

## AIR SERVICES LICENSING AMENDMENT BILL

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### EXPLANATORY NOTE

THIS Bill amends the Air Services Licensing Act 1951.

*Clause 1* relates to the Short Title and date of commencement. The date of commencement is 1 January 1984.

*Clause 2* repeals section 2 of the principal Act, and substitutes a new section.

The definitions which are new or changed are “aerial work service”, “aircraft”, “air transport service”, and “passenger”.

The distinctions in the Act between fixed wing and rotary wing aircraft are removed.

An aerial work service is at present defined as aerial topdressing or spraying, or a service in which a helicopter is used. Under the new definition an aerial work service is defined as any service provided by means of an aircraft for hire or reward, other than an air transport service. This will result in the definition mainly (but not exclusively) covering flight training and services in which goods, water, or substances are dropped or released from an aircraft while it is in flight for agricultural, horticultural, pest destruction, or firefighting purposes.

An “air transport service” is now defined as a service provided by means of an aircraft for the carriage of passengers or goods for hire or reward. It also includes such a service in which goods are unloaded, dropped, or released from an aircraft while it is in flight, but does not include such a service in which goods, water, or substances are dropped or released from an aircraft while it is in flight for agricultural, horticultural, pest destruction, or firefighting purposes.

A passenger is now defined as any person carried on an aircraft, other than—

- (a) A person assigned by the operator of the aircraft for duty as a member of the crew of the aircraft; or
- (b) A person carried solely for the purpose of assisting in the operation of the aircraft or in the performance of any service in which the aircraft is engaged.

*Clause 3* amends section 3 of the principal Act and reduces the membership of the Air Services Licensing Authority from 4 to 3.

*Clause 4* amends section 11 of the principal Act, which sets out the functions of the Air Services Licensing Authority.

The functions of hearing and determining applications for the renewal and transfer of licences are deleted. Licences will no longer be renewable or transferable.

In addition the Authority is specifically given the function of reviewing licences.

*Clause 5* repeals section 13 of the principal Act, which provides that it is an offence to carry on an air service without a licence, and substitutes a new section.

The new section mainly re-enacts the existing provision but the maximum fine is increased from \$200 to \$10,000.

Provision for a daily fine of up to \$20 has been omitted.

*Clause 6* repeals section 14 of the principal Act, which relates to exemption from licensing, and substitutes a new section.

At present, the exemption only applies to any air service for the carriage of passengers operated by any club affiliated with the Royal New Zealand Aero Club (Incorporated), if the service is operated in aircraft owned or hired by the club, and if all persons carried, whether as pilots or passengers, are full members of the club.

Under the new section, that exemption is repeated but is now restricted to aircraft having a maximum certificated take-off weight of 4000 kilograms or less.

Additional exemptions under the new section are as follows:

1. Any air service carried on in an emergency for the purpose of saving or protecting life or property.
2. Any air ambulance service.
3. Any air service carried on for the purpose of an air accident investigation.
4. Any air service carried on solely for the purpose of the sport of parachute jumping.

*Clause 7* amends section 16 of the principal Act, which relates to applications for air service licences.

*Subclause (1)* provides that the Secretary for Transport must in every case make such submissions to the Licensing Authority as will assist the Authority in dealing with an application for an air service licence.

*Subclause (2)* repeals subsection (3) of section 16, and substitutes new subsections (2) and (3).

The new subsection (2) requires the Secretary for Transport to forward to the applicant a copy of the information and submissions the Secretary has placed before the Licensing Authority.

The new subsection (3) provides that an application must now be accompanied by the following additional material:

(a) A written statement signed by the applicant showing—

(i) The cash or equivalent equity of the applicant in the proposed air service;

(ii) Details of the capital and running costs of the proposed air service; and

(iii) Details of any arrangements under which any money has been or is to be borrowed or credit or other services arranged or equipment acquired for the purposes of the proposed air service—set out so as to clearly show, in the form of a budget of outgoings of a business, the total costs that the applicant will have to meet to operate the proposed air service:

(b) If the applicant is a body corporate, a written statement identifying the person or persons (not being bodies corporate) who in fact have the control of the body corporate.

*Clause 8* repeals section 17 of the principal Act, which relates to the hearing of applications by the Air Services Licensing Authority, and substitutes a new section.

At present, a public hearing is held and any person may object to the application.

Under the new section there is no right of objection to an application.

In addition, the Authority is to determine the application on the papers unless it considers that it should hear the applicant or the Secretary for Transport.

*Clause 9* repeals section 18 of the principal Act, which sets out the matters to be considered by the Air Services Licensing Authority before determining an application for a licence, and substitutes a new section.

The new section provides that in determining an application for an air service licence, the Licensing Authority is to have regard to—

- (a) The nature of the proposed air service, including the type of service proposed, the area or areas within which or the locations between which or the routes on which it will operate, the aircraft to be used in the service, the facilities for repair and maintenance of the aircraft, and the operational conditions under which the aircraft will be used;
- (b) The experience and competence of the personnel to be involved in the proposed service, including the flying personnel and the person or persons who will be responsible for the management or control of the service or each significant part of the service;
- (c) The repute of the applicant and of the person or persons who will be responsible for the management or control of the service and each significant part of the service;
- (d) The financial arrangements intended for the proposed service and the costs of continuing that service.

