

Reprint  
as at 20 June 2018



**Civil Aviation (Safety) Levies Amendment Order 2017**  
(LI 2017/108)

Patsy Reddy, Governor-General

**Order in Council**

At Wellington this 29th day of May 2017

Present:

Her Excellency the Governor-General in Council

This order is made under section 42A of the Civil Aviation Act 1990—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister of Transport made—
  - (i) at the request and with the concurrence of the Civil Aviation Authority; and
  - (ii) after being satisfied about the matters specified in subsection (3)(b) and (c) of that section.

**Contents**

	Page
1 Title	2
2 Commencement	2
3 Principal order	2
4 Clause 3 amended (Interpretation)	2

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**Note**

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.  
Note 4 at the end of this reprint provides a list of the amendments incorporated.

**This order is administered by the Ministry of Transport.**

5	New clause 3A inserted (Transitional, savings, and related provisions)	3
	3A Transitional, savings, and related provisions	3
6	Clause 5 amended (Domestic air passenger operators must pay domestic passenger levy)	3
7	Clause 5A amended (Holder of Australian AOC with ANZA privileges must pay domestic passenger levy)	3
8	Clause 9 amended (International operators must pay departing international passenger levy)	3
9	Clause 10 replaced (Aviation operators must pay participation levy)	3
	10 Aviation operators must pay participation levy	3
10	New clauses 10A to 10D inserted	6
	10A Definitions and application	6
	10B Certificate holders must file quarterly return	6
	10C Certificate holders must pay operations safety levies quarterly	7
	10D Treatment of part tonnes or part hours	9
11	Clause 12 replaced (GST included)	9
	12 Levies exclusive of GST	9
12	New Schedule 1AA inserted	9
13	New Schedule 2 inserted	9
	<b>Schedule</b>	<b>10</b>
	<b>New Schedules 1AA and 2 inserted</b>	

## Order

### 1 Title

This order is the Civil Aviation (Safety) Levies Amendment Order 2017.

### 2 Commencement

This order comes into force on 1 July 2017.

Order: confirmed, on 20 June 2018, by section 5 of the Subordinate Legislation Confirmation Act 2018 (2018 No 11).

### 3 Principal order

This order amends the Civil Aviation (Safety) Levies Order 2002 (the **principal order**).

### 4 Clause 3 amended (Interpretation)

(1) In clause 3(1), insert in their appropriate alphabetical order:

**agricultural product** means an agricultural chemical or other substance intended for plant nourishment, soil treatment, propagation of plant life, or pest control

**freight** means any property carried on an aircraft from one location for the purpose of being unloaded at another location

- (2) In clause 3(2)(b), before the first instance of “a reference to a certificate”, insert “except in clauses 10A to 10C and Schedule 2,”.

**5 New clause 3A inserted (Transitional, savings, and related provisions)**

After clause 3, insert:

**3A Transitional, savings, and related provisions**

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

**6 Clause 5 amended (Domestic air passenger operators must pay domestic passenger levy)**

In clause 5(1), replace “\$1.97” with “\$1.60”.

**7 Clause 5A amended (Holder of Australian AOC with ANZA privileges must pay domestic passenger levy)**

In clause 5A(2), replace “\$1.78” with “\$1.57”.

**8 Clause 9 amended (International operators must pay departing international passenger levy)**

In clause 9(1), replace “\$1.50” with “\$1.60”.

**9 Clause 10 replaced (Aviation operators must pay participation levy)**

Replace clause 10 with:

**10 Aviation operators must pay participation levy**

- (1) In this clause,—

**financial year** means a period that begins on 1 July and ends on the following 30 June

**operable**, in relation to an aircraft, means that the aircraft is capable of being used for any purpose for which it is authorised to be used under a certificate

**pro-rating commencement date** means,—

- (a) in any case to which subclause (6)(a) applies, the date in the applicable financial year on which the aircraft was registered; and
- (b) in any case to which subclause (6)(b) or (c) applies, the date in the applicable financial year on which the aircraft became operable

**registered**, in relation to an aircraft, means that a certificate of registration has been issued under section 9(1) of the Act for the aircraft and continues to be valid.

