations made under paragraph (b).

(2) The Minister may renew an appointment made under subsection (1) for 1 or more periods, each of which must not exceed 3 years.

(3) If the Minister renews an appointment, the Minister must—

(a) consult the Director, and other parties as the Minister thinks fit, before making the renewal; and

(b) take into account any representations made under paragraph (a).

(4) The Minister may—

(a) appoint an interim reviewer for a period of no longer than 6 months; and

(b) renew an appointment under paragraph (a) for 1 or more periods, each of which may not exceed 6 months.

450 Office of reviewer

(1) A reviewer must—

(a) have the necessary experience and expertise to perform the functions of a reviewer under this subpart; and

(b) be able to represent the public interest in aviation safety.

(2) A reviewer continues in office despite the expiry of the person's term until a successor is appointed, the reviewer's appointment is renewed, or the Minister advises that the reviewer is not to be replaced.

(3) Subsection (2) does not apply to an interim reviewer appointed under section 449(4).

451 Cancellation of appointment or resignation

(1) The Minister may cancel a person's appointment under section 449 if the person fails to perform satisfactorily the person's functions as a reviewer.

(2) Before cancelling an appointment, the Minister must—

(a) give the person written notice of the matters that constitute grounds for cancellation; and

(b) give the person a reasonable opportunity to make representations that explain why the person's appointment should not be cancelled; and

(c) take into account any representations made under paragraph (b).

(3) If the Minister cancels an appointment, the Minister must give the person written notice of the cancellation that sets out the grounds for the cancellation.

(4) A reviewer may resign at any time by notice in writing addressed to the Minister.

452 Reviewer's protection from liability

A reviewer is not subject to any civil or criminal liability for doing any act in good faith in the course of performing their functions under this Act.

Subpart 6—Rights of appeal

453 Appeal to District Court

(1) A person may appeal to the District Court against a specified decision made under this Act by the Director, an inspector, or the Secretary if another section of this Act gives the person a right of appeal under this section and—

(a) the person—

(i) is a person in respect of whom the decision was made; and

(ii) is dissatisfied with the decision; or

(b) the person is the owner, operator, or person for the time being in charge of the aircraft or aeronautical product that is the subject of the decision.

(2) The court may confirm, reverse, or modify the decision appealed against.

(3) In this section, a **specified decision** is a decision—

(a) to decline to register an aircraft under section 37:

(b) concerning the grant, issue, revocation, or suspension of an aviation document:

(c) to impose conditions on an aviation document:

(d) to issue an improvement notice under section 298:

(e) to issue a non-disturbance notice under section 302:

(f) to exercise powers under section 313 (which relates to the power of the Director or a specified person to detain aircraft, seize aeronautical products, and impose prohibitions and conditions in relation to aerodromes, aircraft, and aeronautical products) or section 314 (which relates to the Director's power to exercise that power without consent or a warrant where prompt action is necessary):

(g) concerning the issue of a medical certificate under Schedule 2:

(h) to impose or amend conditions, restrictions, or endorsements on a medical certificate under clause 15(a) of Schedule 2:

(i) to disqualify a licence holder under clause 15(c) of Schedule 2:

(j) to revoke a medical certificate under clause 15(d) or 16 of Schedule 2:

(k) concerning the implementation of the results of a report by the convener under clause 4 or 21 of Schedule 2:

(l) to amend a New Zealand AOC with ANZA privileges or withdraw those privileges under section 93(3):

(m) to suspend or cancel an airport operator's registration under section 225.

Compare: 1990 No 98 s 66(1), (2), (5)

454 Consequences of appeal to District Court

If an appeal to the District Court is lodged under section 453, pending the determination of the appeal,—

(a) every decision of the Director appealed against continues in force; and

(b) no person is excused from complying with any of the provisions of this Act on the ground that an appeal is pending.

Compare: 1990 No 98 s 66(3)

455 Further action of Director after appeal determined

(1) Even though an appeal under section 453 may have been determined in favour of the appellant, the Director may, on any sufficient grounds supported by facts or evidence discovered since the hearing of the appeal, refuse to grant, revoke, suspend, disqualify, or otherwise deal with, in accordance with the provisions of this Act, any—

(a) aviation document to which the appeal related; or

(b) person to whom the appeal related; or

(c) aviation document or approval granted or restored in compliance with the decision of the District Court on the appeal.

(2) Any action taken by the Director under subsection (1) is subject to the like right of appeal as the decision originally appealed against.

Compare: 1990 No 98 s 66(4)

456 Appeal to High Court on question of law

(1) A party to an appeal under section 453 may appeal to the High Court on a question of law.

(2) The High Court Rules 2016 and sections 126 to 130 of the District Court Act 2016, with all necessary modifications, apply to an appeal under subsection (1) as if it were an appeal under section 124 of that Act.

Compare: 1990 No 98 s 69

457 Further appeal to Court of Appeal

(1) A party to an appeal on a question of law under section 456 may appeal to the Court of Appeal on that question of law—

(a) with the leave of the High Court; or

(b) if the High Court refuses leave, with special leave of the Court of Appeal.

(2) On any appeal under subsection (1), the Court of Appeal may make an order or a determination as it thinks fit.

(3) The decision of the Court of Appeal is final—

(a) on an appeal under this section; or

(b) on an application for special leave to appeal to the court.

(4) Subject to this section, the procedure in respect of any appeal under this section must be in accordance with the rules of court.

Compare: 1990 No 98 s 70

Subpart 7—Other miscellaneous provisions

Delegations

458 Delegation of certain functions of Minister to CAA

(1) The Minister may delegate to the CAA the whole or any part of the Minister's function of administering New Zealand's participation in the Convention and any other international aviation convention, agreement, or understanding to which New Zealand is a party.

(2) A delegation under this section must be in writing.

(3) A delegation under this section must not include the power to delegate under this section.

(4) Despite subsection (1), the Minister must not delegate the Minister's power to make rules under this Act.

(5) The power of the Minister to delegate under this section—

(a) is subject to any prohibitions, restrictions, or conditions contained in any other Act in relation to the delegation of the Minister's functions or powers; but

(b) does not limit any power of delegation conferred on the Minister by any other Act.

(6) Despite any delegation made under this section, nothing—

(a) affects or prevents the Minister's performance of any function or the exercise of any power that the Minister has delegated; and

(b) affects the responsibility of the Minister for the actions of any person acting under the delegation.

Compare: 1990 No 98 ss 22(1)–(4), (7), 28(9)

459 Further provisions regarding delegation of Minister's functions or powers to CAA

(1) The CAA may perform any functions or exercise the powers delegated to the CAA under section 458—

(a) in the same manner and with the same effect as if they had been conferred on the CAA directly by this section and not by delegation; and

(b) subject to any directions given or conditions imposed by the Minister.

(2) If the CAA purports to act under any delegation under section 458, the CAA must, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.

(3) The CAA must not delegate any functions or powers delegated to the CAA by the Minister without the written consent of the Minister.

Compare: 1990 No 98 s 22(5), (6), (8)

460 Delegation of Director's functions or powers to employees of CAA

(1) The Director may delegate to any employee of the CAA any of—

(a) the Director's functions and powers under this or any other Act; or

(b) the functions or powers delegated to the Director under this Act.

(2) A delegation under this section must be in writing.

(3) Despite subsection (1), the Director must not delegate the power under section 98 to revoke an aviation document.

(4) Subsection (1) is subject to any other provision of this Act that provides that the Director must not delegate a particular function or power.

(5) The Director must not delegate any functions or powers delegated to the Director by the Minister without the written consent of the Minister.

Compare: 1990 No 98 s 23A(1), (2), (4), (6)

461 Further provisions regarding delegation of Director's functions or powers to employees of CAA

(1) A delegation under section 460 may be made—

(a) to a specified employee of the CAA; or

(b) to CAA employees of a specified class; or

(c) to the holder or holders for the time being of a specified office of the CAA; or

(d) to the holder or holders for the time being of a specified class of offices of the CAA.

(2) A delegation under section 460, until revoked, continues in force according to its tenor even if the Director by whom it was made has ceased to hold office.

(3) For the purposes of this section and section 460, sections 73(4) and 74 to 76 of the Crown Entities Act 2004 apply as if references to the board were references to the Director, with all necessary modifications.

Compare: 1990 No 98 s 23A(5), (7), (8)

462 Delegation of Director's functions or powers to persons outside CAA

(1) The Director may delegate to any person who is not an employee of the CAA any of the Director's functions and powers under this Act.

(2) The Director must not delegate under subsection (1)—

(a) the power under section 98 to revoke aviation documents; or

(b) the power under section 102 to suspend or revoke aviation documents; or

(c) the power under section 373 to issue infringement notices.

(3) Subsection (1) is subject to any other provision of this Act that provides that the Director must not delegate a particular function or power.

(4) A function or power that may be delegated under subsection (1) to a person in New Zealand who is not an employee of the CAA may be delegated under that subsection to an officer of CASA for the purpose of enabling that officer to perform the function or exercise the power in Australia in respect of New Zealand AOCs with ANZA privileges.

(5) A delegation under this section must be in writing.

(6) A delegation must not be made under this section without the written consent of the Minister.

(7) In any case where the Director has delegated any functions or powers to any person under this section, the person may, with the prior approval in writing of the Minister, delegate to any other person any of those functions or powers as are so approved.

Compare: 1990 No 98 s 23B(2)–(5)

463 Further provisions regarding delegation of Director's functions or powers to persons outside CAA

(1) A delegation under section 462 may be made—

(a) to a specified person; or

(b) to persons of a specified class; or

(c) to the holder or holders for the time being of a specified office; or

(d) to the holder or holders for the time being of a specified class of office.

(2) A delegation under section 462 must be given for a specified period but may be revoked at any time by written notice.

(3) A person purporting to act under any delegation under section 462 must, when reasonably requested to do so, produce evidence of the person's authority to so act.

(4) A person who performs or exercises any function or power under a delegation made under section 462 or under section 73 of the Crown Entities Act 2004 may charge the person in respect of whom the function or power is performed or exercised a reasonable fee in respect of the performance or exercise of that function or power.

(5) For the purposes of this section and section 462, sections 73(4) and 74 to 76 of the Crown Entities Act 2004 apply as if references to the board were references to the Director, with all necessary modifications.

Compare: 1990 No 98 s 23B(6)–(12)

464 Restrictions on delegations in relation to AvSec

Despite sections 460 to 463 of this Act and section 73 of the Crown Entities Act 2004,—

(a) neither the CAA nor the Director may delegate any function or power that does not relate to the functions or powers of AvSec to any person in AvSec without the prior written approval of the Minister:

(b) neither the CAA nor the Director may delegate any function or power in relation to AvSec to any person outside AvSec without the prior written approval of the Minister.

Compare: 1990 No 98 s 23C

Disclosure or publication of information by CAA

465 Disclosure or publication of information

(1) This section applies if the CAA obtains information or gains access to a document in performing or exercising any function, duty, or power under civil aviation legislation.

(2) The CAA may publish or disclose, or direct any person to publish or disclose, any information or document to which this section applies only if—

(a) the publication or disclosure of the information or document is for the purpose of promoting any of the main or additional purposes of this Act, and the CAA or the person ensures that the information does not identify, and could not reasonably be expected to identify, any particular person; or

(b) the information or document is available to the public under any legislation or is otherwise publicly available; or

(c) the information is in a statistical or summary form; or

(d) the publication or disclosure of the information or document is—

(i) for the purposes of, or in connection with, the performance or exercise of any function, duty, or power conferred or imposed on the CAA or the Director under this Act or any other Act (including the Official Information Act 1982); or

(ii) to—

(A) a designated agency or an overseas agency in accordance with section 466; or

(B) TAIC in accordance with section 50; or

(iii) to a person who the CAA is satisfied has a proper interest in receiving the information or document; or

(iv) with the consent of the person to whom the information or document relates or the person to whom the information or document is confidential; or

(v) required or authorised by law or an order of a court; or

(vi) required to meet New Zealand's obligations in relation to reporting of an accident involving aircraft, or a serious incident in accordance with the provisions of the Convention.

(3) The CAA must not publish or disclose, or direct a person to publish or disclose, any information or document under subsection (2)(d)(iii) unless the CAA is satisfied that appropriate protections are or will be in place for the purpose of maintaining the confidentiality of the information or document (in particular, information that is personal information within the meaning of the Privacy Act 2020).

(4) In relation to personal information within the meaning of the Privacy Act 2020,—

(a) for the purposes of section 24 of the Privacy Act 2020, subsection (2)(d)(ii) and (iii) authorises the CAA to make information available; but

(b) this section does not otherwise limit the Privacy Act 2020.

Information sharing by CAA

466 Sharing of information between CAA, designated agencies, and overseas agencies

(1) The CAA may, subject to any legislation, provide a designated agency or an overseas agency with any information, or a copy of any document, that it—

(a) holds in relation to the performance or exercise of its functions, duties, or powers under or in relation to civil aviation legislation; and

(b) considers may assist, as the case may be,—

(i) the designated agency in the performance or exercise of the designated agency's functions, duties, or powers under or in relation to any legislation; or

(ii) the overseas agency in the performance or exercise of the overseas agency's functions, powers, or duties under foreign law.

(2) The CAA may use any information, or a copy of any document, provided to it by a designated agency under any legislation, or by an overseas agency, in the CAA's performance or exercise of its functions, powers, or duties under civil aviation legislation.

(3) The CAA (when providing information or a document under subsection (1)) or a designated agency (when providing information or a document as referred

to in subsection (2)) may impose conditions that it thinks fit relating to the provision of the information or document, including conditions relating to—

(a) the storage and use of, or access to, anything provided:

(b) the copying, returning, or disposing of copies of any documents provided.

(4) This section applies despite anything to the contrary in any contract, deed, or document.

(5) In this section,—

designated agency means any of the following:

(a) the New Zealand Police:

(b) the New Zealand Transport Agency:

(c) the New Zealand Customs Service:

(d) the Ministry for Primary Industries:

(e) the Ministry of Foreign Affairs and Trade:

(f) the Ministry of Business, Innovation, and Employment, including any statutory officer who carries out work for that ministry:

(g) the Ministry of Health:

(h) the Ministry of Transport:

(i) Maritime New Zealand:

(j) the EPA:

(k) a local authority:

(l) Fire and Emergency New Zealand:

(m) a designated agency under the Health and Safety at Work Act 2015:

(n) a medical examiner appointed under this Act:

(o) a medical officer of health:

(p) WorkSafe New Zealand:

(q) any other agency specified as a designated agency for the purpose of this section by the regulations

EPA means the Environmental Protection Authority established by section 7 of the Environmental Protection Authority Act 2011

local authority has the same meaning as in section 5(1) of the Local Government Act 2002

medical officer of health—

(a) has the same meaning as in section 2(1) of the Health Act 1956; and

(b) includes the officers referred to in section 22 of that Act

overseas agency means an organisation in another country or territory that performs functions that correspond with, or are similar to, any of those conferred on the CAA.

Subpart 8—Consequential and other amendments, repeals, and revocations

Amendments to Airport Authorities Act 1966

467 Principal Act

Sections 468 to 473 amend the Airport Authorities Act 1966.

468 New section 2AB inserted (Transitional, savings, and related provisions)

After section 2A, insert:

2AB Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1 have effect according to their terms.

469 Section 3 amended (Airport authorities may establish and carry on airports)

Replace subsection (4) with:

(4) Despite subsections (1) and (3), no Order in Council may be made under this section on or after the date on which section 487 of the Civil Aviation Act 2023 comes into force.

470 Section 9 amended (Bylaws)

(1) Replace section 9(1)(e) with:

(e) regulating (other than on a road as defined in section 2(1) of the Land Transport Act 1998) traffic, whether pedestrian or vehicular, and the provision and use of parking places for vehicles at the airport:

(2) After section 9(7), insert:

(7A) For the purpose of a bylaw to which subsection (7) applies, the definition of enforcement authority in section 2(1) of the Land Transport Act 1998 and sections 22AD(1A), 139(7), and 141(8) of that Act (as they were immediately before the date on which section 487 of the Civil Aviation Act 2023 came into force) continue to have effect despite their repeal by section 486 of the Civil Aviation Act 2023.

471 Section 10 amended (Repeals and savings)

In section 10(1), replace “the Schedule” with “Schedule 2”.

472 New Schedule 1 inserted

Insert the Schedule 1 set out in Schedule 10 of this Act as the first schedule to appear after the last section of the principal Act.

473 Schedule amended

In the Schedule heading, replace "Schedule" with "Schedule 2".

Amendments to Aviation Crimes Act 1972

474 Principal Act

Sections 475 and 476 amend the Aviation Crimes Act 1972.

475 Section 2 amended (Interpretation)

In section 2(1), insert in its appropriate alphabetical order:

landside security area has the same meaning as in section 5 of the Civil Aviation Act 2023

476 Section 11 amended (Taking firearms, explosives, etc, on to aircraft or into sterile area or security enhanced area)

(1) In the heading to section 11, replace "**sterile area**" with "**landside security area, sterile area,**".

(2) In section 11(1A), replace "sterile area" with "landside security area, a sterile area,".

(3) In section 11(1B)(b), replace "sterile area" with "landside security area, a sterile area,".

Amendments to Maritime Transport Act 1994

477 Principal Act

Sections 478 and 479 amend the Maritime Transport Act 1994.

478 New sections 199 and 199A inserted

After the cross-heading above section 200, insert:

199 Search and rescue operations

(1) The Minister—

(a) must establish, maintain, and operate a search and rescue co-ordination centre to co-ordinate and conduct—

(i) an aviation search and rescue operation; and

(ii) a maritime search and rescue operation; and

(iii) any other search and rescue operation that the Minister considers appropriate; and

(b) may exercise any powers that may be necessary or desirable—

(i) for the effective co-ordination and performance of a search and rescue operation specified in paragraph (a); and

(ii) to implement any international convention or agreement relating to search and rescue to which New Zealand is a party; and

(c) may appoint persons to, either generally or in any particular case, participate in or co-ordinate a search and rescue operation specified in paragraph (a).

(2) The Minister may authorise the payment, out of money appropriated for the purpose by Parliament, of an amount that the Minister considers appropriate to—

(a) any person who assisted in a search and rescue operation specified in subsection (1)(a) at the request of a person appointed under subsection (1)(c); or

(b) the owner of any vehicle, ship, or aircraft used in a search and rescue operation specified in subsection (1)(a) in response to a request by a person appointed under subsection (1)(c).

Compare: 1990 No 98 s 14B

199A Minister may direct agencies with respect to search and rescue operations

The Minister may direct the Civil Aviation Authority or Maritime New Zealand, or any other Crown entity or government agency for which the Minister is responsible and whose functions are consistent with search and rescue operations, to do any or all of the following:

(a) operate and maintain the search and rescue co-ordination centre established under section 199(1)(a):

(b) co-ordinate, or participate in the co-ordination of, any search and rescue operation specified in section 199(1)(a):

(c) perform, or participate in the performance of, any search and rescue operation specified in section 199(1)(a):

(d) exercise any or all of the powers of the Minister under section 199(1)(b) and (c) and (2).

Compare: 1990 No 98 s 14C

479 Section 431 amended (Functions of Authority)

Replace section 431(3) with:

(3) The Authority must, if directed by the Minister under section 199A, do any or all of the following:

(a) maintain and operate the search and rescue co-ordination centre established under section 199(1)(a):

(b) co-ordinate, or participate in the co-ordination of, any search and rescue operation specified in section 199(1)(a):

(c) perform, or participate in the performance of, any search and rescue operation specified in section 199(1)(a):

(d) exercise any or all of the powers of the Minister under section 199(1)(b) and (c) and (2).

Amendment to Transport Accident Investigation Commission Act 1990

480 Principal Act

Section 481 amends the Transport Accident Investigation Commission Act 1990.

481 Section 14A amended (Interpretation)

In section 14A, insert in their appropriate alphabetical order:

cockpit video recorder, in relation to an aircraft, means—

(a) a cockpit video recorder that is required to be installed in any aircraft (whether or not it is required to be installed in that aircraft) for the purpose of complementing an accident or incident investigation; or

(b) any other video recording device approved for installation under rules made under the Civil Aviation Act 2023 and installed for the purpose of complementing an accident or incident investigation

cockpit video recording means a video recording on or from a cockpit video recorder

cockpit voice recorder, in relation to an aircraft, means—

(a) a cockpit voice recorder that is required to be installed in any aircraft (whether or not it is required to be installed in that aircraft) for the purpose of complementing an accident or incident investigation; or

(b) any other voice recording device approved for installation under rules made under the Civil Aviation Act 2023 and installed for the purpose of complementing an accident or incident investigation

cockpit voice recording means a voice recording on or from a cockpit voice recorder

Amendments to Public Works Act 1981

482 Principal Act

Section 483 amends the Public Works Act 1981.

483 Section 2 amended (Interpretation)

(1) In section 2, repeal the definition of **aerodrome**.

(2) In section 2, repeal the definition of **airport authority**.

(3) In section 2, definition of **local authority**, repeal paragraph (c).

Amendment to Legislation (Publication) Regulations 2021

484 Principal regulations

Section 485 amends the Legislation (Publication) Regulations 2021.

485 Schedule 3 amended

In Schedule 3, Part 2, before the item relating to the Epidemic Preparedness Act 2006, insert:

Civil Aviation Act 2023	ss 52, 63, 64, 67, 70, 152, 154, 322(1)(b) s 430 (where transport instrument provided for by rule made under s 52, 63, or 70)	Publication not required if publication is inappropriate for reasons of security

Consequential amendments

486 Consequential amendments

Amend the legislation specified in Schedule 9 as set out in that schedule.

Repeals

487 Repeal of Civil Aviation Act 1990

The Civil Aviation Act 1990 (1990 No 98) is repealed.

488 Repeal of Airport Authorities Act 1966

The Airport Authorities Act 1966 (1966 No 51) is repealed on the fifth anniversary of the date on which section 487 comes into force.

Revocations

489 Revocations

(1) The following notices are revoked:

(a) Direction to Require Screening Notice 2007 (SR 2007/78):

(b) Civil Aviation (Direction to Require Screening and Searching) Notice 2018 (LI 2018/108):

(c) Notice of Direction to Require Screening (*Gazette* 2016-au6778):

(d) Direction to Require Screening Notice 2007 (*Gazette* 2007, p 848):

(e) Notice of Direction to Require Screening and Reasonable Searches (*Gazette* 2012, p 2378):

(f) any other notice made under section 77A or 77B of the Civil Aviation Act 1990 and in force immediately before the date on which section 487 comes into force:

(g) Provision of Aviation Security Services Pursuant to section 79A of the Civil Aviation Act 1990 (*Gazette* 1997, p 1321).

(2) The Civil Aviation (Offences) Regulations 2006 (SR 2006/168) are revoked.

(3) Any ordinary rule made under the Civil Aviation Act 1990 and in force immediately before the date on which section 487 comes into force is revoked.

(4) The following orders are revoked:

(a) Civil Aviation (Montreal Convention) Order 2010 (SR 2010/367):

(b) Civil Aviation (Montreal Convention) Order 2020 (LI 2020/163).

Schedule 1
Transitional, savings, and related provisions

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Part 1
Provisions relating to this Act as enacted

Subpart 1—Carbon offsetting and reduction scheme for international aviation (CORSIA)

1 Interpretation

In this subpart, **commencement date** means the date on which subpart 3 of Part 6 comes into force.

2 Transitional provision relating to emissions monitoring plan

(1) This clause applies to a person if,—

(a) on the commencement date, the person is an eligible New Zealand operator in relation to the calendar year in which the commencement date occurs; and

(b) before the commencement date the person has entered into a memorandum of understanding with the Secretary regarding compliance with the requirements of Annex 16, Vol IV of the Convention.

(2) The person must be treated as having an emissions monitoring plan approved (as at the commencement date) under section 207(6).

Subpart 2—Other transitional provisions

3 Interpretation

In this subpart,—

commencement date means the date on which section 487 comes into force

former Act means the Civil Aviation Act 1990.

Savings relating to registry and information services

4 New Zealand Register of Aircraft and Civil Aviation Registry

(1) The New Zealand Register of Aircraft established and maintained under section 73(1) of the former Act immediately before the commencement of this clause continues as if it were the New Zealand Register of Aircraft maintained under this Act.

(2) Any matter recorded immediately before the commencement of this clause on the Civil Aviation Registry established and maintained under section 74(1) of the former Act is to be treated as recorded on the Civil Aviation Records maintained under this Act.

Members of CAA are members of Board of CAA

5 Members of CAA are members of Board of CAA

(1) A person who, immediately before the commencement date, held office as a member of the CAA under the former Act is deemed to be appointed as a member of the Board under section 21 of this Act.

(2) The term of office of a person deemed to be appointed as a member of the Board under subclause (1) expires on the date on which it would have expired had this Act not been enacted.

(3) Nothing in subclause (2) limits the ability under the Crown Entities Act 2004 to remove a member from office.

Service charter

6 Service charter

The service charter made under section 72G of the former Act and in effect immediately before the commencement date continues in effect and is to be treated as the engagement charter under section 28 of this Act.

7 Making of *Gazette* notice under section 35

The Minister may exercise the power to give a notice under section 35 before the commencement date, and with effect on the commencement date, without complying with section 35(2).

Remaking of civil aviation rules

8 Minister must certify new civil aviation rules

(1) The Minister must certify a draft of the civil aviation rules under this Act in accordance with this clause.

(2) The draft rules must comprise—

(a) the draft rules prepared in accordance with subclause (3); and

(b) any other provisions to be incorporated in accordance with subclause (5).

(3) The draft rules must contain all the ordinary rules that were in force under Part 3 of the former Act immediately before the date on which the rules are certified—

(a) with whatever changes to the rules are necessary or desirable to ensure that the rules—

(i) are consistent with this Act, the regulations, and any amendments made to other legislation by this Act; and

(ii) are accurate and coherent; and

(iii) address any transitional issues; and

(iv) operate in a way that takes into account changes in technology; and

(b) with any necessary or desirable provision for transport instruments (applying the test in section 430(1)(b) or any other matter contemplated by section 64(5)); and

(c) with any minor amendments necessary or desirable to clarify intent, resolve ambiguity, or reconcile inconsistencies.

(4) Nothing in section 34(1) of the former Act or section 61(1) of this Act applies to certification of the rules to which subclause (3) applies or to the making of those rules under clause 9.

(5) The draft rules certified under this clause may include any provisions to which subclause (3) does not apply if the Minister is satisfied that the requirements of section 34(1) of the former Act have been complied with in respect of those provisions.

(6) The Minister's certificate is conclusive evidence that the draft of the rules complies with this clause.

9 Minister must make new civil aviation rules

(1) The Minister must make the rules certified in accordance with clause 8.

(2) The rules—

(a) must be made under section 52, on or before the commencement date, in accordance with this Act; and

(b) may come into force on or after the commencement date.

10 Minister may make transport instruments referred to in new civil aviation rules

(1) This clause applies if the rules certified under clause 8 contain provision for transport instruments in accordance with clause 8(3)(b).

(2) A transport instrument referred to in subclause (1) may be made by the Minister under subpart 3 of Part 10 instead of the specified person referred to in the regulation or rule that provides for the transport instrument.

(3) Subpart 3 of Part 10 applies as if the Minister were the specified person referred to in the regulation or rule that provides for the transport instrument.

(4) A transport instrument made by the Minister in accordance with subclause (2) may be amended or revoked by the specified person referred to in subclause (3) as if it had been made by that person.

11 Provisions relating to clauses 8 to 10

Clauses 8 to 10 apply as if—

(a) the provisions of this Act that confer the powers to make rules, and all other provisions of the Act that are relevant to the exercise of those powers and that have not yet commenced, have commenced; and

(b) a legal position that would be conferred or imposed by any provision of this Act that is relevant to the exercise of those powers, and that has not yet commenced, has been conferred or imposed.

12 Emergency rules

(1) Any emergency rule made by the Director under section 31 of the former Act and in force immediately before the commencement date continues in force according to its tenor and is to be treated as made under section 67 of this Act.

(2) Except as provided in subclause (1), this clause does not limit section 43 of the Legislation Act 2019.

Exemptions from rules

13 Exemptions from rules

(1) This clause applies to an exemption granted by the Director under section 37 of the former Act (including any conditions or limitations imposed on the exemption) and in force immediately before the commencement date.

(2) On and after the commencement date, the exemption (and any conditions or limitations imposed on the exemption) continues to apply until it is sooner replaced or revoked as if it were granted by the Director under section 322.

Aviation documents

14 Application for grant or renewal of aviation document

If, immediately before the commencement date, an application has been made under section 8 of the former Act for the grant or renewal of an aviation document,—

(a) the application may be determined under the former Act as if this Act had not been enacted; and

(b) if the application is granted, the aviation document must be treated as an aviation document issued under subpart 1 of Part 4 of this Act.

15 Aviation documents

(1) A person who, immediately before the commencement date, held an aviation document under Part 1 of the former Act is to be treated as holding an aviation document under subpart 1 of Part 4 of this Act.

(2) Any conditions that apply to the document (including any conditions imposed under section 17 or 18 of the former Act) continue to apply and must be treated as imposed under this Act.

(3) The document expires on the date on which it would have expired if this Act had not been enacted.

(4) Nothing in subclause (3) limits any provision of this Act that authorises the revocation or suspension of an aviation document.

16 Aviation document suspended

(1) Subclause (2) applies if, immediately before the commencement date, the Director has given the holder of an aviation document a notice under section 11(2) of the former Act.

(2) All further steps in relation to the matter that is the subject of the notice must be dealt with under the former Act as if this Act had not been enacted.

(3) Subclause (4) applies if, immediately before the commencement date, an aviation document has been suspended under section 17 of the former Act.

(4) The suspension must be dealt with under the former Act as if this Act had not been enacted.

Medical certificates

17 Application for grant or renewal of medical certificate

If, immediately before the commencement date, an application has been made under Part 2A of the former Act for the grant or renewal of a medical certificate,—

(a) the application may be determined under the former Act as if this Act had not been enacted; and

(b) if the application is granted, the medical certificate must be treated as issued under Schedule 2 of this Act.

18 Medical certificates

(1) A person who, immediately before the commencement date, held a medical certificate under Part 2A of the former Act is to be treated as holding a medical certificate under Schedule 2 of this Act.

(2) Any conditions, restrictions, or endorsements that apply to the certificate continue to apply and must be treated as imposed under this Act.

(3) The certificate expires on the date on which it would have expired if this Act had not been enacted.

(4) Nothing in subclause (3) limits any provision of this Act that authorises the revocation or suspension of a medical certificate.

19 Matters in progress under section 27H or 27L of former Act

The former Act applies as if this Act had not been enacted to—

(a) an investigation under section 27H that immediately before the commencement date had begun but was not completed:

(b) the review of any decision if, immediately before the commencement date, a request has been made under section 27L and the review is not completed.

20 Revocation, suspension, amendment, and surrender of medical certificate

(1) This clause applies if, immediately before the commencement date, the Director has issued written notice under section 27I of the former Act to a licence holder in relation to the revocation, suspension, amendment, or surrender of a medical certificate.

(2) Any further steps after that commencement date concerning the matter to which the notice relates must be completed under Schedule 2 of this Act.

(3) Nothing in subclause (2) invalidates anything done before the commencement date and any such thing may be treated, for the purpose of the matter to which the notice relates, as having been done under Schedule 2 of this Act.

21 Medical examiners and aviation examiners

(1) A person who, immediately before the commencement date, was designated as a medical examiner under section 27F(1) of the former Act continues under that designation on and after that date as if the person were designated as a medical examiner under clause 29(1) of Schedule 2 of this Act.

(2) A person who, immediately before the commencement date, was designated as an aviation examiner under section 27F(2) of the former Act continues under that designation on and after that date as if the person were designated as an aviation examiner under clause 29(2) of Schedule 2 of this Act.

(3) A person who continues under subclause (1) or (2) to be designated remains subject to any direction or condition that applied to the person's designation immediately before the commencement date.

(4) The term of a designation continued under subclause (1) or (2) expires on the date on which it would have expired had this Act not been enacted.

22 Convener and deputy convener

(1) A person who, immediately before the commencement date, held an appointment as a convener under section 27J of the former Act is deemed to hold an appointment as convener under clause 30 of Schedule 2 of this Act.

(2) A person who, immediately before the commencement date, held an appointment as a deputy convener under section 27J of the former Act is deemed to hold an appointment as deputy convener under clause 30 of Schedule 2 of this Act.

(3) The term of an appointment continued under subclause (1) or (2) expires on the date on which it would have expired had this Act not been enacted.

23 General directions and emergency directives issued under section 27G of former Act

A general direction or an emergency directive issued under section 27G of the former Act and in effect immediately before the commencement date continues in force and is to be treated as made under clause 25 of Schedule 2.

Drug and alcohol testing

24 Interpretation

In this clause and clauses 25 to 31,—

current DAMP operator means a person who, on the commencement date, is a DAMP operator within the meaning of that term in section 113

existing employment agreement means an employment agreement, within the meaning of the Employment Relations Act 2000, between or that is binding on both a current DAMP operator and a safety-sensitive worker

transition period means the period commencing on the commencement date and ending immediately before the date that is the second anniversary of the commencement date.

25 Application of subpart 6 of Part 4 to current DAMP operator

Subpart 6 of Part 4 applies to a current DAMP operator subject to this Part.

26 Current DAMP operator must develop and submit DAMP for approval

(1) On or before the relevant date prescribed under the rules, a current DAMP operator must develop and submit a DAMP that meets the requirements of section 114 for approval by the Director under clause 27.

(2) The DAMP submitted under subclause (1) must include a proposed date of implementation.

27 Approval of DAMP

(1) If the DAMP submitted under clause 26 meets the requirements of this Act and any requirements prescribed in the rules, the Director must approve the DAMP.

(2) When approving the DAMP, the Director must specify the implementation date for the DAMP, which must be—

(a) the date proposed by the operator under clause 26(2); or

(b) any other date that may be agreed between the Director and the operator.

(3) An implementation date must not be later than the date that is the second anniversary of the commencement date.

28 Date of application of subpart 6 of Part 4 to current DAMP operator

Subpart 6 of Part 4 applies in respect of a current DAMP operator—

(a) on and after the date that is the second anniversary of the commencement date; or

(b) if another date has been specified as the implementation date for the operator's DAMP under clause 27, on and after that date.

29 DAMP of no effect unless approved under clause 27

(1) No DAMP of a current DAMP operator has effect before or after the end of the transition period unless the operator has had a DAMP approved under clause 27.

(2) Subclause (1) applies until the first renewal of the operator's aviation document that occurs after the end of the transition period.

30 DAMP not to be considered in renewal of aviation document during transition period

If the DAMP operator applies during the transition period for a renewal of the operator's aviation document, the renewal must be decided without regard to the operator's obligations under clause 26 to develop and submit a DAMP.

31 Current DAMP operators: Employment Relations Act 2000

(1) This clause applies to a current DAMP operator who is an employer in an existing employment agreement.

(2) The operator may include in the agreement a provision that allows the operator to carry out random testing of a worker in accordance with the DAMP approved by the Director under clause 27.

International air services licences

32 Application for international air services licence

If, immediately before the commencement date, an application has been made under Part 8A of the former Act for the grant or renewal of a scheduled international air services licence, the application must be determined under the former Act as if this Act had not been enacted.

33 Scheduled international air service licences

(1) A person who, immediately before the commencement date, held a scheduled international air services licence under Part 8A of the former Act is to be treated as holding a scheduled international air services licence under subpart 1 of Part 6.

(2) Any conditions that apply to the licence continue to apply and must be treated as imposed under this Act.

(3) The certificate expires on the date on which it would have expired if this Act had not been enacted.

(4) Nothing in subclause (3) limits any provision of this Act that authorises the revocation or suspension of a scheduled international air services licence.

Authorisations relating to international carriage by air

34 Application for authorisation relating to international carriage by air

(1) Subclause (2) applies if, immediately before the commencement date, an application has been made but not determined under section 88 of the former Act for the grant of an authorisation.

(2) Any further matters after that date concerning the application must be completed under subpart 2 of Part 6.