*Clause 10* repeals section 19 of the principal Act, relating to the grant of licences, and substitutes a new section.

The new section provides that if, after having regard to the matters set out in *clause 9*, the Authority is satisfied—

- (a) That the applicant's proposed air service will be carried on in a safe and efficient manner; and
- (b) That an overseas person (within the meaning of the Overseas Investment Act 1973) or nominee (within the meaning of that Act) will not in any way whatsoever have direct or indirect control of the proposed air service—

it must grant to the applicant a licence authorising the applicant to carry on an aerial work service or an air transport service.

The new section also provides as follows:

The fact that any overseas person or nominee has an interest in any aircraft used or to be used in any air service is not of itself to be regarded as giving that person or nominee direct or indirect control of the air service or proposed air service.

Every decision of the Licensing Authority under section 19 must be in writing and, if an application is declined, the reasons for that decision must be included in it.

*Clause 11* repeals section 21 of the principal Act, which relates to the conditions which may be attached to air service licences, and substitutes a new section.

The power to impose conditions relating to the class and number of aircraft to be used and the fares and freight rates to be charged have been omitted.

The new section provides as follows:

Subsection (1) provides that the Licensing Authority may prescribe such conditions as it considers necessary or desirable to ensure that the licensee will carry on the air service in a safe and efficient manner.

Subsection (2) provides that the Licensing Authority may prescribe—

- (a) A requirement that the licensee notify the Licensing Authority, in advance, of any change in or additions to the aircraft and other assets used in the licensee's air service:
- (b) A requirement that the licensee, at such times as may be specified by the Licensing Authority, disclosed to the Authority the financial position of the licensee's air service:
- (c) If the licensee is a body corporate, a requirement that the licensee notify the Licensing Authority of any change in the person or persons who in fact have the control of the body corporate.

Subsection (3) provides that, in granting a licence for an air transport service, the Licensing Authority may prescribe, as a condition, a requirement that the licensee notify the Authority of any alteration to the localities to be served or the route or routes on which the service is to operate, or the frequency of service to be observed.

*Clause 12* amends section 22 of the principal Act, relating to insurance, to omit the reference to renewal of licences. Licences will no longer be renewable.

*Clause 13* repeals section 23 (2) of the principal Act, and substitutes a new subsection.

At present, section 23 (2) provides that a licensee may not abandon or curtail the authorised air service without the consent of the Licensing Authority.

The new subsection merely provides that the holder of an air transport service licence shall not abandon or curtail the service without giving at least 21 days' public notice and 21 days' notice to the Licensing Authority. (This does not apply to the holders of aerial work service licences).

*Clause 14* repeals section 25 of the principal Act, which relates to the duration of licences, and substitutes a new section.

At present, licences generally remain in force for 7 years.

Under the new section every licence, other than a temporary licence, will continue in force until it is revoked.

*Clause 15* amends section 26 of the principal Act, which relates to the amendment, revocation, or addition of terms and conditions attached to licences.

*Subclause (1)*: At present, the Licensing Authority may add any terms and conditions which in its opinion are necessary in the public interest.

The amendment provides that the Authority may only add conditions which it is empowered to prescribe under the Act.

*Subclause (2)*: At present, the Authority must give 7 days' notice of its intention to exercise its power under section 26 to the licensee and every other person who is likely to be affected.

The amendment provides that the Authority is to give not less than 14 days' notice to the licensee, to the Secretary for Transport, and to any other person who is likely to be substantially affected, other than in common with the general public.

*Clause 16* inserts a new section 26B in the principal Act.

The new section provides that a licensee must obtain the approval of the Licensing Authority before any change is made in the person or persons responsible for the management or control of the licensee's air service or of any significant part of it.

*Clause 17* inserts a new section 26C in the principal Act under which the Licensing Authority may hold an inquiry into pricing if it considers that a monopoly of air services exists and that any prices charged are unreasonably high.

If, as a result of an inquiry, the Authority is satisfied that such is the case it may revoke the air service licence concerned.

*Clause 18* repeals sections 27, 28 (7), 29, and 31 of the principal Act.

The repealed section 27 related to the renewal of licences. Licences will now continue in force indefinitely and not be renewable.

The repealed section 28 (7) provided for the Police to be notified of the revocation or suspension of a licence. This is considered unnecessary as enforcement is now carried out only by officers of the Civil Aviation Division of the Ministry of Transport.

The repealed section 29 provided for the transfer of licences. Licences will no longer be transferable.

The repealed section 31 provided that licensees were to have the same rights and obligations as common carriers. That provision has been made redundant by the Carriage of Goods Act 1979.

*Clause 19* repeals sections 33 to 45 of the principal Act (Part III), which relate to appeals to the Air Services Licensing Appeal Authority, and substitutes new sections 33 to 38.

The Appeal Authority is abolished. Appeals against decisions of the Air Services Licensing Authority will now be to the Administrative Division of the High Court with a further right of appeal to the Court of Appeal on questions of law.