*Application exceptions*

- (2) This clause does not apply with respect to an aircraft for a financial year if, at the commencement of the financial year,—
- (a) its aviation operator is a domestic air passenger operator; or
  - (b) its aviation operator holds an Australian AOC with ANZA privileges.
- (3) If the number of passengers carried by an aviation operator in any 12-month period is greater than 20 000, then, as at the commencement of the next 12-month period, the operator must be regarded as a domestic air passenger operator for the purposes of clause 5 and is liable to pay the domestic passenger levy instead of the participation levy.

*Full levy*

- (4) A participation levy is payable for a financial year for an aircraft if,—
- (a) at the commencement of the financial year, the aircraft is both registered and operable; or
  - (b) all of the following are true:
    - (i) at the commencement of the financial year, the aircraft is registered but not operable;
    - (ii) a full or pro-rated participation levy was paid for the aircraft for the preceding financial year;
    - (iii) the aircraft becomes operable before 1 October of the financial year.
- (5) The participation levy under subclause (4) for a financial year—
- (a) is determined by selecting, in the first column of Schedule 1, the category to which the aviation operator's aircraft belongs and referring to the amount in the corresponding row of the second column of that schedule; and
  - (b) is payable for an aircraft by the person who is its aviation operator,—
    - (i) in any case to which subclause (4)(a) applies, at the commencement of the financial year; and
    - (ii) in any case to which subclause (4)(b) applies, at the date on which the aircraft becomes operable.

*Pro-rated levy*

- (6) A pro-rated participation levy is payable in respect of an aircraft for a financial year if,—

- (a) at the commencement of the financial year, the aircraft is not registered, but on any day before the end of the financial year, the aircraft becomes registered; or
- (b) all of the following are true:
  - (i) at the commencement of the financial year, the aircraft is registered but not operable;
  - (ii) a full or pro-rated participation levy was paid for the aircraft for the preceding financial year;
  - (iii) the aircraft becomes operable on or after 1 October of the financial year; or
- (c) all of the following are true:
  - (i) at the commencement of the financial year, the aircraft is registered but not operable;
  - (ii) no participation levy was paid for the aircraft for the preceding financial year;
  - (iii) the aircraft becomes operable during the financial year.

- (7) The pro-rated participation levy is determined in accordance with the following formula:

$$a \times b \div 365 = c$$

where—

- a is the amount of the full year's participation levy that would have been payable if subclause (4) applied
  - b is the number of days in the period beginning on the pro-rating commencement date and ending on the next occurrence of 30 June
  - c is the pro-rated participation levy amount.
- (8) The pro-rated participation levy under subclause (6) for a financial year is payable for an aircraft by the person who is its aviation operator on the pro-rating commencement date.

*Authority to fix payable dates*

- (9) The Authority may fix the dates by which participation levies are payable by specifying within how many days after the following dates the levies must be paid:
- (a) for cases to which subclause (4)(a) applies, 1 July of a financial year; and
  - (b) for cases to which subclause (4)(b) or (6)(b) or (c) applies, the date on which the aircraft becomes operable; and
  - (c) for cases to which subclause (6)(a) applies, the date on which the aircraft becomes registered.

**10 New clauses 10A to 10D inserted**

After clause 10, insert:

**10A Definitions and application**

- (1) In clauses 10B and 10C,—
- certificate** means a certificate issued under any of Parts 115, 119, 129, and 137
- certificate holder** means a person to whom a certificate has been issued.
- (2) Clauses 10B to 10D do not apply with regard to—
- (a) a certificate issued under Part 119 if the holder is a domestic air passenger operator who is liable to pay a domestic passenger levy; or
  - (b) operations or flights that are conducted under a certificate issued under Part 129 and that are subject to a domestic passenger levy or a departing international passenger levy.

