

New Zealand.



ANALYSIS.

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| <p style="text-align: center;">Title.</p> <ol style="list-style-type: none"> 1. Short Title. 2. Interpretation. 3. Power to give effect to Convention. 4. Power to apply Convention to internal flying. 5. Special provisions which may be made by regulations. 6. Special powers in case of emergency. | <ol style="list-style-type: none"> 7. Trespass, nuisance, and responsibility for damage. 8. Penalty for dangerous flying. 9. Wreck and salvage. 10. Power to provide for investigation of accidents. 11. General provisions as to Orders in Council, &c. 12. Special provisions as to Crown. 13. Repeal. Savings. |
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1931, No. 26.

Title. AN ACT to enable Effect to be given to a Convention for regulating Air Navigation, and to make Further Provision for the Control and Regulation of Aviation in New Zealand.

[9th November, 1931.]

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

Short Title.

Interpretation.

1. This Act may be cited as the Air Navigation Act, 1931.
2. In this Act, unless a contrary intention appears,—
 - “Aerodrome” means any definite and limited ground or water area intended to be used, either wholly or in part, for the landing or departure of aircraft :
 - “Aircraft” includes all balloons, whether fixed or free, kites, gliders, airships, and flying-machines :
 - “Airship” means an aircraft using gas lighter than air as a means of support, and having means of propulsion :
 - “Balloon” means an aircraft, either fixed or free, using gas lighter than air as a means of support, and having no means of propulsion :
 - “Convention” means the Convention for determining by a common agreement certain uniform rules with respect to international air navigation, signed in Paris on the thirteenth day of October, nineteen hundred and nineteen, and includes any amendment thereto :

“Flying-machine” includes all aeroplanes, seaplanes, flying-boats, or other aircraft heavier than air, having means of propulsion :

“Glider” means an aeroplane, or other free aircraft heavier than air, having no means of propulsion.

3. The Governor-General may from time to time, by Order in Council, make such regulations as appear to him necessary for carrying out the Convention and for giving effect thereto, or to any of the provisions thereof, or to any amendment made, whether before or after the passing of this Act, under article thirty-four of the Convention.

Power to give effect to Convention.
Cf. 10 & 11 Geo. V, c. 80, s. 1

4. The Governor-General may from time to time, by Order in Council, make regulations applying the provisions of the Convention for the time being in force, or any of them (and whether or not such provisions are limited to aircraft of any special description, or engaged in any special kind of navigation) to or in relation to any aircraft in or over New Zealand or the territorial waters adjacent thereto, and making such consequential and supplementary provisions as appear necessary or expedient for the purpose of such application.

Power to apply Convention to internal flying.
Cf. *ibid.*, s. 2

5. Without prejudice to the generality of the powers hereinbefore conferred, regulations under this Act may make provision—

Special provisions which may be made by regulations.
Cf. *ibid.*, s. 3

(a) Prescribing the authority by which any of the powers exercisable under the Convention by a contracting State, or by any authority therein, are to be exercised in New Zealand :

(b) For the licensing, inspection, and regulation of aerodromes, for access to aerodromes and places where aircraft have landed, for access to aircraft factories for the purpose of inspecting the work therein carried on, for prohibiting or regulating the use of unlicensed aerodromes, and for the licensing of personnel employed in the inspection, supervision, maintenance, repairing, or construction of aircraft at an aerodrome or elsewhere :

(c) As to the manner and conditions of the issue and renewal of any certificate or license required by the regulations or by the Convention, including the examinations and tests to be undergone, and the form, custody, production, cancellation, revocation, suspension, endorsement, and surrender of any such certificate or license :

(d) As to the keeping and form of a register of New Zealand aircraft :

(e) As to the conditions under which aircraft may be used for carrying goods, mails, and passengers :

(f) As to the conditions under which aircraft may pass, or goods, mails, or passengers may be conveyed by aircraft, into or from New Zealand, or from one part of New Zealand to another :

(g) Exempting from the provisions of the regulations or of the Convention, or any of them, aircraft flown for experimental purposes, or any other aircraft or persons where it appears unnecessary that such provisions should apply :