The new section 33 provides for the right of appeal to the Administrative Division of the High Court against the whole or any part of any decision of the Air Services Licensing Authority in respect of any air service licence or in respect of any application made to, or any inquiry held by, the Licensing Authority.

The new section 34 provides that only certain persons may exercise the right of appeal.

Those persons are—

- (a) The person in respect of whose application the decision was given;
- (b) The holder of the licence in respect of which the decision was given;
- (c) The Secretary for Transport.
- (d) Any party to a public inquiry.

The new section 35 provides for the hearing and determination of appeals.

Subject to the further right of appeal on a question of law, the decision of the High Court is final and conclusive.

The new section 36 provides that the High Court may, instead of determining an appeal, direct the Licensing Authority to reconsider the matter to which the appeal relates.

The new section 37 provides for a right of appeal on a point of law to the Court of Appeal against any determination of the High Court.

The new section 38 sets out the rights of licensees pending the determination of an appeal.

Pending the determination of an appeal the licensee may carry on the air service to which the appeal relates in the manner in which and to the extent to which he was lawfully carrying it on at the time when the Licensing Authority's decision was given or, in the case of a decision granting a new licence to him, in accordance with the terms of that decision.

*Clause 20* repeals section 47 of the principal Act, relating to the prosecution of offences, and substitutes a new section.

At present, section 47 (1) provides that proceedings in respect of offences under the principal Act are to be taken on the information of the Secretary for Transport or any other person appointed by him for that purpose, or any member of the Police, and are to be heard before a District Court Judge.

The new section 47 (1) provides that such proceedings are to be taken on the information of the Secretary for Transport or any other person appointed by him for that purpose.

At present, section 47 (2) provides that no person appointed by the Secretary of Transport under subsection (1) shall be called upon to prove that he has been so appointed.

The new section 47 (2) provides that in any proceedings for an offence against the principal Act it shall be presumed, in the absence of proof to the contrary, that the informant is authorised under subsection (1) to take the proceedings.

*Clause 21* inserts a new section 47A in the principal Act.

The new section provides that for the purposes of any investigation, public inquiry, or enforcement action under the principal Act, any officer of the Civil Aviation Division of the Ministry of Transport shall have and may exercise the same powers as he is authorised to exercise under the Civil Aviation Act 1964 or under any regulations in force under that Act.

*Clause 22* amends section 52 of the principal Act which provides for the making of regulations.

*Subclause (1)* changes the test for the necessity or expediency of regulations from a subjective test to an objective test.

*Subclause (2)* enables regulations to be made which empower the Secretary for Transport to prescribe or provide forms and notices required for any purpose under the principal Act.

*Subclause (3)* repeals the provision under which regulations could be made to classify aircraft, air transport services, and aerial work services required to be licensed under the principal Act.

*Subclause (4)* increases the maximum fine for an offence against the regulations from \$20 to \$1,000.

*Subclause (5)* provides for a consequential repeal.

*Clause 23* contains transitional provisions relating to existing aerial work service licences.

*Subclause (1)* provides that holders of existing aerial work service licences may apply for a new licence.

*Subclause (2)* provides for the application to be informal.

*Subclause (3)* requires the Licensing Authority, without holding a hearing, to grant a new licence. The new licence will be either an aerial work service licence or an air transport service licence, whichever is more appropriate.

*Subclause (4)* empowers the Licensing Authority to prescribe conditions of the new licence. The conditions must be conditions that could be prescribed under the amended Act and may not be less favourable than the conditions of the replaced licence.

*Subclause (5)* provides that every aerial work service licence in force immediately before the commencement of the Bill (1 January 1984) is to continue in force until the grant of a new replacement licence or the original date of expiry or 30 May 1984, whichever is the soonest, and shall then expire.

*Clause 24* contains transitional provisions relating to existing air transport service licences.

The provisions are the same as those contained in *clause 23* except that, by virtue of the new definitions, an existing air transport service licence can only be replaced by a new air transport service licence.

*Clause 25* revokes the Air Services Licensing Regulations 1952 and amendments, the Aerial Work Services Standard Terms and Conditions Order 1976, and the Air Transport Services Standard Terms and Conditions Order 1975.

*Hon. G. F. Gair*

## AIR SERVICES LICENSING AMENDMENT

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### A BILL INTITULED

#### **An Act to amend the Air Services Licensing Act 1951**

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

**1. Short Title and commencement**—(1) This Act may be cited as the Air Services Licensing Amendment Act 1982, and shall be read together with and deemed part of the Air Services Licensing Act 1951\* (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 1st day of January 1984.

