



ANALYSIS

<p>Title</p> <p>1. Short Title</p> <p>2. Interpretation</p> <p>3. Airport authorities may establish and carry on airports</p> <p>4. Airport companies</p> <p> 3A. Powers of Crown and local authorities</p> <p> 3B. Accounts and annual report</p> <p> 3C. Powers, etc., of airport companies under Companies Act 1955 not affected</p>	<p>3D. Airports operated by airport authorities which are not local authorities to be public works, etc.</p> <p>5. Powers of airport authorities</p> <p>6. Airport authority may act in conjunction with Ministers of Crown and other authorities</p> <p>7. Bylaws</p> <p>8. Amendments to Civil Aviation Act 1964</p> <p>9. Amendments to other Acts</p> <p>10. Provisions relating to Auckland International Airport Schedule</p>
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1986, No. 128

An Act to amend the Airport Authorities Act 1966 for the purpose of authorising the Crown and local authorities to form and hold shares in airport companies and to provide for the transfer of airport assets to those companies

[18 December 1986]

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—This Act may be cited as the Airport Authorities Amendment Act 1986, and shall be read together with and deemed part of the Airport Authorities Act 1966 (hereinafter referred to as the principal Act).

2. Interpretation—Section 2 of the principal Act is hereby amended by inserting, after the definition of the term “airport authority”, the following definitions:

“‘Airport company’ means a company incorporated under the Companies Act 1955 that is for the time being authorised under section 3 (3) of this Act to exercise the powers of a local authority under that section:

“ ‘Debt security’ has the same meaning as in section 2 (1) of the Securities Act 1978:

“ ‘Equity security’ has the same meaning as in section 2 (1) of the Securities Act 1978:”.

3. Airport authorities may establish and carry on airports—Section 3 (5) of the principal Act is hereby amended by inserting, after the word “undertaking”, the words “by a local authority”.

4. Airport companies—The principal Act is hereby amended by inserting, after section 3, the following sections:

“**3A. Powers of Crown and local authorities**—
(1) Notwithstanding any other enactment or rule of law—

“(a) The Minister and the Minister of Finance (on behalf of the Crown); and

“(b) Any local authority; and

“(c) Any local authorities, jointly; and

“(d) Those Ministers (on behalf of the Crown) and any local authority or local authorities, jointly—

may form a company that is, or is intended to become, an airport company; and may subscribe for, hold, acquire, and dispose of any equity securities or debt securities issued by any such company.

“(2) Any equity security issued under subsection (1) of this section shall not be sold or otherwise disposed of or allotted to any person or body other than the Crown or a local authority or, on or after the 1st day of April 1987, the Airways Corporation of New Zealand Limited.

“(3) Nothing in subsection (2) of this section shall apply to any redeemable preference share that—

“(a) Is not convertible into a share of any other class; and

“(b) Does not confer any right to vote at any general meeting of shareholders.

“(4) The Minister of Finance may from time to time, from the Consolidated Account or the Loans Account (out of money appropriated by Parliament for the purpose), pay for the acquisition on behalf of the Crown of any equity securities or debt securities under subsection (1) of this section.

“(5) The Minister and the Minister of Finance, on behalf of the Crown, may from time to time exercise all or any of the Crown’s rights and powers as the holder of any equity securities or debt securities acquired under subsection (1) of this section.

“(6) Notwithstanding any other enactment or rule of law, the Crown or any local authority may transfer to an airport

company, on such terms and conditions as the Crown or local authority thinks fit, the business or undertaking of any airport authority, and any real or personal property owned by the Crown or local authority which at the time of transfer is being used for the purposes of an airport or is held for future use for the purposes of an airport.

“(7) If any land proposed to be transferred to an airport company pursuant to subsection (6) of this section is subject to the Reserves Act 1977—

“(a) It may be so transferred without complying with that Act; and

“(b) On that transfer occurring the land shall no longer be subject to that Act.

“(8) A certificate, signed by the Chief Surveyor for the land district in which the land is situated, that any land described in the certificate, or described in any document on which the certificate appears, is land to which subsection (7) of this section applies shall be sufficient evidence, in the absence of proof to the contrary, that that subsection applies to the land.

“**3B. Accounts and annual report**—(1) Within 3 months after the end of each year ending with the 31st day of March, or within such further period as the Minister may allow, each airport company shall cause to be prepared statements and accounts of all its income and expenditure in that year and of its assets and liabilities at the end of that year in accordance with the requirements of the Companies Act 1955.

“(2) The statements and accounts shall be audited by the Audit Office which, for that purpose, shall have the same powers as it has under the Public Finance Act 1977 in respect of public money and stores and the audit of local authorities' accounts.

