

House of Representatives
Supplementary Order Paper

Tuesday, 16 April 2002

Civil Aviation Amendment Bill

Proposed amendments

Hon Mark Gosche, in Committee, to move the following amendments:

Clause 2

To omit from *subclause (1)* the expression “**1 November 2001**” (line 7 on page 2), and substitute the expression “**1 June 2002**”.

New clauses 18A and 18B

To insert, after *clause 18* (after line 4 on page 12), the following clauses:

18A New sections 77A, 77B, and 77C inserted

The principal Act is amended by inserting, after section 77, the following sections:

“77A Powers and duties of Minister to require screening

“(1) The Minister may, if necessary to improve or enhance aviation security to enable New Zealand to be part of a concerted international response to a threat to aviation security, direct an aviation security provider, by notice in the *Gazette*,—

“(a) to screen—

“(i) any person boarding an aircraft; or

“(ii) any thing to be carried by an aircraft; and

“(b) if necessary, to undertake reasonable searches of—

“(i) any person boarding an aircraft; or

“(ii) any thing to be carried by an aircraft; or

“(iii) any (as specified in the *Gazette* notice)—

“(A) aircraft or class of aircraft; or

“(B) aerodrome or class of aerodrome; or

“(C) navigation installation or class of navigation installation.

- “(2) Before directing an aviation security provider under **subsection (1)**, the Minister must, to determine whether or not the direction is necessary to improve or enhance aviation security to enable New Zealand to be part of a concerted international response to a threat to aviation security, consult—
- “(a) the Director; and
 - “(b) as the Minister in each case considers appropriate, representative groups in the aviation industry, government departments, and Crown agencies.
- “(3) A direction made under **subsection (1)** takes effect on the date specified in the notice, which may be a date before the notice is published in the *Gazette* if the Minister—
- “(a) considers on reasonable grounds 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.
- “(4) If a direction takes effect on a date before the notice is published in the *Gazette*,—
- “(a) the direction expires 28 days after that date unless the notice is published in the *Gazette* within 28 days of that date; and
 - “(b) if the notice is published in the *Gazette* within 28 days of that date, the direction expires 90 days after that date unless, before the expiry of the 90-day period, the Minister, after complying with **subsection (3)(b) and (c)**, extends the period for a further specified period not exceeding 90 days (the aggregate period may not exceed 180 days).
- “(5) If a direction takes effect on a date on or after the notice is published in the *Gazette*, the notice is a regulation for the purposes of the Regulations (Disallowance) Act 1989.
- “(6) The Minister may rescind a direction made under **subsection (1)**.
- “(7) Subject to **subsection (4)**, a direction remains in effect until it is rescinded.
- “(8) Nothing in this section empowers the Minister to exercise the Director’s powers under **section 77B**.

“77B Powers and duties of Director to require screening

- “(1) The Director may, if he or she believes on reasonable grounds that a security risk exists, direct an aviation security provider, by notice in the *Gazette*,—
- “(a) to screen—
 - “(i) any person boarding an aircraft; or
 - “(ii) any thing to be carried by an aircraft; and
 - “(b) if necessary, to undertake reasonable searches of—
 - “(i) any person boarding an aircraft; or

- “(ii) any thing to be carried by an aircraft; or
- “(iii) any (as specified in the *Gazette* notice)—
 - “(A) aircraft or class of aircraft; or
 - “(B) aerodrome or class of aerodrome; or
 - “(C) navigation installation or class of navigation installation.
- “(2) Before directing an aviation security provider under **subsection (1)**, the Director must, to determine whether or not the direction is necessary to meet the security risk, consult, as the Director in each case considers appropriate, representative groups in the aviation industry, government departments, and Crown agencies.
- “(3) A direction made under **subsection (1)** takes effect on the date specified in the notice, which may be a date before the notice is published in the *Gazette* if the Director—
 - “(a) considers on reasonable grounds that urgent action is required; and
 - “(b) has notified all affected parties (other than persons boarding an aircraft) before that date.
- “(4) If a direction takes effect on a date before the notice is published in the *Gazette*,—
 - “(a) the direction expires 28 days after that date unless the notice is published in the *Gazette* within 28 days of that date; and
 - “(b) if the notice is published in the *Gazette* within 28 days of that date, the direction expires 90 days after that date unless, before the expiry of the 90-day period, the Director, after complying with **subsection (3)(b)**, extends the period for a further specified period not exceeding 90 days (the aggregate period may not exceed 180 days).
- “(5) If a direction takes effect on a date on or after the notice is published in the *Gazette*, the notice is a regulation for the purposes of the Regulations (Disallowance) Act 1989.
- “(6) The Director may rescind a direction made under **subsection (1)**.
- “(7) Subject to **subsection (4)**, a direction remains in effect until it is rescinded.