(3) Nothing in subclause (2) invalidates anything done before the commencement date, and any such thing may be treated for the purpose of the application as done under subpart 2 of Part 6.

35 Authorisations relating to international carriage by air

(1) An authorisation given under section 88 of the former Act and in force immediately before the commencement date must be treated as an authorisation given under subpart 2 of Part 6.

(2) If the authorisation was granted with an expiry date, the authorisation expires on the date on which it would have expired if this Act had not been enacted.

(3) If the authorisation was granted without an expiry date, the authorisation is to be treated as having an expiry date that is the third anniversary of the commencement date.

36 Authorisation of tariffs by Minister

An authorisation of a tariff given under section 90 of the former Act and in effect immediately before the commencement date expires on the commencement date.

Security designated aerodromes and navigation installations

37 Security designated aerodromes and navigation installations

(1) An aerodrome that was, immediately before the commencement date, a security designated aerodrome under section 82 of the former Act is to be treated as designated under section 120 of this Act as a Tier 1 security designated aerodrome.

(2) A navigation installation that was, immediately before the commencement date, a security designated navigation installation under section 82 of the former Act is to be treated as designated under section 120 of this Act as a security designated navigation installation.

(3) In respect of a security designated aerodrome or security designated navigation installation referred to in subclause (1) or (2),—

(a) an area of the aerodrome or navigation installation that was, immediately before the commencement date, a security area declared under section 84(1) of the former Act is to be treated as an airside security area designated under section 121; and

(b) an area of the aerodrome or navigation installation that was, immediately before the commencement date, a security enhanced area declared under section 84(1A) of the former Act is to be treated as a security enhanced area designated under section 121.

Notice specifying that only AvSec may provide aviation security services

38 Minister may give notice under section 137 before commencement date

(1) The Minister may exercise the power to give a notice under section 137 before the commencement date and with effect on the commencement date.

(2) This clause applies as if section 137 were in force when the power is exercised.

(3) This clause does not limit section 43 of the Legislation Act 2019.

Airport authorities

39 Airport authorities

(1) An airport authority that is registered as an airport operator under Part 7 of this Act ceases on the date of that registration to be an airport authority.

(2) Any order made under section 3(1) or (3) of the Airport Authorities Act 1966 or section 5 of the Local Authorities Empowering (Aviation Encouragement) Act 1929 relating to an airport authority referred to in subclause (1) is revoked on the date on which the airport authority is registered as an airport operator.

(3) A local authority or any person or association of persons that, immediately before the repeal of the Airport Authorities Act 1966 by section 488, is an airport authority ceases on the date of the repeal of that Act to be an airport authority.

(4) Any order made under section 3(1) or (3) of the Airport Authorities Act 1966 or section 5 of the Local Authorities Empowering (Aviation Encouragement) Act 1929 relating to an airport authority referred to in subclause (3) is revoked on the date that the airport authority ceases to be an airport authority.

40 Joint venture agreement where party ceases to be airport authority

(1) This clause applies to an agreement that is—

(a) a joint venture agreement made under section 94 of the former Act, or any other agreement of a similar nature, between the Crown and any 1 or more local authorities, bodies, or persons that are an airport authority within the meaning of the Airport Authorities Act 1966; and

(b) in effect immediately before the commencement date.

(2) If the 1 or more local authorities, bodies, or persons cease to be an airport authority under clause 39(1), any reference in the agreement to the 1 or more local authorities, bodies, or persons as an airport authority must be read as a reference to the 1 or more local authorities, bodies, or persons as an airport operator.

Schedule 1 clause 40(2): editorial change made by the PCO, on 29 April 2026, under sections 86(1) and 87(l)(iii) of the Legislation Act 2019 (2019 No 58).

41 Status of airport authority as administering body under Reserves Act 1977

If an airport authority was appointed as an administering body under the Reserves Act 1977, it continues to be an administering body when it is registered as an airport operator.

Airport charges

42 Airport charges

Any charges set by an airport company under section 4A of the Airport Authorities Act 1966 and in force immediately before the airport company is registered as an airport operator are to be treated as having been made by the airport operator under section 230 and may be amended or revoked under that section.

Airport bylaws

43 Bylaw of local authority or airport authority registered as airport operator

(1) This clause applies to a bylaw made under section 9 of the Airport Authorities Act 1966 by a local authority or an airport authority that is in force immediately before the local authority or the airport authority is registered as an airport operator under this Act.

(2) Subject to this clause,—

(a) the bylaw continues in force and must be treated as if it were made by the airport operator under section 235 of this Act in compliance with sections 236 and 237(1); and

(b) on the date on which the airport operator is registered, any Order in Council made under section 9(5) of the Airport Authorities Act 1966 approving the bylaw is revoked.

(3) If the bylaw was made under subsection 9(1)(e) or (g) of the Airport Authorities Act 1966, it—

(a) continues in force according to its tenor despite the fact that the power in section 235(1)(e) does not apply in respect of a road as defined in section 2(1) of the Land Transport Act 1998; and

(b) is to be treated for the purposes of the Land Transport Act 1998 as being made by the airport operator under section 22AB of that Act.

(4) No regulations made under section 407(1)(d) may provide for a breach of a bylaw to which subclause (3) applies to be an infringement offence under this Act.

(5) The bylaws may be amended, revoked, or replaced under the corresponding provisions of this Act.

44 Airport bylaws revoked when Airport Authorities Act 1966 repealed

The following are revoked on the date on which the Airport Authorities Act 1966 is repealed under section 488:

(a) any bylaw made under section 9 of that Act that remains in force on that date (and has not, under clause 43, been continued in force as a bylaw made under section 235 of this Act); and

(b) any Order in Council made under section 9(5) of that Act approving a bylaw that is revoked under paragraph (a).

Protection of safety information

45 Admissibility of accident and incident notifications

(1) Section 340 applies in relation to an accident notification made under section 49(1) or (4) on or after the commencement date, whether the accident occurred before, on, or after that date.

(2) Section 340 applies in relation to an incident notification made under section 49(3) on or after the commencement date whether the incident occurred before, on, or after that date.

46 When Director may take law enforcement action

(1) Section 341 applies to a qualifying person if the notification under section 49(3) occurs on or after the commencement date whether the incident occurred before, on, or after that date.

(2) In this clause, **qualifying person** has the meaning given to it in section 339.

Admissibility of flight data recording against flight crew in criminal proceedings

47 Admissibility of flight data recording against flight crew in criminal proceedings

Nothing in section 343 applies to—

(a) an accident or incident that occurred before the commencement date; or

(b) any proceedings commenced before the commencement date.

Direction given in relation to trespass

48 Direction given in relation to trespass

Any direction of a kind referred to in section 51 of the former Act and given before the commencement date may be treated as if it had been given after that date for the purpose of a prosecution for an offence under section 364.

Regulations and orders

49 Savings provision relating to orders made under former Act

(1) The following orders made under the former Act are to be treated as having been made under this Act and may be amended or revoked accordingly:

(a) Civil Aviation (ANZA Mutual Recognition Agreement) Order 2007 (SR 2007/83):

(b) Civil Aviation (Cape Town Convention and Aircraft Protocol Declarations) Order 2010 (SR 2010/366).

(2) The orders specified in subclause (1) may be amended from time to time under the corresponding empowering provisions in this Act.

50 Savings provision relating to regulations made under former Act

The following regulations continue in force as if they were made under this Act (and as amended in Part 2 of Schedule 9):

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

(b) Civil Aviation (Safety and Security) Levies Order 2002 (SR 2002/84).

Pre-commencement consultation for regulations

51 Pre-commencement consultation for regulations

A requirement for consultation under section 418(4) and (5) is satisfied in relation to any order made under that section that comes into force on the commencement date if the consultation was done before the commencement date for the purpose of facilitating the making of the order.

Airworthiness directives

52 Airworthiness directives

An airworthiness directive issued by the Director under section 72I of the former Act and in effect immediately before the commencement date continues in force and is to be treated as made under section 429.

Schedule 2
Medical certificates

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Interpretation

1 Interpretation

(1) In this schedule, unless the context otherwise requires,—

accredited medical conclusion means the conclusion reached by 1 or more medical experts acceptable to the Director for the purposes of the case concerned, in consultation with flight operations or any other experts that may be necessary

applicant means a person who has applied for a medical certificate and includes a licence holder who has reapplied for a medical certificate

aviation examiner means a person designated under clause 29(2)

convener means the person appointed as convener under clause 30

deputy convener means the person appointed as deputy convener under clause 30

licence holder means a person who—

(a) holds an aviation document or is permitted under the rules to operate an aircraft solo as a pilot; and

(b) holds, or is required under the rules to hold, a medical certificate

specified examination means—

(a) an examination of visual and colour perception; or

(b) an examination of hearing; or

(c) a psychological examination; or

(d) any other class of examination prescribed in the rules.

(2) A medical certificate is not an aviation document.

(3) In this schedule, **privileges to which a medical certificate relates**, and its variations, means those privileges under this Act that may be exercised by a person who—

(a) holds a current aviation document; or

(b) is permitted under the rules to operate an aircraft solo as a pilot.

Compare: 1990 No 98 s 27A

Issuing of medical certificates

2 Application for medical certificate

(1) A person may apply to the Director for the issue of a medical certificate under this schedule.

(2) The application must be in accordance with the requirements of the rules.

(3) The applicant must have a medical examination by a medical examiner, who must forward the medical examiner's report to the Director.

Compare: 1990 No 98 s 27D(1)

3 Powers of Director to require tests, examinations, and information for purpose of assessing application

(1) The Director may require the applicant, at the applicant's expense, to undertake any other tests, examinations, or re-examinations conducted by any suitably qualified and experienced person, or to provide any medical information, that the Director reasonably considers necessary to assess the applicant.

(2) The Director may, by written notice, require any applicant to disclose, or authorise the disclosure of, any information relevant to the applicant's medical condition or history for the purpose of determining whether the applicant is eligible for a medical certificate.

Compare: 1990 No 98 ss 27B(5)(b), 27D(2)

4 Referral to convener by agreement

(1) An application for a medical certificate may, by agreement in writing between the Director and the applicant, be referred by the Director to the convener for advice before the Director makes a decision on the application.

(2) If an application is referred to the convener under subclause (1),—

(a) the deadline imposed on the Director under clause 6 does not apply; and

(b) the convener must,—

(i) as soon as practicable, assess the application; and

(ii) draw on the advice and expertise of at least 1 person who the convener is satisfied is suitably qualified and experienced to assist the convener in the convener's assessment of the application; and

(iii) require the applicant, at the applicant's expense, to undertake any tests, examinations, or re-examinations conducted by any suitably qualified and experienced person, or to provide any medical information, that the convener considers reasonably necessary to carry out the convener's assessment of the application; and

(iv) have regard to the purposes of this Act and the Director's duties under this Act when making the convener's assessment of the application; and

(v) receive and consider the relevant evidence provided under subclause (3); and

(vi) as soon as practicable, report the results of the convener's assessment to the Director in writing.

(3) The applicant or Director may, either directly or through the applicant's or Director's medical experts, participate in the convener's assessment of the application by providing relevant evidence to the convener regarding any medical matter at issue with respect to that application.

(4) The convener must not assess the application if the convener—

(a) acted as an aviation examiner or a medical examiner of the applicant with respect to the person's application for a medical certificate; or

(b) has any other conflict of interest with respect to the person's medical certificate.

(5) The Director must, within 10 working days of receiving the convener's report,—

(a) consider the convener's report; and

(b) make the Director's decision under clause 5 in writing; and

(c) provide to the applicant—

(i) a copy of the convener's report; and

(ii) a copy of the Director's decision.

(6) Subject to subclauses (2) to (5), the convener may regulate the convener's procedures as the convener thinks fit.

Compare: 1990 No 98 s 27M

5 Decision of Director on application for medical certificate

(1) Before issuing a medical certificate, the Director must have regard to the report of the medical examiner and any other information that may be relevant.

(2) If the Director is satisfied that the applicant meets the medical standards prescribed in the rules, the Director must issue a medical certificate unless the

Director believes on reasonable grounds that the applicant has any characteristic that may interfere with the safe exercise of the privileges to which the medical certificate relates.

(3) Despite subclause (2), the Director may, relying on flexibility, issue a medical certificate to the applicant.

(4) In subclause (3), **flexibility** means the use of judgment to issue a medical certificate if the following conditions are fulfilled:

(a) an accredited medical conclusion indicates that in special circumstances either of the following is such that the exercise of the privileges to which a medical certificate relates is not likely to jeopardise aviation safety:

(i) a failure by the applicant to meet the medical standards prescribed in the rules:

(ii) a respect in which the Director is not satisfied as to whether or not the applicant meets the medical standards prescribed in the rules; and

(b) the relevant ability, skill, and experiences of the applicant and operational conditions have been given due consideration; and

(c) the medical certificate is endorsed with any conditions, restrictions, or endorsements on which the safe performance of the applicant's duties is dependent.

(5) The Director may impose any conditions, restrictions, or endorsements on a medical certificate issued under this clause.

Compare: 1990 No 98 s 27B(1)–(4), (5)(a)

6 Time requirement for decision on medical certificate

(1) The Director must make a decision on an application for a medical certificate as soon as practicable, but no later than 30 working days after the date of receiving the report of the medical examiner.

(2) If the Director under clause 3 requires an applicant to undertake any other test, examination, or re-examination, or to provide any medical information, the period in which the Director must make a decision in relation to the medical certificate does not include the number of days that are required to conduct and deliver the results of the test, examination, or re-examination, or to provide the medical information, to the Director.

Compare: 1990 No 98 s 27B(1), (6)

7 Expiry of medical certificate

(1) The medical certificate has an effective date and duration as provided under the rules.

(2) The Director may, on receiving an application for a medical certificate from a licence holder before the expiry of the licence holder's existing medical

certificate, grant an extension of no more than 60 days from the expiry date of the licence holder's existing medical certificate with any additional conditions, restrictions, or endorsements that the Director considers necessary.

Compare: 1990 No 98 s 27E

Circumstances where Director must be advised of changes in medical condition of licence holder

8 Changes in medical condition of licence holder

(1) If a licence holder is aware of, or has reasonable grounds to suspect, any change in the licence holder's medical condition or the existence of any previously undetected medical condition that may interfere with the safe exercise of the privileges to which the licence holder's medical certificate relates, the licence holder—

(a) must advise the Director of the change as soon as practicable; and

(b) must not exercise the privileges to which the licence holder's medical certificate relates.

(2) If an aviation examiner, a medical examiner, or an operator (including an air traffic service provider) is aware of, or has reasonable grounds to suspect, any change in the medical condition of a licence holder or the existence of any previously undetected medical condition in the licence holder that may interfere with the safe exercise of the privileges to which the licence holder's medical certificate relates, the aviation examiner or medical examiner or operator must advise both the licence holder and the Director of the change as soon as practicable.

(3) If a medical practitioner has reasonable grounds to believe that a person is a licence holder and is aware, or has reasonable grounds to suspect, that the licence holder has a medical condition that may interfere with the safe exercise of the privileges to which the licence holder's medical certificate relates, the medical practitioner must, as soon as practicable,—

(a) inform the licence holder that the Director will be advised of the condition; and

(b) advise the Director of the condition.

(4) Subclauses (1) to (3) are subject to any directions that the Director may issue under clause 25(1)(b).

Compare: 1990 No 98 s 27C(1)–(3)

Protection from liability for aviation examiner, medical examiner, or medical practitioner

9 Protection from liability for aviation examiner, medical examiner, or medical practitioner

(1) An aviation examiner, a medical examiner, or a medical practitioner is not subject to any civil or criminal liability for—

(a) doing an indemnified act in good faith in the course of carrying out the examiner's or practitioner's functions under this schedule; or

(b) doing an indemnified act in good faith in the course of answering any questions put to the examiner or practitioner by the Director that—

(i) concern a licence holder; and

(ii) are relevant to any action the Director may take under this schedule.

(2) In this clause, **indemnified act** means any of the following acts:

(a) advising the Director, whether in writing or otherwise, that a licence holder—

(i) may not meet the medical standards prescribed in the rules; or

(ii) may be unable to safely exercise the privileges to which the licence holder's medical certificate relates:

(b) expressing to the Director, whether in writing or otherwise, an opinion that the licence holder whom the aviation examiner or medical examiner or medical practitioner has examined or treated may be unable to safely exercise the privileges to which the licence holder's medical certificate relates because of—

(i) illness or any bodily or mental infirmity, defect, incapacity, or risk of incapacity suffered by the licence holder; or

(ii) the effect on the licence holder of treatment for any illness, infirmity, defect, incapacity, or risk of incapacity:

(c) stating to the Director, whether in writing or otherwise,—

(i) the nature of a licence holder's illness, infirmity, defect, incapacity, or risk of incapacity; or

(ii) the effect on a licence holder of treatment for any illness, infirmity, defect, incapacity, or risk of incapacity.

Compare: 1990 No 98 s 27C(4)–(5)

Investigation of medical condition of licence holder

10 Investigation of medical condition of licence holder

(1) The Director may, by written notice, require any licence holder, at the licence holder's expense, to undertake any tests, examinations, or re-examinations conducted by any suitably qualified and experienced person, or to provide any medical information, at any time before the expiry of the licence holder's medical certificate, if the Director believes on reasonable grounds that the licence holder—

(a) may be unable to safely exercise the privileges to which the medical certificate relates; or

(b) has obtained the medical certificate fraudulently.

(2) The Director may, by written notice, require any licence holder, at the CAA's expense, to undertake any tests, examinations, or re-examinations conducted by any suitably qualified and experienced person, or to provide any medical information, at any time before the expiry of the licence holder's medical certificate if—

(a) the Director—

(i) is monitoring licence holders on the basis of random selection from the register of current medical certificates that is required to be maintained under clause 23; or

(ii) believes on reasonable grounds that the licence holder's medical certificate was issued in error; or

(iii) is monitoring aviation examiners or medical examiners for compliance with the requirements of this Act or the rules; and

(b) the Director believes on reasonable grounds that any of those tests, examinations, or re-examinations are, or that the medical information is, necessary to investigate the matters specified in paragraph (a).

(3) The Director may, by written notice, require any licence holder to disclose, or authorise the disclosure of, any relevant information for the purpose of determining whether or not the licence holder—

(a) meets the medical standards prescribed in the rules; or

(b) is able to safely exercise the privileges to which the medical certificate relates.

Compare: 1990 No 98 s 27H(1), (3), (4)

11 Investigation of medical condition of licence holder whose medical certificate was issued by medical examiner

(1) This clause applies if any medical certificate held by the licence holder was issued by a medical examiner to whom the authority to issue medical certificates was delegated by the Director under clause 27.

(2) The Director—

(a) may, within 60 days after the date the medical certificate was issued, by written notice to the licence holder, withdraw the medical certificate if the Director requires a licence holder to supply additional medical information; and

(b) must decide whether to reissue the medical certificate in accordance with clause 5.

Compare: 1990 No 98 s 27H(2)

Revocation, suspension, and amendment of medical certificate

12 Revocation, suspension, and amendment of medical certificate

(1) If the Director believes on reasonable grounds that a licence holder may be unable to safely exercise the privileges to which the licence holder's medical certificate relates, the Director may, by written notice to the licence holder,—

(a) suspend any medical certificate issued to the licence holder; or

(b) impose or amend any conditions, restrictions, or endorsements on any medical certificate issued to the licence holder.

(2) If the Director believes on reasonable grounds that a licence holder is unable to safely exercise the privileges to which the licence holder's medical certificate relates, the Director must, by written notice to the licence holder,—

(a) suspend any medical certificate issued to the licence holder; or

(b) revoke any medical certificate issued to the licence holder; or

(c) impose or amend any conditions, restrictions, or endorsements on any medical certificate issued to the licence holder.

(3) If the Director believes on reasonable grounds that a person who has been delegated authority under clause 27 to issue a medical certificate has issued a medical certificate other than in accordance with this schedule or the rules or the terms of the delegated authority, the Director—

(a) may, by written notice to the licence holder,—

(i) suspend any medical certificate issued to the licence holder; or

(ii) revoke any medical certificate issued to the licence holder; or

(iii) impose or amend any conditions, restrictions, or endorsements on any medical certificate issued to the licence holder; and

(b) may, by written notice to the person with delegated authority, revoke the person's delegated authority.

(4) Any notice issued under this clause must state the grounds for the Director's decision.

Compare: 1990 No 98 s 27I(1)–(4)

13 Duration of notice of suspension

(1) A notice of suspension issued under clause 12(1)(a), (2)(a), or (3)(a)(i) remains in force until the Director determines what action, if any, referred to in clause 15 is to be taken.

(2) Despite subclause (1), the suspension expires 10 working days after the date that it is imposed unless, before the expiry of that 10-working-day period, the Director extends the suspension for a further specified period not exceeding 10 working days.

(3) The aggregate suspension period must not exceed 20 working days after the date on which the suspension is imposed.

Compare: 1990 No 98 s 27I(5)

14 Duration of conditions, restrictions, or endorsement imposed or made

(1) Any conditions, restrictions, or endorsements that are imposed or made under clause 12(1)(b), (2)(c), or (3)(a)(iii) remain in force until the Director determines what action, if any, referred to in clause 15 is to be taken.

(2) Despite subclause (1), any condition, restriction, or endorsement expires 10 working days after the date that it is imposed unless, before the expiry of that 10-working-day period, the Director extends the condition, restriction, or endorsement for a further specified period not exceeding 10 working days.

(3) The aggregate period must not exceed 20 working days after the date on which the conditions, restrictions, or endorsements are imposed.

Compare: 1990 No 98 s 27I(6)

15 Further determination of Director after notice under clause 12

If a notice is issued under clause 12(1), (2), or (3), the Director may, by written notice, take 1 or more of the following actions:

(a) impose or amend conditions, restrictions, or endorsements for a specified period:

(b) withdraw any conditions, restrictions, or endorsements:

(c) disqualify the licence holder from holding the medical certificate for a specified period:

(d) revoke the medical certificate:

(e) cancel the suspension.

Compare: 1990 No 98 s 27I(7)

16 Director may revoke medical certificate if licence holder fails to comply with requirement under clause 3

The Director may, by written notice, revoke a medical certificate if a licence holder fails, without reasonable excuse, to comply with a requirement under clause 3 within a reasonable period of time.

Compare: 1990 No 98 s 27I(11)

17 Director may notify other aviation document holders if medical certificate revoked or conditions, restrictions, or endorsement imposed or made

If the Director issues a notice under clause 12, 15, or 16, the Director—

(a) must also, if practicable, notify any aviation document holder affected by the notice, other than the licence holder, if the Director considers it necessary for reasons of aviation safety; and

(b) may notify any other affected aviation document holder.

Compare: 1990 No 98 s 27I(10)

18 Surrender of medical certificate revoked, withdrawn, or suspended

A person whose medical certificate is revoked, withdrawn, or suspended or who is disqualified from holding the medical certificate for a specified period must, if the document is capable of being surrendered (for example, if the document is in paper form), surrender the medical certificate to the Director, a person authorised by the Director, or a constable.

Compare: 1990 No 98 s 27I(9)

Reviews and appeals in relation to medical certification

19 Review of decisions regarding applications for medical certificates

An applicant for a medical certificate may apply to the convener for a review of—

(a) a requirement of the Director under clause 3(2); or

(b) a decision of the Director under clause 5 other than a decision where the application concerned was referred to a convener under clause 4.

Compare: 1990 No 98 s 27L(1)

20 Review of decisions regarding revocation, suspension, or amendment of medical certificate

A licence holder may apply to the convener for a review of any decision made under any of clauses 12 to 16, other than a decision made under—

(a) clause 12(1); or

(b) clause 12(2)(a); or

(c) clause 12(2)(c); or

(d) clause 12(3)(a)(i); or

(e) clause 12(3)(a)(iii).

Compare: 1990 No 98 s 27L(1)

21 Procedure for review

(1) An application for review under clause 19 or 20 must—

(a) be in writing; and

(b) be made within 20 working days after the date of the decision; and

(c) identify the aspects of the decision that the applicant is applying to be reviewed.

(2) The convener must, as soon as practicable, review the decision.

(3) The convener—

(a) must draw on the advice and expertise of at least 1 person who the convener is satisfied is suitably qualified and experienced to assist the convener in the convener's assessment of the decision that is under review; and

(b) must have regard to the purposes of this Act and the Director's duties under this Act when carrying out the convener's review of the decision; and

(c) may require the person who applied for the review, at the person's expense, to undertake any other tests, examinations, or re-examinations conducted by any suitably qualified and experienced person, or to provide any medical information, as the convener considers reasonably necessary to carry out the convener's review of the decision; and

(d) must receive and consider the relevant evidence provided under subclause (4).

(4) The licence holder, applicant, or Director may, either directly or through the person's medical experts, participate in the review process by providing relevant evidence to the convener regarding any medical matter at issue with respect to the decision that is under review.

(5) The convener must, as soon as practicable, report the results of the convener's review to the Director in writing.

(6) The Director must, within 10 working days of receiving the convener's report,—

(a) implement the results of the convener's report; or

(b) if the Director does not implement the results of the convener's report, notify the licence holder or applicant, in writing, of the Director's reasons for not doing so.

(7) The convener must not review a decision made by the Director if the convener—

(a) acted as an aviation examiner or a medical examiner of the person requesting the review with respect to the person's application for a medical certificate; or

(b) has any other conflict of interest with respect to the person's medical certificate.

(8) Any decision by the Director under review by the convener remains in force until the Director makes a final decision under subclause (6).

Compare: 1990 No 98 s 27L(2)–(8)

22 Right of appeal to District Court

A person affected by a decision of the Director under any of the following provisions has a right of appeal to the District Court under section 453:

(a) clause 3(2):

(b) clause 5:

(c) clause 15:

(d) clause 16:

(e) clause 21(6).

Compare: 1990 No 98 s 27P

General provisions

23 Register of medical certificates

The Director must maintain a register of current medical certificates issued under this schedule.

Compare: 1990 No 98 s 27B(7)

24 Holder of medical certificate may return certificate voluntarily

(1) Any licence holder may return the licence holder's medical certificate to the Director and ask the Director, in writing, to cancel the medical certificate.

(2) If a licence holder asks the Director to cancel the licence holder's medical certificate, the Director must—

(a) cancel the medical certificate; and

(b) update the register of current medical certificates.

Compare: 1990 No 98 s 27I(12)–(13)

25 General directions and emergency directives

(1) The Director may issue general directions in relation to—

(a) conducting examinations of applicants and licence holders, and reporting the results of those examinations to the Director; and

(b) providing exceptions for temporary medical conditions to the reporting requirements set out in clause 8; and

(c) specifying the requirements of examinations or other clinical matters, which must be reasonable, including, but not limited to,—

(i) the medical content of examinations:

(ii) the interpretation and analysis of results of examinations:

(iii) the significance of results of examinations for the purpose of determining whether or not an applicant is eligible for a medical certificate under clause 5.

(2) Before issuing general directions under subclause (1), the Director must consult with those persons, health professionals with aviation medical experience, representative groups within the aviation industry or elsewhere, government departments, and Crown agencies that the Director considers appropriate.

(3) General directions issued in relation to the matters specified in subclause (1)(a) or (c) must be—

(a) notified in writing to aviation examiners or medical examiners; and

(b) incorporated in a medical manual issued by the Director.

(4) The Director may issue directives in emergency situations without prior consultation.

(5) An emergency directive under subclause (4)—

(a) takes effect when it is issued, or at any later time specified in it; and

(b) expires on the day that is 90 days after the date on which it is issued.

(6) The Director may reissue as a general direction, under subclause (1), directives issued under subclause (4) before or after they expire.

Compare: 1990 No 98 s 27G

26 Delegation of Director's powers under this schedule to medical practitioners who are employees of CAA

(1) The Director may, either generally or particularly, delegate to any suitably qualified medical practitioner who is an employee of the CAA any of the Director's functions and powers under this schedule or under the rules relating to medical certification.

(2) Every delegation under this clause must be in writing.

(3) Sections 460 and 461 apply with any necessary modifications to a delegation under this clause.

(4) Any delegation under this clause may be made to a suitably qualified medical practitioner who is the holder of a specified office of the CAA.

Compare: 1990 No 98 s 27N

27 Delegation of Director's power under this schedule to medical examiners who are not employees of CAA

(1) The Director may, either generally or particularly, delegate to any suitably qualified medical examiner who is not an employee of the CAA any of the Director's functions and powers under this schedule or under the rules relating to medical certification other than the power under this schedule to revoke medical certificates.

(2) Despite subclause (1), the Director must delegate to suitably qualified medical examiners who are not employees of the CAA the power to issue medical certificates to any person who qualifies for a medical certificate under clause 5(2) or who otherwise meets the criteria for a standard medical assessment as prescribed in the rules.

(3) Every delegation under this clause must be in writing.

(4) Subject to any general or special directions given or conditions imposed by the Director, any medical examiner to whom any functions or powers are delegated under this clause may exercise those functions and powers in the same manner and with the same effect as if they had been conferred or imposed on the person directly by this Act and not by delegation.

(5) Any delegation under this clause may be made to a specified medical examiner or a specified class of medical examiner or to the holder or holders of a specified office.

(6) Every delegation under this clause must be given for a specified period but in any event must be revocable at will.

(7) Every delegation under this clause continues in force until it is revoked or it expires, whether or not the person who made the delegation ceases to hold office.

Compare: 1990 No 98 s 27O(1)–(6), (8)

28 Further provisions relating to delegation of Director's power under clause 27

(1) No delegation under clause 27 may—

(a) affect or prevent the exercise of any function or power by the Director; or

(b) affect the responsibility of the Director for the actions of any person acting under the delegation.

(2) A person purporting to act under any delegation under clause 27 may, when reasonably requested to do so, produce evidence of the person's authority to so act.

(3) The Director must not delegate under clause 27 any of the Director's functions or powers under clause 4 or 21.

Compare: 1990 No 98 s 27O(7), (9), (10)

29 Designation of aviation examiners and medical examiners

(1) The Director must designate, by issuing an aviation document under section 75, 1 or more medical examiners to conduct examinations under clause 2.

(2) The Director may designate, by issuing an aviation document under section 75, 1 or more aviation examiners to conduct specified examinations that the Director may require under this schedule.

Compare: 1990 No 98 s 27F

30 Appointment of convener and deputy convener

(1) The Minister must—

(a) appoint a convener and a deputy convener for a period of no longer than 3 years; and

(b) consult with the Director, and other parties as the Minister thinks fit, before making either appointment; and

(c) take into account any representations made under paragraph (b).

(2) The Minister may renew an appointment as convener or deputy convener for 1 or more periods, each of which must not exceed 3 years.

(3) If the Minister renews an appointment, the Minister must—

(a) consult with the Director, and other parties as the Minister thinks fit, before making the renewal; and

(b) take into account any representations made under paragraph (a).

(4) The convener and the deputy convener must—

(a) be medical practitioners who are suitably qualified, and experienced or knowledgeable in civil aviation; and

(b) be able to represent the public interest in aviation safety.

(5) If the convener is unavailable for any reason, the deputy convener must perform the duties of the convener under this clause until—

(a) the convener is available; or

(b) the Minister has appointed a new convener.

(6) The convener or deputy convener continues in office despite the expiry of the person's term until a successor is appointed or the person's appointment is renewed.

Compare: 1990 No 98 s 27J

31 Cancellation of appointment as convener or deputy convener

(1) The Minister may cancel a person's appointment under clause 30 if the person fails to perform satisfactorily the person's duties as convener or deputy convener, as the case may be.

(2) Before cancelling an appointment, the Minister must—

(a) give the person written notice of the matters that constitute grounds for cancellation; and

(b) give the person a reasonable opportunity to make representations that explain why the person's appointment should not be cancelled; and

(c) take into account any representations made under paragraph (b).

(3) If the Minister cancels an appointment, the Minister must give the person written notice of the cancellation that sets out the grounds for the cancellation.

Compare: 1990 No 98 s 27K

Schedule 3
Joint venture aerodromes

s 240

1 Crown money may be retained in joint venture aerodrome operator accounts

(1) Certain amounts of money, as described in subclause (2), may, with the approval of the Minister of Finance, be retained on behalf of the Crown in the accounts of the operator of a joint venture aerodrome instead of being paid into a Crown Bank Account.

(2) For the purposes of subclause (1), the amounts of money are as follows:

(a) any money standing to the credit of, or held on behalf of, the Crown in the accounts of the operator as a result of the operations of that aerodrome; and

(b) any money representing the Crown's share of the proceeds of any fees or charges imposed under this Act.

(3) Any money described in subclause (2) may be used for purposes in connection with the operation and development of that aerodrome—

(a) as may be authorised by the Minister with the concurrence of the Minister of Finance; and

(b) without further authority than this clause.

Compare: 1990 No 98 s 95(1)

2 Minister may require Crown money to be paid to the Crown

(1) The Minister may require certain amounts of money, as described in clause 1(2), to be paid to the Crown, despite any other legislation, rule of law, deed, or agreement.

(2) Any money paid to the Crown under subclause (1) may be used for such purposes (whether or not related to the aerodrome) as the Minister thinks fit, despite any other legislation, rule of law, deed, or agreement.

Compare: 1990 No 98 s 95(2), (3)

3 Person may withdraw and use certain money in joint venture aerodrome operator accounts

(1) A person operating a joint venture aerodrome with the Crown may withdraw certain amounts of money, as described in subclause (2), despite any other legislation, rule of law, deed, or agreement.

(2) For the purposes of subclause (1), the amounts of money are as follows:

(a) any money standing to the credit of or held on behalf of that person in the accounts of the operator as a result of the operations of that aerodrome; and

(b) any money representing that person's share of the proceeds of any fees or charges imposed under this Act.

(3) Any money described in subclause (2) may be used—

(a) for purposes (whether or not related to the airport) as the person thinks fit; and

(b) subject to the liability (if any) of the person under any legislation, deed, or agreement to pay any part of such money to any other body or person.

(4) If any money withdrawn under subclause (1) is paid by the person, under the person's liability under any legislation, deed, or agreement, to any other body or person, that money may be used for purposes (whether or not related to the aerodrome) as the body or person receiving it thinks fit.

Compare: 1990 No 98 s 95(4), (5)

Schedule 4
The Warsaw Convention as amended by the Hague Protocol of 1955 and the Montreal Additional Protocols Nos 1 and 2 and Protocol No 4 of 1975

s 254

Convention for the Unification of Certain Rules Relating to International Carriage by Air

Chapter I
Scope—Definitions

Article 1

1. This Convention applies to all international carriage of persons, baggage or cargo performed by aircraft for reward. It applies equally to gratuitous carriage by aircraft performed by an air transport undertaking.

2. For the purposes of this Convention, the expression *international carriage* means any carriage in which, according to the agreement between the parties, the place of departure and the place of destination, whether or not there be a break in the carriage or a transhipment, are situated either within the territories of two High Contracting Parties or within the territory of a single High Contracting Party if there is an agreed stopping place within the territory of another State, even if that State is not a High Contracting Party. Carriage between two points within the territory of a single High Contracting Party without an agreed stopping place within the territory of another State is not international carriage for the purposes of this Convention.

3. Carriage to be performed by several successive air carriers is deemed, for the purposes of this Convention, to be one undivided carriage if it has been regarded by the parties as a single operation, whether it had been agreed upon under the form of a single contract or of a series of contracts, and it does not lose its international character merely because one contract or a series of contracts is to be performed entirely within the territory of the same State.

Article 2

1. This Convention applies to carriage performed by the State or by legally constituted public bodies provided it falls within the conditions laid down in Article 1.

2. In the carriage of postal items the carrier shall be liable only to the relevant postal administration in accordance with the rules applicable to the relationship between the carriers and the postal administrations.

3. Except as provided in paragraph 2 of this Article, the provisions of this Convention shall not apply to the carriage of postal items.

Chapter II
Documents of carriage

Section 1—Passenger ticket

Article 3

1. In respect of the carriage of passengers a ticket shall be delivered containing:

   a) an indication of the places of departure and destination;

   b) if the places of departure and destination are within the territory of a single High Contracting Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place;

   c) a notice to the effect that, if the passenger's journey involves an ultimate destination or stop in a country other than the country of departure, the Warsaw Convention may be applicable and that the Convention governs and in most cases limits the liability of carriers for death or personal injury and in respect of loss of or damage to baggage.