**10B Certificate holders must file quarterly return**

- (1) A certificate holder must file a return with the Authority for each quarter of a financial year in relation to each certificate the holder holds in that quarter in accordance with the following:

<b>Period covered by return</b>	<b>Date return is due</b>
1 July to 30 September	1 November
1 October to 31 December	1 February
1 January to 31 March	1 May
1 April to 30 June	1 August

- (2) The return must include the following information:
- (a) in the case of a certificate issued under Part 115,—
    - (i) the total numbers of tandem parachute descents, tandem hang glider flights, and tandem paraglider flights conducted under the authority of the certificate in the quarter, aggregated and reported by parachute, hang glider, or paraglider used; and
    - (ii) the total number of hours flown for all other operations, excluding parachute-drop aircraft operations, conducted under the authority of the certificate in the quarter, aggregated and reported by aircraft; and
  - (b) in the case of a certificate issued under Part 119,—
    - (i) for freight-only flight operations, the total number of tonnes of freight on board at departures conducted under the authority of the certificate, aggregated and reported by aircraft; and
    - (ii) for all other operations conducted under the authority of the certificate, the total number of hours flown—

- (A) in operations conducted under Part 121, aggregated and reported by aircraft; and
  - (B) in operations conducted under Part 125, aggregated and reported by aircraft; and
  - (C) in operations conducted under Part 135, aggregated and reported by aircraft; and
  - (c) in the case of a certificate issued under Part 129, the total number of tonnes of freight on board at departure from a New Zealand airport in freight-only flight operations, aggregated and reported by aircraft; and
  - (d) in the case of a certificate issued under Part 137, the total number of tonnes of agricultural product dispensed in operations conducted under the authority of the certificate.
- (3) The certificate holder must keep all the holder's records related to the subject matter of the return for a period of not less than 7 years, and make them available to the Authority on request.

**10C Certificate holders must pay operations safety levies quarterly**

- (1) A certificate holder must, for each certificate for which a return is required under clause 10B, pay operations safety levies for each quarter referred to in clause 10B(1) calculated in accordance with this clause and Schedule 2.
- (2) The levy amount for a quarter for a holder of a certificate issued under Part 115 is the total of—
- (a) the amount for operations described as category A operations in the first column of Schedule 2 calculated in accordance with the instructions in the corresponding row of the third or fourth column of the schedule, according to the time period to which operations relate; and
  - (b) the amount or amounts for operations described as category B operations in the first column of Schedule 2 calculated by—
    - (i) selecting in the second column of the schedule the subcategory or subcategories of aircraft used in the operations; and
    - (ii) for each subcategory selected, applying the instructions in the corresponding row of the third or fourth column of the schedule, according to the time period to which operations relate.
- (3) The levy amount for a quarter for a holder of a certificate issued under Part 137 is the amount for operations described as category C operations in the first column of Schedule 2 calculated by—
- (a) selecting in the second column of the schedule the subcategory applicable to the certificate holder; and
  - (b) for the subcategory selected, applying the instructions in the corresponding row of the third or fourth column of the schedule, according to the time period to which operations relate.

- (4) The levy amount for a quarter for a holder of a certificate issued under Part 119 is the total of—
- (a) the amount for operations described as category D operations in the first column of Schedule 2 calculated by—
    - (i) selecting in the second column of the schedule the subcategory applicable to the certificate holder; and
    - (ii) for the subcategory selected, applying the instructions in the corresponding row of the third or fourth column of the schedule, according to the time period to which operations relate; and
  - (b) the amount or amounts for operations described as category E operations in the first column of the schedule calculated by—
    - (i) selecting in the second column of the schedule the subcategory or subcategories of aircraft used in the operations; and
    - (ii) for each subcategory selected, applying the instructions in the corresponding row of the third or fourth column of the schedule, according to the time period to which operations relate.
- (5) The levy amount for a quarter for a holder of a certificate issued under Part 129 is the amount for operations described as category D operations in the first column of Schedule 2 calculated by—
- (a) selecting in the second column of the schedule the subcategory applicable to the certificate holder; and
  - (b) for the subcategory selected, applying the instructions in the corresponding row of the third or fourth column of the schedule, according to the time period to which operations relate.
- (6) In calculating the amounts for operations described as category C or category D operations in the first column of Schedule 2, the Authority must,—
- (a) for the first 3 quarters in any financial year, calculate the amounts on the basis of the Authority's reasonable estimate of the tonnes of agricultural product that will be applied under the relevant certificate in the financial year or the tonnes of freight that will be carried under the relevant certificate in the financial year in order to select the appropriate subcategory in the second column of the schedule; and
  - (b) after the end of the financial year,—
    - (i) calculate any amounts for category C and category D operations in the final quarter on the basis of the actual total tonnage of agricultural product applied under the relevant certificate in the financial year and the actual total tonnage of freight carried under the relevant certificate in the financial year; and
    - (ii) recalculate the amounts for category C and category D operations in the first 3 quarters on the basis of those actual totals; and