“77C Transitional provisions for screening

- “(1) A direction requiring the screening of domestic aircraft passenger services made by the Director before **1 June 2002** continues in force until **1 September 2002**, on which date it expires; however, the Director may rescind the direction before **1 September 2002**.
- “(2) A person carrying out the screening of domestic aircraft passenger services under a direction to do so made before **1 June 2002** (or a search in accordance with such a direction) is

entitled to continue to carry out that screening (or search) until **1 September 2002**, on which date the entitlement expires.”

18B Functions and duties of Aviation Security Service

Section 80 of the principal Act is amended by revoking paragraph (a), and substituting the following paragraphs:

“(a) to carry out—

“(i) crew, passenger, and baggage screening of all international aircraft passenger services; and

“(ii) the screening specified in **section 77A(1) or section 77B(1)**;

“(ab) to undertake, if necessary, reasonable searches of crew, passengers, baggage, cargo, aircraft, aerodromes, and navigation installations:”.

Clause 19

To insert in *new clause 80A(1)*, after the expression “section 80(a)” (line 33 on page 13), the words “**and (ab)**”.

New clause 19A

To insert, after *clause 19* (after line 29 on page 14), the following clause:

19A Consequential amendments to rules

- (1) Rule 108.53(b)(5) (security requirements – domestic) is amended by inserting, before the word “cargo”, the word “baggage”.
- (2) Rule 108.53(b)(8) (security requirements – domestic) is amended by—
 - (a) omitting the words “passenger and baggage screening” in both places where they occur, and substituting in each case the words “passenger, crew, and baggage screening”; and
 - (b) omitting the words “an aviation security organisation”, and substituting the word “a”; and
 - (c) inserting, before the word “Director”, the words “Minister or the”.
- (3) Rule 108.55(b)(12) (security requirements – international) is amended by—
 - (a) omitting the words “a passenger”, and substituting the words “passenger, crew,”; and
 - (b) omitting the words “an aviation security organisation”, and substituting the word “a”.
- (4) Rule 139.203(d)(4) (requirements for security designated aerodromes – other requirements) is amended by inserting, after the word “passengers”, the word “, crew,”.
- (5) Rule 139.203(d)(4)(i) (requirements for security designated aerodromes – other requirements) is amended by—
 - (a) inserting, after the word “passengers,” the words “crew, and”; and

- (b) omitting the words “, or both,”.
- (6) Rule 139.203(d)(4)(ii) (requirements for security designated aerodromes – other requirements) is amended by inserting, after the word “passengers”, the words “and crew”.
- (7) Rule 139.203(d)(4)(iii) (requirements for security designated aerodromes – other requirements) is amended by—
 - (a) omitting the word “transit”, and substituting the word “, transit,”; and
 - (b) inserting, after the word “passengers” wherever it occurs, the words “and crew”.
- (8) Rule 139.203(d)(5) (requirements for security designated aerodromes – other requirements) is amended by—
 - (a) inserting, after the words “necessary by”, the words “the Minister, or”; and
 - (b) inserting, after the word “passengers” in both places where it occurs, the word “, crew,”.
- (9) Rule 139.205(1) (requirements for non-security designated aerodromes) is amended by—
 - (a) inserting, after the word “passengers”, the word “, crew,”; and
 - (b) inserting, after the words “required by”, the words “the Minister, or”.
- (10) Rule 140.11(a)(1)(i) (functions and duties of certificate holder) is amended by—
 - (a) omitting the words “passenger and”, and substituting the words “passenger, crew, and”; and
 - (b) omitting the words “and of such other services where the screening is judged advisable by the Director”, and substituting the words “and of any domestic aircraft passenger service or other service required to be screened by the Minister or the Director”.
- (11) Clause A.5(b)(2) of Appendix A to Part 140 of the rules (security operational standards – screening of the person) is amended by—
 - (a) omitting the word “international”; and
 - (b) inserting, after the word “passenger” wherever it occurs, the words “or crew member”; and
 - (c) omitting the word “those”, and substituting the words “if the person is”.

Explanatory note

This Supplementary Order Paper amends the Civil Aviation Amendment Bill. The amendments clarify and augment the functions and duties of aviation security providers to screen and search any person boarding an aircraft, any thing to be carried by an aircraft, or any specified aircraft or class of aircraft,

aerodrome or class of aerodrome, or navigation installation or class of navigation installation. The new powers may only be exercised on the direction of the Minister if necessary for New Zealand to improve or enhance aviation security to be part of a concerted international effort or on the direction of the Director if he or she believes on reasonable grounds that a security risk exists.