2. The passenger ticket shall constitute *prima facie* evidence of the conclusion and conditions of the contract of carriage. The absence, irregularity or loss of the passenger ticket does not affect the existence or the validity of the contract of carriage which shall, none the less, be subject to the rules of this Convention. Nevertheless, if, with the consent of the carrier, the passenger embarks without a passenger ticket having been delivered, or if the ticket does not include the notice required by paragraph 1 c) of this Article, the carrier shall not be entitled to avail himself of the provisions of Article 22.

Section 2—Baggage check

Article 4

1. In respect of the carriage of registered baggage, a baggage check shall be delivered, which, unless combined with or incorporated in a passenger ticket which complies with the provisions of Article 3, paragraph 1, shall contain:

   a) an indication of the places of departure and destination;

   b) if the places of departure and destination are within the territory of a single High Contracting Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place;

   c) a notice to the effect that, if the carriage involves an ultimate destination or stop in a country other than the country of departure, the Warsaw

Convention may be applicable and that the Convention governs and in most cases limits the liability of carriers in respect of loss of or damage to baggage.

2. The baggage check shall constitute *prima facie* evidence of the registration of the baggage and of the conditions of the contract of carriage. The absence, irregularity or loss of the baggage check does not affect the existence or the validity of the contract of carriage which shall, none the less, be subject to the rules of this Convention. Nevertheless, if the carrier takes charge of the baggage without a baggage check having been delivered or if the baggage check (unless combined with or incorporated in the passenger ticket which complies with the provisions of Article 3, paragraph 1 c)) does not include the notice required by paragraph 1 c) of this Article, he shall not be entitled to avail himself of the provisions of Article 22, paragraph 2.

Section III—Documentation relating to cargo

Article 5

1. In respect of the carriage of cargo an air waybill shall be delivered.
2. Any other means which would preserve a record of the carriage to be performed may, with the consent of the consignor, be substituted for the delivery of an air waybill. If such other means are used, the carrier shall, if so requested by the consignor, deliver to the consignor a receipt for the cargo permitting identification of the consignment and access to the information contained in the record preserved by such other means.
3. The impossibility of using, at points of transit and destination, the other means which would preserve the record of the carriage referred to in paragraph 2 of this Article does not entitle the carrier to refuse to accept the cargo for carriage.

Article 6

1. The air waybill shall be made out by the consignor in three original parts.
2. The first part shall be marked “for the carrier”; it shall be signed by the consignor. The second part shall be marked “for the consignee”; it shall be signed by the consignor and by the carrier. The third part shall be signed by the carrier and handed by him to the consignor after the cargo has been accepted.
3. The signature of the carrier and that of the consignor may be printed or stamped.
4. If, at the request of the consignor, the carrier makes out the air waybill, he shall be deemed, subject to proof to the contrary, to have done so on behalf of the consignor.

Article 7

When there is more than one package:

a) the carrier of cargo has the right to require the consignor to make out separate air waybills;

b) the consignor has the right to require the carrier to deliver separate receipts when the other means referred to in paragraph 2 of Article 5 are used.

Article 8

The air waybill and the receipt for the cargo shall contain:

a) an indication of the places of departure and destination;

b) if the places of departure and destination are within the territory of a single High Contracting Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place; and

c) an indication of the weight of the consignment.

Article 9

Non-compliance with the provisions of Articles 5 to 8 shall not affect the existence or the validity of the contract of carriage, which shall, none the less, be subject to the rules of this Convention including those relating to limitation of liability.

Article 10

1. The consignor is responsible for the correctness of the particulars and statements relating to the cargo inserted by him or on his behalf in the air waybill or furnished by him or on his behalf to the carrier for insertion in the receipt for the cargo or for insertion in the record preserved by the other means referred to in paragraph 2 of Article 5.

2. The consignor shall indemnify the carrier against all damage suffered by him, or by any other person to whom the carrier is liable, by reason of the irregularity, incorrectness or incompleteness of the particulars and statements furnished by the consignor or on his behalf.

3. Subject to the provisions of paragraphs 1 and 2 of this Article, the carrier shall indemnify the consignor against all damage suffered by him, or by any other person to whom the consignor is liable, by reason of the irregularity, incorrectness or incompleteness of the particulars and statements inserted by the carrier or on his behalf in the receipt for the cargo or in the record preserved by the other means referred to in paragraph 2 of Article 5.

Article 11

1. The air waybill or the receipt for the cargo is *prima facie* evidence of the conclusion of the contract, of the acceptance of the cargo and of the conditions of carriage mentioned therein.

2. Any statements in the air waybill or the receipt for the cargo relating to the weight, dimensions and packing of the cargo, as well as those relating to the number of packages, are *prima facie* evidence of the facts stated; those relating

to the quantity, volume and condition of the cargo do not constitute evidence against the carrier except so far as they both have been, and are stated in the air waybill to have been, checked by him in the presence of the consignor, or relate to the apparent condition of the cargo.

Article 12

1. Subject to his liability to carry out all his obligations under the contract of carriage, the consignor has the right to dispose of the cargo by withdrawing it at the airport of departure or destination, or by stopping it in the course of the journey on any landing, or by calling for it to be delivered at the place of destination or in the course of the journey to a person other than the consignee originally designated, or by requiring it to be returned to the airport of departure. He must not exercise this right of disposition in such a way as to prejudice the carrier or other consignors and he must repay any expenses occasioned by the exercise of this right.
2. If it is impossible to carry out the orders of the consignor the carrier must so inform him forthwith.
3. If the carrier obeys the orders of the consignor for the disposition of the cargo without requiring the production of the part of the air waybill or the receipt for the cargo delivered to the latter, he will be liable, without prejudice to his right of recovery from the consignor, for any damage which may be caused thereby to any person who is lawfully in possession of that part of the air waybill or the receipt for the cargo.
4. The right conferred on the consignor ceases at the moment when that of the consignee begins in accordance with Article 13. Nevertheless, if the consignee declines to accept the cargo, or if he cannot be communicated with, the consignor resumes his right of disposition.

Article 13

1. Except when the consignor has exercised his right under Article 12, the consignee is entitled, on arrival of the cargo at the place of destination, to require the carrier to deliver the cargo to him, on payment of the charges due and on complying with the conditions of carriage.
2. Unless it is otherwise agreed, it is the duty of the carrier to give notice to the consignee as soon as the cargo arrives.
3. If the carrier admits the loss of the cargo, or if the cargo has not arrived at the expiration of seven days after the date on which it ought to have arrived, the consignee is entitled to enforce against the carrier the rights which flow from the contract of carriage.

Article 14

The consignor and the consignee can respectively enforce all the rights given them by Articles 12 and 13, each in his own name, whether he is acting in his own interest or

in the interest of another, provided that he carries out the obligations imposed by the contract of carriage.

Article 15

1. Articles 12, 13 and 14 do not affect either the relations of the consignor and the consignee with each other or the mutual relations of third parties whose rights are derived either from the consignor or from the consignee.
2. The provisions of Articles 12, 13 and 14 can only be varied by express provision in the air waybill or the receipt for the cargo.

Article 16

1. The consignor must furnish such information and such documents as are necessary to meet the formalities of customs, octroi or police before the cargo can be delivered to the consignee. The consignor is liable to the carrier for any damage occasioned by the absence, insufficiency or irregularity of any such information or documents, unless the damage is due to the fault of the carrier, his servants or agents.
2. The carrier is under no obligation to enquire into the correctness or sufficiency of such information or documents.

Chapter III
Liability of the carrier

Article 17

The carrier is liable for damage sustained in the event of the death or wounding of a passenger or any other bodily injury suffered by a passenger, if the accident which caused the damage so sustained took place on board the aircraft or in the course of any of the operations of embarking or disembarking.

Article 18

1. The carrier is liable for damage sustained in the event of the destruction or loss of, or damage to, any registered baggage, if the occurrence which caused the damage so sustained took place during the carriage by air.
2. The carrier is liable for damage sustained in the event of the destruction or loss of, or damage to, cargo upon condition only that the occurrence which caused the damage so sustained took place during the carriage by air.
3. However, the carrier is not liable if he proves that the destruction, loss of, or damage to, the cargo resulted solely from one or more of the following:
   a) inherent defect, quality or vice of that cargo;
   b) defective packing of that cargo performed by a person other than the carrier or his servants or agents;

c) an act of war or an armed conflict;

d) an act of public authority carried out in connexion with the entry, exit or transit of the cargo.

4. The carriage by air within the meaning of the preceding paragraphs of this Article comprises the period during which the baggage or cargo is in the charge of the carrier, whether in an airport or on board an aircraft, or, in the case of a landing outside an airport, in any place whatsoever.

5. The period of the carriage by air does not extend to any carriage by land, by sea or by river performed outside an airport. If, however, such carriage takes place in the performance of a contract for carriage by air, for the purpose of loading, delivery or transhipment, any damage is presumed, subject to proof to the contrary, to have been the result of an event which took place during the carriage by air.

Article 19

The carrier is liable for damage occasioned by delay in the carriage by air of passengers, baggage or cargo.

Article 20

In the carriage of passengers and baggage, and in the case of damage occasioned by delay in the carriage of cargo, the carrier shall not be liable if he proves that he and his servants and agents have taken all necessary measures to avoid the damage or that it was impossible for them to take such measures.

Article 21

1. In the carriage of passengers and baggage, if the carrier proves that the damage was caused by or contributed to by the negligence of the person suffering the damage the Court may, in accordance with the provisions of its own law, exonerate the carrier wholly or partly from his liability.

2. In the carriage of cargo, if the carrier proves that the damage was caused by or contributed to by the negligence or other wrongful act or omission of the person claiming compensation, or the person from whom he derives his rights, the carrier shall be wholly or partly exonerated from his liability to the claimant to the extent that such negligence or wrongful act or omission caused or contributed to the damage.

Article 22 (as it reads where Additional Protocol No. 1 applies)

1. In the carriage of persons the liability of the carrier for each passenger is limited to the sum of 8 300 Special Drawing Rights. Where, in accordance with the law of the court seised of the case, damages may be awarded in the form of periodic payments, the equivalent capital value of the said payments shall not exceed this limit. Nevertheless, by special contract, the carrier and the passenger may agree to a higher limit of liability.

2. In the carriage of registered baggage and of cargo, the liability of the carrier is limited to a sum of 17 Special Drawing Rights per kilogramme, unless the consignor has made, at the time when the package was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless he proves that that sum is greater than the consignor's actual interest in delivery at destination.

3. As regards objects of which the passenger takes charge himself the liability of the carrier is limited to 332 Special Drawing Rights per passenger.

4. The sums mentioned in terms of the Special Drawing Right in this Article shall be deemed to refer to the Special Drawing Right as defined by the International Monetary Fund. Conversion of the sums into national currencies shall, in case of judicial proceedings, be made according to the value of such currencies in terms of the Special Drawing Right at the date of the judgment. The value of a national currency, in terms of the Special Drawing Right, of a High Contracting Party which is a Member of the International Monetary Fund, shall be calculated in accordance with the method of valuation applied by the International Monetary Fund, in effect at the date of the judgment, for its operations and transactions. The value of a national currency, in terms of the Special Drawing Right, of a High Contracting Party which is not a Member of the International Monetary Fund, shall be calculated in a manner determined by that High Contracting Party.

   Nevertheless, those States which are not Members of the International Monetary Fund and whose law does not permit the application of the provisions of paragraphs 1, 2 and 3 of Article 22 may, at the time of ratification or accession or at any time thereafter, declare that the limit of liability of the carrier in judicial proceedings in their territories is fixed at a sum of 125 000 monetary units per passenger with respect to paragraph 1 of Article 22; 250 monetary units per kilogramme with respect to paragraph 2 of Article 22; and 5 000 monetary units per passenger with respect to paragraph 3 of Article 22. This monetary unit corresponds to sixty-five and a half milligrammes of gold of millesimal fineness nine hundred. These sums may be converted into the national currency concerned in round figures. The conversion of these sums into national currency shall be made according to the law of the State concerned.

Article 22 (as it reads where Additional Protocol No. 2 applies but not Protocol No. 4)

1. In the carriage of persons the liability of the carrier for each passenger is limited to the sum of 16 600 Special Drawing Rights. Where, in accordance with the law of the court seised of the case, damages may be awarded in the form of periodic payments, the equivalent capital value of the said payments

shall not exceed this limit. Nevertheless, by special contract, the carrier and the passenger may agree to a higher limit of liability.

2. a) In the carriage of registered baggage and of cargo, the liability of the carrier is limited to a sum of 17 Special Drawing Rights per kilogramme, unless the passenger or consignor has made, at the time when the package was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless he proves that that sum is greater than the passenger's or consignor's actual interest in delivery at destination.

b) In the case of loss, damage or delay of part of registered baggage or cargo, or of any object contained therein, the weight to be taken into consideration in determining the amount to which the carrier's liability is limited shall be only the total weight of the package or packages concerned. Nevertheless, when the loss, damage or delay of a part of the registered baggage or cargo or of an object contained therein, affects the value of other packages covered by the same baggage check or the same air waybill, the total weight of such package or packages shall also be taken into consideration in determining the limit of liability.

3. As regards objects of which the passenger takes charge himself the liability of the carrier is limited to 332 Special Drawing Rights per passenger.

4. The limits prescribed in this Article shall not prevent the court from awarding, in accordance with its own law, in addition, the whole or part of the court costs and of the other expenses of the litigation incurred by the plaintiff. The foregoing provision shall not apply if the amount of the damages awarded, excluding court costs and other expenses of the litigation, does not exceed the sum which the carrier has offered in writing to the plaintiff within a period of six months from the date of the occurrence causing the damage, or before the commencement of the action, if that is later.

5. The sums mentioned in terms of the Special Drawing Right in this Article shall be deemed to refer to the Special Drawing Right as defined by the International Monetary Fund. Conversion of the sums into national currencies shall, in case of judicial proceedings, be made according to the value of such currencies in terms of the Special Drawing Right at the date of the judgment. The value of a national currency, in terms of the Special Drawing Right, of a High Contracting Party which is a Member of the International Monetary Fund, shall be calculated in accordance with the method of valuation applied by the International Monetary Fund, in effect at the date of the judgment, for its operations and transactions. The value of a national currency, in terms of the Special Drawing Right, of a High Contracting Party which is not a Member of the International Monetary Fund, shall be calculated in a manner determined by that High Contracting Party.

Nevertheless, those States which are not Members of the International Monetary Fund and whose law does not permit the application of the provisions of paragraphs 1, 2 a) and 3 of Article 22 may, at the time of ratification or accession or at any time thereafter, declare that the limit of liability of the carrier in judicial proceedings in their territories is fixed at a sum of 250 000 monetary units per passenger with respect to paragraph 1 of Article 22; 250 monetary units per kilogramme with respect to paragraph 2 a) of Article 22; and 5 000 monetary units per passenger with respect to paragraph 3 of Article 22. This monetary unit corresponds to sixty-five and a half milligrammes of gold of millesimal fineness nine hundred. These sums may be converted into the national currency concerned in round figures. The conversion of these sums into national currency shall be made according to the law of the State concerned.

Article 22 (as it reads where Additional Protocol No. 2 and Protocol No. 4 apply)

1. In the carriage of persons the liability of the carrier for each passenger is limited to the sum of 16 600 Special Drawing Rights. Where, in accordance with the law of the court seised of the case, damages may be awarded in the form of periodic payments, the equivalent capital value of the said payments shall not exceed this limit. Nevertheless, by special contract, the carrier and the passenger may agree to a higher limit of liability.

2. a) In the carriage of registered baggage, the liability of the carrier is limited to a sum of 17 Special Drawing Rights per kilogramme, unless the passenger or consignor has made, at the time when the package was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless he proves that that sum is greater than the passenger's or consignor's actual interest in delivery at destination.

b) In the carriage of cargo, the liability of the carrier is limited to a sum of 17 Special Drawing Rights per kilogramme, unless the consignor has made, at the time when the package was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless he proves that that sum is greater than the consignor's actual interest in delivery at destination.

c) In the case of loss, damage or delay of part of registered baggage or cargo, or of any object contained therein, the weight to be taken into consideration in determining the amount to which the carrier's liability is limited shall be only the total weight of the package or packages concerned. Nevertheless, when the loss, damage or delay of a part of the registered baggage or cargo or of an object contained therein, affects the value of other packages covered by the

same baggage check or the same air waybill, the total weight of such package or packages shall also be taken into consideration in determining the limit of liability.

3. As regards objects of which the passenger takes charge himself the liability of the carrier is limited to 332 Special Drawing Rights per passenger.

4. The limits prescribed in this Article shall not prevent the court from awarding, in accordance with its own law, in addition, the whole or part of the court costs and of the other expenses of the litigation incurred by the plaintiff. The foregoing provision shall not apply if the amount of the damage awarded, excluding court costs and other expenses of the litigation, does not exceed the sum which the carrier has offered in writing to the plaintiff within a period of six months from the date of the occurrence causing the damage, or before the commencement of the action, if that is later.

5. The sums mentioned in terms of the Special Drawing Right in this Article shall be deemed to refer to the Special Drawing Right as defined by the International Monetary Fund. Conversion of the sums into national currencies shall, in case of judicial proceedings, be made according to the value of such currencies in terms of the Special Drawing Right at the date of the judgment. The value of a national currency, in terms of the Special Drawing Right, of a High Contracting Party which is a Member of the International Monetary Fund, shall be calculated in accordance with the method of valuation applied by the International Monetary Fund, in effect at the date of the judgment, for its operations and transactions. The value of a national currency, in terms of the Special Drawing Right, of a High Contracting Party which is not a Member of the International Monetary Fund, shall be calculated in a manner determined by that High Contracting Party.

   Nevertheless, those States which are not Members of the International Monetary Fund and whose law does not permit the application of the provisions of paragraphs 1, 2 a) and 3 of Article 22 may, at the time of ratification or accession or at any time thereafter, declare that the limit of liability of the carrier in judicial proceedings in their territories is fixed at a sum of 250 000 monetary units per passenger with respect to paragraph 1 of Article 22; and 250 monetary units per kilogramme with respect to paragraph 2 a) of Article 22 and 5000 monetary units per passenger with respect to paragraph 3 of article 22. This monetary unit corresponds to sixty-five and a half milligrammes of gold of millesimal fineness nine hundred. These sums may be converted into the national currency concerned in round figures. The conversion of these sums into national currency shall be made according to the law of the State concerned.

6. The sums mentioned in terms of the Special Drawing Right in this Article shall be deemed to refer to the Special Drawing Right as defined by the International Monetary Fund. Conversion of the sums into national currencies shall, in case of judicial proceedings, be made according to the value of such

currencies in terms of the Special Drawing Right at the date of the judgment. The value of a national currency, in terms of the Special Drawing Right, of a High Contracting Party which is a Member of the International Monetary Fund, shall be calculated in accordance with the method of valuation applied by the International Monetary Fund, in effect at the date of the judgment, for its operations and transactions. The value of a national currency, in terms of the Special Drawing Right, of a High Contracting Party which is not a Member of the International Monetary Fund, shall be calculated in a manner determined by that High Contracting Party.

Nevertheless, those States which are not Members of the International Monetary Fund and whose law does not permit the application of the provisions of paragraph 2 b) of Article 22 may, at the time of ratification or accession or at any time thereafter, declare that the limit of liability of the carrier in judicial proceedings in their territories is fixed at a sum of two hundred and fifty monetary units per kilogramme. This monetary unit corresponds to sixty-five and a half milligrammes of gold of millesimal fineness nine hundred. This sum may be converted into the national currency concerned in round figures. The conversion of this sum into the national currency shall be made according to the law of the State concerned.

Article 23

1. Any provision tending to relieve the carrier of liability or to fix a lower limit than that which is laid down in this Convention shall be null and void, but the nullity of any such provision does not involve the nullity of the whole contract, which shall remain subject to the provisions of this Convention.
2. Paragraph 1 of this Article shall not apply to provisions governing loss or damage resulting from the inherent defect, quality or vice of the cargo carried.

Article 24

1. In the carriage of passengers and baggage, any action for damages, however founded, can only be brought subject to the conditions and limits set out in this Convention, without prejudice to the question as to who are the persons who have the right to bring suit and what are their respective rights.
2. In the carriage of cargo, any action for damages, however founded, whether under this Convention or in contract or in tort or otherwise, can only be brought subject to the conditions and limits of liability set out in this Convention without prejudice to the question as to who are the persons who have the right to bring suit and what are their respective rights. Such limits of liability constitute maximum limits and may not be exceeded whatever the circumstances which gave rise to the liability.

Article 25

In the carriage of passengers and baggage, the limits of liability specified in Article 22 shall not apply if it is proved that the damage resulted from an act or omission of the carrier, his servants or agents, done with intent to cause damage or recklessly and with knowledge that damage would probably result; provided that, in the case of such act or omission of a servant or agent, it is also proved that he was acting within the scope of his employment.

Article 25A

1. If an action is brought against a servant or agent of the carrier arising out of damage to which this Convention relates, such servant or agent, if he proves that he acted within the scope of his employment, shall be entitled to avail himself of the limits of liability which that carrier himself is entitled to invoke under Article 22.
2. The aggregate of the amounts recoverable from the carrier, his servants and agents, in that case, shall not exceed the said limits.
3. In the carriage of passengers and baggage, the provisions of paragraphs 1 and 2 of this Article shall not apply if it is proved that the damage resulted from an act or omission of the servant or agent done with intent to cause damage or recklessly and with knowledge that damage would probably result.

Article 26

1. Receipt by the person entitled to delivery of baggage or cargo without complaint is *prima facie* evidence that the same has been delivered in good condition and in accordance with the document of carriage.
2. In the case of damage, the person entitled to delivery must complain to the carrier forthwith after the discovery of the damage, and, at the latest, within seven days from the date of receipt in the case of baggage and fourteen days from the date of receipt in the case of cargo. In the case of delay the complaint must be made at the latest within twenty-one days from the date on which the baggage or cargo have been placed at his disposal.
3. Every complaint must be made in writing upon the document of carriage or by separate notice in writing, despatched within the times aforesaid.
4. Failing complaint within the times aforesaid, no action shall lie against the carrier, save in the case of fraud on his part.

Article 27

In the case of the death of the person liable, an action for damages lies in accordance with the terms of this Convention against those legally representing his estate.

Article 28

1. An action for damages must be brought, at the option of the plaintiff, in the territory of one of the High Contracting Parties, either before the court having jurisdiction where the carrier is ordinarily resident, or has his principal place of business, or has an establishment by which the contract has been made or before the court having jurisdiction at the place of destination.
2. Questions of procedure shall be governed by the law of the court seised of the case.

Article 29

1. The right to damages shall be extinguished if an action is not brought within two years, reckoned from the date of arrival at the destination, or from the date on which the aircraft ought to have arrived, or from the date on which the carriage stopped.
2. The method of calculating the period of limitation shall be determined by the law of the court seised of the case.

Article 30

1. In the case of carriage to be performed by various successive carriers and falling within the definition set-out in the third paragraph of Article 1, each carrier who accepts passengers, baggage or cargo is subjected to the rules set out in this Convention, and is deemed to be one of the contracting parties to the contract of carriage in so far as the contract deals with that part of the carriage which is performed under his supervision.
2. In the case of carriage of this nature, the passenger or his representative can take action only against the carrier who performed the carriage during which the accident or the delay occurred, save in the case where, by express agreement, the first carrier assumed liability for the whole journey.
3. As regards baggage or cargo, the passenger or consignor will have a right of action against the first carrier, and the passenger or consignee who is entitled to delivery will have a right of action against the last carrier, and further, each may take action against the carrier who performed the carriage during which the destruction, loss, damage or delay took place. These carriers will be jointly and severally liable to the passenger or to the consignor or consignee.

Article 30A

Nothing in this Convention shall prejudice the question whether a person liable for damage in accordance with its provisions has a right of recourse against any other person.

Chapter IV
Provisions relating to combined carriage

Article 31

1. In the case of combined carriage performed partly by air and partly by any other mode of carriage, the provisions of this Convention apply only to the carriage by air, provided that the carriage by air falls within the terms of Article 1.
2. Nothing in this Convention shall prevent the parties in the case of combined carriage from inserting in the document of air carriage conditions relating to other modes of carriage, provided that the provisions of this Convention are observed as regards the carriage by air.

Chapter V
General and final provisions

Article 32

Any clause contained in the contract and all special agreements entered into before the damage occurred by which the parties purport to infringe the rules laid down by this Convention, whether by deciding the law to be applied, or by altering the rules as to jurisdiction, shall be null and void. Nevertheless for the carriage of cargo arbitration clauses are allowed, subject to this Convention, if the arbitration is to take place within one of the jurisdictions referred to in the first paragraph of Article 28.

Article 33

Except as provided in paragraph 3 of Article 5, nothing in this Convention shall prevent the carrier either from refusing to enter into any contract of carriage, or from making regulations which do not conflict with the provisions of this Convention.

Article 34

The provisions of Articles 3 to 8 inclusive relating to documents of carriage shall not apply in the case of carriage performed in extraordinary circumstances outside the normal scope of an air carrier’s business.

Article 35

The expression “days” when used in this Convention means current days not working days.

Article 36

The Convention is drawn up in French in a single copy which shall remain deposited in the archives of the Ministry for Foreign Affairs of Poland and of which one duly certified copy shall be sent by the Polish Government to the Government of each of the High Contracting Parties.

Article 37

1. This Convention shall be ratified. The instruments of ratification shall be deposited in the archives of the Ministry for Foreign Affairs of Poland, which will notify the deposit to the Government of each of the High Contracting Parties.
2. As soon as this Convention shall have been ratified by five of the High Contracting Parties it shall come into force as between them on the ninetieth day after the deposit of the fifth ratification. Thereafter it shall come into force between the High Contracting Parties who shall have ratified and the High Contracting Party who deposits his instrument of ratification on the ninetieth day after the deposit.
3. It shall be the duty of the Government of the Republic of Poland to notify to the Government of each of the High Contracting Parties the date on which this Convention comes into force as well as the date of the deposit of each ratification.

Article 38

1. This Convention shall, after it has come into force, remain open for accession by any State.
2. The accession shall be effected by a notification addressed to the Government of the Republic of Poland, which will inform the Government of each of the High Contracting Parties thereof.
3. The accession shall take effect as from the ninetieth day after the notification made to the Government of the Republic of Poland.

Article 39

1. Any one of the High Contracting Parties may denounce this Convention by a notification addressed to the Government of the Republic of Poland, which will at once inform the Government of each of the High Contracting Parties.
2. Denunciation shall take effect six months after the notification of denunciation, and shall operate only as regards the Party who shall have proceeded to denunciation.

Article 40

1. Any High Contracting Party may, at the time of signature or of deposit of ratification or of accession declare that the acceptance which he gives to this Convention does not apply to all or any of his colonies, protectorates, territories under mandate, or any other territory subject to his sovereignty or his authority, or any territory under his suzerainty.
2. Accordingly any High Contracting Party may subsequently accede separately in the name of all or any of his colonies, protectorates, territories under mandate or any other territory subject to his sovereignty or to his authority or any

territory under his suzerainty which has been thus excluded by his original declaration.

3. Any High Contracting Party may denounce this Convention, in accordance with its provisions, separately or for all or any of his colonies, protectorates, territories under mandate or any other territory subject to his sovereignty or to his authority, or any other territory under his suzerainty.

Article 40A

1. In Article 37 paragraph 2, and Article 40, paragraph 1, the expression a *High Contracting Party* shall mean a *State*. In all other cases, the expression *High Contracting Party* shall mean a State whose ratification of or adherence to the Convention has become effective and whose denunciation thereof has not become effective.

2. For the purposes of the Convention the word *territory* means not only the metropolitan territory of a State but also all other territories for the foreign relations of which that State is responsible.

Article 41

Any High Contracting Party shall be entitled not earlier than two years after the coming into force of this Convention to call for the assembling of a new international Conference in order to consider any improvements which may be made in this Convention. To this end he will communicate with the Government of the French Republic which will take the necessary measures to make preparations for such Conference.

This Convention done at Warsaw on the 12th October, 1929, shall remain open for signature until the 31st January, 1930.

(Here follow the signatures of the Plenipotentiaries of the States on behalf of which the Convention was signed.)

Additional Protocol

(With reference to Article 2)

The High Contracting Parties reserve to themselves the right to declare at the time of ratification or of accession that the first paragraph of Article 2 of this Convention shall not apply to international carriage by air performed directly by the State, its colonies, protectorates or mandated territories or by any other territory under its sovereignty, suzerainty or authority.

Additional Provisions of the Hague Protocol Affecting the Warsaw Convention

Chapter II
Scope of application of the Convention as amended

Article XVIII

The Convention as amended by this Protocol shall apply to international carriage as defined in Article 1 of the Convention, provided that the places of departure and destination referred to in that Article are situated either in the territories of two parties to this Protocol or within the territory of a single party to this Protocol with an agreed stopping place within the territory of another State.

Chapter III
Final clauses

Article XIX

As between the Parties to this Protocol, the Convention and the Protocol shall be read and interpreted together as one single instrument and shall be known as the Warsaw Convention as amended at The Hague, 1955.

Article XX

Until the date on which this Protocol comes into force in accordance with the provisions of Article XXII, paragraph 1, it shall remain open for signature on behalf of any State which up to that date has ratified or adhered to the Convention or which has participated in the Conference at which this Protocol was adopted.

Article XXI

1. This Protocol shall be subject to ratification by the signatory States.
2. Ratification of this Protocol by any State which is not a party to the Convention shall have the effect of adherence to the Convention as amended by this Protocol.
3. The instruments of ratification shall be deposited with the Government of the People’s Republic of Poland.

Article XXII

1. As soon as thirty signatory States have deposited their instruments of ratification of this Protocol, it shall come into force between them on the ninetieth day after the deposit of the thirtieth instrument of ratification. It shall come into force for each State ratifying thereafter on the ninetieth day after the deposit of its instrument of ratification.

2. As soon as this Protocol comes into force it shall be registered with the United Nations by the Government of the People's Republic of Poland.

Article XXIII

1. This Protocol shall, after it has come into force, be open for adherence by any non-signatory State.
2. Adherence to this Protocol by any State which is not a Party to the Convention shall have the effect of adherence to the Convention as amended by this Protocol.
3. Adherence shall be effected by the deposit of an instrument of adherence with the Government of the People's Republic of Poland and shall take effect on the ninetieth day after the deposit.

Article XXIV

1. Any Party to this Protocol may denounce the Protocol by notification addressed to the Government of the People's Republic of Poland.
2. Denunciation shall take effect six months after the date of receipt by the Government of the People's Republic of Poland of the notification of denunciation.
3. As between the Parties to this Protocol, denunciation by any of them of the Convention in accordance with Article 39 thereof shall not be construed in any way as a denunciation of the Convention as amended by this Protocol.

Article XXV

1. This Protocol shall apply to all territories for the foreign relations of which a State Party to this Protocol is responsible, with the exception of territories in respect of which a declaration has been made in accordance with paragraph 2 of this Article.
2. Any State may, at the time of deposit of its instrument of ratification or adherence, declare that its acceptance of this Protocol does not apply to any one or more of the territories for the foreign relations of which such State is responsible.
3. Any State may subsequently, by notification to the Government of the People's Republic of Poland, extend the application of this Protocol to any or all of the territories regarding which it has made a declaration in accordance with paragraph 2 of this Article. The notification shall take effect on the ninetieth day after its receipt by that Government.
4. Any State Party to this Protocol may denounce it, in accordance with the provisions of Article XXIV, paragraph 1, separately for any or all of the territories for the foreign relations of which such State is responsible.

Article XXVI

No reservation may be made to this Protocol except that a State may at any time declare by a notification addressed to the Government of the People's Republic of Poland that the Convention as amended by this Protocol shall not apply to the carriage of persons, cargo and baggage for its military authorities on aircraft, registered in that State, the whole capacity of which has been reserved by or on behalf of such authorities.

Article XXVII

The Government of the People's Republic of Poland shall give immediate notice to the Governments of all States signatories to the Convention or this Protocol, all States Parties to the Convention or this Protocol, and all States Members of the International Civil Aviation Organization or of the United Nations and to the International Civil Aviation Organization:

a) of any signature of this Protocol and the date thereof;

b) of the deposit of any instrument of ratification or adherence in respect of this Protocol and the date thereof;

c) of the date on which this Protocol comes into force in accordance with Article XXII, paragraph 1;

d) of the receipt of any notification of denunciation and the date thereof;

e) of the receipt of any declaration or notification made under Article XXV and the date thereof; and

f) of the receipt of any notification made under Article XXVI and the date thereof.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorised, have signed this Protocol.

DONE at The Hague on the twenty-eighth day of the month of September of the year One Thousand Nine Hundred and Fifty-five, in three authentic texts in the English, French and Spanish languages. In the case of any inconsistency, the text in the French language, in which language the Convention was drawn up, shall prevail.

This Protocol shall be deposited with the Government of the People's Republic of Poland with which, in accordance with Article XX, it shall remain open for signature, and that Government shall send certified copies thereof to the Governments of all States signatories to the Convention or this Protocol, all States Parties to the Convention or this Protocol, and all States Members of the International Civil Aviation Organisation or of the United Nations, and to the International Civil Aviation Organisation.

(Here follow the signatures of the Plenipotentiaries of the States on behalf of which the Protocol was signed.)

Additional Provisions of Additional Protocol No. 1 Affecting the Warsaw Convention

Chapter II
Scope of application of the Convention as amended

Article III

The Warsaw Convention as amended by this Protocol shall apply to international carriage as defined in Article 1 of the Convention, provided that the place of departure and destination referred to in that Article are situated either in the territories of two Parties to this Protocol, or within the territory of a single Party to this Protocol with an agreed stopping place in the territory of another State.

Chapter III
Final clauses

Article IV

As between the Parties to this Protocol, the Convention and the Protocol shall be read and interpreted together as one single instrument and shall be known as the *Warsaw Convention as amended by Additional Protocol No. 1 of Montreal, 1975*.

Article V

Until the date on which this Protocol comes into force in accordance with the provisions of Article VII, it shall remain open for signature by any State.

Article VI

1. This Protocol shall be subject to ratification by the signatory States.
2. Ratification of this Protocol by any State which is not a Party to the Warsaw Convention shall have the effect of accession to the Convention as amended by this Protocol.
3. The instruments of ratification shall be deposited with the Government of the Polish People's Republic.

Article VII

1. As soon as thirty signatory States have deposited their instruments of ratification of this Protocol, it shall come into force between them on the ninetieth day after the deposit of the thirtieth instrument of ratification. It shall come into force for each State ratifying thereafter on the ninetieth day after the deposit of its instrument of ratification.
2. As soon as this Protocol comes into force it shall be registered with the United Nations by the Government of the Polish People's Republic.

Article VIII

1. This Protocol, after it has come into force, shall be open for accession by any non-signatory State.
2. Accession to this Protocol by any State which is not a Party to the Convention shall have the effect of accession to the Convention as amended by this Protocol.
3. Accession shall be effected by the deposit of an instrument of accession with the Government of the Polish People's Republic and shall take effect on the ninetieth day after the deposit.

Article IX

1. Any Party to this Protocol may denounce the Protocol by notification addressed to the Government of the Polish People's Republic.
2. Denunciation shall take effect six months after the receipt by the Government of the Polish People's Republic of the notification of denunciation.
3. As between the Parties to this Protocol, denunciation by any of them of the Convention in accordance with Article 39 thereof shall not be construed in any way as a denunciation of the Convention as amended by this Protocol.

Article X

No reservation may be made to this Protocol.

Article XI

The Government of the Polish People's Republic shall promptly inform all States Parties to the Warsaw Convention or of that Convention as amended, all signatory or acceding States to the present Protocol, as well as the International Civil Aviation Organization, of the date of each signature, the date of deposit of each instrument of ratification or accession, the date of coming into force of this Protocol and other relevant information.