\*Reprinted 1977, Vol. 4, p. 2873  
Amendment: 1978, No. 86



**2. Interpretation**—(1) The principal Act is hereby amended by repealing section 2, and substituting the following section:

“2. In this Act, unless the context otherwise requires,—

“ ‘Aerial work service’ means any service provided by means of an aircraft for hire or reward, other than an air transport service: 5

“ ‘Aircraft’ means any machine that can derive support in the atmosphere from the reactions of the air; and includes any equipment or device attached to an aircraft while it is in flight: 10

“ ‘Air service’ means an air transport service or an aerial work service, whether regular or casual, in respect of any journey beginning and ending in New Zealand; and includes any such service in which the aircraft used leaves and returns to the same aerodrome without any intermediate stop: 15

“ ‘Air transport service’ means any service provided by means of an aircraft for the carriage of passengers or goods for hire or reward; and includes such a service in which goods are unloaded, dropped, or released from the aircraft while it is in flight; but does not include such a service— 20

“(a) Carried on solely for the purpose of giving instruction in the control or navigation of aircraft in flight; or 25

“(b) In which goods, water, or substances are dropped or released from an aircraft while it is in flight for agricultural, horticultural, pest destruction, or firefighting purposes: 30

“ ‘Goods’ means all kinds of movable property, including animals and mails:

“ ‘Licence’ means an air service licence issued under this Act:

“ ‘Licensee’ means the holder for the time being of a licence issued under this Act: 35

“ ‘Licensing Authority’ means the Air Services Licensing Authority established under this Act:

“ ‘Minister’ means the Minister of Civil Aviation and Meteorological Services: 40

“ ‘Passenger’ means any person carried on an aircraft, other than—

“(a) A person assigned by the operator of the aircraft for duty as a member of the crew of the aircraft; or 45

“(b) A person carried solely for the purpose of assisting in the operation of the aircraft or in the performance of any service in which the aircraft is engaged.”

5 (2) The following enactments are hereby consequentially repealed:

(a) Section 2 of the Air Services Licensing Amendment Act 1955:

10 (b) Sections 2 and 3 of the Air Services Licensing Amendment Act 1965:

(c) So much of Part II of the Second Schedule to the Ministry of Transport Amendment Act 1973 as relates to section 2 of the principal Act.

**3. Membership of Licensing Authority**—(1) Section 15 3 (2) of the principal Act (as amended by section 2 (1) of the Air Services Licensing Amendment Act 1958) is hereby further amended by omitting the words “four members”, and substituting the words “3 members”.

20 (2) Section 2 of the Air Services Licensing Amendment Act 1958 is hereby consequentially repealed.

**4. Functions of Licensing Authority**—Section 11 of the principal Act is hereby amended by omitting the words “, renewal, or transfer of licences under this Act and for any”, and substituting the words “of licences, and to review 25 licences, under this Act and for either”.

**5. Offence to carry on air service without licence, etc.**—The principal Act is hereby further amended by repealing section 13, and substituting the following section:

30 “13. (1) Every person commits an offence and shall be liable on summary conviction to a fine not exceeding \$10,000 who—

“(a) Carries on an air service otherwise than pursuant to the authority of an air service licence granted under this Act:

35 “(b) Carries on an air service otherwise than in conformity with the conditions of an air service licence granted under this Act:

40 “(c) Does any act in any capacity as agent for any air service that is being carried on otherwise than pursuant to the authority of an air service licence granted under this Act.

(2) If any body corporate is convicted of an offence against this section, every director and every other person concerned in the management of the body corporate shall be guilty of the offence if it is proved that the act or omission that constituted the offence occurred with his authority, permission, or consent.” 5

**6. Exemptions from air services licensing**—The principal Act is hereby further amended by repealing section 14, and substituting the following section:

“14. (1) Nothing in section 13 of this Act shall apply to or 10  
in respect of—

“(a) Any air service for the carriage of passengers operated by any club which is affiliated with the Royal New Zealand Aero Club (Incorporated), if the service is operated in aircraft having a maximum certificated 15  
take-off weight of 4000 kilograms or less that are owned or hired by the club, and if all persons carried on any flight in any such service, whether as pilots or passengers, are members of the club with full rights of membership: 20

“(b) Any air service carried on in an emergency for the purpose of saving or protecting life or property:

“(c) Any air ambulance service:

“(d) Any air service carried on for the purpose of an accident investigation under regulations in force 25  
under Part III of the Civil Aviation Act 1964:

“(e) Any air service carried on solely for the purpose of the sport of parachute jumping.

“(2) In this section, ‘maximum certificated take-off weight’, in relation to any aircraft, means the weight specified 30  
as the maximum take-off weight of the aircraft in—

“(a) A manual approved in writing by the Director of the Civil Aviation Division of the Ministry of Transport, associated with the certificate of airworthiness issued by that Director, containing 35  
limitations within which the aircraft may be considered airworthy, and instructions and information necessary to the flight crew members for the safe operation of the aircraft; or

“(b) A certificate of airworthiness issued by that 40  
Director—  
relating to the aircraft.”

**7. Applications for licences**—(1) Section 16 (2) of the principal Act is hereby amended by inserting, after the words “or not”, the words “, and make such submissions,”.

(2) Section 16 of the principal Act is hereby further amended by repealing subsection (3), and substituting the following subsections:

“ (2) The Secretary for Transport shall forward to the applicant a copy of such information and of his submissions immediately after he has placed them before the Licensing Authority.