(iii) make any adjustments arising from differences between the amounts as initially calculated for the first 3 quarters and the re-calculated amounts.

(7) The Authority may fix the dates by which the quarterly operations safety levies are payable by specifying within how many days after the due date of any quarterly return the levies must be paid.

**10D Treatment of part tonnes or part hours**

(1) To avoid doubt, in aggregating hours or tonnes for the purposes of a return under clause 10B, portions of an hour or a tonne must be included in the calculation.

(2) In calculating operations safety levies for the purposes of clause 10C, a total number of hours or tonnes must be rounded to the nearer half-hour or half-tonne, with .25 or .75 of an hour or a tonne being rounded up.

**11 Clause 12 replaced (GST included)**

Replace clause 12 with:

**12 Levies exclusive of GST**

All rates of levy set by this order are exclusive of goods and services tax.

**12 New Schedule 1AA inserted**

Before the Schedule, insert as Schedule 1AA the Schedule 1AA set out in the Schedule of this order.

**13 New Schedule 2 inserted**

After the Schedule, insert as Schedule 2 the Schedule 2 set out in the Schedule of this order.

**Schedule**  
**New Schedules 1AA and 2 inserted**

cls 12, 13

**Schedule 1AA**  
**Transitional, savings, and related provisions**

cl 3A

**Part 1**  
**Provisions relating to Civil Aviation (Safety) Levies Amendment  
Order 2017**

**1 Interpretation**

In this Part, **amending order** means the Civil Aviation (Safety) Levies Amendment Order 2017.

**2 Existing levies**

Any amount owing as a levy under this order on the date on which the amending order came into force continues to be owed and may be enforced in any manner in which it could have been enforced before that date.

**Schedule 2**  
**Operations safety levies**

cl 10C

Operations category	Subcategory	Levies for any period beginning on or after 1 July 2017 and ending not later than 30 June 2018	Levies for any period beginning on or after 1 July 2018
Category A: Operations conducted under a certificate issued under Part 115 (adventure aviation) effecting a tandem parachute descent, a tandem hang glider flight, or a tandem paraglider flight		For each descent or flight of the total descents or flights—\$0.80	For each descent or flight of the total descents or flights—\$1.60
Category B: Operations conducted under a certificate issued under Part 115 (adventure aviation) but not in category A, excluding parachute-drop aircraft operations	Using a very light aircraft (not more than 1 000 kg MCTOW)	For each hour of the total hours flown—\$1.75	For each hour of the total hours flown—\$3.50
	Using a light aircraft (more than 1 000 kg but not more than 2 730 kg MCTOW)	For each hour of the total hours flown—\$2.75	For each hour of the total hours flown—\$5.50
	Using a medium light or heavier aircraft (more than 2 730 kg MCTOW)	For each hour of the total hours flown—\$4.25	For each hour of the total hours flown—\$8.50
Category C: Operations conducted under a certificate issued under Part 137 (agricultural) dispensing agricultural product	More than 0 tonnes but not more than 10 000 tonnes dispensed under the certificate in the relevant financial year	For each tonne of the total tonnes of agricultural product dispensed—\$0.44	For each tonne of the total tonnes of agricultural product dispensed—\$0.87
	More than 10 000 tonnes but not more than 50 000 tonnes dispensed under the certificate in the relevant financial year	For each tonne of the total tonnes of agricultural product dispensed—\$0.37	For each tonne of the total tonnes of agricultural product dispensed—\$0.73