Article XII

As between the Parties to this Protocol which are also Parties to the Convention, Supplementary to the Warsaw Convention, for the Unification of Certain Rules Relating to International Carriage by Air Performed by a Person Other than the Contracting Carrier, signed at Guadalajara on 18 September 1961 (hereinafter referred to as the "Guadalajara Convention") any reference to the "Warsaw Convention" contained in the Guadalajara Convention shall include reference to the *Warsaw Convention as amended by Additional Protocol No. 1 of Montreal, 1975*, in cases where the carriage under the agreement referred to in Article 1, paragraph b) of the Guadalajara Convention is governed by this Protocol.

Article XIII

This Protocol shall remain open for signature until 1 January 1976 at the Headquarters of the International Civil Aviation Organization and thereafter until it comes into force in accordance with Article VII at the Ministry for Foreign Affairs of the Polish People's Republic. The International Civil Aviation Organization shall promptly inform the Government of the Polish People's Republic of any signature and the date thereof during the time that the Protocol shall be open for signature at the Headquarters of the International Civil Aviation Organization.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorized, have signed this Protocol.

DONE at Montreal on the twenty-fifth day of the month of September of the year One Thousand Nine Hundred and Seventy-five in four authentic texts in the English, French, Russian and Spanish languages. In the case of any inconsistency, the text in the French language, in which language the Warsaw Convention of 12 October 1929 was drawn up, shall prevail.

Additional Provisions of Additional Protocol No. 2 Affecting the Warsaw Convention

Chapter II
Scope of application of the Convention as amended

Article III

The Warsaw Convention as amended at The Hague in 1955 and by this Protocol shall apply to international carriage as defined in Article 1 of the Convention, provided that the places of departure and destination referred to in that Article are situated either in the territories of two Parties to this Protocol or within the territory of a single Party to this Protocol with an agreed stopping place in the territory of another State.

Chapter III
Final clauses

Article IV

As between the Parties to this Protocol, the Warsaw Convention as amended at The Hague in 1955 and this Protocol shall be read and interpreted together as one single instrument and shall be known as the *Warsaw Convention as amended at The Hague, 1955, and by Additional Protocol No. 2 of Montreal, 1975.*

Article V

Until the date on which this Protocol enters into force in accordance with the provisions of Article VII, it shall remain open for signature by any State.

Article VI

1. This Protocol shall be subject to ratification by the signatory States.
2. Ratification of this Protocol by any State which is not a Party to the Warsaw Convention or by any State which is not a Party to the Warsaw Convention as amended at The Hague, 1955, shall have the effect of accession to the *Warsaw Convention as amended at The Hague, 1955, and by Additional Protocol No. 2 of Montreal, 1975.*
3. The instruments of ratification shall be deposited with the Government of the Polish People's Republic.

Article VII

1. As soon as thirty signatory States have deposited their instruments of ratification of this Protocol, it shall come into force between them on the ninetieth day after the deposit of the thirtieth instrument of ratification. It shall come into force for each State ratifying thereafter on the ninetieth day after the deposit of its instrument of ratification.
2. As soon as this Protocol comes into force it shall be registered with the United Nations by the Government of the Polish People's Republic.

Article VIII

1. This Protocol, after it has come into force, shall be open for accession by any non-signatory State.
2. Accession to this Protocol by any State which is not a Party to the Warsaw Convention or by any State which is not a Party to the Warsaw Convention as amended at The Hague, 1955, shall have the effect of accession to the *Warsaw Convention as amended at The Hague, 1955, and by Additional Protocol No. 2 of Montreal, 1975.*
3. Accession shall be effected by the deposit of an instrument of accession with the Government of the Polish People's Republic and shall take effect on the ninetieth day after the deposit.

Article IX

1. Any Party to this Protocol may denounce the Protocol by notification addressed to the Government of the Polish People's Republic.
2. Denunciation shall take effect six months after the date of receipt by the Government of the Polish People's Republic of the notification of denunciation.

3. As between the Parties to this Protocol, denunciation by any of them of the Warsaw Convention in accordance with Article 39 thereof or of The Hague Protocol in accordance with Article XXIV thereof shall not be construed in any way as a denunciation of the *Warsaw Convention as amended at The Hague, 1955, and by Additional Protocol No. 2 of Montreal, 1975.*

Article X

No reservation may be made to this Protocol except that a State may at any time declare by a notification addressed to the Government of the Polish People's Republic that the Convention as amended by this Protocol shall not apply to the carriage of persons, cargo and baggage for its military authorities on aircraft, registered in that State, the whole capacity of which has been reserved by or on behalf of such authorities.

Article XI

The Government of the Polish People's Republic shall promptly inform all States Parties to the Warsaw Convention or to that Convention as amended, all signatory or acceding States to the present Protocol, as well as the International Civil Aviation Organization, of the date of each signature, the date of deposit of each instrument of ratification or accession, the date of coming into force of this Protocol, and other relevant information.

Article XII

As between the Parties to this Protocol which are also Parties to the Convention, Supplementary to the Warsaw Convention, for the Unification of Certain Rules Relating to International Carriage by Air Performed by a Person Other than the Contracting Carrier, signed at Guadalajara on 18 September 1961 (hereinafter referred to as the "Guadalajara Convention") any reference to the "Warsaw Convention" contained in the Guadalajara Convention shall include reference to the *Warsaw Convention as amended at The Hague, 1955, and by Additional Protocol No. 2 of Montreal, 1975*, in cases where the carriage under the agreement referred to in Article 1, paragraph b) of the Guadalajara Convention is governed by this Protocol.

Article XIII

This Protocol shall remain open for signature until 1 January 1976 at the Headquarters of the International Civil Aviation Organization and thereafter until it comes into force in accordance with Article VII at the Ministry for Foreign Affairs of the Polish People's Republic. The International Civil Aviation Organization shall promptly inform the Government of the Polish People's Republic of any signature and the date thereof during the time that the Protocol shall be open for signature at the Headquarters of the International Civil Aviation Organization.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorized, have signed this Protocol.

DONE at Montreal on the twenty-fifth day of the month of September of the year One Thousand Nine Hundred and Seventy-five in four authentic texts in the English, French, Russian and Spanish languages. In the case of any inconsistency, the text in the French language, in which language the Warsaw Convention of 12 October 1929 was drawn up, shall prevail.

Additional Provisions of Protocol No. 4 Affecting the Warsaw Convention

Chapter II
Scope of Application of the Convention as Amended

Article XIV

The Warsaw Convention as amended at The Hague in 1955 and by this Protocol shall apply to international carriage as defined in Article 1 of the Convention, provided that the places of departure and destination referred to in that Article are situated either in the territories of two Parties to this Protocol or within the territory of a single Party to this Protocol with an agreed stopping place in the territory of another State.

Chapter III
Final clauses

Article XV

As between the Parties to this Protocol, the Warsaw Convention as amended at The Hague in 1955 and this Protocol shall be read and interpreted together as one single instrument and shall be known as the *Warsaw Convention as amended at The Hague, 1955, and by Protocol No. 4 of Montreal, 1975.*

Article XVI

Until the date on which this Protocol enters into force in accordance with the provisions of Article XVIII, it shall remain open for signature by any State.

Article XVII

1. This Protocol shall be subject to ratification by the signatory States.
2. Ratification of this Protocol by any State which is not a Party to the Warsaw Convention or by any State which is not a Party to the Warsaw Convention as amended at The Hague, 1955, shall have the effect of accession to the *Warsaw Convention as amended at The Hague, 1955, and by Protocol No. 4 of Montreal, 1975.*

3. The instruments of ratification shall be deposited with the Government of the Polish People's Republic.

Article XVIII

1. As soon as thirty signatory States have deposited their instruments of ratification of this Protocol, it shall come into force between them on the ninetieth day after the deposit of the thirtieth instrument of ratification. It shall come into force for each State ratifying thereafter on the ninetieth day after the deposit of its instrument of ratification.
2. As soon as this Protocol comes into force it shall be registered with the United Nations by the Government of the Polish People's Republic.

Article XIX

1. This Protocol, after it has come into force, shall be open for accession by any non-signatory State.
2. Accession to this Protocol by any State which is not a Party to the Warsaw Convention or by any State which is not a Party to the Warsaw Convention as amended at The Hague, 1955, shall have the effect of accession to the *Warsaw Convention as amended at The Hague, 1955, and by Protocol No. 4 of Montreal, 1975.*
3. Accession shall be effected by the deposit of an instrument of accession with the Government of the Polish People's Republic and shall take effect on the ninetieth day after the deposit.

Article XX

1. Any Party to this Protocol may denounce the Protocol by notification addressed to the Government of the Polish People's Republic.
2. Denunciation shall take effect six months after the date of receipt by the Government of the Polish People's Republic of the notification of denunciation.
3. As between the Parties to this Protocol, denunciation by any of them of the Warsaw Convention in accordance with Article 39 thereof or of The Hague Protocol in accordance with Article XXIV thereof shall not be construed in any way as a denunciation of the *Warsaw Convention as amended at The Hague, 1955, and by Protocol No. 4 of Montreal, 1975.*

Article XXI

1. Only the following reservations may be made to this Protocol:—
   a) a State may at any time declare by a notification addressed to the Government of the Polish People's Republic that the *Warsaw Convention as amended at The Hague, 1955, and by Protocol No. 4 of Montreal, 1975*, shall not apply to the carriage of persons, baggage and cargo for its military authorities on aircraft, registered in that State, the whole

capacity of which has been reserved by or on behalf of such authorities; and

b) any State may declare at the time of ratification of or accession to the Additional Protocol No. 3 of Montreal, 1975, or at any time thereafter, that it is not bound by the provisions of the *Warsaw Convention as amended at The Hague, 1955, and by Protocol No. 4 of Montreal, 1975*, in so far as they relate to the carriage of passengers and baggage. Such declaration shall have effect ninety days after the date of receipt of the declaration by the Government of the Polish People's Republic.

2. Any State having made a reservation in accordance with the preceding paragraph may at any time withdraw such reservation by notification to the Government of the Polish People's Republic.

Article XXII

The Government of the Polish People's Republic shall promptly inform all States Parties to the Warsaw Convention or to that Convention as amended, all signatory or acceding States to the present Protocol, as well as the International Civil Aviation Organization, of the date of each signature, the date of deposit of each instrument of ratification or accession, the date of coming into force of this Protocol, and other relevant information.

Article XXIII

As between the Parties to this Protocol which are also Parties to the Convention, Supplementary to the Warsaw Convention, for the Unification of Certain Rules Relating to International Carriage by Air Performed by a Person Other than the Contracting Carrier, signed at Guadalajara on 18 September 1961 (hereinafter referred to as the "Guadalajara Convention") any reference to the "Warsaw Convention" contained in the Guadalajara Convention shall include reference to the *Warsaw Convention as amended at The Hague, 1955, and by Protocol No. 4 of Montreal, 1975*, in cases where the carriage under the agreement referred to in Article 1, paragraph (b) of the Guadalajara Convention is governed by this Protocol.

Article XXIV

If two or more States are Parties both to this Protocol and to the Guatemala City Protocol, 1971, or to the Additional Protocol No. 3 of Montreal, 1975, the following rules shall apply between them:

a) the provisions resulting from the system established by this Protocol, concerning cargo and postal items, shall prevail over the provisions resulting from the system established by the Guatemala City Protocol, 1971, or by the Additional Protocol No. 3 of Montreal, 1975;

b) the provisions resulting from the system established by the Guatemala City Protocol, 1971, or by the Additional Protocol No. 3 of Montreal, 1975, con-

cerning passengers and baggage, shall prevail over the provisions resulting from the system established by this Protocol.

Article XXV

This Protocol shall remain open for signature until 1 January 1976 at the Headquarters of the International Civil Aviation Organization and thereafter until it comes into force in accordance with Article XVIII at the Ministry for Foreign Affairs of the Polish People's Republic. The International Civil Aviation Organization shall promptly inform the Government of the Polish People's Republic of any signature and the date thereof during the time that the Protocol shall be open for signature at the Headquarters of the International Civil Aviation Organization.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorized, have signed this Protocol.

DONE AT MONTREAL on the twenty-fifth day of September of the year One Thousand Nine Hundred and Seventy-five in four authentic texts in the English, French, Russian and Spanish languages. In the case of any inconsistency, the text in the French language, in which language the Warsaw Convention of 12 October 1929 was drawn up, shall prevail.

Schedule 5
The Guadalajara Convention

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Part 1

The English Text

Convention,

Supplementary to the Warsaw Convention, for the Unification of Certain Rules Relating to International Carriage by Air Performed by a Person Other Than the Contracting Carrier.

The States signatory to the present Convention

NOTING that the Warsaw Convention does not contain particular rules relating to international carriage by air performed by a person who is not a party to the agreement for carriage

CONSIDERING that it is therefore desirable to formulate rules to apply in such circumstances

HAVE AGREED AS FOLLOWS:

Article I

In this Convention:

(a) "Warsaw Convention" means the Convention for the Unification of Certain Rules Relating to International Carriage by Air signed at Warsaw on 12 October 1929, or the Warsaw Convention as amended at The Hague, 1955, according to whether the carriage under the agreement referred to in paragraph (b) is governed by the one or by the other;

(b) "contracting carrier" means a person who as a principal makes an agreement for carriage governed by the Warsaw Convention with a passenger or consignor or with a person acting on behalf of the passenger or consignor;

(c) "actual carrier" means a person, other than the contracting carrier, who, by virtue of authority from the contracting carrier, performs the whole or part of the carriage contemplated in paragraph (b) but who is not with respect to such part a successive carrier within the meaning of the Warsaw Convention. Such authority is presumed in the absence of proof to the contrary.

Article II

If an actual carrier performs the whole or part of carriage which, according to the agreement referred to in Article I, paragraph (b), is governed by the Warsaw Convention, both the contracting carrier and the actual carrier shall, except as otherwise

provided in this Convention, be subject to the rules of the Warsaw Convention, the former for the whole of the carriage contemplated in the agreement, the latter solely for the carriage which he performs.

Article III

1. The acts and omissions of the actual carrier and of his servants and agents acting within the scope of their employment shall, in relation to the carriage performed by the actual carrier, be deemed to be also those of the contracting carrier.
2. The acts and omissions of the contracting carrier and of his servants and agents acting within the scope of their employment shall, in relation to the carriage performed by the actual carrier, be deemed to be also those of the actual carrier. Nevertheless, no such act or omission shall subject the actual carrier to liability exceeding the limits specified in Article 22 of the Warsaw Convention. Any special agreement under which the contracting carrier assumes obligations not imposed by the Warsaw Convention or any waiver of rights conferred by that Convention or any special declaration of interest in delivery at destination contemplated in Article 22 of the said Convention, shall not affect the actual carrier unless agreed to by him.

Article IV

Any complaint to be made or order to be given under the Warsaw Convention to the carrier shall have the same effect whether addressed to the contracting carrier or to the actual carrier. Nevertheless, orders referred to in Article 12 of the Warsaw Convention shall only be effective if addressed to the contracting carrier.

Article V

In relation to the carriage performed by the actual carrier, any servant or agent of that carrier or of the contracting carrier shall, if he proves that he acted within the scope of his employment, be entitled to avail himself of the limits of liability which are applicable under this Convention to the carrier whose servant or agent he is unless it is proved that he acted in a manner which, under the Warsaw Convention, prevents the limits of liability from being invoked.

Article VI

In relation to the carriage performed by the actual carrier, the aggregate of the amounts recoverable from that carrier and the contracting carrier, and from their servants and agents acting within the scope of their employment, shall not exceed the highest amount which could be awarded against either the contracting carrier or the actual carrier under this Convention, but none of the persons mentioned shall be liable for a sum in excess of the limit applicable to him.

Article VII

In relation to the carriage performed by the actual carrier, an action for damages may be brought, at the option of the plaintiff, against that carrier or the contracting carrier, or against both together or separately. If the action is brought against only one of those carriers, that carrier shall have the right to require the other carrier to be joined in the proceedings, the procedure and effects being governed by the law of the court seised of the case.

Article VIII

Any action for damages contemplated in Article VII of this Convention must be brought, at the option of the plaintiff, either before a court in which an action may be brought against the contracting carrier, as provided in Article 28 of the Warsaw Convention, or before the court having jurisdiction at the place where the actual carrier is ordinarily resident or has his principal place of business.

Article IX

1. Any contractual provision tending to relieve the contracting carrier or the actual carrier of liability under this Convention or to fix a lower limit than that which is applicable according to this Convention shall be null and void, but the nullity of any such provision does not involve the nullity of the whole agreement, which shall remain subject to the provisions of this Convention.
2. In respect of the carriage performed by the actual carrier, the preceding paragraph shall not apply to contractual provisions governing loss or damage resulting from the inherent defect, quality or vice of the cargo carried.
3. Any clause contained in an agreement for carriage and all special agreements entered into before the damage occurred by which the parties purport to infringe the rules laid down by this Convention, whether by deciding the law to be applied, or by altering the rules as to jurisdiction, shall be null and void. Nevertheless, for the carriage of cargo arbitration clauses are allowed, subject to this Convention, if the arbitration is to take place in one of the jurisdictions referred to in Article VIII.

Article X

Except as provided in Article VII, nothing in this Convention shall affect the rights and obligations of the two carriers between themselves.

Article XI

Until the date on which this Convention comes into force in accordance with the provisions of Article XIII, it shall remain open for signature on behalf of any State which at that date is a Member of the United Nations or of any of the Specialised Agencies.

Article XII

1. This Convention shall be subject to ratification by the signatory States.
2. The instruments of ratification shall be deposited with the Government of the United States of Mexico.

Article XIII

1. As soon as five of the signatory States have deposited their instruments of ratification of this Convention, it shall come into force between them on the ninetieth day after the date of the deposit of the fifth instrument of ratification. It shall come into force for each state ratifying thereafter on the ninetieth day after the deposit of its instrument of ratification.
2. As soon as this Convention comes into force, it shall be registered with the United Nations and the International Civil Aviation Organisation by the Government of the United States of Mexico.

Article XIV

1. This Convention shall, after it has come into force, be open for accession by any State Member of the United Nations or any of the Specialised Agencies.
2. The accession of a State shall be effected by the deposit of an instrument of accession with the Government of the United States of Mexico and shall take effect as from the ninetieth day after the date of such deposit.

Article XV

1. Any Contracting State may denounce this Convention by notification addressed to the Government of the United States of Mexico.
2. The Denunciation shall take effect six months after the date of receipt by the Government of the United States of Mexico of the notification of denunciation.

Article XVI

1. Any Contracting State may at the time of its ratification of or accession to this Convention or at any time thereafter declare by notification to the Government of the United States of Mexico that the Convention shall extend to any of the territories for whose international relations it is responsible.
2. The Convention shall, ninety days after the date of the receipt of such notification by the Government of the United States of Mexico, extend to the territories named therein.
3. Any Contracting State may denounce this Convention in accordance with the provisions of Article XV separately for any or all of the territories for the international relations of which such State is responsible.

Article XVII

No reservation may be made to this Convention.

Article XVIII

The Government of the United States of Mexico shall give notice to the International Civil Aviation Organization and to all States Members of the United Nations or of any of the Specialised Agencies:

(a) of any signature of this Convention and the date thereof;

(b) of the deposit of any instrument of ratification or accession and the date thereof;

(c) of the date on which this Convention comes into force in accordance with Article XIII, paragraph 1;

(d) of the receipt of any notification of denunciation and the date thereof;

(e) of the receipt of any declaration or notification made under Article XVI and the date thereof.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorised, have signed this Convention.

DONE at Guadalajara on the eighteenth day of September One Thousand Nine Hundred and Sixty-one in three authentic texts drawn up in the English, French and Spanish languages. In case of any inconsistency, the text in the French language, in which language the Warsaw Convention of 12 October 1929 was drawn up, shall prevail. The Government of the United States of Mexico will establish an official translation of the text of the Convention in the Russian language.

This Convention shall be deposited with the Government of the United States of Mexico with which, in accordance with Article XI, it shall remain open for signature, and that Government shall send certified copies thereof to the International Civil Aviation Organization and to all States Members of the United Nations or of any Specialised Agency.

(Here follow signatures.)

Schedule 6
The Montreal Convention

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The English Text

Convention for the Unification of Certain Rules For International Carriage by Air

The States Parties To This Convention

RECOGNIZING the significant contribution of the Convention for the Unification of Certain Rules Relating to International Carriage by Air signed in Warsaw on 12 October 1929, hereinafter referred to as the "Warsaw Convention", and other related instruments to the harmonization of private international air law;

RECOGNIZING the need to modernize and consolidate the Warsaw Convention and related instruments;

RECOGNIZING the importance of ensuring protection of the interests of consumers in international carriage by air and the need for equitable compensation based on the principle of restitution;

REAFFIRMING the desirability of an orderly development of international air transport operations and the smooth flow of passengers, baggage and cargo in accordance with the principles and objectives of the Convention on International Civil Aviation, done at Chicago on 7 December 1944;

CONVINCED that collective State action for further harmonization and codification of certain rules governing international carriage by air through a new Convention is the most adequate means of achieving an equitable balance of interests;

HAVE AGREED AS FOLLOWS:

Chapter I
General provisions

Article 1—Scope of application

1. This Convention applies to all international carriage of persons, baggage or cargo performed by aircraft for reward. It applies equally to gratuitous carriage by aircraft performed by an air transport undertaking.

2. For the purposes of this Convention, the expression *international carriage* means any carriage in which, according to the agreement between the parties, the place of departure and the place of destination, whether or not there be a break in the carriage or a transhipment, are situated either within the territories of two States Parties, or within the territory of a single State Party if there is an agreed stopping place within the territory of another State, even if that State is not a State Party. Carriage between two points within the territory of a single

State Party without an agreed stopping place within the territory of another State is not international carriage for the purposes of this Convention.

3. Carriage to be performed by several successive carriers is deemed, for the purposes of this Convention, to be one undivided carriage if it has been regarded by the parties as a single operation, whether it had been agreed upon under the form of a single contract or of a series of contracts, and it does not lose its international character merely because one contract or a series of contracts is to be performed entirely within the territory of the same State.

4. This Convention applies also to carriage as set out in Chapter V, subject to the terms contained therein.

Article 2—Carriage performed by State and carriage of postal items

1. This Convention applies to carriage performed by the State or by legally constituted public bodies provided it falls within the conditions laid down in Article 1.

2. In the carriage of postal items, the carrier shall be liable only to the relevant postal administration in accordance with the rules applicable to the relationship between the carriers and the postal administrations.

3. Except as provided in paragraph 2 of this Article, the provisions of this Convention shall not apply to the carriage of postal items.

Chapter II
Documentation and duties of the parties relating to the carriage of passengers, baggage and cargo

Article 3—Passengers and baggage

1. In respect of carriage of passengers, an individual or collective document of carriage shall be delivered containing:

   (a) an indication of the places of departure and destination;

   (b) if the places of departure and destination are within the territory of a single State Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place.

2. Any other means which preserves the information indicated in paragraph 1 may be substituted for the delivery of the document referred to in that paragraph. If any such other means is used, the carrier shall offer to deliver to the passenger a written statement of the information so preserved.

3. The carrier shall deliver to the passenger a baggage identification tag for each piece of checked baggage.

4. The passenger shall be given written notice to the effect that where this Convention is applicable it governs and may limit the liability of carriers in respect

of death or injury and for destruction or loss of, or damage to, baggage, and for delay.

5. Non-compliance with the provisions of the foregoing paragraphs shall not affect the existence or the validity of the contract of carriage, which shall, nonetheless, be subject to the rules of this Convention including those relating to limitation of liability.

Article 4—Cargo

1. In respect of the carriage of cargo, an air waybill shall be delivered.
2. Any other means which preserves a record of the carriage to be performed may be substituted for the delivery of an air waybill. If such other means are used, the carrier shall, if so requested by the consignor, deliver to the consignor a cargo receipt permitting identification of the consignment and access to the information contained in the record preserved by such other means.

Article 5—Contents of air waybill or cargo receipt

The air waybill or the cargo receipt shall include:

(a) an indication of the places of departure and destination;

(b) if the places of departure and destination are within the territory of a single State Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place; and

(c) an indication of the weight of the consignment.

Article 6—Document relating to the nature of the cargo

The consignor may be required, if necessary, to meet the formalities of customs, police and similar public authorities to deliver a document indicating the nature of the cargo. This provision creates for the carrier no duty, obligation or liability resulting therefrom.

Article 7—Description of air waybill

1. The air waybill shall be made out by the consignor in three original parts.
2. The first part shall be marked “for the carrier”; it shall be signed by the consignor. The second part shall be marked “for the consignee”; it shall be signed by the consignor and by the carrier. The third part shall be signed by the carrier who shall hand it to the consignor after the cargo has been accepted.
3. The signature of the carrier and that of the consignor may be printed or stamped.
4. If, at the request of the consignor, the carrier makes out the air waybill, the carrier shall be deemed, subject to proof to the contrary, to have done so on behalf of the consignor.

Article 8—Documentation for multiple packages

When there is more than one package:

(a) the carrier of cargo has the right to require the consignor to make out separate air waybills;

(b) the consignor has the right to require the carrier to deliver separate cargo receipts when the other means referred to in paragraph 2 of Article 4 are used.

Article 9—Non-compliance with documentary requirements

Non-compliance with the provisions of Articles 4 to 8 shall not affect the existence or the validity of the contract of carriage, which shall, nonetheless, be subject to the rules of this Convention including those relating to limitation of liability.

Article 10—Responsibility for particulars of documentation

1. The consignor is responsible for the correctness of the particulars and statements relating to the cargo inserted by it or on its behalf in the air waybill or furnished by it or on its behalf to the carrier for insertion in the cargo receipt or for insertion in the record preserved by the other means referred to in paragraph 2 of Article 4. The foregoing shall also apply where the person acting on behalf of the consignor is also the agent of the carrier.

2. The consignor shall indemnify the carrier against all damage suffered by it, or by any other person to whom the carrier is liable, by reason of the irregularity, incorrectness or incompleteness of the particulars and statements furnished by the consignor or on its behalf.

3. Subject to the provisions of paragraphs 1 and 2 of this Article, the carrier shall indemnify the consignor against all damage suffered by it, or by any other person to whom the consignor is liable, by reason of the irregularity, incorrectness or incompleteness of the particulars and statements inserted by the carrier or on its behalf in the cargo receipt or in the record preserved by the other means referred to in paragraph 2 of Article 4.

Article 11—Evidentiary value of documentation

1. The air waybill or the cargo receipt is *prima facie* evidence of the conclusion of the contract, of the acceptance of the cargo and of the conditions of carriage mentioned therein.

2. Any statements in the air waybill or the cargo receipt relating to the weight, dimensions and packing of the cargo, as well as those relating to the number of packages, are *prima facie* evidence of the facts stated; those relating to the quantity, volume and condition of the cargo do not constitute evidence against the carrier except so far as they both have been, and are stated in the air waybill or the cargo receipt to have been, checked by it in the presence of the consignor, or relate to the apparent condition of the cargo.

Article 12—Right of disposition of cargo

1. Subject to its liability to carry out all its obligations under the contract of carriage, the consignor has the right to dispose of the cargo by withdrawing it at the airport of departure or destination, or by stopping it in the course of the journey on any landing, or by calling for it to be delivered at the place of destination or in the course of the journey to a person other than the consignee originally designated, or by requiring it to be returned to the airport of departure. The consignor must not exercise this right of disposition in such a way as to prejudice the carrier or other consignors and must reimburse any expenses occasioned by the exercise of this right.
2. If it is impossible to carry out the instructions of the consignor, the carrier must so inform the consignor forthwith.
3. If the carrier carries out the instructions of the consignor for the disposition of the cargo without requiring the production of the part of the air waybill or the cargo receipt delivered to the latter, the carrier will be liable, without prejudice to its right of recovery from the consignor, for any damage which may be caused thereby to any person who is lawfully in possession of that part of the air waybill or the cargo receipt.
4. The right conferred on the consignor ceases at the moment when that of the consignee begins in accordance with Article 13. Nevertheless, if the consignee declines to accept the cargo, or cannot be communicated with, the consignor resumes its right of disposition.

Article 13—Delivery of the cargo

1. Except when the consignor has exercised its right under Article 12, the consignee is entitled, on arrival of the cargo at the place of destination, to require the carrier to deliver the cargo to it, on payment of the charges due and on complying with the conditions of carriage.
2. Unless it is otherwise agreed, it is the duty of the carrier to give notice to the consignee as soon as the cargo arrives.
3. If the carrier admits the loss of the cargo, or if the cargo has not arrived at the expiration of seven days after the date on which it ought to have arrived, the consignee is entitled to enforce against the carrier the rights which flow from the contract of carriage.

Article 14—Enforcement of the rights of consignor and consignee

The consignor and the consignee can respectively enforce all the rights given to them by Articles 12 and 13, each in its own name, whether it is acting in its own interest or in the interest of another, provided that it carries out the obligations imposed by the contract of carriage.

Article 15—Relations of consignor and consignee or mutual relations of third parties

1. Articles 12, 13 and 14 do not affect either the relations of the consignor and the consignee with each other or the mutual relations of third parties whose rights are derived either from the consignor or from the consignee.
2. The provisions of Articles 12, 13 and 14 can only be varied by express provision in the air waybill or the cargo receipt.

Article 16—Formalities of Customs, Police or other public authorities

1. The consignor must furnish such information and such documents as are necessary to meet the formalities of customs, police and any other public authorities before the cargo can be delivered to the consignee. The consignor is liable to the carrier for any damage occasioned by the absence, insufficiency or irregularity of any such information or documents, unless the damage is due to the fault of the carrier, its servants or agents.
2. The carrier is under no obligation to enquire into the correctness or sufficiency of such information or documents.

Chapter III
Liability of the carrier and extent of compensation for damage

Article 17—Death and injury of passengers—Damage to baggage

1. The carrier is liable for damage sustained in case of death or bodily injury of a passenger upon condition only that the accident which caused the death or injury took place on board the aircraft or in the course of any of the operations of embarking or disembarking.
2. The carrier is liable for damage sustained in case of destruction or loss of, or of damage to, checked baggage upon condition only that the event which caused the destruction, loss or damage took place on board the aircraft or during any period within which the checked baggage was in the charge of the carrier. However, the carrier is not liable if and to the extent that the damage resulted from the inherent defect, quality or vice of the baggage. In the case of unchecked baggage, including personal items, the carrier is liable if the damage resulted from its fault or that of its servants or agents.
3. If the carrier admits the loss of the checked baggage, or if the checked baggage has not arrived at the expiration of twenty-one days after the date on which it ought to have arrived, the passenger is entitled to enforce against the carrier the rights which flow from the contract of carriage.
4. Unless otherwise specified, in this Convention the term “baggage” means both checked baggage and unchecked baggage.

Article 18—Damage to cargo

1. The carrier is liable for damage sustained in the event of the destruction or loss of, or damage to, cargo upon condition only that the event which caused the damage so sustained took place during the carriage by air.

2. However, the carrier is not liable if and to the extent it proves that the destruction, or loss of, or damage to, the cargo resulted from one or more of the following:

   (a) inherent defect, quality or vice of that cargo;

   (b) defective packaging of that cargo performed by a person other than the carrier or its servants or agents;

   (c) an act of war or an armed conflict;

   (d) an act of public authority carried out in connection with the entry, exit or transit of the cargo.

3. The carriage by air within the meaning of paragraph 1 of this Article comprises the period during which the cargo is in the charge of the carrier.

4. The period of the carriage by air does not extend to any carriage by land, by sea or by inland waterway performed outside an airport. If, however, such carriage takes place in the performance of a contract for carriage by air, for the purpose of loading, delivery or transhipment, any damage is presumed, subject to proof to the contrary, to have been the result of an event which took place during the carriage by air. If a carrier, without the consent of the consignor, substitutes carriage by another mode of transport for the whole or part of a carriage intended by the agreement between the parties to be carriage by air, such carriage by another mode of transport is deemed to be within the period of carriage by air.

Article 19—Delay

The carrier is liable for damage occasioned by delay in the carriage by air of passengers, baggage or cargo. Nevertheless, the carrier shall not be liable for damage occasioned by delay if it proves that it and its servants and agents took all measures that could reasonably be required to avoid the damage or that it was impossible for it or them to take such measures.

Article 20—Exoneration

If the carrier proves that the damage was caused or contributed to by the negligence or other wrongful act or omission of the person claiming compensation, or the person from whom he or she derives his or her rights, the carrier shall be wholly or partly exonerated from its liability to the claimant to the extent that such negligence or wrongful act or omission caused or contributed to the damage. When by reason of death or injury of a passenger compensation is claimed by a person other than the passenger, the carrier shall likewise be wholly or partly exonerated from its liability to the extent that it proves that the damage was caused or contributed to by the

negligence or other wrongful act or omission of that passenger. This Article applies to all the liability provisions in the Convention, including paragraph 1 of Article 21.

Article 21—Compensation in case of death or injury of passengers

1. For damages arising under paragraph 1 of Article 17 not exceeding 151 880 Special Drawing Rights for each passenger, the carrier shall not be able to exclude or limit its liability.

2. The carrier shall not be liable for damages arising under paragraph 1 of Article 17 to the extent that they exceed for each passenger 151 880 Special Drawing Rights if the carrier proves that:

   (a) such damage was not due to the negligence or other wrongful act or omission of the carrier or its servants or agents; or

   (b) such damage was solely due to the negligence or other wrongful act or omission of a third party.

Schedule 6 Article 21 paragraph 1: amended, on 28 December 2024, by clause 6(a) of the Civil Aviation (Montreal Convention) Order 2024 (SL 2024/269).

Schedule 6 Article 21 paragraph 2: amended, on 28 December 2024, by clause 6(b) of the Civil Aviation (Montreal Convention) Order 2024 (SL 2024/269).

Article 22—Limits of liability in relation to delay, baggage and cargo

1. In the case of damage caused by delay as specified in Article 19 in the carriage of persons, the liability of the carrier for each passenger is limited to 6 303 Special Drawing Rights.

2. In the carriage of baggage, the liability of the carrier in the case of destruction, loss, damage or delay is limited to 1 519 Special Drawing Rights for each passenger unless the passenger has made, at the time when the checked baggage was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless it proves that the sum is greater than the passenger's actual interest in delivery at destination.

3. In the carriage of cargo, the liability of the carrier in the case of destruction, loss, damage or delay is limited to a sum of 26 Special Drawing Rights per kilogramme, unless the consignor has made, at the time when the package was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless it proves that the sum is greater than the consignor's actual interest in delivery at destination.

4. In the case of destruction, loss, damage or delay of part of the cargo, or of any object contained therein, the weight to be taken into consideration in determining the amount to which the carrier's liability is limited shall be only the total weight of the package or packages concerned. Nevertheless, when

the destruction, loss, damage or delay of a part of the cargo, or of an object contained therein, affects the value of other packages covered by the same air waybill, or the same receipt or, if they were not issued, by the same record preserved by the other means referred to in paragraph 2 of Article 4, the total weight of such package or packages shall also be taken into consideration in determining the limit of liability.

5. The foregoing provisions of paragraphs 1 and 2 of this Article shall not apply if it is proved that the damage resulted from an act or omission of the carrier, its servants or agents, done with intent to cause damage or recklessly and with knowledge that damage would probably result; provided that, in the case of such act or omission of a servant or agent, it is also proved that such servant or agent was acting within the scope of its employment.

6. The limits prescribed in Article 21 and in this Article shall not prevent the court from awarding, in accordance with its own law, in addition, the whole or part of the court costs and of the other expenses of the litigation incurred by the plaintiff, including interest. The foregoing provision shall not apply if the amount of the damages awarded, excluding court costs and other expenses of the litigation, does not exceed the sum which the carrier has offered in writing to the plaintiff within a period of six months from the date of the occurrence causing the damage, or before the commencement of the action, if that is later.

Schedule 6 Article 22 paragraph 1: amended, on 28 December 2024, by clause 6(c) of the Civil Aviation (Montreal Convention) Order 2024 (SL 2024/269).