“ (3) Every application for a licence shall be accompanied by—

“ (a) A written statement setting out the grounds on which the application is made:

“ (b) A written statement signed by the applicant showing—

“ (i) The cash or equivalent equity of the applicant in the proposed air service;

“ (ii) Details of the capital and running costs of the proposed air service; and

“ (iii) Details of any arrangements under which any money has been or is to be borrowed or credit or other services arranged or equipment acquired for the purposes of the proposed air service—

set out so as to clearly show, in the form of a budget of outgoings of a business, the total costs that the applicant will have to meet to operate the proposed air service:

“ (c) Any submissions which the applicant wishes to make in support of the application:

“ (d) Such documents, testimonials, or other written evidence as the applicant considers will assist the Licensing Authority in its consideration of the application:

“ (e) If the applicant is a body corporate, a written statement identifying the person or persons (not being bodies corporate) who in fact have the control of the body corporate.”

(2) Section 4 of the Air Services Licensing Amendment Act 1965 is hereby consequentially repealed.

**8. Hearing of application**—(1) The principal Act is hereby further amended by repealing section 17, and substituting the following section:

“17. (1) On receiving an application for a licence and the information provided by the Secretary for Transport pursuant to section 16 (2) of this Act, the Licensing Authority shall proceed to determine the application on the papers, unless it considers that it should hear the applicant or the Secretary for Transport, in which case it shall give 14 days’ notice of the proposed hearing to the applicant and the Secretary. 5

“(2) At any such hearing the Licensing Authority shall hear such evidence tendered and submissions made by the applicant and the Secretary for Transport as it considers relevant to the subject-matter of the application. 10

“(3) Any such hearing may, in the discretion of the Licensing Authority, be adjourned from time to time and from place to place.” 15

(2) Section 5 of the Air Services Licensing Amendment Act 1965 is hereby consequentially repealed.

**9. Matters to be considered before determining application**—(1) The principal Act is hereby further amended by repealing section 18, and substituting the following section: 20

“18. In determining an application for a licence, the Licensing Authority shall have regard to—

“(a) The nature of the proposed air service, including the type of service proposed, the area or areas within which or the locations between which or the routes on which it will operate, the aircraft to be used in the service, the facilities for repair and maintenance of the aircraft, and the operational conditions under which the aircraft will be used: 25 30

“(b) The experience and competence of the personnel to be involved in the proposed service, including the flying personnel and the person or persons who will be responsible for the management or control of the service or each significant part of the service: 35

“(c) The repute of the applicant and of the person or persons who will be responsible for the management or control of the service and each significant part of the service:

“(d) The financial arrangements intended for the proposed service and the costs of continuing that service.” 40

(2) Section 2 of the Air Services Licensing Amendment Act 1972 is hereby consequentially repealed.

**10. Grant of licence**—The principal Act is hereby further amended by repealing section 19, and substituting the following section:

5 “19. (1) If, after having regard to all of the matters set out in section 18 of this Act, the Licensing Authority is satisfied—

“(a) That the applicant’s proposed air service will be carried on in a safe and efficient manner; and

10 “(b) That an overseas person (within the meaning of the Overseas Investment Act 1973) or nominee (within the meaning of that Act) will not in any way whatsoever have direct or indirect control of the proposed air service—

it shall grant to the applicant a licence authorising the applicant to carry on an aerial work service or an air 15 transport service, as the case may require.

“(2) The fact that any such overseas person or any such nominee has an interest in any aircraft used or proposed to be used in any air service or proposed air service shall not of itself be regarded as giving that overseas person or nominee 20 direct or indirect control of the air service or proposed air service.

“(3) Every decision of the Licensing Authority under this section shall be in writing and, if an application is declined, the reasons for that decision shall be included in it.”

25 **11. Licensing Authority may prescribe conditions**—The principal Act is hereby further amended by repealing section 21, and substituting the following section:

30 “21. (1) In granting any licence, the Licensing Authority may prescribe, as conditions of the licence, such conditions as it considers necessary or desirable to ensure that the licensee will carry on the air service in a safe and efficient manner.

“(2) Without limiting the generality of the Licensing Authority’s powers under subsection (1) of this section, the 35 Licensing Authority may prescribe, as conditions of the licence—

“(a) A requirement that the licensee notify the Licensing Authority, in advance, of any change in or additions to the aircraft and other assets used in the licensee’s air service:

40 “(b) A requirement that the licensee, at such times as may be specified by the Licensing Authority, disclose to the Authority the financial position of the licensee’s air service:

“(c) If the licensee is a body corporate, a requirement that the licensee notify the Licensing Authority of any change in the person or persons specified in the licensee’s application under section 16 (3) (e) of this Act. 5

“(3) In granting a licence for an air transport service, the Licensing Authority may prescribe, as a condition of the licence, a requirement that the licensee notify the Licensing Authority of any alteration to—

“(a) The localities to be served by the service or the route 10  
or routes on which it is to operate; or

“(b) The frequency of service to be observed.”

**12. Special conditions as to insurance**—Section 22 of the principal Act (as substituted by section 2 (1) of the Air Services Licensing Amendment Act 1978) is hereby amended 15  
by omitting the words “or renew”.

**13. Notice to be given of abandonment or curtailment of air transport service**—Section 23 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection: 20

“(2) It shall be a condition of every air transport service licence that the licensee shall not abandon or curtail the service without giving not less than 21 days’ public notice and 21 days’ written notice to the Licensing Authority of the proposed abandonment or curtailment.” 25

**14. Licences to continue in force until revoked**—  
(1) The principal Act is hereby further amended by repealing section 25, and substituting the following section:

“25. Every licence issued under this Act, other than a temporary licence, shall take effect on the day it is issued and 30  
continue in force until it is revoked.”

