



ANALYSIS

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1992, No. 112

An Act to amend the Transport Accident Investigation Commission Act 1990

[14 December 1992]

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement—(1) This Act may be cited as the Transport Accident Investigation Commission Amendment Act 1992, and shall be read together with and deemed part of the Transport Accident Investigation Commission Act 1990 (hereinafter referred to as the principal Act).

(2) Except as provided in section 3 (2) of this Act, this Act shall come into force on the 1st day of April 1993.

2. Interpretation—Section 2 of the principal Act (as amended by section 39 of the Civil Aviation Amendment Act 1992) is hereby amended by repealing the definitions of the terms “accident” and “incident”, and substituting in their appropriate alphabetical order the following definitions:

“‘Accident’,—

“(a) In relation to aviation, has the same meaning as in section 2 of the Civil Aviation Act 1990; and

“(b) In relation to a rail service, has the same meaning as in section 2 of the Transport Services Licensing Act 1989:

“ ‘Incident’,—

“(a) In relation to aviation, has the same meaning as in section 2 of the Civil Aviation Act 1990; and

“(b) In relation to a rail service, has the same meaning as in section 2 of the Transport Services Licensing Act 1989:

“ ‘Rail service vehicle’ has the same meaning as in section 2 of the Transport Services Licensing Act 1989:

“ ‘Secretary’ means the chief executive of the Ministry of Transport.”

3. Membership of Commission—(1) Section 5 (2) of the principal Act is hereby amended—

(a) By omitting the word “expertise”, and substituting the words “qualifications and experience”:

(b) By omitting the words “in such matters”.

(2) This section shall be deemed to have come into force on the 1st day of September 1990.

4. Appointment of assessors—(1) The principal Act is hereby amended by inserting, after section 5, the following section:

“5A. (1) The Commission may from time to time appoint, on such terms as the chief executive and the appointee may agree, any suitably qualified person to be an assessor for the purposes of any investigation under this Act.

“(2) The Commission may co-opt for such term as it thinks fit any assessor to be a member of the Commission.

“(3) A co-opted member of the Commission shall be entitled to attend and speak at any meeting of the Commission, but shall not be entitled to vote on any question unless authorised to do so by resolution of the Commission.”

(2) Every appointment of an assessor made by or on behalf of the Commission before the commencement of this section is hereby declared to be and always to have been lawful, and no decision or act of the Commission shall be called into question by reason only that such an assessor was present at the meeting of the Commission that made the decision or authorised the act.

5. Functions of Commission—Section 8 (2) (f) of the principal Act is hereby amended—

(a) By inserting, after the expression “1990”, the words “or section 39c of the Transport Services Licensing Act 1989”:

(b) By inserting, after the word “Authority” (as substituted by section 39 of the Civil Aviation Amendment Act 1992), the words “or the Secretary, as the case may require,”.

6. Commission may make reports to Secretary and give notice where appropriate—(1) Section 9 (1) of the principal Act is hereby amended by inserting, after the word “Authority” (as substituted by section 39 of the Civil Aviation Amendment Act 1992), the words “or the Secretary”.

(2) Section 9 of the principal Act is hereby further amended by omitting the word “aviation” in both places where it occurs, and substituting in each case the word “transport”.

7. Commission to notify Secretary of accidents and incidents not being investigated—Section 10 of the principal Act is hereby amended by inserting, after the word “Authority” (as substituted by section 39 of the Civil Aviation Amendment Act 1992), the words “or the Secretary, as the case may require,”.

8. Powers of entry and investigation—(1) Section 12 of the principal Act is hereby amended by inserting, after the word “aircraft,” wherever it occurs, the words “rail service vehicle,”.

(2) Section 12 (1) (c) of the principal Act is hereby amended by inserting, after the word “Where”, the words “the Commission believes on reasonable grounds that it is”.

9. Accidents to be investigated—(1) The principal Act is hereby amended by repealing section 13, and substituting the following section:

“13. (1) As soon as practicable after an accident has been notified to the Commission under section 27 of the Civil Aviation Act 1990 or under section 39c of the Transport Services Licensing Act 1989, the Commission shall investigate the accident if—

“(a) In the case of an aviation accident,—

“(i) The accident involves a foreign aircraft (being an accident that is required by the Convention to be investigated); or

“(ii) The accident is at the interface of the civil and military aviation systems; or

“(iii) The accident involves an aircraft that is used principally for air transport operations; or

“(iv) The accident involves an aircraft exceeding a weight of 2,250 kilograms maximum certified take-off mass; or

“(v) The accident involves the death of any person; or

“(vi) The accident involves a missing aircraft; or

“(b) In the case of a rail service accident, the accident involves the death of any person.

“(2) The power conferred by subsection (1) (a) (ii) of this section shall include the power to investigate any aviation accident or incident that involves any combination of military and non-military persons, aircraft, aerodromes, aeronautical products, or aviation related services.

“(3) The Commission may investigate such additional accidents or incidents referred to it in accordance with section 27 of the Civil Aviation Act 1990 or section 39c of the Transport Services Licensing Act 1989 as it deems necessary.

“(4) If an accident or incident has not been notified to the Commission in accordance with section 27 of the Civil Aviation Act 1990 or section 39c of the Transport Services Licensing Act 1989, and the accident or incident is one that would be required to be investigated under subsection (1) of this section if it were so notified, the Commission,—

“(a) In the case of an aviation accident or incident, shall commence an investigation of the accident or incident:

“(b) In the case of a rail service accident or incident, may commence an investigation of the accident or incident.

“(5) Where the Commission proposes to undertake an investigation under this section, the Commission shall notify the Authority or the Secretary, as the case may require, of its proposal as soon as is practicable.

“(6) For the purpose of subsection (2) of this section, ‘military’ means, with respect to any aircraft or facility, an aircraft or facility operated by the New Zealand Defence Force or a visiting force.”

(2) The Civil Aviation Amendment Act 1992 is hereby amended by repealing so much of the Second Schedule as relates to section 13 of the principal Act.

10. Conduct of investigation—Section 14 (3) of the principal Act is hereby amended—

- (a) By inserting, after the words “the consent of the Commission,”, the words “which consent shall not be unreasonably withheld”;
- (b) By inserting, after the word “Authority” (as substituted by section 39 of the Civil Aviation Amendment Act 1992), the words “and the Secretary”.

This Act is administered in the Ministry of Transport.