Schedule 6 Article 22 paragraph 2: amended, on 28 December 2024, by clause 6(d) of the Civil Aviation (Montreal Convention) Order 2024 (SL 2024/269).

Schedule 6 Article 22 paragraph 3: amended, on 28 December 2024, by clause 6(e) of the Civil Aviation (Montreal Convention) Order 2024 (SL 2024/269).

Article 23—Conversion of Monetary Units

1. The sums mentioned in terms of Special Drawing Right in this Convention shall be deemed to refer to the Special Drawing Right as defined by the International Monetary Fund. Conversion of the sums into national currencies shall, in case of judicial proceedings, be made according to the value of such currencies in terms of the Special Drawing Right at the date of the judgement. The value of a national currency, in terms of the Special Drawing Right, of a State Party which is a Member of the International Monetary Fund, shall be calculated in accordance with the method of valuation applied by the International Monetary Fund, in effect at the date of the judgement, for its operations and transactions. The value of a national currency, in terms of the Special Drawing Right, of a State Party which is not a Member of the International Monetary Fund, shall be calculated in a manner determined by that State.

2. Nevertheless, those States which are not Members of the International Monetary Fund and whose law does not permit the application of the provisions of paragraph 1 of this Article may, at the time of ratification or accession or at any

time thereafter, declare that the limit of liability of the carrier prescribed in Article 21 is fixed at a sum of 1 500 000 monetary units per passenger in judicial proceedings in their territories; 62 500 monetary units per passenger with respect to paragraph 1 of Article 22; 15 000 monetary units per passenger with respect to paragraph 2 of Article 22; and 250 monetary units per kilogramme with respect to paragraph 3 of Article 22. This monetary unit corresponds to sixty-five and a half milligrammes of gold of millesimal fineness nine hundred. These sums may be converted into the national currency concerned in round figures. The conversion of these sums into national currency shall be made according to the law of the State concerned.

3. The calculation mentioned in the last sentence of paragraph 1 of this Article and the conversion method mentioned in paragraph 2 of this Article shall be made in such manner as to express in the national currency of the State Party as far as possible the same real value for the amounts in Articles 21 and 22 as would result from the application of the first three sentences of paragraph 1 of this Article. States Parties shall communicate to the depositary the manner of calculation pursuant to paragraph 1 of this Article, or the result of the conversion in paragraph 2 of this Article as the case may be, when depositing an instrument of ratification, acceptance, approval of or accession to this Convention and whenever there is a change in either.

Article 24—Review of Limits

1. Without prejudice to the provisions of Article 25 of this Convention and subject to paragraph 2 below, the limits of liability prescribed in Articles 21, 22 and 23 shall be reviewed by the Depositary at five-year intervals, the first such review to take place at the end of the fifth year following the date of entry into force of this Convention, or if the Convention does not enter into force within five years of the date it is first open for signature, within the first year of its entry into force, by reference to an inflation factor which corresponds to the accumulated rate of inflation since the previous revision or in the first instance since the date of entry into force of the Convention. The measure of the rate of inflation to be used in determining the inflation factor shall be the weighted average of the annual rates of increase or decrease in the Consumer Price Indices of the States whose currencies comprise the Special Drawing Right mentioned in paragraph 1 of Article 23.

2. If the review referred to in the preceding paragraph concludes that the inflation factor has exceeded 10 per cent, the Depositary shall notify States Parties of a revision of the limits of liability. Any such revision shall become effective six months after its notification to the States Parties. If within three months after its notification to the States Parties a majority of the States Parties register their disapproval, the revision shall not become effective and the Depositary shall refer the matter to a meeting of the States Parties. The Depositary shall immediately notify all States Parties of the coming into force of any revision.

3. Notwithstanding paragraph 1 of this Article, the procedure referred to in paragraph 2 of this Article shall be applied at any time provided that one-third of the States Parties express a desire to that effect and upon condition that the inflation factor referred to in paragraph 1 has exceeded 30 per cent since the previous revision or since the date of entry into force of this Convention if there has been no previous revision. Subsequent reviews using the procedure described in paragraph 1 of this Article will take place at five-year intervals starting at the end of the fifth year following the date of the reviews under the present paragraph.

Article 25—Stipulation on limits

A carrier may stipulate that the contract of carriage shall be subject to higher limits of liability than those provided for in this Convention or to no limits of liability whatsoever.

Article 26—Invalidity of contractual provisions

Any provision tending to relieve the carrier of liability or to fix a lower limit than that which is laid down in this Convention shall be null and void, but the nullity of any such provision does not involve the nullity of the whole contract, which shall remain subject to the provisions of this Convention.

Article 27—Freedom to contract

Nothing contained in this Convention shall prevent the carrier from refusing to enter into any contract of carriage, from waiving any defences available under the Convention, or from laying down conditions which do not conflict with the provisions of this Convention.

Article 28—Advance payments

In the case of aircraft accidents resulting in death or injury of passengers, the carrier shall, if required by its national law, make advance payments without delay to a natural person or persons who are entitled to claim compensation in order to meet the immediate economic needs of such persons. Such advance payments shall not constitute a recognition of liability and may be offset against any amounts subsequently paid as damages by the carrier.

Article 29—Basis of claims

In the carriage of passengers, baggage and cargo, any action for damages, however founded, whether under this Convention or in contract or in tort or otherwise, can only be brought subject to the conditions and such limits of liability as are set out in this Convention without prejudice to the question as to who are the persons who have the right to bring suit and what are their respective rights. In any such action, punitive, exemplary or any other non-compensatory damages shall not be recoverable.

Article 30—Servants, agents—Aggregation of claims

1. If an action is brought against a servant or agent of the carrier arising out of damage to which the Convention relates, such servant or agent, if they prove that they acted within the scope of their employment, shall be entitled to avail themselves of the conditions and limits of liability which the carrier itself is entitled to invoke under this Convention.
2. The aggregate of the amounts recoverable from the carrier, its servants and agents, in that case, shall not exceed the said limits.
3. Save in respect of the carriage of cargo, the provisions of paragraphs 1 and 2 of this Article shall not apply if it is proved that the damage resulted from an act or omission of the servant or agent done with intent to cause damage or recklessly and with knowledge that damage would probably result.

Article 31—Timely notice of complaints

1. Receipt by the person entitled to delivery of checked baggage or cargo without complaint is *prima facie* evidence that the same has been delivered in good condition and in accordance with the document of carriage or with the record preserved by the other means referred to in paragraph 2 of Article 3 and paragraph 2 of Article 4.
2. In the case of damage, the person entitled to delivery must complain to the carrier forthwith after the discovery of the damage, and, at the latest, within seven days from the date of receipt in the case of checked baggage and fourteen days from the date of receipt in the case of cargo. In the case of delay, the complaint must be made at the latest within twenty-one days from the date on which the baggage or cargo have been placed at his or her disposal.
3. Every complaint must be made in writing and given or dispatched within the times aforesaid.
4. If no complaint is made within the times aforesaid, no action shall lie against the carrier, save in the case of fraud on its part.

Article 32—Death of person liable

In the case of the death of the person liable, an action for damages lies in accordance with the terms of this Convention against those legally representing his or her estate.

Article 33—Jurisdiction

1. An action for damages must be brought, at the option of the plaintiff, in the territory of one of the States Parties, either before the court of the domicile of the carrier or of its principal place of business, or where it has a place of business through which the contract has been made or before the court at the place of destination.
2. In respect of damage resulting from the death or injury of a passenger, an action may be brought before one of the courts mentioned in paragraph 1 of

this Article, or in the territory of a State Party in which at the time of the accident the passenger has his or her principal and permanent residence and to or from which the carrier operates services for the carriage of passengers by air, either on its own aircraft, or on another carrier's aircraft pursuant to a commercial agreement, and in which that carrier conducts its business of carriage of passengers by air from premises leased or owned by the carrier itself or by another carrier with which it has a commercial agreement.

3. For the purposes of paragraph 2,

   (a) "commercial agreement" means an agreement, other than an agency agreement, made between carriers and relating to the provision of their joint services for carriage of passengers by air;

   (b) "principal and permanent residence" means the one fixed and permanent abode of the passenger at the time of the accident. The nationality of the passenger shall not be the determining factor in this regard.

4. Questions of procedure shall be governed by the law of the court seised of the case.

Article 34—Arbitration

1. Subject to the provisions of this Article, the parties to the contract of carriage for cargo may stipulate that any dispute relating to the liability of the carrier under this Convention shall be settled by arbitration. Such agreement shall be in writing.

2. The arbitration proceedings shall, at the option of the claimant, take place within one of the jurisdictions referred to in Article 33.

3. The arbitrator or arbitration tribunal shall apply the provisions of this Convention.

4. The provisions of paragraphs 2 and 3 of this Article shall be deemed to be part of every arbitration clause or agreement, and any term of such clause or agreement which is inconsistent therewith shall be null and void.

Article 35—Limitation of actions

1. The right to damages shall be extinguished if an action is not brought within a period of two years, reckoned from the date of arrival at the destination, or from the date on which the aircraft ought to have arrived, or from the date on which the carriage stopped.

2. The method of calculating that period shall be determined by the law of the court seised of the case.

Article 36—Successive carriage

1. In the case of carriage to be performed by various successive carriers and falling within the definition set out in paragraph 3 of Article 1, each carrier which accepts passengers, baggage or cargo is subject to the rules set out in this

Convention and is deemed to be one of the parties to the contract of carriage in so far as the contract deals with that part of the carriage which is performed under its supervision.

2. In the case of carriage of this nature, the passenger or any person entitled to compensation in respect of him or her can take action only against the carrier which performed the carriage during which the accident or the delay occurred, save in the case where, by express agreement, the first carrier has assumed liability for the whole journey.

3. As regards baggage or cargo, the passenger or consignor will have a right of action against the first carrier, and the passenger or consignee who is entitled to delivery will have a right of action against the last carrier, and further, each may take action against the carrier which performed the carriage during which the destruction, loss, damage or delay took place. These carriers will be jointly and severally liable to the passenger or to the consignor or consignee.

Article 37—Right of recourse against third parties

Nothing in this Convention shall prejudice the question whether a person liable for damage in accordance with its provisions has a right of recourse against any other person.

Chapter IV
Combined carriage

Article 38—Combined carriage

1. In the case of combined carriage performed partly by air and partly by any other mode of carriage, the provisions of this Convention shall, subject to paragraph 4 of Article 18, apply only to the carriage by air, provided that the carriage by air falls within the terms of Article 1.

2. Nothing in this Convention shall prevent the parties in the case of combined carriage from inserting in the document of air carriage conditions relating to other modes of carriage, provided that the provisions of this Convention are observed as regards the carriage by air.

Chapter V
Carriage by air performed by a person other than the contracting carrier

Article 39—Contracting carrier—Actual carrier

The provisions of this Chapter apply when a person (hereinafter referred to as "the contracting carrier") as a principal makes a contract of carriage governed by this Convention with a passenger or consignor or with a person acting on behalf of the passenger or consignor, and another person (hereinafter referred to as "the actual

carrier") performs, by virtue of authority from the contracting carrier, the whole or part of the carriage, but is not with respect to such part a successive carrier within the meaning of this Convention. Such authority shall be presumed in the absence of proof to the contrary.

Article 40—Respective liability of contracting and actual carriers

If an actual carrier performs the whole or part of carriage which, according to the contract referred to in Article 39, is governed by this Convention, both the contracting carrier and the actual carrier shall, except as otherwise provided in this Chapter, be subject to the rules of this Convention, the former for the whole of the carriage contemplated in the contract, the latter solely for the carriage which it performs.

Article 41—Mutual liability

1. The acts and omissions of the actual carrier and of its servants and agents acting within the scope of their employment shall, in relation to the carriage performed by the actual carrier, be deemed to be also those of the contracting carrier.

2. The acts and omissions of the contracting carrier and of its servants and agents acting within the scope of their employment shall, in relation to the carriage performed by the actual carrier, be deemed to be also those of the actual carrier. Nevertheless, no such act or omission shall subject the actual carrier to liability exceeding the amounts referred to in Articles 21, 22, 23 and 24. Any special agreement under which the contracting carrier assumes obligations not imposed by this Convention or any waiver of rights or defences conferred by this Convention or any special declaration of interest in delivery at destination contemplated in Article 22 shall not affect the actual carrier unless agreed to by it.

Article 42—Addressee of complaints and instructions

Any complaint to be made or instruction to be given under this Convention to the carrier shall have the same effect whether addressed to the contracting carrier or to the actual carrier. Nevertheless, instructions referred to in Article 12 shall only be effective if addressed to the contracting carrier.

Article 43—Servants and agents

In relation to the carriage performed by the actual carrier, any servant or agent of that carrier or of the contracting carrier shall, if they prove that they acted within the scope of their employment, be entitled to avail themselves of the conditions and limits of liability which are applicable under this Convention to the carrier whose servant or agent they are, unless it is proved that they acted in a manner that prevents the limits of liability from being invoked in accordance with this Convention.

Article 44—Aggregation of damages

In relation to the carriage performed by the actual carrier, the aggregate of the amounts recoverable from that carrier and the contracting carrier, and from their servants and agents acting within the scope of their employment, shall not exceed the highest amount which could be awarded against either the contracting carrier or the actual carrier under this Convention, but none of the persons mentioned shall be liable for a sum in excess of the limit applicable to that person.

Article 45—Addressee of claims

In relation to the carriage performed by the actual carrier, an action for damages may be brought, at the option of the plaintiff, against that carrier or the contracting carrier, or against both together or separately. If the action is brought against only one of those carriers, that carrier shall have the right to require the other carrier to be joined in the proceedings, the procedure and effects being governed by the law of the court seised of the case.

Article 46—Additional jurisdiction

Any action for damages contemplated in Article 45 must be brought, at the option of the plaintiff, in the territory of one of the States Parties, either before a court in which an action may be brought against the contracting carrier, as provided in Article 33, or before the court having jurisdiction at the place where the actual carrier has its domicile or its principal place of business.

Article 47—Invalidity of contractual provisions

Any contractual provision tending to relieve the contracting carrier or the actual carrier of liability under this Chapter or to fix a lower limit than that which is applicable according to this Chapter shall be null and void, but the nullity of any such provision does not involve the nullity of the whole contract, which shall remain subject to the provisions of this Chapter.

Article 48—Mutual relations of contracting and actual carriers

Except as provided in Article 45, nothing in this Chapter shall affect the rights and obligations of the carriers between themselves, including any right of recourse or indemnification.

Chapter VI
Other provisions

Article 49—Mandatory application

Any clause contained in the contract of carriage and all special agreements entered into before the damage occurred by which the parties purport to infringe the rules laid

down by this Convention, whether by deciding the law to be applied, or by altering the rules as to jurisdiction, shall be null and void.

Article 50—Insurance

States Parties shall require their carriers to maintain adequate insurance covering their liability under this Convention. A carrier may be required by the State Party into which it operates to furnish evidence that it maintains adequate insurance covering its liability under this Convention.

Article 51—Carriage performed in extraordinary circumstances

The provisions of Articles 3 to 5, 7 and 8 relating to the documentation of carriage shall not apply in the case of carriage performed in extraordinary circumstances outside the normal scope of a carrier's business.

Article 52—Definition of days

The expression "days" when used in this Convention means calendar days, not working days.

Chapter VII
Final clauses

Article 53—Signature, ratification and entry into force

1. This Convention shall be open for signature in Montreal on 28 May 1999 by States participating in the International Conference on Air Law held at Montreal from 10 to 28 May 1999. After 28 May 1999, the Convention shall be open to all States for signature at the Headquarters of the International Civil Aviation Organization in Montreal until it enters into force in accordance with paragraph 6 of this Article.

2. The Convention shall similarly be open for signature by Regional Economic Integration Organisations. For the purpose of this Convention, a "Regional Economic Integration Organisation" means any organisation which is constituted by sovereign States of a given region which has competence in respect of certain matters governed by this Convention and has been duly authorized to sign and to ratify, accept, approve or accede to this Convention. A reference to a "State Party" or "States Parties" in this Convention, otherwise than in paragraph 2 of Article 1, paragraph 1(b) of Article 3, paragraph (b) of Article 5, Articles 23, 33, 46 and paragraph (b) of Article 57, applies equally to a Regional Economic Integration Organisation. For the purpose of Article 24, the references to "a majority of the States Parties" and "one-third of the States Parties" shall not apply to a Regional Economic Integration Organisation.

3. This Convention shall be subject to ratification by States and by Regional Economic Integration Organisations which have signed it.

4. Any State or Regional Economic Integration Organisation which does not sign this Convention may accept, approve or accede to it at any time.

5. Instruments of ratification, acceptance, approval or accession shall be deposited with the International Civil Aviation Organization, which is hereby designated the Depositary.

6. This Convention shall enter into force on the sixtieth day following the date of deposit of the thirtieth instrument of ratification, acceptance, approval or accession with the Depositary between the States which have deposited such instrument. An instrument deposited by a Regional Economic Integration Organisation shall not be counted for the purpose of this paragraph.

7. For other States and for other Regional Economic Integration Organisations, this Convention shall take effect sixty days following the date of deposit of the instrument of ratification, acceptance, approval or accession.

8. The Depositary shall promptly notify all signatories and States Parties of:

   (a) each signature of this Convention and date thereof;

   (b) each deposit of an instrument of ratification, acceptance, approval or accession and date thereof;

   (c) the date of entry into force of this Convention;

   (d) the date of the coming into force of any revision of the limits of liability established under this Convention;

   (e) any denunciation under Article 54.

Article 54—Denunciation

1. Any State Party may denounce this Convention by written notification to the Depositary.

2. Denunciation shall take effect one hundred and eighty days following the date on which notification is received by the Depositary.

Article 55—Relationship with other Warsaw Convention Instruments

This Convention shall prevail over any rules which apply to international carriage by air:

1. between State Parties to this Convention by virtue of those States commonly being Party to

   (a) the *Convention for the Unification of Certain Rules Relating to International Carriage by Air* Signed at Warsaw on 12 October 1929 (hereinafter called the Warsaw Convention);

   (b) the *Protocol to Amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air Signed at Warsaw on 12 October 1929*, Done at The Hague on 28 September 1955 (hereinafter called The Hague Protocol);

(c) the *Convention, Supplementary to the Warsaw Convention, for the Unification of Certain Rules Relating to International Carriage by Air Performed by a Person Other than the Contracting Carrier*, signed at Guadalajara on 18 September 1961 (hereinafter called the Guadalajara Convention);

(d) the *Protocol to Amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air Signed at Warsaw on 12 October 1929 as Amended by the Protocol Done at The Hague on 28 September 1955* Signed at Guatemala City on 8 March 1971 (hereinafter called the Guatemala City Protocol);

(e) Additional Protocol Nos. 1 to 3 and Montreal Protocol No. 4 to amend the Warsaw Convention as amended by The Hague Protocol or the Warsaw Convention as amended by both The Hague Protocol and the Guatemala City Protocol Signed at Montreal on 25 September 1975 (hereinafter called the Montreal Protocols); or

2. within the territory of any single State Party to this Convention by virtue of that State being Party to one or more of the instruments referred to in sub-paragraphs (a) to (e) above.

Article 56—States with more than one System of Law

1. If a State has two or more territorial units in which different systems of law are applicable in relation to matters dealt with in this Convention, it may at the time of signature, ratification, acceptance, approval or accession declare that this Convention shall extend to all its territorial units or only to one or more of them and may modify this declaration by submitting another declaration at any time.

2. Any such declaration shall be notified to the Depositary and shall state expressly the territorial units to which the Convention applies.

3. In relation to a State Party which has made such a declaration:

(a) references in Article 23 to "national currency" shall be construed as referring to the currency of the relevant territorial unit of that State; and

(b) the reference in Article 28 to "national law" shall be construed as referring to the law of the relevant territorial unit of that State.

Article 57—Reservations

No reservation may be made to this Convention except that a State Party may at any time declare by a notification addressed to the Depositary that this Convention shall not apply to:

(a) international carriage by air performed and operated directly by that State Party for non-commercial purposes in respect to its functions and duties as a sovereign State; and/or

(b) the carriage of persons, cargo and baggage for its military authorities on aircraft registered in or leased by that State Party, the whole capacity of which has been reserved by or on behalf of such authorities.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorized, have signed this Convention.

DONE at Montreal on the 28th day of May of the year one thousand nine hundred and ninety-nine in the English, Arabic, Chinese, French, Russian and Spanish languages, all texts being equally authentic. This Convention shall remain deposited in the archives of the International Civil Aviation Organization, and certified copies thereof shall be transmitted by the Depositary to all States Parties to this Convention, as well as to all States Parties to the Warsaw Convention, The Hague Protocol, the Guadalajara Convention, the Guatemala City Protocol, and the Montreal Protocols.

Schedule 7
Convention on International Interests in Mobile Equipment

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THE STATES PARTIES TO THIS CONVENTION,

AWARE of the need to acquire and use mobile equipment of high value or particular economic significance and to facilitate the financing of the acquisition and use of such equipment in an efficient manner,

RECOGNISING the advantages of asset-based financing and leasing for this purpose and desiring to facilitate these types of transaction by establishing clear rules to govern them,

MINDFUL of the need to ensure that interests in such equipment are recognised and protected universally,

DESIRING to provide broad and mutual economic benefits for all interested parties,

BELIEVING that such rules must reflect the principles underlying asset-based financing and leasing and promote the autonomy of the parties necessary in these transactions,

CONSCIOUS of the need to establish a legal framework for international interests in such equipment and for that purpose to create an international registration system for their protection,

TAKING INTO CONSIDERATION the objectives and principles enunciated in existing Conventions relating to such equipment,

HAVE AGREED upon the following provisions:

Chapter I
Sphere of application and general provisions

Article 1—Definitions

In this Convention, except where the context otherwise requires, the following terms are employed with the meanings set out below:

(a) "agreement" means a security agreement, a title reservation agreement or a leasing agreement;

(b) "assignment" means a contract which, whether by way of security or otherwise, confers on the assignee associated rights with or without a transfer of the related international interest;

(c) "associated rights" means all rights to payment or other performance by a debtor under an agreement which are secured by or associated with the object;

(d) "commencement of the insolvency proceedings" means the time at which the insolvency proceedings are deemed to commence under the applicable insolvency law;

(e) "conditional buyer" means a buyer under a title reservation agreement;

(f) "conditional seller" means a seller under a title reservation agreement;

(g) "contract of sale" means a contract for the sale of an object by a seller to a buyer which is not an agreement as defined in (a) above;

(h) "court" means a court of law or an administrative or arbitral tribunal established by a Contracting State;

(i) "creditor" means a chargee under a security agreement, a conditional seller under a title reservation agreement or a lessor under a leasing agreement;

(j) "debtor" means a chargor under a security agreement, a conditional buyer under a title reservation agreement, a lessee under a leasing agreement or a person whose interest in an object is burdened by a registrable non-consensual right or interest;

(k) "insolvency administrator" means a person authorised to administer the reorganisation or liquidation, including one authorised on an interim basis, and includes a debtor in possession if permitted by the applicable insolvency law;

(l) "insolvency proceedings" means bankruptcy, liquidation or other collective judicial or administrative proceedings, including interim proceedings, in which the assets and affairs of the debtor are subject to control or supervision by a court for the purposes of reorganisation or liquidation;

(m) "interested persons" means:

  (i) the debtor;

  (ii) any person who, for the purpose of assuring performance of any of the obligations in favour of the creditor, gives or issues a suretyship or demand guarantee or a standby letter of credit or any other form of credit insurance;

  (iii) any other person having rights in or over the object;

(n) "internal transaction" means a transaction of a type listed in Article 2(2)(a) to (c) where the centre of the main interests of all parties to such transaction is situated, and the relevant object located (as specified in the Protocol), in the same Contracting State at the time of the conclusion of the contract and where the interest created by the transaction has been registered in a national registry in that Contracting State which has made a declaration under Article 50(1);

(o) "international interest" means an interest held by a creditor to which Article 2 applies;

(p) "International Registry" means the international registration facilities established for the purposes of this Convention or the Protocol;

(q) "leasing agreement" means an agreement by which one person (the lessor) grants a right to possession or control of an object (with or without an option to purchase) to another person (the lessee) in return for a rental or other payment;

(r) "national interest" means an interest held by a creditor in an object and created by an internal transaction covered by a declaration under Article 50(1);

(s) "non-consensual right or interest" means a right or interest conferred under the law of a Contracting State which has made a declaration under Article 39 to secure the performance of an obligation, including an obligation to a State, State entity or an intergovernmental or private organisation;

(t) "notice of a national interest" means notice registered or to be registered in the International Registry that a national interest has been created;

(u) "object" means an object of a category to which Article 2 applies;

(v) "pre-existing right or interest" means a right or interest of any kind in or over an object created or arising before the effective date of this Convention as defined by Article 60(2)(a);

(w) "proceeds" means money or non-money proceeds of an object arising from the total or partial loss or physical destruction of the object or its total or partial confiscation, condemnation or requisition;

(x) "prospective assignment" means an assignment that is intended to be made in the future, upon the occurrence of a stated event, whether or not the occurrence of the event is certain;

(y) "prospective international interest" means an interest that is intended to be created or provided for in an object as an international interest in the future, upon the occurrence of a stated event (which may include the debtor's acquisition of an interest in the object), whether or not the occurrence of the event is certain;

(z) "prospective sale" means a sale which is intended to be made in the future, upon the occurrence of a stated event, whether or not the occurrence of the event is certain;

(aa) "Protocol" means, in respect of any category of object and associated rights to which this Convention applies, the Protocol in respect of that category of object and associated rights;

(bb) "registered" means registered in the International Registry pursuant to Chapter V;

(cc) "registered interest" means an international interest, a registrable non-consensual right or interest or a national interest specified in a notice of a national interest registered pursuant to Chapter V;

(dd) "registrable non-consensual right or interest" means a non-consensual right or interest registrable pursuant to a declaration deposited under Article 40;

(ee) "Registrar" means, in respect of the Protocol, the person or body designated by that Protocol or appointed under Article 17(2)(b);

(ff) "regulations" means regulations made or approved by the Supervisory Authority pursuant to the Protocol;

(gg) "sale" means a transfer of ownership of an object pursuant to a contract of sale;

(hh) "secured obligation" means an obligation secured by a security interest;

(ii) "security agreement" means an agreement by which a chargor grants or agrees to grant to a chargee an interest (including an ownership interest) in or over an object to secure the performance of any existing or future obligation of the chargor or a third person;

(jj) "security interest" means an interest created by a security agreement;

(kk) "Supervisory Authority" means, in respect of the Protocol, the Supervisory Authority referred to in Article 17(1);

(ll) "title reservation agreement" means an agreement for the sale of an object on terms that ownership does not pass until fulfilment of the condition or conditions stated in the agreement;

(mm) "unregistered interest" means a consensual interest or non-consensual right or interest (other than an interest to which Article 39 applies) which has not been registered, whether or not it is registrable under this Convention; and

(nn) "writing" means a record of information (including information communicated by teletransmission) which is in tangible or other form and is capable of being reproduced in tangible form on a subsequent occasion and which indicates by reasonable means a person's approval of the record.

Article 2—The international interest

1. This Convention provides for the constitution and effects of an international interest in certain categories of mobile equipment and associated rights.

2. For the purposes of this Convention, an international interest in mobile equipment is an interest, constituted under Article 7, in a uniquely identifiable object of a category of such objects listed in paragraph 3 and designated in the Protocol:

   (a) granted by the chargor under a security agreement;

   (b) vested in a person who is the conditional seller under a title reservation agreement; or

   (c) vested in a person who is the lessor under a leasing agreement.

   An interest falling within sub-paragraph (a) does not also fall within sub-paragraph (b) or (c).

3. The categories referred to in the preceding paragraphs are:

   (a) airframes, aircraft engines and helicopters;

   (b) railway rolling stock; and

   (c) space assets.

4. The applicable law determines whether an interest to which paragraph 2 applies falls within sub-paragraph (a), (b) or (c) of that paragraph.

5. An international interest in an object extends to proceeds of that object.

Article 3—Sphere of application

1. This Convention applies when, at the time of the conclusion of the agreement creating or providing for the international interest, the debtor is situated in a Contracting State.

2. The fact that the creditor is situated in a non-Contracting State does not affect the applicability of this Convention.

Article 4—Where debtor is situated

1. For the purposes of Article 3(1), the debtor is situated in any Contracting State:
   (a) under the law of which it is incorporated or formed;
   (b) where it has its registered office or statutory seat;
   (c) where it has its centre of administration; or
   (d) where it has its place of business.

2. A reference in sub-paragraph (d) of the preceding paragraph to the debtor's place of business shall, if it has more than one place of business, mean its principal place of business or, if it has no place of business, its habitual residence.

Article 5—Interpretation and applicable law

1. In the interpretation of this Convention, regard is to be had to its purposes as set forth in the preamble, to its international character and to the need to promote uniformity and predictability in its application.

2. Questions concerning matters governed by this Convention which are not expressly settled in it are to be settled in conformity with the general principles on which it is based or, in the absence of such principles, in conformity with the applicable law.

3. References to the applicable law are to the domestic rules of the law applicable by virtue of the rules of private international law of the forum State.

4. Where a State comprises several territorial units, each of which has its own rules of law in respect of the matter to be decided, and where there is no indication of the relevant territorial unit, the law of that State decides which is the territorial unit whose rules shall govern. In the absence of any such rule, the law of the territorial unit with which the case is most closely connected shall apply.

Article 6—Relationship between the Convention and the Protocol

1. This Convention and the Protocol shall be read and interpreted together as a single instrument.

2. To the extent of any inconsistency between this Convention and the Protocol, the Protocol shall prevail.

Chapter II
Constitution of an international interest

Article 7—Formal requirements

An interest is constituted as an international interest under this Convention where the agreement creating or providing for the interest:

(a) is in writing;

(b) relates to an object of which the chargor, conditional seller or lessor has power to dispose;

(c) enables the object to be identified in conformity with the Protocol; and

(d) in the case of a security agreement, enables the secured obligations to be determined, but without the need to state a sum or maximum sum secured.

Chapter III
Default remedies

Article 8—Remedies of chargee

1. In the event of default as provided in Article 11, the chargee may, to the extent that the chargor has at any time so agreed and subject to any declaration that may be made by a Contracting State under Article 54, exercise any one or more of the following remedies:

   (a) take possession or control of any object charged to it;

   (b) sell or grant a lease of any such object;

   (c) collect or receive any income or profits arising from the management or use of any such object.

2. The chargee may alternatively apply for a court order authorising or directing any of the acts referred to in the preceding paragraph.

3. Any remedy set out in sub-paragraph (a), (b) or (c) of paragraph 1 or by Article 13 shall be exercised in a commercially reasonable manner. A remedy shall be deemed to be exercised in a commercially reasonable manner where

it is exercised in conformity with a provision of the security agreement except where such a provision is manifestly unreasonable.

4. A chargee proposing to sell or grant a lease of an object under paragraph 1 shall give reasonable prior notice in writing of the proposed sale or lease to:

   (a) interested persons specified in Article 1(m)(i) and (ii); and

   (b) interested persons specified in Article 1(m)(iii) who have given notice of their rights to the chargee within a reasonable time prior to the sale or lease.

5. Any sum collected or received by the chargee as a result of exercise of any of the remedies set out in paragraph 1 or 2 shall be applied towards discharge of the amount of the secured obligations.

6. Where the sums collected or received by the chargee as a result of the exercise of any remedy set out in paragraph 1 or 2 exceed the amount secured by the security interest and any reasonable costs incurred in the exercise of any such remedy, then unless otherwise ordered by the court the chargee shall distribute the surplus among holders of subsequently ranking interests which have been registered or of which the chargee has been given notice, in order of priority, and pay any remaining balance to the chargor.

Article 9—Vesting of object in satisfaction; redemption

1. At any time after default as provided in Article 11, the chargee and all the interested persons may agree that ownership of (or any other interest of the chargor in) any object covered by the security interest shall vest in the chargee in or towards satisfaction of the secured obligations.

2. The court may on the application of the chargee order that ownership of (or any other interest of the chargor in) any object covered by the security interest shall vest in the chargee in or towards satisfaction of the secured obligations.

3. The court shall grant an application under the preceding paragraph only if the amount of the secured obligations to be satisfied by such vesting is commensurate with the value of the object after taking account of any payment to be made by the chargee to any of the interested persons.

4. At any time after default as provided in Article 11 and before sale of the charged object or the making of an order under paragraph 2, the chargor or any interested person may discharge the security interest by paying in full the amount secured, subject to any lease granted by the chargee under Article 8(1)(b) or ordered under Article 8(2). Where, after such default, the payment of the amount secured is made in full by an interested person other than the debtor, that person is subrogated to the rights of the chargee.

5. Ownership or any other interest of the chargor passing on a sale under Article 8(1)(b) or passing under paragraph 1 or 2 of this Article is free from any other interest over which the chargee's security interest has priority under the provisions of Article 29.

Article 10—Remedies of conditional seller or lessor

In the event of default under a title reservation agreement or under a leasing agreement as provided in Article 11, the conditional seller or the lessor, as the case may be, may:

(a) subject to any declaration that may be made by a Contracting State under Article 54, terminate the agreement and take possession or control of any object to which the agreement relates; or

(b) apply for a court order authorising or directing either of these acts.

Article 11—Meaning of default

1. The debtor and the creditor may at any time agree in writing as to the events that constitute a default or otherwise give rise to the rights and remedies specified in Articles 8 to 10 and 13.

2. Where the debtor and the creditor have not so agreed, "default" for the purposes of Articles 8 to 10 and 13 means a default which substantially deprives the creditor of what it is entitled to expect under the agreement.

Article 12—Additional remedies

Any additional remedies permitted by the applicable law, including any remedies agreed upon by the parties, may be exercised to the extent that they are not inconsistent with the mandatory provisions of this Chapter as set out in Article 15.

Article 13—Relief pending final determination

1. Subject to any declaration that it may make under Article 55, a Contracting State shall ensure that a creditor who adduces evidence of default by the debtor may, pending final determination of its claim and to the extent that the debtor has at any time so agreed, obtain from a court speedy relief in the form of such one or more of the following orders as the creditor requests:

   (a) preservation of the object and its value;

   (b) possession, control or custody of the object;

   (c) immobilisation of the object; and

   (d) lease or, except where covered by sub-paragraphs (a) to (c), management of the object and the income therefrom.

2. In making any order under the preceding paragraph, the court may impose such terms as it considers necessary to protect the interested persons in the event that the creditor:

   (a) in implementing any order granting such relief, fails to perform any of its obligations to the debtor under this Convention or the Protocol; or

   (b) fails to establish its claim, wholly or in part, on the final determination of that claim.

3. Before making any order under paragraph 1, the court may require notice of the request to be given to any of the interested persons.

4. Nothing in this Article affects the application of Article 8(3) or limits the availability of forms of interim relief other than those set out in paragraph 1.

Article 14—Procedural requirements

Subject to Article 54(2), any remedy provided by this Chapter shall be exercised in conformity with the procedure prescribed by the law of the place where the remedy is to be exercised.

Article 15—Derogation

In their relations with each other, any two or more of the parties referred to in this Chapter may at any time, by agreement in writing, derogate from or vary the effect of any of the preceding provisions of this Chapter except Articles 8(3) to (6), 9(3) and (4), 13(2) and 14.

Chapter IV
The international registration system

Article 16—The International Registry

1. An International Registry shall be established for registrations of:

   (a) international interests, prospective international interests and registrable non-consensual rights and interests;

   (b) assignments and prospective assignments of international interests;

   (c) acquisitions of international interests by legal or contractual subrogations under the applicable law;

   (d) notices of national interests; and

   (e) subordinations of interests referred to in any of the preceding sub-paragraphs.

2. Different international registries may be established for different categories of object and associated rights.

3. For the purposes of this Chapter and Chapter V, the term "registration" includes, where appropriate, an amendment, extension or discharge of a registration.