(2) Section 2 (1) of the Air Services Licensing Amendment Act 1960 is hereby consequentially repealed.

**15. Amendment or revocation of conditions of licences, etc.**—(1) Section 26 (1) of the principal Act is 35  
hereby amended by omitting the words “terms and conditions which in its opinion are necessary in the public interest”, and substituting the words “conditions which it is empowered to prescribe under this Act”.

(2) Section 26 of the principal Act is hereby further 40  
amended by repealing subsection (2), and substituting the following subsection:

“(2) The Licensing Authority shall give not less than 14 days’ notice of its intention to exercise any power conferred on it by this section to—

- “(a) The licensee;
- 5 “(b) The Secretary for Transport; and
- “(c) Any other person who in its opinion is likely to be substantially affected, other than in common with the general public.”

**16. Changes in personnel**—The principal Act is hereby further amended by inserting, after section 26A, the following section:

“26B. (1) It shall be a condition of every licence (whether specified in it or not) that the licensee shall obtain the approval of the Licensing Authority before any change is made in the person or persons responsible for the management or control of the air service authorised by the licence or of any significant part of that service.

“(2) Every application for the consent of the Licensing Authority under subsection (1) of this section shall be in writing.

“(3) The provisions of subsections (2), (2A), (2B), and (4) of section 26 of this Act, with the necessary modifications, shall apply in respect of every application made under this section as if it were an application made by the licensee under the said section 26.”

**17. Licensing Authority may hold inquiry into pricing**—The principal Act is hereby further amended by inserting, after section 26B (as inserted by section 16 of this Act), the following section:

“26c. (1) If the Licensing Authority considers that a licensee, either alone or in combination with another licensee or other licensees, has a monopoly of air services or of any class of air service and that the licensee or licensees is or are charging prices for those services that are unreasonably high, the Licensing Authority shall hold a public inquiry into whether or not such a monopoly exists and whether or not the licensees is or are charging unreasonably high prices.

“(2) The Licensing Authority shall give not less than 28 days’ public notice of the date, time, and place fixed for any such inquiry in each locality in which the air services concerned are carried on.



“(3) The Licensing Authority shall also give to every licensee affected by the inquiry not less than 21 days’ written notice of the date, time, and place fixed for the inquiry and of the matters into which inquiry is to be made.

“(4) The Secretary for Transport shall, at every inquiry 5 under this section, place before the Licensing Authority all such information at his disposal as will assist the Authority in carrying out the inquiry.

“(5) At any such inquiry the Licensing Authority shall hear all evidence tendered and representations made which it 10 considers relevant to the subject-matter of the inquiry.

“(6) Any such inquiry may, in the discretion of the Licensing Authority, be adjourned from time to time and from place to place.

“(7) If, as a result of any such inquiry, the Licensing 15 Authority is satisfied that the licensee or licensees have a monopoly of air services or of any class of air services, and that the licensee or licensees is or are charging unreasonably high prices for those services, it may revoke the licence or licences held by the licensee or licensees. 20

**18. Repealing certain provisions—**(1) Sections 27, 28 (7), 29, and 31 of the principal Act are hereby repealed.

(2) The following enactments are hereby consequentially repealed:

- (a) Section 6 of the Air Services Licensing Amendment Act 25 1958:
- (b) Section 2 (2) of the Air Services Licensing Amendment Act 1960:
- (c) Section 5 of the Air Services Licensing Amendment Act 1967: 30
- (d) So much of the Second Schedule to the Ministry of Transport Act 1968 as relates to section 27 of the principal Act.

**19. Appeals—**(1) The principal Act is hereby further amended by repealing sections 33 to 36, 36A, 36B, and 37 to 35 45, and substituting the following sections:

**“33. Appeals from decisions of Licensing Authority—**

(1) Subject to section 34 of this Act, there shall be a right of appeal to the Administrative Division of the High Court (in this Part of this Act, unless the context otherwise requires, 40 referred to as the Court) against the whole or any part of any

decision of the Licensing Authority in respect of any air service licence or in respect of any application made to, or any inquiry held by, the Licensing Authority.

5 “(2) Every such appeal shall be made by giving notice of appeal within 28 days after the date of the decision of the Licensing Authority appealed against.

“(3) It shall not be necessary to state in the notice the grounds of appeal.

10 “(4) Subject to the provisions of this Part of this Act, the procedure in respect of any such appeal shall be in accordance with the rules of Court.

“34. **Persons entitled to appeal**—The following persons and no others may exercise the said right of appeal:

15 “(a) The person in respect of whose application the decision was given:

“(b) The holder of the licence in respect of which the decision was given:

“(c) The Secretary for Transport:

“(d) Any party to a public inquiry.

20 “35. **Hearing and determination of appeal**—(1) The Court may in any case, if it considers it is in the interests of the parties or of any of them and is not contrary to the interests of other persons concerned or the public interest, order that the hearing of any part of it shall be held in private.