“(3) As soon as practicable after the end of each year ending with the 31st day of March, each airport company shall deliver to the Minister a report of its operations during that year together with a copy of its duly audited accounts for that year and the report of the Audit Office on those accounts.

“(4) A copy of the annual report and of the accounts of each airport company, together with a copy of the report of the Audit Office on the accounts, shall be laid before the House of Representatives as soon as practicable after their receipt by the Minister.

“**3C. Powers, etc., of airport companies under Companies Act 1955 not affected**—Except as provided in section 3B (2) of this Act, nothing in this Act shall be construed as limiting

or affecting the powers, rights, authorities, duties, and obligations that an airport company has under the Companies Act 1955.

“3D. Airports operated by airport authorities which are not local authorities to be public works, etc.—An airport operated or managed by an airport authority which is not a local authority shall—

“(a) For the purposes of the Town and Country Planning Act 1977, be deemed to be a public work for which the Minister of Works and Development has financial responsibility:

“(b) For the purposes of the Public Works Act 1981, be deemed to be a Government work.”

5. Powers of airport authorities—(1) Section 4 of the principal Act is hereby amended by inserting, after the words “section 3 of this Act”, the words “and any other powers which it has”.

(2) Section 4 (e) of the principal Act is hereby amended by omitting the words “Operate or manage any airport as a commercial undertaking and for that purpose establish”, and substituting the word “Establish”.

(3) Section 4 of the principal Act is hereby amended by adding the following subsections:

“(2) Every airport company may—

“(a) Notwithstanding the provisions of any regulations in force under section 13 or section 13A of the Civil Aviation Act 1964, after consultation with airlines which use the airport, charge and set such fees, charges, and dues as it from time to time thinks fit for the use of the airport operated or managed by it, or the services or facilities associated therewith; and any such fees, charges, or dues may be charged to persons or classes of persons owning or operating aircraft, or to persons or classes of persons using or otherwise enjoying the benefit of the airport, services, or facilities, or to any other persons; and

“(b) Borrow such amounts of money on such terms and conditions and from such persons as it from time to time thinks fit; and

“(c) Acquire, hold, and dispose of such real and personal property as it from time to time thinks fit.

“(3) Every airport operated or managed by an airport authority shall be operated or managed as a commercial undertaking.”

6. Airport authority may act in conjunction with Ministers of Crown and other authorities—Section 5 (1) of the principal Act is hereby amended by omitting the words “, in the exercise of its powers under this Act,”.

7. Bylaws—(1) Section 9 (1) of the principal Act is hereby amended by adding the following proviso:

“Provided that an airport authority which is an airport company shall not have the power to make bylaws for the purposes set out in paragraphs (g) to (j) of this subsection.”

(2) Section 9 of the principal Act is hereby amended by repealing subsections (4), (4A), and (5), and substituting the following subsections:

“(4) A bylaw made under this section by a local authority shall not have any force or effect until it has been approved by the Minister.

“(5) A bylaw made under this section by an airport authority which is not a local authority shall not have any force or effect until it has been approved by the Governor-General by Order in Council.

“(6) Every Order in Council made under subsection (5) of this section shall—

“(a) Set out the bylaw approved in a Schedule to the order; and

“(b) Be deemed to be a regulation for the purposes of the Regulations Act 1936.

“(7) Any bylaw made under subsection (1) (e) or (g) of this section, for the purposes of sections 42, 42A, and 43 of the Transport Act 1962, shall be deemed to have been made under the authority of section 72 of that Act.

“(8) Every person who commits a breach of any bylaw in force under this section is liable on summary conviction to a fine not exceeding \$500 and, where the breach is a continuing one, to a further fine not exceeding \$50 for every day or part of a day during which the breach has continued.

“(9) Where a person commits a continuing breach of any bylaw, then, notwithstanding anything in any other Act, a District Court may, on application by the airport authority, grant an injunction restraining the further continuance of the breach by that person.

“(10) An injunction may be granted under subsection (9) of this section,—

“(a) Notwithstanding that proceedings for the offence constituted by the breach have not been taken; or

“(b) Where the person is convicted of such an offence, either,—

“(i) In the proceedings for the offence, in substitution for or in addition to any penalty awarded for the offence; or

“(ii) In subsequent proceedings.”

(3) Section 2 of the Airport Authorities Amendment Act 1982 is hereby consequentially repealed.

8. Amendments to Civil Aviation Act 1964—

(1) Section 13 (1) of the Civil Aviation Act 1964 is hereby amended—

(a) By inserting, after the words “services under this Act”, the words “or for defraying the costs and expenses incurred by the Civil Aviation Division of the Department”:

(b) By adding the words “or as may be approved by the Minister where the Minister is authorised to do so by any such regulations”.