Article 17—The Supervisory Authority and the Registrar

1. There shall be a Supervisory Authority as provided by the Protocol.

2. The Supervisory Authority shall:

   (a) establish or provide for the establishment of the International Registry;

   (b) except as otherwise provided by the Protocol, appoint and dismiss the Registrar;

   (c) ensure that any rights required for the continued effective operation of the International Registry in the event of a change of Registrar will vest in or be assignable to the new Registrar;

   (d) after consultation with the Contracting States, make or approve and ensure the publication of regulations pursuant to the Protocol dealing with the operation of the International Registry;

   (e) establish administrative procedures through which complaints concerning the operation of the International Registry can be made to the Supervisory Authority;

   (f) supervise the Registrar and the operation of the International Registry;

   (g) at the request of the Registrar, provide such guidance to the Registrar as the Supervisory Authority thinks fit;

   (h) set and periodically review the structure of fees to be charged for the services and facilities of the International Registry;

   (i) do all things necessary to ensure that an efficient notice-based electronic registration system exists to implement the objectives of this Convention and the Protocol; and

   (j) report periodically to Contracting States concerning the discharge of its obligations under this Convention and the Protocol.

3. The Supervisory Authority may enter into any agreement requisite for the performance of its functions, including any agreement referred to in Article 27(3).

4. The Supervisory Authority shall own all proprietary rights in the data bases and archives of the International Registry.

5. The Registrar shall ensure the efficient operation of the International Registry and perform the functions assigned to it by this Convention, the Protocol and the regulations.

Chapter V
Other matters relating to registration

Article 18—Registration requirements

1. The Protocol and regulations shall specify the requirements, including the criteria for the identification of the object:

   (a) for effecting a registration (which shall include provision for prior electronic transmission of any consent from any person whose consent is required under Article 20);

   (b) for making searches and issuing search certificates, and, subject thereto;

   (c) for ensuring the confidentiality of information and documents of the International Registry other than information and documents relating to a registration.

2. The Registrar shall not be under a duty to enquire whether a consent to registration under Article 20 has in fact been given or is valid.

3. Where an interest registered as a prospective international interest becomes an international interest, no further registration shall be required provided that the registration information is sufficient for a registration of an international interest.

4. The Registrar shall arrange for registrations to be entered into the International Registry data base and made searchable in chronological order of receipt, and the file shall record the date and time of receipt.

5. The Protocol may provide that a Contracting State may designate an entity or entities in its territory as the entry point or entry points through which the information required for registration shall or may be transmitted to the International Registry. A Contracting State making such a designation may specify the requirements, if any, to be satisfied before such information is transmitted to the International Registry.

Article 19—Validity and time of registration

1. A registration shall be valid only if made in conformity with Article 20.

2. A registration, if valid, shall be complete upon entry of the required information into the International Registry data base so as to be searchable.

3. A registration shall be searchable for the purposes of the preceding paragraph at the time when:

   (a) the International Registry has assigned to it a sequentially ordered file number; and

(b) the registration information, including the file number, is stored in durable form and may be accessed at the International Registry.

4. If an interest first registered as a prospective international interest becomes an international interest, that international interest shall be treated as registered from the time of registration of the prospective international interest provided that the registration was still current immediately before the international interest was constituted as provided by Article 7.

5. The preceding paragraph applies with necessary modifications to the registration of a prospective assignment of an international interest.

6. A registration shall be searchable in the International Registry data base according to the criteria prescribed by the Protocol.

Article 20—Consent to registration

1. An international interest, a prospective international interest or an assignment or prospective assignment of an international interest may be registered, and any such registration amended or extended prior to its expiry, by either party with the consent in writing of the other.

2. The subordination of an international interest to another international interest may be registered by or with the consent in writing at any time of the person whose interest has been subordinated.

3. A registration may be discharged by or with the consent in writing of the party in whose favour it was made.

4. The acquisition of an international interest by legal or contractual subrogation may be registered by the subrogee.

5. A registrable non-consensual right or interest may be registered by the holder thereof.

6. A notice of a national interest may be registered by the holder thereof.

Article 21—Duration of registration

Registration of an international interest remains effective until discharged or until expiry of the period specified in the registration.

Article 22—Searches

1. Any person may, in the manner prescribed by the Protocol and regulations, make or request a search of the International Registry by electronic means concerning interests or prospective international interests registered therein.

2. Upon receipt of a request therefor, the Registrar, in the manner prescribed by the Protocol and regulations, shall issue a registry search certificate by electronic means with respect to any object:

   (a) stating all registered information relating thereto, together with a statement indicating the date and time of registration of such information; or

   (b) stating that there is no information in the International Registry relating thereto.

3. A search certificate issued under the preceding paragraph shall indicate that the creditor named in the registration information has acquired or intends to acquire an international interest in the object but shall not indicate whether what is registered is an international interest or a prospective international interest, even if this is ascertainable from the relevant registration information.

Article 23—List of declarations and declared non-consensual rights or interests

The Registrar shall maintain a list of declarations, withdrawals of declaration and of the categories of nonconsensual right or interest communicated to the Registrar by the Depositary as having been declared by Contracting States in conformity with Articles 39 and 40 and the date of each such declaration or withdrawal of declaration. Such list shall be recorded and searchable in the name of the declaring State and shall be made available as provided in the Protocol and regulations to any person requesting it.

Article 24—Evidentiary value of certificates

1. A document in the form prescribed by the regulations which purports to be a certificate issued by the International Registry is prima facie proof:

   (a) that it has been so issued; and

   (b) of the facts recited in it, including the date and time of a registration.

Article 25—Discharge of registration

1. Where the obligations secured by a registered security interest or the obligations giving rise to a registered non-consensual right or interest have been discharged, or where the conditions of transfer of title under a registered title reservation agreement have been fulfilled, the holder of such interest shall, without undue delay, procure the discharge of the registration after written demand by the debtor delivered to or received at its address stated in the registration.

2. Where a prospective international interest or a prospective assignment of an international interest has been registered, the intending creditor or intending assignee shall, without undue delay, procure the discharge of the registration

after written demand by the intending debtor or assignor which is delivered to or received at its address stated in the registration before the intending creditor or assignee has given value or incurred a commitment to give value.

3. Where the obligations secured by a national interest specified in a registered notice of a national interest have been discharged, the holder of such interest shall, without undue delay, procure the discharge of the registration after written demand by the debtor delivered to or received at its address stated in the registration.

4. Where a registration ought not to have been made or is incorrect, the person in whose favour the registration was made shall, without undue delay, procure its discharge or amendment after written demand by the debtor delivered to or received at its address stated in the registration.

Article 26—Access to the international registration facilities

No person shall be denied access to the registration and search facilities of the International Registry on any ground other than its failure to comply with the procedures prescribed by this Chapter.

Chapter VI
Privileges and immunities of the Supervisory Authority and the Registrar

Article 27—Legal personality; immunity

1. The Supervisory Authority shall have international legal personality where not already possessing such personality.

2. The Supervisory Authority and its officers and employees shall enjoy such immunity from legal or administrative process as is specified in the Protocol.

3. (a) The Supervisory Authority shall enjoy exemption from taxes and such other privileges as may be provided by agreement with the host State.

   (b) For the purposes of this paragraph, "host State" means the State in which the Supervisory Authority is situated.

4. The assets, documents, data bases and archives of the International Registry shall be inviolable and immune from seizure or other legal or administrative process.

5. For the purposes of any claim against the Registrar under Article 28(1) or Article 44, the claimant shall be entitled to access to such information and documents as are necessary to enable the claimant to pursue its claim.

6. The Supervisory Authority may waive the inviolability and immunity conferred by paragraph 4.

Chapter VII
Liability of the Registrar

Article 28—Liability and financial assurances

1. The Registrar shall be liable for compensatory damages for loss suffered by a person directly resulting from an error or omission of the Registrar and its officers and employees or from a malfunction of the international registration system except where the malfunction is caused by an event of an inevitable and irresistible nature, which could not be prevented by using the best practices in current use in the field of electronic registry design and operation, including those related to back-up and systems security and networking.

2. The Registrar shall not be liable under the preceding paragraph for factual inaccuracy of registration information received by the Registrar or transmitted by the Registrar in the form in which it received that information nor for acts or circumstances for which the Registrar and its officers and employees are not responsible and arising prior to receipt of registration information at the International Registry.

3. Compensation under paragraph 1 may be reduced to the extent that the person who suffered the damage caused or contributed to that damage.

4. The Registrar shall procure insurance or a financial guarantee covering the liability referred to in this Article to the extent determined by the Supervisory Authority, in accordance with the Protocol.

Chapter VIII
Effects of an international interest as against third parties

Article 29—Priority of competing interests

1. A registered interest has priority over any other interest subsequently registered and over an unregistered interest.

2. The priority of the first-mentioned interest under the preceding paragraph applies:

   (a) even if the first-mentioned interest was acquired or registered with actual knowledge of the other interest; and

   (b) even as regards value given by the holder of the first-mentioned interest with such knowledge.

3. The buyer of an object acquires its interest in it:
   (a) subject to an interest registered at the time of its acquisition of that interest; and
   (b) free from an unregistered interest even if it has actual knowledge of such an interest.

4. The conditional buyer or lessee acquires its interest in or right over that object:
   (a) subject to an interest registered prior to the registration of the international interest held by its conditional seller or lessor; and
   (b) free from an interest not so registered at that time even if it has actual knowledge of that interest.

5. The priority of competing interests or rights under this Article may be varied by agreement between the holders of those interests, but an assignee of a subordinated interest is not bound by an agreement to subordinate that interest unless at the time of the assignment a subordination had been registered relating to that agreement.

6. Any priority given by this Article to an interest in an object extends to proceeds.

7. This Convention:
   (a) does not affect the rights of a person in an item, other than an object, held prior to its installation on an object if under the applicable law those rights continue to exist after the installation; and
   (b) does not prevent the creation of rights in an item, other than an object, which has previously been installed on an object where under the applicable law those rights are created.

Article 30—Effects of insolvency

1. In insolvency proceedings against the debtor an international interest is effective if prior to the commencement of the insolvency proceedings that interest was registered in conformity with this Convention.

2. Nothing in this Article impairs the effectiveness of an international interest in the insolvency proceedings where that interest is effective under the applicable law.

3. Nothing in this Article affects:
   (a) any rules of law applicable in insolvency proceedings relating to the avoidance of a transaction as a preference or a transfer in fraud of creditors; or

(b) any rules of procedure relating to the enforcement of rights to property which is under the control or supervision of the insolvency administrator.

Chapter IX
Assignments of associated rights and international interests; rights of subrogation

Article 31—Effects of assignment

1. Except as otherwise agreed by the parties, an assignment of associated rights made in conformity with Article 32 also transfers to the assignee:

   (a) the related international interest; and

   (b) all the interests and priorities of the assignor under this Convention.

2. Nothing in this Convention prevents a partial assignment of the assignor's associated rights. In the case of such a partial assignment the assignor and assignee may agree as to their respective rights concerning the related international interest assigned under the preceding paragraph but not so as adversely to affect the debtor without its consent.

3. Subject to paragraph 4, the applicable law shall determine the defences and rights of set-off available to the debtor against the assignee.

4. The debtor may at any time by agreement in writing waive all or any of the defences and rights of set-off referred to in the preceding paragraph other than defences arising from fraudulent acts on the part of the assignee.

5. In the case of an assignment by way of security, the assigned associated rights revest in the assignor, to the extent that they are still subsisting, when the obligations secured by the assignment have been discharged.

Article 32—Formal requirements of assignment

1. An assignment of associated rights transfers the related international interest only if it:

   (a) is in writing;

   (b) enables the associated rights to be identified under the contract from which they arise; and

   (c) in the case of an assignment by way of security, enables the obligations secured by the assignment to be determined in accordance with the Protocol but without the need to state a sum or maximum sum secured.

2. An assignment of an international interest created or provided for by a security agreement is not valid unless some or all related associated rights also are assigned.

3. This Convention does not apply to an assignment of associated rights which is not effective to transfer the related international interest.

Article 33—Debtor's duty to assignee

1. To the extent that associated rights and the related international interest have been transferred in accordance with Articles 31 and 32, the debtor in relation to those rights and that interest is bound by the assignment and has a duty to make payment or give other performance to the assignee, if but only if:

   (a) the debtor has been given notice of the assignment in writing by or with the authority of the assignor; and

   (b) the notice identifies the associated rights.

2. Irrespective of any other ground on which payment or performance by the debtor discharges the latter from liability, payment or performance shall be effective for this purpose if made in accordance with the preceding paragraph.

3. Nothing in this Article shall affect the priority of competing assignments.

Article 34—Default remedies in respect of assignment by way of security

In the event of default by the assignor under the assignment of associated rights and the related international interest made by way of security, Articles 8, 9 and 11 to 14 apply in the relations between the assignor and the assignee (and, in relation to associated rights, apply in so far as those provisions are capable of application to intangible property) as if references:

(a) to the secured obligation and the security interest were references to the obligation secured by the assignment of the associated rights and the related international interest and the security interest created by that assignment;

(b) to the chargee or creditor and chargor or debtor were references to the assignee and assignor;

(c) to the holder of the international interest were references to the assignee; and

(d) to the object were references to the assigned associated rights and the related international interest.

Article 35—Priority of competing assignments

1. Where there are competing assignments of associated rights and at least one of the assignments includes the related international interest and is registered, the provisions of Article 29 apply as if the references to a registered interest

were references to an assignment of the associated rights and the related registered interest and as if references to a registered or unregistered interest were references to a registered or unregistered assignment.

2. Article 30 applies to an assignment of associated rights as if the references to an international interest were references to an assignment of the associated rights and the related international interest.

Article 36—Assignee's priority with respect to associated rights

1. The assignee of associated rights and the related international interest whose assignment has been registered only has priority under Article 35(1) over another assignee of the associated rights:
   (a) if the contract under which the associated rights arise states that they are secured by or associated with the object; and
   (b) to the extent that the associated rights are related to an object.

2. For the purposes of sub-paragraph (b) of the preceding paragraph, associated rights are related to an object only to the extent that they consist of rights to payment or performance that relate to:
   (a) a sum advanced and utilised for the purchase of the object;
   (b) a sum advanced and utilised for the purchase of another object in which the assignor held another international interest if the assignor transferred that interest to the assignee and the assignment has been registered;
   (c) the price payable for the object;
   (d) the rentals payable in respect of the object; or
   (e) other obligations arising from a transaction referred to in any of the preceding sub-paragraphs.

3. In all other cases, the priority of the competing assignments of the associated rights shall be determined by the applicable law.

Article 37—Effects of assignor's insolvency

The provisions of Article 30 apply to insolvency proceedings against the assignor as if references to the debtor were references to the assignor.

Article 38—Subrogation

1. Subject to paragraph 2, nothing in this Convention affects the acquisition of associated rights and the related international interest by legal or contractual subrogation under the applicable law.

2. The priority between any interest within the preceding paragraph and a competing interest may be varied by agreement in writing between the holders

of the respective interests but an assignee of a subordinated interest is not bound by an agreement to subordinate that interest unless at the time of the assignment a subordination had been registered relating to that agreement.

Chapter X
Rights or interests subject to declarations by Contracting States

Article 39—Rights having priority without registration

1. A Contracting State may at any time, in a declaration deposited with the Depositary of the Protocol declare, generally or specifically:

   (a) those categories of non-consensual right or interest (other than a right or interest to which Article 40 applies) which under that State's law have priority over an interest in an object equivalent to that of the holder of a registered international interest and which shall have priority over a registered international interest, whether in or outside insolvency proceedings; and

   (b) that nothing in this Convention shall affect the right of a State or State entity, intergovernmental organisation or other private provider of public services to arrest or detain an object under the laws of that State for payment of amounts owed to such entity, organisation or provider directly relating to those services in respect of that object or another object.

2. A declaration made under the preceding paragraph may be expressed to cover categories that are created after the deposit of that declaration.

3. A non-consensual right or interest has priority over an international interest if and only if the former is of a category covered by a declaration deposited prior to the registration of the international interest.

4. Notwithstanding the preceding paragraph, a Contracting State may, at the time of ratification, acceptance, approval of, or accession to the Protocol, declare that a right or interest of a category covered by a declaration made under sub-paragraph (a) of paragraph 1 shall have priority over an international interest registered prior to the date of such ratification, acceptance, approval or accession.

Article 40—Registrable non-consensual rights or interests

A Contracting State may at any time in a declaration deposited with the Depositary of the Protocol list the categories of non-consensual right or interest which shall be registrable under this Convention as regards any category of object as if the right or interest were an international interest and shall be regulated accordingly. Such a declaration may be modified from time to time.

Chapter XI
Application of the Convention to sales

Article 41—Sale and prospective sale

This Convention shall apply to the sale or prospective sale of an object as provided for in the Protocol with any modifications therein.

Chapter XII
Jurisdiction

Article 42—Choice of forum

1. Subject to Articles 43 and 44, the courts of a Contracting State chosen by the parties to a transaction have jurisdiction in respect of any claim brought under this Convention, whether or not the chosen forum has a connection with the parties or the transaction. Such jurisdiction shall be exclusive unless otherwise agreed between the parties.

2. Any such agreement shall be in writing or otherwise concluded in accordance with the formal requirements of the law of the chosen forum.

Article 43—Jurisdiction under Article 13

1. The courts of a Contracting State chosen by the parties and the courts of the Contracting State on the territory of which the object is situated have jurisdiction to grant relief under Article 13(1)(a), (b), (c) and Article 13(4) in respect of that object.

2. Jurisdiction to grant relief under Article 13(1)(d) or other interim relief by virtue of Article 13(4) may be exercised either:

   (a) by the courts chosen by the parties; or

   (b) by the courts of a Contracting State on the territory of which the debtor is situated, being relief which, by the terms of the order granting it, is enforceable only in the territory of that Contracting State.

3. A court has jurisdiction under the preceding paragraphs even if the final determination of the claim referred to in Article 13(1) will or may take place in a court of another Contracting State or by arbitration.

Article 44—Jurisdiction to make orders against the Registrar

1. The courts of the place in which the Registrar has its centre of administration shall have exclusive jurisdiction to award damages or make orders against the Registrar.

2. Where a person fails to respond to a demand made under Article 25 and that person has ceased to exist or cannot be found for the purpose of enabling an order to be made against it requiring it to procure discharge of the registration, the courts referred to in the preceding paragraph shall have exclusive jurisdiction, on the application of the debtor or intending debtor, to make an order directed to the Registrar requiring the Registrar to discharge the registration.

3. Where a person fails to comply with an order of a court having jurisdiction under this Convention or, in the case of a national interest, an order of a court of competent jurisdiction requiring that person to procure the amendment or discharge of a registration, the courts referred to in paragraph 1 may direct the Registrar to take such steps as will give effect to that order.

4. Except as otherwise provided by the preceding paragraphs, no court may make orders or give judgments or rulings against or purporting to bind the Registrar.

Article 45—Jurisdiction in respect of insolvency proceedings

The provisions of this Chapter are not applicable to insolvency proceedings.

Chapter XIII
Relationship with other Conventions

Article 45 bis—Relationship with the United Nations Convention on the Assignment of Receivables in International Trade

This Convention shall prevail over the *United Nations Convention on the Assignment of Receivables in International Trade*, opened for signature in New York on 12 December 2001, as it relates to the assignment of receivables which are associated rights related to international interests in aircraft objects, railway rolling stock and space assets.

Article 46—Relationship with the UNIDROIT Convention on International Financial Leasing

The Protocol may determine the relationship between this Convention and the *UNIDROIT Convention on International Financial Leasing*, signed at Ottawa on 28 May 1988.

Chapter XIV
Final provisions

Article 47—Signature, ratification, acceptance, approval or accession

1. This Convention shall be open for signature in Cape Town on 16 November 2001 by States participating in the Diplomatic Conference to Adopt a Mobile

Equipment Convention and an Aircraft Protocol held at Cape Town from 29 October to 16 November 2001. After 16 November 2001, the Convention shall be open to all States for signature at the Headquarters of the International Institute for the Unification of Private Law (UNIDROIT) in Rome until it enters into force in accordance with Article 49.

2. This Convention shall be subject to ratification, acceptance or approval by States which have signed it.

3. Any State which does not sign this Convention may accede to it at any time.

4. Ratification, acceptance, approval or accession is effected by the deposit of a formal instrument to that effect with the Depositary.

Article 48—Regional Economic Integration Organisations

1. A Regional Economic Integration Organisation which is constituted by sovereign States and has competence over certain matters governed by this Convention may similarly sign, accept, approve or accede to this Convention. The Regional Economic Integration Organisation shall in that case have the rights and obligations of a Contracting State, to the extent that that Organisation has competence over matters governed by this Convention. Where the number of Contracting States is relevant in this Convention, the Regional Economic Integration Organisation shall not count as a Contracting State in addition to its Member States which are Contracting States.

2. The Regional Economic Integration Organisation shall, at the time of signature, acceptance, approval or accession, make a declaration to the Depositary specifying the matters governed by this Convention in respect of which competence has been transferred to that Organisation by its Member States. The Regional Economic Integration Organisation shall promptly notify the Depositary of any changes to the distribution of competence, including new transfers of competence, specified in the declaration under this paragraph.

3. Any reference to a "Contracting State" or "Contracting States" or "State Party" or "States Parties" in this Convention applies equally to a Regional Economic Integration Organisation where the context so requires.

Article 49—Entry into force

1. This Convention enters into force on the first day of the month following the expiration of three months after the date of the deposit of the third instrument of ratification, acceptance, approval or accession but only as regards a category of objects to which a Protocol applies:

   (a) as from the time of entry into force of that Protocol;

   (b) subject to the terms of that Protocol; and

(c) as between States Parties to this Convention and that Protocol.

2. For other States this Convention enters into force on the first day of the month following the expiration of three months after the date of the deposit of their instrument of ratification, acceptance, approval or accession but only as regards a category of objects to which a Protocol applies and subject, in relation to such Protocol, to the requirements of sub-paragraphs (a), (b) and (c) of the preceding paragraph.

Article 50—Internal transactions

1. A Contracting State may, at the time of ratification, acceptance, approval of, or accession to the Protocol, declare that this Convention shall not apply to a transaction which is an internal transaction in relation to that State with regard to all types of objects or some of them.

2. Notwithstanding the preceding paragraph, the provisions of Articles 8(4), 9(1), 16, Chapter V, Article 29, and any provisions of this Convention relating to registered interests shall apply to an internal transaction.

3. Where notice of a national interest has been registered in the International Registry, the priority of the holder of that interest under Article 29 shall not be affected by the fact that such interest has become vested in another person by assignment or subrogation under the applicable law.

Article 51—Future Protocols

1. The Depositary may create working groups, in co-operation with such relevant non-governmental organisations as the Depositary considers appropriate, to assess the feasibility of extending the application of this Convention, through one or more Protocols, to objects of any category of high-value mobile equipment, other than a category referred to in Article 2(3), each member of which is uniquely identifiable, and associated rights relating to such objects.

2. The Depositary shall communicate the text of any preliminary draft Protocol relating to a category of objects prepared by such a working group to all States Parties to this Convention, all member States of the Depositary, member States of the United Nations which are not members of the Depositary and the relevant intergovernmental organisations, and shall invite such States and organisations to participate in intergovernmental negotiations for the completion of a draft Protocol on the basis of such a preliminary draft Protocol.

3. The Depositary shall also communicate the text of any preliminary draft Protocol prepared by such a working group to such relevant non-governmental organisations as the Depositary considers appropriate. Such non-governmental organisations shall be invited promptly to submit comments on the text of the

preliminary draft Protocol to the Depositary and to participate as observers in the preparation of a draft Protocol.

4. When the competent bodies of the Depositary adjudge such a draft Protocol ripe for adoption, the Depositary shall convene a diplomatic conference for its adoption.

5. Once such a Protocol has been adopted, subject to paragraph 6, this Convention shall apply to the category of objects covered thereby.

6. Article 45 *bis* of this Convention applies to such a Protocol only if specifically provided for in that Protocol.

Article 52—Territorial units

1. If a Contracting State has territorial units in which different systems of law are applicable in relation to the matters dealt with in this Convention, it may, at the time of ratification, acceptance, approval or accession, declare that this Convention is to extend to all its territorial units or only to one or more of them and may modify its declaration by submitting another declaration at any time.

2. Any such declaration shall state expressly the territorial units to which this Convention applies.

3. If a Contracting State has not made any declaration under paragraph 1, this Convention shall apply to all territorial units of that State.

4. Where a Contracting State extends this Convention to one or more of its territorial units, declarations permitted under this Convention may be made in respect of each such territorial unit, and the declarations made in respect of one territorial unit may be different from those made in respect of another territorial unit.

5. If by virtue of a declaration under paragraph 1, this Convention extends to one or more territorial units of a Contracting State:

   (a) the debtor is considered to be situated in a Contracting State only if it is incorporated or formed under a law in force in a territorial unit to which this Convention applies or if it has its registered office or statutory seat, centre of administration, place of business or habitual residence in a territorial unit to which this Convention applies;

   (b) any reference to the location of the object in a Contracting State refers to the location of the object in a territorial unit to which this Convention applies; and

   (c) any reference to the administrative authorities in that Contracting State shall be construed as referring to the administrative authorities having jurisdiction in a territorial unit to which this Convention applies.

Article 53—Determination of courts

A Contracting State may, at the time of ratification, acceptance, approval of, or accession to the Protocol, declare the relevant "court" or "courts" for the purposes of Article 1 and Chapter XII of this Convention.

Article 54—Declarations regarding remedies

1. A Contracting State may, at the time of ratification, acceptance, approval of, or accession to the Protocol, declare that while the charged object is situated within, or controlled from its territory the chargee shall not grant a lease of the object in that territory.

2. A Contracting State shall, at the time of ratification, acceptance, approval of, or accession to the Protocol, declare whether or not any remedy available to the creditor under any provision of this Convention which is not there expressed to require application to the court may be exercised only with leave of the court.

Article 55—Declarations regarding relief pending final determination

A Contracting State may, at the time of ratification, acceptance, approval of, or accession to the Protocol, declare that it will not apply the provisions of Article 13 or Article 43, or both, wholly or in part. The declaration shall specify under which conditions the relevant Article will be applied, in case it will be applied partly, or otherwise which other forms of interim relief will be applied.

Article 56—Reservations and declarations

1. No reservations may be made to this Convention but declarations authorised by Articles 39, 40, 50, 52, 53, 54, 55, 57, 58 and 60 may be made in accordance with these provisions.

2. Any declaration or subsequent declaration or any withdrawal of a declaration made under this Convention shall be notified in writing to the Depositary.

Article 57—Subsequent declarations

1. A State Party may make a subsequent declaration, other than a declaration authorised under Article 60, at any time after the date on which this Convention has entered into force for it, by notifying the Depositary to that effect.

2. Any such subsequent declaration shall take effect on the first day of the month following the expiration of six months after the date of receipt of the notification by the Depositary. Where a longer period for that declaration to take effect is specified in the notification, it shall take effect upon the expiration of such longer period after receipt of the notification by the Depositary.

3. Notwithstanding the previous paragraphs, this Convention shall continue to apply, as if no such subsequent declarations had been made, in respect of all rights and interests arising prior to the effective date of any such subsequent declaration.

Article 58—Withdrawal of declarations

1. Any State Party having made a declaration under this Convention, other than a declaration authorised under Article 60, may withdraw it at any time by notifying the Depositary. Such withdrawal is to take effect on the first day of the month following the expiration of six months after the date of receipt of the notification by the Depositary.

2. Notwithstanding the previous paragraph, this Convention shall continue to apply, as if no such withdrawal of declaration had been made, in respect of all rights and interests arising prior to the effective date of any such withdrawal.

Article 59—Denunciations

1. Any State Party may denounce this Convention by notification in writing to the Depositary.

2. Any such denunciation shall take effect on the first day of the month following the expiration of twelve months after the date on which notification is received by the Depositary.

3. Notwithstanding the previous paragraphs, this Convention shall continue to apply, as if no such denunciation had been made, in respect of all rights and interests arising prior to the effective date of any such denunciation.

Article 60—Transitional provisions

1. Unless otherwise declared by a Contracting State at any time, the Convention does not apply to a pre-existing right or interest, which retains the priority it enjoyed under the applicable law before the effective date of this Convention.

2. For the purposes of Article 1(v) and of determining priority under this Convention:

   (a) “effective date of this Convention” means in relation to a debtor the time when this Convention enters into force or the time when the State in which the debtor is situated becomes a Contracting State, whichever is the later; and

   (b) the debtor is situated in a State where it has its centre of administration or, if it has no centre of administration, its place of business or, if it has more than one place of business, its principal place of business or, if it has no place of business, its habitual residence.

3. A Contracting State may in its declaration under paragraph 1 specify a date, not earlier than three years after the date on which the declaration becomes effective, when this Convention and the Protocol will become applicable, for the purpose of determining priority, including the protection of any existing priority, to pre-existing rights or interests arising under an agreement made at a time when the debtor was situated in a State referred to in sub-paragraph (b) of the preceding paragraph but only to the extent and in the manner specified in its declaration.

Article 61—Review Conferences, amendments and related matters

1. The Depositary shall prepare reports yearly or at such other time as the circumstances may require for the States Parties as to the manner in which the international regimen established in this Convention has operated in practice. In preparing such reports, the Depositary shall take into account the reports of the Supervisory Authority concerning the functioning of the international registration system.

2. At the request of not less than twenty-five per cent of the States Parties, Review Conferences of States Parties shall be convened from time to time by the Depositary, in consultation with the Supervisory Authority, to consider:

   (a) the practical operation of this Convention and its effectiveness in facilitating the asset-based financing and leasing of the objects covered by its terms;

   (b) the judicial interpretation given to, and the application made of the terms of this Convention and the regulations;

   (c) the functioning of the international registration system, the performance of the Registrar and its oversight by the Supervisory Authority, taking into account the reports of the Supervisory Authority; and

   (d) whether any modifications to this Convention or the arrangements relating to the International Registry are desirable.

3. Subject to paragraph 4, any amendment to this Convention shall be approved by at least a two-thirds majority of States Parties participating in the Conference referred to in the preceding paragraph and shall then enter into force in respect of States which have ratified, accepted or approved such amendment when ratified, accepted, or approved by three States in accordance with the provisions of Article 49 relating to its entry into force.

4. Where the proposed amendment to this Convention is intended to apply to more than one category of equipment, such amendment shall also be approved by at least a two-thirds majority of States Parties to each Protocol that are participating in the Conference referred to in paragraph 2.

Article 62—Depositary and its functions

1. Instruments of ratification, acceptance, approval or accession shall be deposited with the International Institute for the Unification of Private Law (UNIDROIT), which is hereby designated the Depositary.

2. The Depositary shall:

   (a) inform all Contracting States of:

      (i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession, together with the date thereof;

      (ii) the date of entry into force of this Convention;

      (iii) each declaration made in accordance with this Convention, together with the date thereof;

      (iv) the withdrawal or amendment of any declaration, together with the date thereof; and

      (v) the notification of any denunciation of this Convention together with the date thereof and the date on which it takes effect;

   (b) transmit certified true copies of this Convention to all Contracting States;

   (c) provide the Supervisory Authority and the Registrar with a copy of each instrument of ratification, acceptance, approval or accession, together with the date of deposit thereof, of each declaration or withdrawal or amendment of a declaration and of each notification of denunciation, together with the date of notification thereof, so that the information contained therein is easily and fully available; and

   (d) perform such other functions customary for depositaries.

IN WITNESS WHEREOF the undersigned plenipotentiaries, having been duly authorised, have signed this Convention.

DONE at Cape Town, this sixteenth day of November, two thousand and one, in a single original in the English, Arabic, Chinese, French, Russian and Spanish languages, all texts being equally authentic, such authenticity to take effect upon verification by the Joint Secretariat of the Conference under the authority of the President of the Conference within ninety days hereof as to the conformity of the texts with one another.

Schedule 8
Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment

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THE STATES PARTIES TO THIS PROTOCOL,

CONSIDERING it necessary to implement the *Convention on International Interests in Mobile Equipment* (hereinafter referred to as "the Convention") as it relates to aircraft equipment, in the light of the purposes set out in the preamble to the Convention,

MINDFUL of the need to adapt the Convention to meet the particular requirements of aircraft finance and to extend the sphere of application of the Convention to include contracts of sale of aircraft equipment,

MINDFUL of the principles and objectives of the *Convention on International Civil Aviation*, signed at Chicago on 7 December 1944,

HAVE AGREED upon the following provisions relating to aircraft equipment:

Chapter I
Sphere of application and general provisions

Article I—Defined terms

1. In this Protocol, except where the context otherwise requires, terms used in it have the meanings set out in the Convention.

2. In this Protocol the following terms are employed with the meanings set out below:

   (a) "aircraft" means aircraft as defined for the purposes of the Chicago Convention which are either airframes with aircraft engines installed thereon or helicopters;

   (b) "aircraft engines" means aircraft engines (other than those used in military, customs or police services) powered by jet propulsion or turbine or piston technology and:

      (i) in the case of jet propulsion aircraft engines, have at least 1750 lb of thrust or its equivalent; and

      (ii) in the case of turbine-powered or piston-powered aircraft engines, have at least 550 rated take-off shaft horsepower or its equivalent,

   together with all modules and other installed, incorporated or attached accessories, parts and equipment and all data, manuals and records relating thereto;

   (c) "aircraft objects" means airframes, aircraft engines and helicopters;

(d) "aircraft register" means a register maintained by a State or a common mark registering authority for the purposes of the Chicago Convention;

(e) "airframes" means airframes (other than those used in military, customs or police services) that, when appropriate aircraft engines are installed thereon, are type certified by the competent aviation authority to transport:

(i) at least eight (8) persons including crew; or

(ii) goods in excess of 2750 kilograms,

together with all installed, incorporated or attached accessories, parts and equipment (other than aircraft engines), and all data, manuals and records relating thereto;

(f) "authorised party" means the party referred to in Article XIII(3);

(g) "Chicago Convention" means the *Convention on International Civil Aviation*, signed at Chicago on 7 December 1944, as amended, and its Annexes;

(h) "common mark registering authority" means the authority maintaining a register in accordance with Article 77 of the Chicago Convention as implemented by the Resolution adopted on 14 December 1967 by the Council of the International Civil Aviation Organization on nationality and registration of aircraft operated by international operating agencies;

(i) "de-registration of the aircraft" means deletion or removal of the registration of the aircraft from its aircraft register in accordance with the Chicago Convention;

(j) "guarantee contract" means a contract entered into by a person as guarantor;

(k) "guarantor" means a person who, for the purpose of assuring performance of any obligations in favour of a creditor secured by a security agreement or under an agreement, gives or issues a suretyship or demand guarantee or a standby letter of credit or any other form of credit insurance;

(l) "helicopters" means heavier-than-air machines (other than those used in military, customs or police services) supported in flight chiefly by the reactions of the air on one or more power-driven rotors on substantially vertical axes and which are type certified by the competent aviation authority to transport:

(i) at least five (5) persons including crew; or

(ii) goods in excess of 450 kilograms,

together with all installed, incorporated or attached accessories, parts and equipment (including rotors), and all data, manuals and records relating thereto;

(m) "insolvency-related event" means:

(i) the commencement of the insolvency proceedings; or

(ii) the declared intention to suspend or actual suspension of payments by the debtor where the creditor's right to institute insolvency proceedings against the debtor or to exercise remedies under the Convention is prevented or suspended by law or State action;

(n) "primary insolvency jurisdiction" means the Contracting State in which the centre of the debtor's main interests is situated, which for this purpose shall be deemed to be the place of the debtor's statutory seat or, if there is none, the place where the debtor is incorporated or formed, unless proved otherwise;

(o) "registry authority" means the national authority or the common mark registering authority, maintaining an aircraft register in a Contracting State and responsible for the registration and de-registration of an aircraft in accordance with the Chicago Convention; and

(p) "State of registry" means, in respect of an aircraft, the State on the national register of which an aircraft is entered or the State of location of the common mark registering authority maintaining the aircraft register.

Article II—Application of Convention as regards aircraft objects

1. The Convention shall apply in relation to aircraft objects as provided by the terms of this Protocol.

2. The Convention and this Protocol shall be known as the Convention on International Interests in Mobile Equipment as applied to aircraft objects.