25 “(2) The Court may make an order prohibiting the publication of any report or description of the proceedings or of any part of the proceedings in any appeal before it (whether heard in public or in private); but no such order shall be made prohibiting the publication of the names and  
30 descriptions of the parties to the appeal, or of any decision of the Court.

“(3) In its determination of any appeal, the Court may confirm, modify, or reverse the decision appealed against, or any part of that decision, and, subject to section 38 of this Act,  
35 the decision of the Court shall be final and conclusive.

“36. **Court may refer appeals back for reconsideration**—(1) Notwithstanding anything in section 35 of this Act, the Court may in any case, instead of determining any appeal under that section, direct the Licensing Authority to  
40 reconsider, either generally or in respect of any specified matters, the whole or any specified part of the matter to which the appeal relates.

“(2) In giving any direction under this section the Court shall—

“(a) Advise the Licensing Authority of its reasons for so doing; and

“(b) Give to the Licensing Authority such directions as it thinks just concerning the rehearing or reconsideration or otherwise of the whole or any part of the matter that is referred back for reconsideration. 5

“(3) In reconsidering the matter so referred back, the Licensing Authority shall have regard to the Court’s reasons for giving a direction under subsection (1) of this section and to the Court’s directions under subsection (2) of this section. 10

“**37. Appeal against decision of High Court on question of law**—(1) If any party to any proceedings before the Administrative Division of the High Court under this Part of this Act is dissatisfied with any final determination of the Court in respect of the appeal as being erroneous in law, he may appeal to the Court of Appeal by way of case stated for the opinion of that Court on a question of law. 15

“(2) Within 14 days after the date of the determination or decision the appellant shall file a notice of appeal with the Registrar of the High Court at Wellington. The appellant shall forthwith deliver or post a copy of the notice to every other party to the proceedings. 20

“(3) Within 14 days after the filing of the notice of appeal, or within such further time as the Judge before whom the proceedings were heard may in his discretion allow, the appellant shall state in writing and file with the Registrar a case setting out the facts and the grounds of the determination or decision and specifying the question of law on which the appeal is made. The appellant shall forthwith deliver or post a copy of the case to every other party to the proceedings. 30

“(4) As soon as practicable after the filing of the case, the Registrar shall cause it to be submitted to the Judge before whom the proceedings were heard. 35

“(5) The Judge shall, as soon as practicable, and after hearing the parties if he considers it necessary to do so, settle the case, sign it, and cause it to be sent to the Registrar. The settling and signing of the case shall be deemed to be the statement of the case by the Court. 40

“(6) Where since the date of the determination or decision the Judge before whom the proceedings were heard has ceased to hold office as such or died or left New Zealand, or is incapable by reason of sickness or otherwise from acting as such, the case may be submitted to any Judge of the High Court and may be settled and signed by him. 45

“(7) The Registrar shall send the signed case to the Registrar of the Court of Appeal, and shall make a copy available to each party.

5 “(8) If within 14 days after the filing of the notice of appeal, or within such further time as may be allowed, the appellant does not file a case pursuant to subsection (3) of this section, the Judge may certify that the appeal has not been prosecuted.

10 “(9) The High Court or a Judge of that Court may in its or his discretion, on the application of the appellant or intending appellant, extend any time prescribed or allowed under this section for the filing of a notice of appeal or the stating of any case.

15 “(10) In its determination of any appeal under this section, the Court of Appeal may do any one or more of the following things:

“(a) Confirm, modify, or reverse the determination or decision in respect of which the case has been stated; or

20 “(b) Remit the matter to the Administrative Division of the High Court with the opinion of the Court of Appeal thereon; or

“(c) Make such other order in relation to the matter as it thinks fit.

25 “(11) The decision of the Court of Appeal on any appeal under this section shall be final and conclusive.

“(12) Subject to the provisions of this section, appeals under this section shall be dealt with in accordance with the rules of Court.

30 “**38. Rights of licensee pending determination of appeal**—Pending the determination of any appeal to the Court against a decision of the Licensing Authority or of any appeal to the Court of Appeal under section 37 of this Act, the licensee may carry on the air service to which the appeal  
35 relates in the manner in which and to the extent to which he was lawfully carrying it on at the time when the decision of the Licensing Authority was given or, in the case of a decision granting a new licence to him, in accordance with the terms of that decision.”

40 (2) The following enactments are hereby consequentially repealed:

(a) The Air Services Licensing Amendment Act 1952:

(b) Section 9 of the Air Services Licensing Amendment Act 1958:

- (c) So much of the Second Schedule to the Ministry of Transport Act 1968 as relates to sections 41 and 45 of the principal Act:
- (d) Section 3 of the Air Services Licensing Amendment Act 1972: 5
- (e) So much of Part II of the Second Schedule to the Ministry of Transport Amendment Act 1973 as relates to section 40 of the principal Act.

**20. Prosecution of offences**—(1) The principal Act is hereby further amended by repealing section 47, and 10 substituting the following section:

“47. (1) All proceedings in respect of offences under this Act shall be taken on the information of the Secretary for Transport or any other person appointed by him for that purpose. 15

“(2) In any proceedings for an offence against this Act it shall be presumed, in the absence of proof to the contrary, that the informant is authorised under subsection (1) of this section to take the proceedings.”