(2) Section 13 of the Civil Aviation Act 1964 is hereby amended by inserting, after subsection (1), the following subsections:

“(1A) Different rates of charges, fees, or dues may be prescribed in respect of different airports, aircraft, persons, or classes of persons, or on the basis of different times of use or on any other basis.

“(1B) Charges, fees, or dues which relate to or affect any airport shall not be prescribed except on the advice of the Minister given after consultation with the airport authority which operates or manages the airport.”

(3) Section 13A of the Civil Aviation Act 1964 (as inserted by section 2 of the Civil Aviation Amendment Act 1971) is hereby amended by adding to subsection (3) the words “or different airports, or on the basis of different times of use or on any other basis”.

(4) Section 13B of the Civil Aviation Act 1964 (as inserted by section 3 of the Civil Aviation Act 1971) is hereby amended by adding the following subsections:

“(3) Notwithstanding any other enactment, rule of law, deed, or agreement, the Minister may require any money standing to the credit of or held on behalf of the Crown in the accounts of a joint venture airport as a result of the operations of that airport, together with any money representing the Crown’s share of the proceeds of any charges, fees, or levies imposed pursuant to section 13A of this Act, to be paid to the Crown; and, without further authority than this section, any such money may be used for such purposes (whether or not related to the airport) as the Minister thinks fit.

“(4) Notwithstanding any other enactment, rule of law, deed, or agreement, any money standing to the credit of or held on behalf of an airport authority in the accounts of a joint venture airport as a result of the operations of that airport, together with any money representing the airport authority’s share of the proceeds of any charges, fees, or levies imposed pursuant to section 13A of this Act, may be withdrawn by the airport authority; and (subject to the liability (if any) of the airport authority under any enactment, deed, or agreement to pay any part of such money to any other body or person) may be used for such purposes (whether or not related to the airport) as the airport authority thinks fit.

“(5) If any money withdrawn under subsection (4) of this section is paid by an airport authority, pursuant to any liability of the airport authority under any enactment, deed, or agreement, to any other body or person, it may be used for such purposes (whether or not related to the airport) as the body or person receiving it thinks fit.”

(5) Section 30 (2) of the Civil Aviation Act 1964 is hereby amended by inserting, after the words “local authority”, the words “or airport authority”.

9. Amendments to other Acts—The enactments specified in the Schedule to this Act are hereby amended in the manner indicated in that Schedule.

10. Provisions relating to Auckland International Airport—(1) In this section, the term “contributing authorities” means the parties to the final subsidiary agreement referred to in section 40 of the Auckland Regional Authority Act 1963.

(2) Notwithstanding any other enactment, rule of law, deed, or agreement, for the purposes of transferring any business or undertaking or any real or personal property pursuant to section 3A (6) of the principal Act the assets referred to in section 40 of the Auckland Regional Authority Act 1963 and any assets acquired by the Auckland Regional Authority since the 1st day of April 1964 for the purposes of the Auckland International Airport or for future use for the purposes of that airport shall be deemed to have been acquired and to be held by the Auckland Regional Authority as the agent of the contributing authorities.

(3) The Auckland Regional Authority shall be deemed to be the agent of the contributing authorities in any negotiations to form an airport company under section 3A of the principal Act. For that purpose the decision of a majority of the number

of contributing authorities in relation to such negotiations shall be the decision of all the contributing authorities.

(4) In the discharge of its responsibilities under subsection (3) of this section, the Auckland Regional Authority shall appoint not more than 3 persons (not being members of the Authority) nominated by a majority of the number of contributing authorities to take part in the negotiations.

(5) Nothing in this section shall affect the liability (if any) of the Auckland Regional Authority to pay to any other body or person any money withdrawn, pursuant to section 13B (4) of the Civil Aviation Act 1964, from the accounts of the Auckland International Airport.

SCHEDULE

Section 9

ENACTMENTS AMENDED

Enactment Amended	Amendment
1966, No. 19—The Customs Act 1966 (R.S. Vol. 2, p. 57)	By inserting in section 33, after subsection (2), the following subsection: “(2A) Nothing in this section shall prevent a controlling authority from charging the Customs for the accommodation, facilities, buildings, equipment, and storage provided in accordance with this section.”
1974, No. 66—The Local Government Act 1974 (R.S. Vol 5, p. 77)	By inserting in the first column of Part I of the First Schedule, after the words “Airport Authorities”, the words “(other than airport companies)”.
1981, No. 35—The Public Works Act 1981	By inserting in section 2, after the definition of the term “aerodrome”, the following definition: “‘Airport authority’ has the same meaning as in the Airport Authorities Act 1966.” By inserting in section 187 (1), after the words “Government work which is an essential work”, the words “or in respect of any essential work under the control of an airport authority which is not a local authority”. By inserting in sections 188 and 189, after the words “local authority” wherever they occur, the words “or airport authority”.

This Act is administered in the Ministry of Transport.