Article III—Application of Convention to sales

The following provisions of the Convention apply as if references to an agreement creating or providing for an international interest were references to a contract of sale and as if references to an international interest, a prospective international interest, the debtor and the creditor were references to a sale, a prospective sale, the seller and the buyer respectively:

Articles 3 and 4;

Article 16(1)(a);

Article 19(4);

Article 20(1) (as regards registration of a contract of sale or a prospective sale);

Article 25(2) (as regards a prospective sale); and

Article 30.

In addition, the general provisions of Article 1, Article 5, Chapters IV to VII, Article 29 (other than Article 29(3) which is replaced by Article XIV(1) and (2)), Chapter X, Chapter XII (other than Article 43), Chapter XIII and Chapter XIV (other than Article 60) shall apply to contracts of sale and prospective sales.

Article IV—Sphere of application

1. Without prejudice to Article 3(1) of the Convention, the Convention shall also apply in relation to a helicopter, or to an airframe pertaining to an aircraft, registered in an aircraft register of a Contracting State which is the State of registry, and where such registration is made pursuant to an agreement for registration of the aircraft it is deemed to have been effected at the time of the agreement.

2. For the purposes of the definition of "internal transaction" in Article 1 of the Convention:

   (a) an airframe is located in the State of registry of the aircraft of which it is a part;

   (b) an aircraft engine is located in the State of registry of the aircraft on which it is installed or, if it is not installed on an aircraft, where it is physically located; and

   (c) a helicopter is located in its State of registry,

   at the time of the conclusion of the agreement creating or providing for the interest.

3. The parties may, by agreement in writing, exclude the application of Article XI and, in their relations with each other, derogate from or vary the effect of any of the provisions of this Protocol except Article IX (2)-(4).

Article V—Formalities, effects and registration of contracts of sale

1. For the purposes of this Protocol, a contract of sale is one which:

   (a) is in writing;

   (b) relates to an aircraft object of which the seller has power to dispose; and

   (c) enables the aircraft object to be identified in conformity with this Protocol.

2. A contract of sale transfers the interest of the seller in the aircraft object to the buyer according to its terms.

3. Registration of a contract of sale remains effective indefinitely. Registration of a prospective sale remains effective unless discharged or until expiry of the period, if any, specified in the registration.

Article VI—Representative capacities

A person may enter into an agreement or a sale, and register an international interest in, or a sale of, an aircraft object, in an agency, trust or other representative capacity. In such case, that person is entitled to assert rights and interests under the Convention.

Article VII—Description of aircraft objects

A description of an aircraft object that contains its manufacturer's serial number, the name of the manufacturer and its model designation is necessary and sufficient to identify the object for the purposes of Article 7(c) of the Convention and Article V(1)(c) of this Protocol.

Article VIII—Choice of law

1. This Article applies only where a Contracting State has made a declaration pursuant to Article XXX(1).

2. The parties to an agreement, or a contract of sale, or a related guarantee contract or subordination agreement may agree on the law which is to govern their contractual rights and obligations, wholly or in part.

3. Unless otherwise agreed, the reference in the preceding paragraph to the law chosen by the parties is to the domestic rules of law of the designated State or, where that State comprises several territorial units, to the domestic law of the designated territorial unit.

Chapter II
Default remedies, priorities and assignments

Article IX—Modification of default remedies provisions

1. In addition to the remedies specified in Chapter III of the Convention, the creditor may, to the extent that the debtor has at any time so agreed and in the circumstances specified in that Chapter:

   (a) procure the de-registration of the aircraft; and

   (b) procure the export and physical transfer of the aircraft object from the territory in which it is situated.

2. The creditor shall not exercise the remedies specified in the preceding paragraph without the prior consent in writing of the holder of any registered interest ranking in priority to that of the creditor.

3. Article 8(3) of the Convention shall not apply to aircraft objects. Any remedy given by the Convention in relation to an aircraft object shall be exercised in a commercially reasonable manner. A remedy shall be deemed to be exercised

in a commercially reasonable manner where it is exercised in conformity with a provision of the agreement except where such a provision is manifestly unreasonable.

4. A chargee giving ten or more working days' prior written notice of a proposed sale or lease to interested persons shall be deemed to satisfy the requirement of providing "reasonable prior notice" specified in Article 8(4) of the Convention. The foregoing shall not prevent a chargee and a chargor or a guarantor from agreeing to a longer period of prior notice.

5. The registry authority in a Contracting State shall, subject to any applicable safety laws and regulations, honour a request for de-registration and export if:

   (a) the request is properly submitted by the authorised party under a recorded irrevocable de-registration and export request authorisation; and

   (b) the authorised party certifies to the registry authority, if required by that authority, that all registered interests ranking in priority to that of the creditor in whose favour the authorisation has been issued have been discharged or that the holders of such interests have consented to the de-registration and export.

6. A chargee proposing to procure the de-registration and export of an aircraft under paragraph 1 otherwise than pursuant to a court order shall give reasonable prior notice in writing of the proposed de-registration and export to:

   (a) interested persons specified in Article 1(m)(i) and (ii) of the Convention; and

   (b) interested persons specified in Article 1(m)(iii) of the Convention who have given notice of their rights to the chargee within a reasonable time prior to the de-registration and export.

Article X—Modification of provisions regarding relief pending final determination

1. This Article applies only where a Contracting State has made a declaration under Article XXX(2) and to the extent stated in such declaration.

2. For the purposes of Article 13(1) of the Convention, "speedy" in the context of obtaining relief means within such number of working days from the date of filing of the application for relief as is specified in a declaration made by the Contracting State in which the application is made.

3. Article 13(1) of the Convention applies with the following being added immediately after sub-paragraph (d):

   "(e) if at any time the debtor and the creditor specifically agree, sale and application of proceeds therefrom",

and Article 43(2) applies with the insertion after the words "Article 13(1)(d)" of the words "and (e)".

4. Ownership or any other interest of the debtor passing on a sale under the preceding paragraph is free from any other interest over which the creditor's international interest has priority under the provisions of Article 29 of the Convention.

5. The creditor and the debtor or any other interested person may agree in writing to exclude the application of Article 13(2) of the Convention.

6. With regard to the remedies in Article IX(1):

   (a) they shall be made available by the registry authority and other administrative authorities, as applicable, in a Contracting State no later than five working days after the creditor notifies such authorities that the relief specified in Article IX(1) is granted or, in the case of relief granted by a foreign court, recognised by a court of that Contracting State, and that the creditor is entitled to procure those remedies in accordance with the Convention; and

   (b) the applicable authorities shall expeditiously co-operate with and assist the creditor in the exercise of such remedies in conformity with the applicable aviation safety laws and regulations.

7. Paragraphs 2 and 6 shall not affect any applicable aviation safety laws and regulations.

Article XI—Remedies on insolvency

1. This Article applies only where a Contracting State that is the primary insolvency jurisdiction has made a declaration pursuant to Article XXX(3).

Alternative A

2. Upon the occurrence of an insolvency-related event, the insolvency administrator or the debtor, as applicable, shall, subject to paragraph 7, give possession of the aircraft object to the creditor no later than the earlier of:

   (a) the end of the waiting period; and

   (b) the date on which the creditor would be entitled to possession of the aircraft object if this Article did not apply.

3. For the purposes of this Article, the "waiting period" shall be the period specified in a declaration of the Contracting State which is the primary insolvency jurisdiction.

4. References in this Article to the "insolvency administrator" shall be to that person in its official, not in its personal, capacity.

5. Unless and until the creditor is given the opportunity to take possession under paragraph 2:

   (a) the insolvency administrator or the debtor, as applicable, shall preserve the aircraft object and maintain it and its value in accordance with the agreement; and

   (b) the creditor shall be entitled to apply for any other forms of interim relief available under the applicable law.

6. Sub-paragraph (a) of the preceding paragraph shall not preclude the use of the aircraft object under arrangements designed to preserve the aircraft object and maintain it and its value.

7. The insolvency administrator or the debtor, as applicable, may retain possession of the aircraft object where, by the time specified in paragraph 2, it has cured all defaults other than a default constituted by the opening of insolvency proceedings and has agreed to perform all future obligations under the agreement. A second waiting period shall not apply in respect of a default in the performance of such future obligations.

8. With regard to the remedies in Article IX(1):

   (a) they shall be made available by the registry authority and the administrative authorities in a Contracting State, as applicable, no later than five working days after the date on which the creditor notifies such authorities that it is entitled to procure those remedies in accordance with the Convention; and

   (b) the applicable authorities shall expeditiously co-operate with and assist the creditor in the exercise of such remedies in conformity with the applicable aviation safety laws and regulations.

9. No exercise of remedies permitted by the Convention or this Protocol may be prevented or delayed after the date specified in paragraph 2.

10. No obligations of the debtor under the agreement may be modified without the consent of the creditor.

11. Nothing in the preceding paragraph shall be construed to affect the authority, if any, of the insolvency administrator under the applicable law to terminate the agreement.

12. No rights or interests, except for non-consensual rights or interests of a category covered by a declaration pursuant to Article 39(1), shall have priority in insolvency proceedings over registered interests.

13. The Convention as modified by Article IX of this Protocol shall apply to the exercise of any remedies under this Article.

Alternative B

2. Upon the occurrence of an insolvency-related event, the insolvency administrator or the debtor, as applicable, upon the request of the creditor, shall give notice to the creditor within the time specified in a declaration of a Contracting State pursuant to Article XXX(3) whether it will:

   (a) cure all defaults other than a default constituted by the opening of insolvency proceedings and agree to perform all future obligations, under the agreement and related transaction documents; or

   (b) give the creditor the opportunity to take possession of the aircraft object, in accordance with the applicable law.

3. The applicable law referred to in sub-paragraph (b) of the preceding paragraph may permit the court to require the taking of any additional step or the provision of any additional guarantee.

4. The creditor shall provide evidence of its claims and proof that its international interest has been registered.

5. If the insolvency administrator or the debtor, as applicable, does not give notice in conformity with paragraph 2, or when the insolvency administrator or the debtor has declared that it will give the creditor the opportunity to take possession of the aircraft object but fails to do so, the court may permit the creditor to take possession of the aircraft object upon such terms as the court may order and may require the taking of any additional step or the provision of any additional guarantee.

6. The aircraft object shall not be sold pending a decision by a court regarding the claim and the international interest.

Article XII—Insolvency assistance

1. This Article applies only where a Contracting State has made a declaration pursuant to Article XXX(1).

2. The courts of a Contracting State in which an aircraft object is situated shall, in accordance with the law of the Contracting State, co-operate to the maximum extent possible with foreign courts and foreign insolvency administrators in carrying out the provisions of Article XI.

Article XIII—De-registration and export request authorisation

1. This Article applies only where a Contracting State has made a declaration pursuant to Article XXX(1).

2. Where the debtor has issued an irrevocable de-registration and export request authorisation substantially in the form annexed to this Protocol and has submit-

ted such authorisation for recordation to the registry authority, that authorisation shall be so recorded.

3. The person in whose favour the authorisation has been issued (the "authorised party") or its certified designee shall be the sole person entitled to exercise the remedies specified in Article IX(1) and may do so only in accordance with the authorisation and applicable aviation safety laws and regulations. Such authorisation may not be revoked by the debtor without the consent in writing of the authorised party. The registry authority shall remove an authorisation from the registry at the request of the authorised party.

4. The registry authority and other administrative authorities in Contracting States shall expeditiously co-operate with and assist the authorised party in the exercise of the remedies specified in Article IX.

Article XIV—Modification of priority provisions

1. A buyer of an aircraft object under a registered sale acquires its interest in that object free from an interest subsequently registered and from an unregistered interest, even if the buyer has actual knowledge of the unregistered interest.

2. A buyer of an aircraft object acquires its interest in that object subject to an interest registered at the time of its acquisition.

3. Ownership of or another right or interest in an aircraft engine shall not be affected by its installation on or removal from an aircraft.

4. Article 29(7) of the Convention applies to an item, other than an object, installed on an airframe, aircraft engine or helicopter.

Article XV—Modification of assignment provisions

Article 33(1) of the Convention applies as if the following were added immediately after sub-paragraph (b):

and (c) the debtor has consented in writing, whether or not the consent is given in advance of the assignment or identifies the assignee.

Article XVI—Debtor provisions

1. In the absence of a default within the meaning of Article 11 of the Convention, the debtor shall be entitled to the quiet possession and use of the object in accordance with the agreement as against:

   (a) its creditor and the holder of any interest from which the debtor takes free pursuant to Article 29(4) of the Convention or, in the capacity of buyer, Article XIV(1) of this Protocol, unless and to the extent that the debtor has otherwise agreed; and

(b) the holder of any interest to which the debtor's right or interest is subject pursuant to Article 29(4) of the Convention or, in the capacity of buyer, Article XIV(2) of this Protocol, but only to the extent, if any, that such holder has agreed.

2. Nothing in the Convention or this Protocol affects the liability of a creditor for any breach of the agreement under the applicable law in so far as that agreement relates to an aircraft object.

Chapter III
Registry provisions relating to international interests in aircraft objects

Article XVII—The Supervisory Authority and the Registrar

1. The Supervisory Authority shall be the international entity designated by a Resolution adopted by the Diplomatic Conference to Adopt a Mobile Equipment Convention and an Aircraft Protocol.

2. Where the international entity referred to in the preceding paragraph is not able and willing to act as Supervisory Authority, a Conference of Signatory and Contracting States shall be convened to designate another Supervisory Authority.

3. The Supervisory Authority and its officers and employees shall enjoy such immunity from legal and administrative process as is provided under the rules applicable to them as an international entity or otherwise.

4. The Supervisory Authority may establish a commission of experts, from among persons nominated by Signatory and Contracting States and having the necessary qualifications and experience, and entrust it with the task of assisting the Supervisory Authority in the discharge of its functions.

5. The first Registrar shall operate the International Registry for a period of five years from the date of entry into force of this Protocol. Thereafter, the Registrar shall be appointed or reappointed at regular five-yearly intervals by the Supervisory Authority.

Article XVIII—First regulations

The first regulations shall be made by the Supervisory Authority so as to take effect upon the entry into force of this Protocol.

Article XIX—Designated entry points

1. Subject to paragraph 2, a Contracting State may at any time designate an entity or entities in its territory as the entry point or entry points through which there

shall or may be transmitted to the International Registry information required for registration other than registration of a notice of a national interest or a right or interest under Article 40 in either case arising under the laws of another State.

2. A designation made under the preceding paragraph may permit, but not compel, use of a designated entry point or entry points for information required for registrations in respect of aircraft engines.

Article XX—Additional modifications to Registry provisions

1. For the purposes of Article 19(6) of the Convention, the search criteria for an aircraft object shall be the name of its manufacturer, its manufacturer's serial number and its model designation, supplemented as necessary to ensure uniqueness. Such supplementary information shall be specified in the regulations.

2. For the purposes of Article 25(2) of the Convention and in the circumstances there described, the holder of a registered prospective international interest or a registered prospective assignment of an international interest or the person in whose favour a prospective sale has been registered shall take such steps as are within its power to procure the discharge of the registration no later than five working days after the receipt of the demand described in such paragraph.

3. The fees referred to in Article 17(2)(h) of the Convention shall be determined so as to recover the reasonable costs of establishing, operating and regulating the International Registry and the reasonable costs of the Supervisory Authority associated with the performance of the functions, exercise of the powers, and discharge of the duties contemplated by Article 17(2) of the Convention.

4. The centralised functions of the International Registry shall be operated and administered by the Registrar on a twenty-four hour basis. The various entry points shall be operated at least during working hours in their respective territories.

5. The amount of the insurance or financial guarantee referred to in Article 28(4) of the Convention shall, in respect of each event, not be less than the maximum value of an aircraft object as determined by the Supervisory Authority.

6. Nothing in the Convention shall preclude the Registrar from procuring insurance or a financial guarantee covering events for which the Registrar is not liable under Article 28 of the Convention.

Chapter IV
Jurisdiction

Article XXI—Modification of jurisdiction provisions

For the purposes of Article 43 of the Convention and subject to Article 42 of the Convention, a court of a Contracting State also has jurisdiction where the object is a helicopter, or an airframe pertaining to an aircraft, for which that State is the State of registry.

Article XXII—Waivers of sovereign immunity

1. Subject to paragraph 2, a waiver of sovereign immunity from jurisdiction of the courts specified in Article 42 or Article 43 of the Convention or relating to enforcement of rights and interests relating to an aircraft object under the Convention shall be binding and, if the other conditions to such jurisdiction or enforcement have been satisfied, shall be effective to confer jurisdiction and permit enforcement, as the case may be.

2. A waiver under the preceding paragraph must be in writing and contain a description of the aircraft object.

Chapter V
Relationship with other conventions

Article XXIII—Relationship with the Convention on the International Recognition of Rights in Aircraft

The Convention shall, for a Contracting State that is a party to the *Convention on the International Recognition of Rights in Aircraft*, signed at Geneva on 19 June 1948, supersede that Convention as it relates to aircraft, as defined in this Protocol, and to aircraft objects. However, with respect to rights or interests not covered or affected by the present Convention, the Geneva Convention shall not be superseded.

Article XXIV—Relationship with the Convention for the Unification of Certain Rules Relating to the Precautionary Attachment of Aircraft

1. The Convention shall, for a Contracting State that is a Party to the *Convention for the Unification of Certain Rules Relating to the Precautionary Attachment of Aircraft*, signed at Rome on 29 May 1933, supersede that Convention as it relates to aircraft, as defined in this Protocol.

2. A Contracting State Party to the above Convention may declare, at the time of ratification, acceptance, approval of, or accession to this Protocol, that it will not apply this Article.

Article XXV—Relationship with the UNIDROIT Convention on International Financial Leasing

The Convention shall supersede the *UNIDROIT Convention on International Financial Leasing*, signed at Ottawa on 28 May 1988, as it relates to aircraft objects.

Chapter VI
Final provisions

Article XXVI—Signature, ratification, acceptance, approval or accession

1. This Protocol shall be open for signature in Cape Town on 16 November 2001 by States participating in the Diplomatic Conference to Adopt a Mobile Equipment Convention and an Aircraft Protocol held at Cape Town from 29 October to 16 November 2001. After 16 November 2001, this Protocol shall be open to all States for signature at the Headquarters of the International Institute for the Unification of Private Law (UNIDROIT) in Rome until it enters into force in accordance with Article XXVIII.

2. This Protocol shall be subject to ratification, acceptance or approval by States which have signed it.

3. Any State which does not sign this Protocol may accede to it at any time.

4. Ratification, acceptance, approval or accession is effected by the deposit of a formal instrument to that effect with the Depositary.

5. A State may not become a Party to this Protocol unless it is or becomes also a Party to the Convention.

Article XXVII—Regional Economic Integration Organisations

1. A Regional Economic Integration Organisation which is constituted by sovereign States and has competence over certain matters governed by this Protocol may similarly sign, accept, approve or accede to this Protocol. The Regional Economic Integration Organisation shall in that case have the rights and obligations of a Contracting State, to the extent that that Organisation has competence over matters governed by this Protocol. Where the number of Contracting States is relevant in this Protocol, the Regional Economic Integration Organisation shall not count as a Contracting State in addition to its Member States which are Contracting States.

2. The Regional Economic Integration Organisation shall, at the time of signature, acceptance, approval or accession, make a declaration to the Depositary specifying the matters governed by this Protocol in respect of which competence has been transferred to that Organisation by its Member States. The Regional

Economic Integration Organisation shall promptly notify the Depositary of any changes to the distribution of competence, including new transfers of competence, specified in the declaration under this paragraph.

3. Any reference to a "Contracting State" or "Contracting States" or "State Party" or "States Parties" in this Protocol applies equally to a Regional Economic Integration Organisation where the context so requires.

Article XXVIII—Entry into force

1. This Protocol enters into force on the first day of the month following the expiration of three months after the date of the deposit of the eighth instrument of ratification, acceptance, approval or accession, between the States which have deposited such instruments.

2. For other States this Protocol enters into force on the first day of the month following the expiration of three months after the date of the deposit of its instrument of ratification, acceptance, approval or accession.

Article XXIX—Territorial units

1. If a Contracting State has territorial units in which different systems of law are applicable in relation to the matters dealt with in this Protocol, it may, at the time of ratification, acceptance, approval or accession, declare that this Protocol is to extend to all its territorial units or only to one or more of them and may modify its declaration by submitting another declaration at any time.

2. Any such declaration shall state expressly the territorial units to which this Protocol applies.

3. If a Contracting State has not made any declaration under paragraph 1, this Protocol shall apply to all territorial units of that State.

4. Where a Contracting State extends this Protocol to one or more of its territorial units, declarations permitted under this Protocol may be made in respect of each such territorial unit, and the declarations made in respect of one territorial unit may be different from those made in respect of another territorial unit.

5. If by virtue of a declaration under paragraph 1, this Protocol extends to one or more territorial units of a Contracting State:

   (a) the debtor is considered to be situated in a Contracting State only if it is incorporated or formed under a law in force in a territorial unit to which the Convention and this Protocol apply or if it has its registered office or statutory seat, centre of administration, place of business or habitual residence in a territorial unit to which the Convention and this Protocol apply;

(b) any reference to the location of the object in a Contracting State refers to the location of the object in a territorial unit to which the Convention and this Protocol apply; and

(c) any reference to the administrative authorities in that Contracting State shall be construed as referring to the administrative authorities having jurisdiction in a territorial unit to which the Convention and this Protocol apply and any reference to the national register or to the registry authority in that Contracting State shall be construed as referring to the aircraft register in force or to the registry authority having jurisdiction in the territorial unit or units to which the Convention and this Protocol apply.

Article XXX—Declarations relating to certain provisions

1. A Contracting State may, at the time of ratification, acceptance, approval of, or accession to this Protocol, declare that it will apply any one or more of Articles VIII, XII and XIII of this Protocol.

2. A Contracting State may, at the time of ratification, acceptance, approval of, or accession to this Protocol, declare that it will apply Article X of this Protocol, wholly or in part. If it so declares with respect to Article X(2), it shall specify the time-period required thereby.

3. A Contracting State may, at the time of ratification, acceptance, approval of, or accession to this Protocol, declare that it will apply the entirety of Alternative A, or the entirety of Alternative B of Article XI and, if so, shall specify the types of insolvency proceeding, if any, to which it will apply Alternative A and the types of insolvency proceeding, if any, to which it will apply Alternative B. A Contracting State making a declaration pursuant to this paragraph shall specify the time-period required by Article XI.

4. The courts of Contracting States shall apply Article XI in conformity with the declaration made by the Contracting State which is the primary insolvency jurisdiction.

5. A Contracting State may, at the time of ratification, acceptance, approval of, or accession to this Protocol, declare that it will not apply the provisions of Article XXI, wholly or in part. The declaration shall specify under which conditions the relevant Article will be applied, in case it will be applied partly, or otherwise which other forms of interim relief will be applied.

Article XXXI—Declarations under the Convention

Declarations made under the Convention, including those made under Articles 39, 40, 50, 53, 54, 55, 57, 58 and 60 of the Convention, shall be deemed to have also been made under this Protocol unless stated otherwise.

Article XXXII—Reservations and declarations

1. No reservations may be made to this Protocol but declarations authorised by Articles XXIV, XXIX, XXX, XXXI, XXXIII and XXXIV may be made in accordance with these provisions.

2. Any declaration or subsequent declaration or any withdrawal of a declaration made under this Protocol shall be notified in writing to the Depositary.

Article XXXIII—Subsequent declarations

1. A State Party may make a subsequent declaration, other than a declaration made in accordance with Article XXXI under Article 60 of the Convention, at any time after the date on which this Protocol has entered into force for it, by notifying the Depositary to that effect.

2. Any such subsequent declaration shall take effect on the first day of the month following the expiration of six months after the date of receipt of the notification by the Depositary. Where a longer period for that declaration to take effect is specified in the notification, it shall take effect upon the expiration of such longer period after receipt of the notification by the Depositary.

3. Notwithstanding the previous paragraphs, this Protocol shall continue to apply, as if no such subsequent declarations had been made, in respect of all rights and interests arising prior to the effective date of any such subsequent declaration.

Article XXXIV—Withdrawal of declarations

1. Any State Party having made a declaration under this Protocol, other than a declaration made in accordance with Article XXXI under Article 60 of the Convention, may withdraw it at any time by notifying the Depositary. Such withdrawal is to take effect on the first day of the month following the expiration of six months after the date of receipt of the notification by the Depositary.

2. Notwithstanding the previous paragraph, this Protocol shall continue to apply, as if no such withdrawal of declaration had been made, in respect of all rights and interests arising prior to the effective date of any such withdrawal.

Article XXXV—Denunciations

1. Any State Party may denounce this Protocol by notification in writing to the Depositary.

2. Any such denunciation shall take effect on the first day of the month following the expiration of twelve months after the date of receipt of the notification by the Depositary.

3. Notwithstanding the previous paragraphs, this Protocol shall continue to apply, as if no such denunciation had been made, in respect of all rights and interests arising prior to the effective date of any such denunciation.

Article XXXVI—Review Conferences, amendments and related matters

1. The Depositary, in consultation with the Supervisory Authority, shall prepare reports yearly, or at such other time as the circumstances may require, for the States Parties as to the manner in which the international regime established in the Convention as amended by this Protocol has operated in practice. In preparing such reports, the Depositary shall take into account the reports of the Supervisory Authority concerning the functioning of the international registration system.

2. At the request of not less than twenty-five per cent of the States Parties, Review Conferences of the States Parties shall be convened from time to time by the Depositary, in consultation with the Supervisory Authority, to consider:

   (a) the practical operation of the Convention as amended by this Protocol and its effectiveness in facilitating the asset-based financing and leasing of the objects covered by its terms;

   (b) the judicial interpretation given to, and the application made of the terms of this Protocol and the regulations;

   (c) the functioning of the international registration system, the performance of the Registrar and its oversight by the Supervisory Authority, taking into account the reports of the Supervisory Authority; and

   (d) whether any modifications to this Protocol or the arrangements relating to the International Registry are desirable.

3. Any amendment to this Protocol shall be approved by at least a two-thirds majority of States Parties participating in the Conference referred to in the preceding paragraph and shall then enter into force in respect of States which have ratified, accepted or approved such amendment when it has been ratified, accepted or approved by eight States in accordance with the provisions of Article XXVIII relating to its entry into force.

Article XXXVII—Depositary and its functions

1. Instruments of ratification, acceptance, approval or accession shall be deposited with the International Institute for the Unification of Private Law (UNIDROIT), which is hereby designated the Depositary.

2. The Depositary shall:

(a) inform all Contracting States of:

(i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession, together with the date thereof;

(ii) the date of entry into force of this Protocol;

(iii) each declaration made in accordance with this Protocol, together with the date thereof;

(iv) the withdrawal or amendment of any declaration, together with the date thereof; and

(v) the notification of any denunciation of this Protocol together with the date thereof and the date on which it takes effect;

(b) transmit certified true copies of this Protocol to all Contracting States;

(c) provide the Supervisory Authority and the Registrar with a copy of each instrument of ratification, acceptance, approval or accession, together with the date of deposit thereof, of each declaration or withdrawal or amendment of a declaration and of each notification of denunciation, together with the date of notification thereof, so that the information contained therein is easily and fully available; and

(d) perform such other functions customary for depositaries.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, having been duly authorised, have signed this Protocol.

DONE at Cape Town, this sixteenth day of November, two thousand and one, in a single original in the English, Arabic, Chinese, French, Russian and Spanish languages, all texts being equally authentic, such authenticity to take effect upon verification by the Joint Secretariat of the Conference under the authority of the President of the Conference within ninety days hereof as to the conformity of the texts with one another.

Annex
Form of Irrevocable De-registration and Export Request Authorisation

Annex referred to in Article XIII

[Insert Date]

To: [Insert Name of Registry Authority]

Re: Irrevocable De-Registration and Export Request Authorisation

The undersigned is the registered [operator] [owner]* of the [insert the airframe/helicopter manufacturer name and model number] bearing manufacturers serial number [insert manufacturer's serial number] and registration [number] [mark] [insert registration number/mark] (together with all installed, incorporated or attached accessories, parts and equipment, the "aircraft").

This instrument is an irrevocable de-registration and export request authorisation issued by the undersigned in favour of [insert name of creditor] ("the authorised party") under the authority of Article XIII of the Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Aircraft Equipment. In accordance with that Article, the undersigned hereby requests:

(i) recognition that the authorised party or the person it certifies as its designee is the sole person entitled to:

  (a) procure the de-registration of the aircraft from the [insert name of aircraft register] maintained by the [insert name of registry authority] for the purposes of Chapter III of the *Convention on International Civil Aviation*, signed at Chicago, on 7 December 1944, and

  (b) procure the export and physical transfer of the aircraft from [insert name of country]; and

(ii) confirmation that the authorised party or the person it certifies as its designee may take the action specified in clause (i) above on written demand without the consent of the undersigned and that, upon such demand, the authorities in [insert name of country] shall co-operate with the authorised party with a view to the speedy completion of such action.

The rights in favour of the authorised party established by this instrument may not be revoked by the undersigned without the written consent of the authorised party.

*Select the term that reflects the relevant nationality registration criterion.

Please acknowledge your agreement to this request and its terms by appropriate notation in the space provided below and lodging this instrument in [insert name of registry authority].

[insert name of operator/owner]

Agreed to and lodged this By: [insert name of signatory]

[insert date] Its: [insert title of signatory]

[insert relevant notational details]

Schedule 9
Consequential amendments

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Part 1
Consequential amendments to Acts

Admiralty Act 1973 (1973 No 119)

In section 2, definition of **aircraft**, replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

Airport Authorities Act 1966 (1966 No 51)

In section 2, replace the definition of **security area** with:

> **security area** has the meaning given to that term in section 5 of the Civil Aviation Act 2023

In section 4A(1), replace "section 38 or section 100 of the Civil Aviation Act 1990" with "section 407 or 415 of the Civil Aviation Act 2023".

In section 9(1)(h), replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

In section 9(1)(i), replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

In section 9(1)(ia), replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

Airports (Cost Recovery for Processing of International Travellers) Act 2014 (2014 No 3)

In section 4, definition of **agency**, paragraph (c), replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

In section 4, definition of **Aviation Security Service**, replace "section 72B(2)(ca) of the Civil Aviation Act 1990" with "section 23(d) of the Civil Aviation Act 2023".

In section 4, definition of **chief executive**, paragraph (c), replace "General Manager of the Aviation Security Service" with "Director of Civil Aviation".

In section 4, definition of **operator**, replace "section 30 or 34A of the Civil Aviation Act 1990" with "section 52 or 63 of the Civil Aviation Act 2023".

In section 4, definition of **processing**, paragraph (b), replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

In section 4, definition of **processing**, paragraph (b)(i), replace "screen" with "search".

Repeal section 10(g).

In section 13(3)(b), replace "General Manager of the Aviation Security Service" with "Director of Civil Aviation".

Animal Welfare Act 1999 (1999 No 142)

In section 2(1), definition of **aircraft**, replace "section 2 of the Civil Aviation Act 1990" with "section 5 of the Civil Aviation Act 2023".

Antarctic Marine Living Resources Act 1981 (1981 No 53)

In section 2(1), definition of **aircraft**, replace "section 2 of the Civil Aviation Act 1990" with "section 5 of the Civil Aviation Act 2023".

Antarctica Act 1960 (1960 No 47)

In section 2(1), definition of **New Zealand aircraft**, replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

Antarctica (Environmental Protection) Act 1994 (1994 No 119)

In section 7(1), definition of **New Zealand aircraft**, replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

Auckland Airport Act 1987 (1987 No 195)

In section 2, definition of **local authority**, replace "section 2 of the Airport Authorities Act 1966" with "section 5(1) of the Local Government Act 2002".

In section 4, after subsection (6), insert:

(6A) Subsection (6) is subject to clause 39 of Schedule 1 of the Civil Aviation Act 2023.

In section 4(7), replace "or section 3A of the Airport Authorities Act 1966" with ", section 3A of the Airport Authorities Act 1966, or sections 228 to 230 of the Civil Aviation Act 2023".

Aviation Crimes Act 1972 (1972 No 137)

In section 2(1), definition of **aircraft**, replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

In section 2(1), definition of **aviation security officer**, replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

In section 2(1), definition of **carrier and contract**, replace "section 91U of the Civil Aviation Act 1990" with "section 269(1) of the Civil Aviation Act 2023".

In section 2(1), definition of **New Zealand aircraft**, replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

In section 2(1), definition of **security enhanced area**, replace "section 2 of the Civil Aviation Act 1990" with "section 5 of the Civil Aviation Act 2023".

In section 2(1), definition of **sterile area**, replace "section 2 of the Civil Aviation Act 1990" with "section 5 of the Civil Aviation Act 2023".

In section 14(1), replace "Nothing found in the course of a search or examination made pursuant to section 12 or section 13 of this Act or sections 80, 80B, and 80C of the Civil Aviation Act 1990 shall be" with "No item or substance specified in section

Aviation Crimes Act 1972 (1972 No 137)—*continued*

11(1) of the Aviation Crimes Act 1972 that is found in the course of a search or examination made under section 12 or 13 of this Act or the Civil Aviation Act 2023 is".

Replace section 14(2) with:

(2) For the purposes of this section, if dangerous goods (as defined in section 5 of the Civil Aviation Act 2023) are found in the course of a search or examination made under this Act, the dangerous goods must be regarded as having been detected in the exercise of the powers conferred by Part 5 of the Civil Aviation Act 2023 and not found under this Act.

Biosecurity Act 1993 (1993 No 95)

After section 37(3), insert:

(3A) The Director-General must, when considering the arrangements, facilities, and systems available at an airport in accordance with subsection (1), have regard to any regulatory airport spatial undertaking given by the airport operator under subpart 3 of Part 7 of the Civil Aviation Act 2023 that is in effect.

In section 107B(1)(b)(iv), replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

In section 114A(4), replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

Births, Deaths, Marriages, and Relationships Registration Act 1995 (1995 No 16)

In section 8, replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

In section 36, replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

Births, Deaths, Marriages, and Relationships Registration Act 2021 (2021 No 57)

In section 7, definition of **New Zealand aircraft**, paragraph (a), replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

Brokering (Weapons and Related Items) Controls Act 2018 (2018 No 9)

In section 36(1)(b)(iii), replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

Civil Defence Emergency Management Act 2002 (2002 No 33)

In Schedule 1, Part A, replace item 4 with:

4 The company that operates Christchurch International Airport.

In Schedule 1, Part A, item 5, after "that section", insert ", or an airport operator as defined in section 5 of the Civil Aviation Act 2023".

Commerce Act 1986 (1986 No 5)

In section 56A(1), definition of **specified airport company**, replace paragraph (c) with:

(c) the company that operates Christchurch International Airport or any subsidiary of, or successor to, that company that operates all or part of the airport

In section 56A(1), insert in their appropriate alphabetical order:

aircraft and freight activities means the activities undertaken (including the facilities and services provided) to enable, within a security area or areas of the relevant airport, the servicing and maintenance of aircraft and the handling of freight transported, or to be transported, by aircraft; and includes—

(a) the provision, within a security area or areas of the relevant airport, of any 1 or more of the following:

(i) hangars:

(ii) facilities and services for the refuelling of aircraft, flight catering, and waste disposal:

(iii) facilities and services for the storing of freight:

(iv) security, customs, and quarantine services for freight:

(b) the holding of any facilities and assets (including land) acquired or held to provide aircraft and freight activities in the future (whether or not used for any other purpose in the meantime)

airfield activities means the activities undertaken (including the facilities and services provided) to enable the landing and take-off of aircraft; and includes—

(a) the provision of any 1 or more of the following:

(i) airfields, runways, taxiways, and parking aprons for aircraft:

(ii) facilities and services for air traffic and parking apron control:

(iii) airfield and associated lighting:

(iv) services to maintain and repair airfields, runways, taxiways, and parking aprons for aircraft:

(v) rescue, fire, safety, and environmental hazard control services:

(vi) airfield supervisory and security services:

(b) the holding of any facilities and assets (including land) acquired or held to provide airfield activities in the future (whether or not used for any other purpose in the meantime)

specified passenger terminal activities means the activities undertaken (including the facilities and services provided) in relation to aircraft passengers

Commerce Act 1986 (1986 No 5)—*continued*

while those passengers are in a security area or areas of the relevant airport; and—

(a) includes the provision, within a security area or security areas of the relevant airport, of any 1 or more of the following:

(i) passenger seating areas, thoroughfares, and airbridges:

(ii) flight information and public address systems:

(iii) facilities and services for the operation of customs, immigration, and quarantine checks and control:

(iv) facilities for the collection of duty-free items:

(v) facilities and services for the operation of security and Police services:

(b) includes any activities undertaken (including the facilities and services provided) in a passenger terminal to enable the check-in of aircraft passengers, including services for baggage handling:

(c) includes the holding of any facilities and assets (including land) acquired or held to provide specified passenger terminal activities in the future (whether or not used for any other purpose in the meantime):

(d) does not include the provision of any space for retail activities

Repeal section 56A(2).