(2) So much of the Second Schedule to the Ministry of 20 Transport Act 1968 as relates to section 47 of the principal Act is hereby consequentially repealed.

**21. Powers of authorised persons**—The principal Act is hereby further amended by inserting, after section 47, the following section: 25

“47A. For the purposes of any investigation, public inquiry, or enforcement action under this Act, any officer of the Civil Aviation Division of the Ministry of Transport shall have and may exercise the same powers as he is authorised to exercise under the Civil Aviation Act 1964 or under any regulations in 30 force under that Act.”

**22. Regulations**—(1) Section 52 (1) of the principal Act is hereby amended by omitting the words “may in his opinion be”, and substituting the word “are”.

(2) Section 52 (2) of the principal Act is hereby amended 35 by repealing paragraph (a), and substituting the following paragraph:

“(a) Prescribing, or empowering the Secretary for Transport to prescribe or provide, such forms and notices as are necessary for any purpose under this 40 Act.”.

(3) The said section 52 (2) is hereby further amended by repealing paragraph (f).

(4) The said section 52 (2) is hereby further amended by repealing paragraph (i), and substituting the following paragraph:

“(i) Prescribing fines not exceeding \$1,000 for the breach of any such regulations or of any condition, duty, or obligation imposed by any such regulations.”

(5) Section 3 of the Air Services Licensing Amendment Act 1973 is hereby consequentially repealed.

**23. Transitional provisions relating to existing aerial work service licences—**

(1) Every holder of an aerial work service licence (other than a temporary licence) in force immediately before the commencement of this Act may apply to the Licensing Authority for a new licence in respect of the air service carried on under the existing licence.

(2) Notwithstanding the provisions of section 16 of the principal Act (as amended by section 7 (1) of this Act), any such application shall be informal and need not contain or be accompanied by any material other than details of the existing licence held by the applicant.

(3) Notwithstanding the provisions of sections 17 and 18 of the principal Act (as substituted by sections 8 (1) and 9 (1) of this Act), on receiving such an application the Licensing Authority shall, without holding a hearing, forthwith proceed to grant to the applicant either an aerial work service licence or an air transport service licence, whichever is more appropriate, unless the existing licence intended to be replaced by the new licence would have expired on or before the date of grant had this Act not been enacted.

(4) On granting a new licence the Licensing Authority may prescribe, as conditions of the licence, such conditions as it considers necessary or desirable, being conditions that it is empowered to prescribe under the principal Act (as amended by this Act) and that are not less favourable than the conditions of the replaced licence.

(5) Every aerial work service licence in force immediately before the commencement of this Act shall continue in force until—

(a) The grant of a new replacement licence under this section; or

(b) The date on which it would have expired had this Act not been enacted; or

(c) The expiry of the 30th day of May 1984—whichever is the soonest, and shall then expire.

**24. Transitional provisions relating to existing air transport service licences—**(1) Every holder of an air transport service licence (other than a temporary licence) in force immediately before the commencement of this Act may apply to the Licensing Authority for a new licence in respect of the air service carried on under the existing licence. 5

(2) Notwithstanding the provisions of section 16 of the principal Act (as amended by section 7 (1) of this Act), any such application shall be informal and need not contain or be accompanied by any material other than details of the 10 existing licence held by the applicant.

(3) Notwithstanding the provisions of sections 17 and 18 of the principal Act (as substituted by sections 8 (1) and 9 (1) of this Act), on receiving such an application the Licensing Authority shall, without holding a hearing, forthwith proceed 15 to grant an air transport service licence to the applicant, unless the existing licence intended to be replaced by the new licence would have expired on or before the date of grant had this Act not been enacted.

(4) On granting the new licence the Licensing Authority 20 may prescribe, as conditions of the licence, such conditions as it considers necessary or desirable, being conditions that it is empowered to prescribe under the principal Act (as amended by this Act) and that are not less favourable than the conditions of the replaced licence. 25

(5) Every air transport service licence in force immediately before the commencement of this Act shall continue in force until—

- (a) The grant of a new replacement licence under this section; or 30
  - (b) The date on which it would have expired had this Act not been enacted; or
  - (c) The expiry of the 30th day of May 1984—
- whichever is the soonest, and shall then expire.

**25. Revocations—**(1) The following regulations are 35 hereby revoked:

- (a) The Air Services Licensing Regulations 1952:
- (b) The Air Services Licensing Regulations 1952, Amendment No. 1:
- (c) The Air Services Licensing Regulations 1952, Amend- 40 ment No. 4:
- (d) The Air Services Licensing Regulations 1952, Amendment No. 6:

- (e) The Air Services Licensing Regulations 1952, Amendment No. 7:
  - (f) The Air Services Licensing Regulations 1952, Amendment No. 8.
- 5 (2) The Aerial Work Services Standard Terms and Conditions Order 1976, published in *Gazette*, 1976, Volume III, at page 2354, is hereby revoked.
- (3) The Air Transport Services Standard Terms and Conditions Order 1975, published in *Gazette*, 1975, Volume  
10 II, at page 1678, is hereby revoked.
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