Operations category	Subcategory	Levies for any period beginning on or after 1 July 2017 and ending not later than 30 June 2018	Levies for any period beginning on or after 1 July 2018
Category D: Freight-only flight operations conducted under a certificate issued under Part 119 or Part 129 (foreign)	More than 50 000 tonnes dispensed under the certificate in the relevant financial year	For each tonne of the total tonnes of agricultural product dispensed—\$0.33	For each tonne of the total tonnes of agricultural product dispensed—\$0.65
	More than 0 tonnes but not more than 10 000 tonnes of freight carried under the certificate in the relevant financial year	For each tonne of the total tonnes of freight on board at departure—\$1.50	For each tonne of the total tonnes of freight on board at departure—\$3.00
	More than 10 000 tonnes but not more than 50 000 tonnes of freight carried under the certificate in the relevant financial year	For each tonne of the total tonnes of freight on board at departure—\$1.30	For each tonne of the total tonnes of freight on board at departure—\$2.60
	More than 50 000 tonnes of freight carried under the certificate in the relevant financial year	For each tonne of the total tonnes of freight on board at departure—\$1.00	For each tonne of the total tonnes of freight on board at departure—\$2.00
Category E: Operations conducted under a certificate issued under Part 119 but not in category D	Using aircraft to which Part 135 applies (helicopters or small aeroplanes)	For each hour of the total hours flown—\$3.25	For each hour of the total hours flown—\$6.50
	Using aircraft to which Part 121 (large aeroplanes) or Part 125 (medium aeroplanes or small aeroplanes operating SEIFR) applies	For each hour of the total hours flown—\$2.75	For each hour of the total hours flown—\$5.50

Michael Webster,  
Clerk of the Executive Council.

## Explanatory note

*This note is not part of the order; but is intended to indicate its general effect.*

This order, which comes into force on 1 July 2017, amends the Civil Aviation (Safety) Levies Order 2002 (the **principal order**) to—

- change the basis for rates of all levies under the principal order to rates exclusive of goods and services tax; and
- reduce the generally applicable domestic passenger levy from \$1.71 per passenger to \$1.60 per passenger; and
- increase the domestic passenger levy for holders of Australian operating certificates with ANZA privileges from \$1.55 per passenger to \$1.57 per passenger; and
- increase the departing international passenger levy from \$1.30 per passenger to \$1.60 per passenger; and
- exclude liability for the participation levy where an aircraft is inoperable for the entire financial year and pro-rate the levy in certain cases; and
- change the basis for pro-rated participation levy calculations from months to days; and
- impose a new operations safety levy and the obligation to file related returns of information on certain operations conducted under certificates issued under the Civil Aviation Rules Part 115 (adventure aviation), Part 119 (airline or general aviation), Part 129 (foreign), or Part 137 (agricultural).

(Because the basis for the levy rates has changed from inclusive to exclusive of goods and services tax, the amounts stated in this explanatory note as the rates before amendment by this order will appear to be different from the existing text of the order; they are the equivalent rates on an exclusive of goods and services tax basis.)

## Regulatory impact statement

The Ministry of Transport produced a regulatory impact statement on 12 August 2016 to help inform the decisions taken by the Government relating to the contents of this instrument.

A copy of this regulatory impact statement can be found at—

- <http://www.transport.govt.nz/about/publications/ris-bccs/>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

## Reprints notes

### **1** *General*

This is a reprint of the Civil Aviation (Safety) Levies Amendment Order 2017 that incorporates all the amendments to that order as at the date of the last amendment to it.

### **2** *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

### **3** *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

### **4** *Amendments incorporated in this reprint*

Subordinate Legislation Confirmation Act 2018 (2018 No 11): section 5