In section 56E, replace "section 2(1) of the Civil Aviation Act 1990" with "section 5 of the Civil Aviation Act 2023".

Companies Act 1993 (1993 No 105)

In section 398(1), replace "section 106 of the Civil Aviation Act 1990" with "section 435 of the Civil Aviation Act 2023".

In section 398(1), replace "Part 12 of the Civil Aviation Act 1990" with "subpart 4 of Part 10 of the Civil Aviation Act 2023".

In section 398(2), definition of **Aircraft Protocol**, replace "section 104(1) of the Civil Aviation Act 1990" with "section 433(1) of the Civil Aviation Act 2023".

In section 398(2), definition of **Cape Town Convention**, replace "section 104(1) of the Civil Aviation Act 1990" with "section 433(1) of the Civil Aviation Act 2023".

Conservation Act 1987 (1987 No 65)

In section 2(1), definition of **aircraft**, replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

In section 2(1), replace the definition of **certified aerodrome** with:

certified aerodrome means an aerodrome certificated under rules made under the Civil Aviation Act 2023

Coroners Act 2006 (2006 No 38)

In section 9, definition of **other investigating authority**, paragraph (b), replace "established by section 72A of the Civil Aviation Act 1990" with "continued by section 20 of the Civil Aviation Act 2023".

In section 9, definition of **overseas death**, paragraph (a), replace "section 2(1) of the Civil Aviation Act 1990" with "section 5 of the Civil Aviation Act 2023".

In section 14(1)(a), replace "section 2(1) of the Civil Aviation Act 1990" with "section 5 of the Civil Aviation Act 2023".

In section 59(1)(c)(i)(A), replace "section 2(1) of the Civil Aviation Act 1990" with "section 5 of the Civil Aviation Act 2023".

In section 92(1)(b)(ii)(A), replace "section 2(1) of the Civil Aviation Act 1990" with "section 5 of the Civil Aviation Act 2023".

Corporations (Investigation and Management) Act 1989 (1989 No 11)

In section 76(1), replace "section 106 of the Civil Aviation Act 1990" with "section 435 of the Civil Aviation Act 2023".

In section 76(1), replace "Part 12 of the Civil Aviation Act 1990" with "subpart 4 of Part 10 of the Civil Aviation Act 2023".

In section 76(2), definition of **Aircraft Protocol**, replace "section 104(1) of the Civil Aviation Act 1990" with "section 433(1) of the Civil Aviation Act 2023".

In section 76(2), definition of **Cape Town Convention**, replace "section 104(1) of the Civil Aviation Act 1990" with "section 433(1) of the Civil Aviation Act 2023".

Crimes Act 1961 (1961 No 43)

In section 2(1), definition of **aerodrome**, replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

In section 2(1), definition of **aircraft**, replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

In section 2(1), definition of **New Zealand aircraft**, replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

In section 8(7), replace "Part 5A of the Civil Aviation Act 1990" with "subpart 20 of Part 9 of the Civil Aviation Act 2023".

In section 400(2), replace "Part 5A of the Civil Aviation Act 1990" with "subpart 20 of Part 9 of the Civil Aviation Act 2023".

Crown Proceedings Act 1950 (1950 No 54)

In section 2(1), repeal the definition of **service aircraft**.

Repeal section 9.

Customs and Excise Act 2018 (2018 No 4)

In section 60(1)(b), replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

After section 70(1), insert:

(1A) The chief executive must, when considering for the purpose of subsection (1) what is reasonably necessary and suitable at an airport, have regard to any regulatory airport spatial undertaking given by the airport operator under subpart 3 of Part 7 of the Civil Aviation Act 2023 that is in effect.

In section 70(5), after "1966", insert "or Part 7 of the Civil Aviation Act 2023".

In section 250(2)(a), replace "section 80A of the Civil Aviation Act 1990" with "section 149 of the Civil Aviation Act 2023 as if the goods are suspected by an aviation security officer under that section of being a relevant item or substance".

In section 250(4), definition of **Aviation Security Service**, replace "section 2(1) of the Civil Aviation Act 1990" with "section 5 of the Civil Aviation Act 2023".

In section 250(4), definition of **dangerous civil aviation goods**, replace "section 2(1) of the Civil Aviation Act 1990" with "section 5 of the Civil Aviation Act 2023".

In section 250(4), definition of **operator**, replace "section 2(1) of the Civil Aviation Act 1990" with "section 5 of the Civil Aviation Act 2023".

In section 250(4), insert in its appropriate alphabetical order:

relevant item or substance has the meaning given to that term in section 5 of the Civil Aviation Act 2023.

Disputes Tribunal Act 1988 (1988 No 110)

In Schedule 1, Part 2, insert in its appropriate alphabetical order:

Civil Aviation Act 2023, subparts 2 and 3 of Part 8

Dog Control Act 1996 (1996 No 13)

In section 2, definition of **specified agency**, replace subparagraph (a)(i) with:

(i) AvSec as defined in section 5 of the Civil Aviation Act 2023:

In section 2, definition of **working dog**, paragraph (b)(ivb), replace "the Aviation Security Service established under section 72B(2)(ca) of the Civil Aviation Act 1990" with "AvSec as defined in section 5 of the Civil Aviation Act 2023".

Fire and Emergency New Zealand Act 2017 (2017 No 17)

In section 81(1), definition of **contract of insurance**, paragraph (b)(iii), replace "within the meaning of section 87A of the Civil Aviation Act 1990" with "in accordance with subpart 1 of Part 6 of the Civil Aviation Act 2023".

Forests Act 1949 (1949 No 19)

In section 2(1), definition of **aircraft**, replace "section 2 of the Civil Aviation Act 1990" with "section 5 of the Civil Aviation Act 2023".

Geneva Conventions Act 1958 (1958 No 19)

In section 2(1), definition of **New Zealand aircraft**, replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

Goods and Services Tax Act 1985 (1985 No 141)

In section 11(9), definition of **aircraft**, replace "section 2 of the Civil Aviation Act 1990" with "section 5 of the Civil Aviation Act 2023".

In section 11A(1)(b), replace "section 2 of the Civil Aviation Act 1990" with "section 5 of the Civil Aviation Act 2023".

Hazardous Substances and New Organisms Act 1996 (1996 No 30)

In section 2(1), definition of **aircraft**, replace "section 2 of the Civil Aviation Act 1990" with "section 5 of the Civil Aviation Act 2023".

Health Act 1956 (1956 No 65)

In section 2(1), definition of **aerodrome**, replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

In section 2(1), definition of **aircraft**, replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

Health and Safety at Work Act 2015 (2015 No 70)

In section 16, definition of **aircraft**, replace "section 2(1) of the Civil Aviation Act 1990" with "section 5 of the Civil Aviation Act 2023".

In section 16, definition of **CAA**, replace "established by section 72A of the Civil Aviation Act 1990" with "continued by section 20 of the Civil Aviation Act 2023".

Immigration Act 2009 (2009 No 51)

In section 4, replace the definition of **airport** with:

> **airport** means an aerodrome as defined in section 5 of the Civil Aviation Act 2023

In section 4, definition of **chief executive**, paragraph (b), replace "General Manager of the Aviation Security Service" with "Director of Civil Aviation".

In section 4, definition of **operator**, replace paragraph (b) with:

> (b) in relation to an airport, means—
>
> (i) an airport authority within the meaning of the Airport Authorities Act 1966 that operates or manages the airport; and
>
> (ii) an airport operator registered under Part 7 of the Civil Aviation Act 2023 in relation to the airport

In section 303A(5), definition of **specified agency**, paragraph (d), replace "established under section 72A(1) of the Civil Aviation Act 1990" with "continued by section 20 of the Civil Aviation Act 2023".

Immigration Act 2009 (2009 No 51)—*continued*

After section 385(1), insert:

(1A) The chief executive must, when making a determination in relation to an airport under subsection (1), have regard to any regulatory airport spatial undertaking given by the airport operator under subpart 3 of Part 7 of the Civil Aviation Act 2023 that is in effect.

In section 385(3), after "1966", insert "or Part 7 of the Civil Aviation Act 2023".

Income Tax Act 2007 (2007 No 97)

In section EJ 25(1)(a), replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

In section HR 7, replace subsection (2) with:

(2) In this section, **airport** means an aerodrome as defined in section 5 of the Civil Aviation Act 2023.

In section YA 1, definition of **joint venture agreement**, paragraph (b), replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

In section YA 1, replace the definition of **airport authority** with:

airport authority means—

(a) an airport authority as defined in section 2 of the Airport Authorities Act 1966:

(b) an airport operator as defined in section 5 of the Civil Aviation Act 2023

Insolvency Act 2006 (2006 No 55)

In section 445A(1), replace "section 106 of the Civil Aviation Act 1990" with "section 435 of the Civil Aviation Act 2023".

In section 445A(1), replace "Part 12 of the Civil Aviation Act 1990" with "subpart 4 of Part 10 of the Civil Aviation Act 2023".

In section 445A(2), definition of **Aircraft Protocol**, replace "section 104(1) of the Civil Aviation Act 1990" with "section 433(1) of the Civil Aviation Act 2023".

In section 445A(2), definition of **Cape Town Convention**, replace "section 104(1) of the Civil Aviation Act 1990" with "section 433(1) of the Civil Aviation Act 2023".

Land Transport Act 1998 (1998 No 110)

In section 2(1), definition of **enforcement authority**, replace paragraph (ba) with:

(ba) an airport operator, in the case of an infringement offence for which an infringement notice is issued by an employee of the airport operator or on behalf of the airport operator:

Repeal section 22AD(1A).

After section 128D(4), insert:

Land Transport Act 1998 (1998 No 110)—*continued*

(5) An airport operator (as defined for the purpose of Part 7 of the Civil Aviation Act 2023) may appoint a person to hold the office of parking warden, and—

(a) subsection (3) applies as if the reference to the district or region of the local authority were a reference to the airport operated by the airport operator; and

(b) subsection (4) applies as if each reference to a local authority were a reference to the airport operator.

Repeal section 139(7).

Repeal section 141(8).

After section 167(1)(mf), insert:

(mg) specifying any stationary vehicle offence for which a parking warden appointed by an airport operator is not permitted to issue an infringement notice:

Legislation Act 2019 (2019 No 58)

Repeal section 125(2)(a).

In Schedule 3, replace the item relating to the Civil Aviation Act 1990 with:

Civil Aviation Act 2023		
Section 52	**Exemption ground** Compliance is inappropriate for reasons of security.	Exemption applies if exemption ground is met
Section 63	**Exemption ground** Compliance is inappropriate for reasons of security.	Exemption applies if exemption ground is met
Section 64	**Exemption ground** Compliance is inappropriate for reasons of security.	Exemption applies if exemption ground is met
Section 67	**Exemption ground** Compliance is inappropriate for reasons of security.	Exemption applies if exemption ground is met
Section 70	**Exemption ground** Compliance is inappropriate for reasons of security.	Exemption applies if exemption ground is met
Section 152	**Exemption ground** Compliance would prejudice the national security interests of New Zealand.	Exemption applies if exemption ground is met

Legislation Act 2019 (2019 No 58)—*continued*

Section 154	**Exemption ground** Compliance would prejudice the national security interests of New Zealand.	Exemption applies if exemption ground is met	
Section 322(1)(b)	**Exemption ground** Compliance would prejudice the national security interests of New Zealand.	Exemption applies if exemption ground is met	
Section 430 (where transport instrument provided for by rule made under s 52, 63, 67, or 70)	**Exemption ground** Compliance would prejudice the national security interests of New Zealand.	Exemption applies if exemption ground is met	
Section 436			Exemption applies

Litter Act 1979 (1979 No 41)

In section 2(1), definition of **public authority**, paragraph (a), after "1966,", insert "an airport operator within the meaning of section 5 of the Civil Aviation Act 2023,".

In section 2(1), definition of **public place**, replace paragraph (h) with:

(h) any aerodrome within the meaning of section 5 of the Civil Aviation Act 2023:

Local Government Act 2002 (2002 No 84)

In section 5, definition of **strategic asset**, paragraph (c)(ii), after "1966", insert "or an airport operator within the meaning of section 5 of the Civil Aviation Act 2023".

Local Government Official Information and Meetings Act 1987 (1987 No 174)

In Schedule 1, Part 1, insert in its appropriate alphabetical order:

Airport operator as defined in section 5 of the Civil Aviation Act 2023 (other than an airport operator that is a company in which more than 50% of the ordinary shares are owned by, or by any combination of, the Crown, any local authority (as defined in section 5(1) of the Local Government Act 2002), or any council-controlled organisation (as defined in section 6(1) of the Local Government Act 2002))

Local Government (Rating) Act 2002 (2002 No 6)

In Schedule 1, Part 1, clause 18, after "authority", insert "or airport operator".

In Schedule 1, Part 1, note 1, definition of **aerodrome**, replace "section 2 of the Civil Aviation Act 1990" with "section 5 of the Civil Aviation Act 2023".

In Schedule 1, Part 1, note 1, insert in its appropriate alphabetical order:

Local Government (Rating) Act 2002 (2002 No 6)—*continued*

airport operator has the same meaning as in section 5 of the Civil Aviation Act 2023

Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3)

In section 121(1)(c), replace "section 2 of the Civil Aviation Act 1990" with "section 5 of the Civil Aviation Act 2023".

Marine Mammals Protection Act 1978 (1978 No 80)

In section 2(1), definition of **aircraft**, replace "section 2 of the Civil Aviation Act 1990" with "section 5 of the Civil Aviation Act 2023".

Maritime Security Act 2004 (2004 No 16)

In section 44(2), replace "Aviation Security Service established under the Civil Aviation Act 1990" with "AvSec as defined in section 5 of the Civil Aviation Act 2023".

In section 76(3), replace "Aviation Security Service established under the Civil Aviation Act 1990" with "AvSec as defined in section 5 of the Civil Aviation Act 2023".

Maritime Transport Act 1994 (1994 No 104)

In section 2(1), definition of **aircraft**, replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

In section 222(1), definition of **New Zealand aircraft**, replace "section 2 of the Civil Aviation Act 1990" with "section 5 of the Civil Aviation Act 2023".

Mercenary Activities (Prohibition) Act 2004 (2004 No 69)

In section 13(1)(b)(iii), replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

National Parks Act 1980 (1980 No 66)

In section 2, definition of **aircraft**, replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

In section 2, replace the definition of **certified aerodrome** with:

certified aerodrome means an aerodrome certificated under rules made under the Civil Aviation Act 2023

Ngāti Awa Claims Settlement Act 2005 (2005 No 28)

In section 126(1)(b), replace "and the Airport Authorities Act 1966" with ", the Airport Authorities Act 1966, and the Civil Aviation Act 2023".

In section 126, after subsection (2), insert:

(3) Neither the Crown nor a local authority may transfer the Whakatāne Airport land to an airport operator as defined in section 5 of the Civil Aviation Act 2023.

Ngāti Hauā Claims Settlement Act 2014 (2014 No 75)

In section 96(1)(b), replace "and the Airport Authorities Act 1966" with ", the Airport Authorities Act 1966, and the Civil Aviation Act 2023".

In section 96, after subsection (2), insert:

(3) Neither the Crown nor a local authority may transfer the Waharoa Aerodrome land to an airport operator as defined in section 5 of the Civil Aviation Act 2023.

Official Information Act 1982 (1982 No 156)

In Schedule 1, insert in its appropriate alphabetical order:

Airport operators (as defined in section 5 of the Civil Aviation Act 2023) that are companies in which more than 50% of the ordinary shares are owned by, or by any combination of, the Crown, any local authority (as defined in section 5(1) of the Local Government Act 2002), or any council-controlled organisation (as defined in section 6(1) of the Local Government Act 2002)

Ombudsmen Act 1975 (1975 No 9)

In Schedule 1, Part 3, insert in its appropriate alphabetical order:

Airport operators as defined in section 5 of the Civil Aviation Act 2023

Outer Space and High-altitude Activities Act 2017 (2017 No 29)

In section 4, definition of **aircraft**, replace "section 2 of the Civil Aviation Act 1990" with "section 5 of the Civil Aviation Act 2023".

In section 4, definition of **Director of Civil Aviation**, replace "section 72I of the Civil Aviation Act 1990" with "section 31 of the Civil Aviation Act 2023".

In section 4, definition of **flight level**, replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

In section 4, definition of **high altitude**, paragraph (b), replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

In section 10(1)(g)(iv), replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

In section 47(1)(b)(i), replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

In section 48(1)(e), replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

Personal Property Securities Act 1999 (1999 No 126)

In section 23A(1), replace "section 106 of the Civil Aviation Act 1990" with "section 435 of the Civil Aviation Act 2023".

In section 23A(1), replace "Part 12 of the Civil Aviation Act 1990" with "subpart 4 of Part 10 of the Civil Aviation Act 2023".

Personal Property Securities Act 1999 (1999 No 126)—*continued*

In section 23A(2), definition of **Aircraft Protocol**, replace "section 104(1) of the Civil Aviation Act 1990" with "section 433(1) of the Civil Aviation Act 2023".

In section 23A(2), definition of **Cape Town Convention**, replace "section 104(1) of the Civil Aviation Act 1990" with "section 433(1) of the Civil Aviation Act 2023".

Property Law Act 2007 (2007 No 91)

In section 8A(1), replace "section 106 of the Civil Aviation Act 1990" with "section 435 of the Civil Aviation Act 2023".

In section 8A(1), replace "Part 12 of the Civil Aviation Act 1990" with "subpart 4 of Part 10 of the Civil Aviation Act 2023".

In section 8A(2), definition of **Aircraft Protocol**, replace "section 104(1) of the Civil Aviation Act 1990" with "section 433(1) of the Civil Aviation Act 2023".

In section 8A(2), definition of **Cape Town Convention**, replace "section 104(1) of the Civil Aviation Act 1990" with "section 433(1) of the Civil Aviation Act 2023".

Public Audit Act 2001 (2001 No 10)

In Schedule 1, item relating to airport companies, after "authority", insert "and airport operators as defined in section 5 of the Civil Aviation Act 2023".

Receiverships Act 1993 (1993 No 122)

In section 42(1), replace "section 106 of the Civil Aviation Act 1990" with "section 435 of the Civil Aviation Act 2023".

In section 42(1), replace "Part 12 of the Civil Aviation Act 1990" with "subpart 4 of Part 10 of the Civil Aviation Act 2023".

In section 42(2), definition of **Aircraft Protocol**, replace "section 104(1) of the Civil Aviation Act 1990" with "section 433(1) of the Civil Aviation Act 2023".

In section 42(2), definition of **Cape Town Convention**, replace "section 104(1) of the Civil Aviation Act 1990" with "section 433(1) of the Civil Aviation Act 2023".

Reserves Act 1977 (1977 No 66)

In section 2(1), repeal the definition of **certified aerodrome**.

In section 61A, insert as subsection (2):

(2) Nothing in this Act prevents an airport authority (as defined in the Airport Authorities Act 1966) or an airport operator (as defined in section 5 of the Civil Aviation Act 2023) from granting a lease of any land vested in that airport authority or airport operator as a local purpose reserve for aerodrome purposes or from exercising the powers conferred by section 6(3) of the Airport Authorities Act 1966 or section 233 of the Civil Aviation Act 2023, as the case may be, in respect of the reserve.

Reserves and Other Lands Disposal Act 1973 (1973 No 121)

In section 9(1), replace "Civil Aviation Act 1964" with "Civil Aviation Act 2023".

Resource Management Act 1991 (1991 No 69)

In section 2(1), definition of **infrastructure**, replace paragraph (i) with:

(i) an aerodrome as defined in section 5 of the Civil Aviation Act 2023:

In section 2(1), definition of **infrastructure**, paragraph (j), replace "section 2 of the Civil Aviation Act 1990" with "section 5 of the Civil Aviation Act 2023".

In section 166, definition of **network utility operator**, replace paragraph (g) with:

(g) is—

(i) an airport authority as defined in the Airport Authorities Act 1966, for the purpose of operating an airport as defined in that Act; or

(ii) an airport operator as defined in section 5 of the Civil Aviation Act 2023, for the purpose of operating an aerodrome in relation to which the airport operator is registered under that Act; or

In section 166, definition of **network utility operator**, repeal paragraph (h).

Russia Sanctions Act 2022 (2022 No 6)

In section 26(1)(b)(iii), replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

Sale and Supply of Alcohol Act 2012 (2012 No 120)

In section 11, replace "section 96 of the Civil Aviation Act 1990" with "sections 252 and 426 of the Civil Aviation Act 2023".

Search and Surveillance Act 2012 (2012 No 24)

In the Schedule, repeal the item relating to the Civil Aviation Act 1990.

In the Schedule, insert in its appropriate alphabetical order:

Civil Aviation Act 2023	285	Inspector may obtain and execute search warrant to enter home or marae to exercise powers in section 284	Subpart 3
	287	Inspector who has entered aviation place or former aviation place under section 284 or 285 may take or remove sample of any material, substance, or thing for analysis, or seize and retain any material, substance, or thing for specified purposes	Sections 154, 155, and 159
	288	Specified person may obtain and execute search warrant in relation to place, vehicle, or thing to search for evidence of	All (except that sections 118 and 119 apply to constables only)

Search and Surveillance Act 2012 (2012 No 24)—*continued*

	contravention of civil aviation legislation	
313	Director or specified person may obtain and execute search warrant in relation to place, vehicle, or thing if grounds to believe operation or use of aerodrome, aircraft, or aeronautical product or class of aircraft or aeronautical products may endanger people or property	Subpart 3
315	Obligations of Director if action taken under section 313 or 314	All (except subparts 2 and 3)
317	Constable or response officer may obtain and execute search warrant to enter home or marae to exercise powers in section 316	Subpart 3
320	Provisions relating to seizure or detention of aircraft under section 316	All (except subparts 2 and 3)

Smokefree Environments and Regulated Products Act 1990 (1990 No 108)

In section 2(1), definition of **aircraft**, replace "section 2 of the Civil Aviation Act 1990" with "section 5 of the Civil Aviation Act 2023".

Summary Proceedings Act 1957 (1957 No 87)

In section 2(1), definition of **infringement notice**, replace paragraph (d) with:

(d) section 373 of the Civil Aviation Act 2023; or

Te Urewera Act 2014 (2014 No 51)

In Schedule 3, replace clause 29(6) with:

(6) In this clause, **certified aerodrome** means an aerodrome certificated under rules made under the Civil Aviation Act 2023.

Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977 (1977 No 28)

In section 2(1), definition of **New Zealand fishing craft**, paragraph (b), replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

Terrorism Suppression Act 2002 (2002 No 34)

In section 15(c)(i), replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

Transport Accident Investigation Commission Act 1990 (1990 No 99)

In section 2, definition of **accident**, replace "section 2 of the Civil Aviation Act 1990" with "section 6 of the Civil Aviation Act 2023".

Transport Accident Investigation Commission Act 1990 (1990 No 99)—*continued*

In section 2, definition of **aeronautical product**, replace "section 2 of the Civil Aviation Act 1990" with "section 5 of the Civil Aviation Act 2023".

In section 2, definition of **Civil Aviation Authority**, replace "established by section 72A of the Civil Aviation Act 1990" with "continued by section 20 of the Civil Aviation Act 2023".

In section 2, definition of **incident**, paragraph (a), replace "section 2 of the Civil Aviation Act 1990" with "section 5 of the Civil Aviation Act 2023".

In section 8(2)(f)(i), replace "section 27 of the Civil Aviation Act 1990" with "section 50 of the Civil Aviation Act 2023".

In section 13(1), replace "section 27 of the Civil Aviation Act 1990" with "section 50 of the Civil Aviation Act 2023".

In section 13(4), replace "section 27 of the Civil Aviation Act 1990" with "section 50 of the Civil Aviation Act 2023".

In section 13(5), replace "section 27 of the Civil Aviation Act 1990" with "section 50 of the Civil Aviation Act 2023".

In section 13(6), replace "section 27 of the Civil Aviation Act 1990" with "section 50 of the Civil Aviation Act 2023".

Wellington Airport Act 1990 (1990 No 56)

In section 2, definition of **local authority**, replace "section 2 of the Airport Authorities Act 1966" with "section 5(1) of the Local Government Act 2002".

In section 4, after subsection (7), insert:

(7A) Subsection (7) is subject to clause 39 of Schedule 1 of the Civil Aviation Act 2023.

In section 4(8), replace "or section 3A of the Airport Authorities Act 1966" with "section 3A of the Airport Authorities Act 1966, or sections 228 to 230 of the Civil Aviation Act 2023".

Wild Animal Control Act 1977 (1977 No 111)

In section 2(1), definition of **aerodrome**, replace "section 2 of the Civil Aviation Act 1990" with "section 5 of the Civil Aviation Act 2023".

In section 2(1), definition of **aircraft**, replace "section 2 of the Civil Aviation Act 1990" with "section 5 of the Civil Aviation Act 2023".

In section 9(3)(c), replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

In section 39(4), replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

Part 2
Consequential amendments to secondary legislation

Biosecurity (Border Processing Levy) Order 2015 (LI 2015/259)

In clause 3, definition of **international air service licensee**, replace "Part 8A of the Civil Aviation Act 1990" with "subpart 1 of Part 6 of the Civil Aviation Act 2023".

In clause 3, definition of **scheduled international air service**, replace "section 87A of the Civil Aviation Act 1990" with "section 174 of the Civil Aviation Act 2023".

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

In regulation 2(1), definition of **the Act**, replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

In regulation 2(1), definition of **Minister**, replace "section 2(1)" with "section 5".

In regulation 2(1), definition of **Ministry**, replace "section 2(1)" with "section 5".

In section 2(1), definition of **monitoring**, omit "any investigation under section 15A of the Act or".

In regulation 2(1), definition of **Register**, replace "section 73" with "section 36".

In regulation 2(1), definition of **Secretary**, replace "section 2(1)" with "section 5".

In Schedule 1, clause 1, replace the definition of **non-routine monitoring** with:

> **non-routine monitoring** means any inspections or monitoring that ensues from the identification, as a result of general inspections or monitoring carried out under the Act, of a civil aviation safety or security issue relating to an aviation participant

In Schedule 1, Part 1, clause 2, item after the item relating to a medical certificate application, replace "section 27A" with "clause 1(1) of Schedule 2".

In Schedule 1, Part 9, clause 13(i), omit "including any carried out under section 15 of the Act".

Civil Aviation (Safety and Security) Levies Order 2002 (SR 2002/84)

In regulation 3(1), definition of **Authority**, replace "established under section 72A" with "continued under section 20".

In regulation 3(1), definition of **aviation operator**, replace "section 9(1)" with "subpart 1 or 2 of Part 4".

In regulation 3(1), definition of **Director**, replace "section 72I" with "section 31".

In regulation 3(2)(b), replace "section 9" with "subpart 1 or 2 of Part 4".

In regulation 5A(1)(c), replace "section 11B" with "section 86".

In regulation 10(1), definition of **registered**, replace "section 9(1)" with "subpart 1 or 2 of Part 4".

Civil Aviation (Safety and Security) Levies Order 2002 (SR 2002/84)—*continued*

In regulation 10E(1), replace "continue the Aviation Security Service under section 72B(2)(ca)" with "provide and oversee the Aviation Security Service under section 23(d)".

In regulation 10G(1), replace "continue the Aviation Security Service under section 72B(2)(ca)" with "provide and oversee the Aviation Security Service under section 23(d)".

Customs and Excise (Border Processing Levy) Order 2015 (LI 2015/262)

In clause 3, definition of **international air service licensee**, replace "Part 8A of the Civil Aviation Act 1990" with "subpart 1 of Part 6 of the Civil Aviation Act 2023".

In clause 3, definition of **scheduled international air service**, replace "section 87A of the Civil Aviation Act 1990" with "section 174 of the Civil Aviation Act 2023".

Electricity (Safety) Regulations 2010 (SR 2010/36)

In regulation 3(e), replace "section 2(1) of the Civil Aviation Act 1990" with "section 5 of the Civil Aviation Act 2023".

Exclusive Economic Zone and Continental Shelf (Environmental Effects—Permitted Activities) Regulations 2013 (SR 2013/283)

In regulation 3, definition of **space vehicle**, paragraph (a), replace "section 29A of the Civil Aviation Act 1990" with "section 52 of the Civil Aviation Act 2023".

Health and Safety at Work (Hazardous Substances) Regulations 2017 (LI 2017/131)

In regulation 4.4(h), replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

In regulation 7.9(h), replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

In regulation 9.7(1)(b)(i), replace "Part 1 of the Civil Aviation Act 1990" with "subpart 1 of Part 4 of the Civil Aviation Act 2023".

Lake Taupō (Crown Facilities, Permits, and Fees) Regulations 2004 (SR 2004/140)

In regulation 3, definition of **craft**, paragraph (b), replace "section 2 of the Civil Aviation Act 1990" with "section 5 of the Civil Aviation Act 2023".

Land Transport (Driver Licensing) Rule 1999 (SR 1999/100)

In clause 44(1A), replace "Part 2A of the Civil Aviation Act 1990" with "subpart 5 of Part 4 of the Civil Aviation Act 2023".

Marine Mammals Protection Regulations 1992 (SR 1992/322)

In regulation 2(1), definition of **commercial aircraft operation**, replace "section 2 of the Civil Aviation Act 1990" with "section 5 of the Civil Aviation Act 2023".

Outer Space and High-altitude Activities (Licences and Permits) Regulations 2017 (LI 2017/250)

In Schedule 3, clause 12(c), replace "Civil Aviation Act 1990, or regulations or rules made under that Act," with "Civil Aviation Act 2023 or any former enactment".

In Schedule 3, clause 12(d), replace "section 11 of the Civil Aviation Act 1990" with "section 82 of the Civil Aviation Act 2023 or the corresponding provision of any former enactment".

In Schedule 5, clause 6(c), replace "Civil Aviation Act 1990, or regulations or rules made under that Act" with "Civil Aviation Act 2023 or any former enactment".

In Schedule 5, clause 6(d), replace "section 11 of the Civil Aviation Act 1990" with "section 82 of the Civil Aviation Act 2023 or the corresponding provision of any former enactment".

In Schedule 6, clause 5(c), replace "Civil Aviation Act 1990, or regulations or rules made under that Act," with "Civil Aviation Act 2023 or any former enactment".

In Schedule 6, clause 5(d), replace "section 11 of the Civil Aviation Act 1990" with "section 82 of the Civil Aviation Act 2023 or the corresponding provision of any former enactment".

Ozone Layer Protection Regulations 1996 (SR 1996/222)

In regulation 45(2)(b), replace "section 2 of the Civil Aviation Act 1990" with "section 5 of the Civil Aviation Act 2023".

Personal Property Securities Regulations 2001 (SR 2001/79)

In regulation 3, definition of **Civil Aviation Rules**, replace "ordinary rules made under Part 3 of the Civil Aviation Act 1990" with "rules made under section 52 of the Civil Aviation Act 2023".

Resource Management (Approval of Queenstown Airport Corporation Limited as Requiring Authority) Order 1992 (SR 1992/383)

In clause 2, replace "has the meaning given to that term by section 2 of the Airport Authorities Act 1966" with "means an aerodrome as defined in section 5 of the Civil Aviation Act 2023".

Resource Management (Approval of Waikato Regional Airport Limited as Requiring Authority) Order 1992 (SR 1992/385)

In clause 2, replace "has the meaning given to that term by section 2 of the Airport Authorities Act 1966" with "means an aerodrome as defined in section 5 of the Civil Aviation Act 2023".

Resource Management (Approval of Wellington International Airport Limited as Requiring Authority) Order 1992 (SR 1992/349)

In clause 2, replace "has the meaning given to that term by section 2 of the Airport Authorities Act 1966" with "means an aerodrome as defined in section 5 of the Civil Aviation Act 2023".

Summary Proceedings (Orders of Reparation) Order 2011 (SR 2011/401)

In the Schedule, revoke the item relating to the Civil Aviation Act 1990.

United Nations (Iran—Joint Comprehensive Plan of Action) Regulations 2016 (LI 2016/9)

In regulation 4(1), definition of **New Zealand registered craft**, paragraph (b)(i), replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

United Nations Sanctions (Central African Republic) Regulations 2014 (LI 2014/147)

In regulation 3(1), definition of **New Zealand registered aircraft**, replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

United Nations Sanctions (Democratic People's Republic of Korea) Regulations 2017 (LI 2017/74)

In regulation 3(1), definition of **New Zealand registered craft**, paragraph (b)(i), replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

United Nations Sanctions (Democratic Republic of the Congo) Regulations 2004 (SR 2004/465)

In regulation 3, definition of **New Zealand aircraft**, replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

United Nations Sanctions (Iraq) Regulations 1991 (SR 1991/92)

In regulation 2(1), definition of **New Zealand aircraft**, replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

United Nations Sanctions (ISIL (Da'esh), Al-Qaida, and Taliban) Regulations 2007 (SR 2007/356)

In regulation 3(1), definition of **New Zealand aircraft**, replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

United Nations Sanctions (Lebanon) Regulations 2008 (SR 2008/262)

In regulation 3(1), definition of **New Zealand aircraft**, replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

United Nations Sanctions (Libya) Regulations 2018 (LI 2018/69)

In regulation 3, definition of **New Zealand registered craft**, paragraph (b)(i), replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

United Nations Sanctions (Somalia) Regulations 2018 (LI 2018/68)

In regulation 3, definition of **New Zealand registered craft**, paragraph (b)(i), replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

United Nations Sanctions (South Sudan) Regulations 2015 (LI 2015/139)

In regulation 3(1), definition of **New Zealand registered craft**, paragraph (b)(i), replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

United Nations Sanctions (Sudan) Regulations 2004 (SR 2004/466)

In regulation 3, definition of **New Zealand aircraft**, replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

United Nations Sanctions (Yemen) Regulations 2014 (LI 2014/148)

In regulation 3(1), definition of **New Zealand registered craft**, paragraph (b)(i), replace "Civil Aviation Act 1990" with "Civil Aviation Act 2023".

Schedule 10
New Schedule 1 inserted into Airport Authorities Act 1966

s 472

Schedule 1
Transitional, savings, and related provisions

s 2AB

Part 1
Provisions relating to amendments made by Civil Aviation Act 2023

1 Interpretation

In this Part, **commencement date** means the date on which section 487 of the Civil Aviation Act 2023 comes into force.

2 Airport bylaws: application to roads

(1) This clause applies to a bylaw made under this Act by a local authority or an airport authority that is in force immediately before the commencement date.

(2) The bylaw continues in force according to its tenor (and section 9(7) and (7A) of this Act applies to it) despite the amendment to section 9(1)(e) of this Act by section 470 of the Civil Aviation Act 2023.

Notes

1 General

This is a consolidation of the Civil Aviation Act 2023 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

Arms Act 2026 (2026 No 47): section 394

Regulatory Systems (Transport) Amendment Act 2026 (2026 No 21): sections 129, 130

Civil Aviation (Montreal Convention) Order 2024 (SL 2024/269): clause 6

Civil Aviation Amendment Act 2023 (2023 No 11)

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