(h) Prohibiting the navigation of aircraft over any defined area or defined areas, either at all times or on such occasions only as may be specified in the regulations, and either

absolutely or subject to such exceptions as may be so specified :

- (i) Prescribing scales of charges at licensed aerodromes, and regulating the publication or notification of such charges :
- (j) Prescribing the fees to be paid in respect of the grant of any certificate or license or otherwise for the purposes of the regulations or the Convention :
- (k) Supplementing the Convention, in such manner as appears necessary or expedient, by general safety regulations :
- (l) For the control and regulation of aerial lighthouses, and of lights at or in the neighbourhood of aerodromes or aerial lighthouses :
- (m) Regulating the signals which may be made by aircraft and persons carried therein :
- (n) For the imposition of penalties (not exceeding imprisonment for a term of six months and a fine of two hundred pounds) to secure compliance with the regulations or the Convention, and for the mode of enforcing such penalties, and authorizing such steps to be taken for preventing aircraft from flying over prohibited areas or entering New Zealand in contravention of the regulations or the Convention as appear necessary or expedient.

Special powers in case of emergency. Cf. 10 & 11 Geo. V, c. 80, s. 7

6. (1) In time of war, whether actual or imminent, or of great national emergency, the Governor-General may, by Proclamation, regulate or prohibit, either absolutely or subject to such conditions as may be contained in the Proclamation, and notwithstanding the provisions of this Act or of any Order in Council or regulations made thereunder, the navigation of all or any descriptions of aircraft over New Zealand or any portion thereof, or the territorial waters adjacent thereto ; and, without prejudice to the generality of this provision, any such Proclamation may provide for taking possession of and using for the purposes of His Majesty's naval, military, or air Forces any aerodrome or landing-ground, or any aircraft, machinery, plant, material, or things found therein or thereon, and for regulating or prohibiting the use, erection, building, maintenance, or establishment of any aerodrome, flying-school, or landing-ground, or any class or description thereof.

(2) Any such Proclamation may provide for the imposition of penalties to secure compliance with the Proclamation, not exceeding those which may be imposed pursuant to paragraph (n) of the last preceding section, and may authorize such steps to be taken in order to secure such compliance as appear to the Governor-General to be necessary.

(3) Any person who suffers direct injury or loss owing to the operation of a Proclamation under this section shall be entitled to receive compensation therefor, the amount of such compensation to be fixed by agreement with the Minister of Defence with the concurrence of the Minister of Finance, or in default of agreement to be fixed by a Compensation Court under Part III of the Public Works Act, 1928 :

Provided that no compensation shall be payable by reason of the operation of a general Proclamation under this section prohibiting flying in New Zealand or any part thereof.

(4) A Proclamation under this section may be revoked or varied by a subsequent Proclamation.

7. (1) No action shall lie in respect of trespass, or in respect of nuisance, by reason only of the flight of aircraft over any property at a height above the ground which, having regard to wind, weather, and all the circumstances of the case, is reasonable, or the ordinary incidents of such flight, so long as the provisions of this Act and of any Proclamation, Order in Council, or regulations made thereunder and of the Convention are duly complied with; but where material damage or loss is caused by any aircraft in flight, taking off, or landing, or by any person in any such aircraft, or by any article falling from any such aircraft, to any person or property on land or water, damages shall be recoverable from the owner of the aircraft in respect of such damage or loss, without proof of negligence or intention or other cause of action, as though the same had been caused by his wilful act, neglect, or default, except where the damage or loss was caused by or contributed to by the negligence of the person by whom the same was suffered:

Trespass, nuisance, and responsibility for damage.

Cf. 10 & 11 Geo. V, c. 80, s. 9

Provided that, where any damages recovered from or paid by the owner of an aircraft under this section arose from damage or loss caused solely by the wrongful or negligent action or omission of any person other than the owner or some person in his employment, the owner shall be entitled to recover from that person the amount of such damages; and in any such proceedings against the owner any such person may, in accordance with rules of Court, be joined as a defendant or third party; but where such person is not so joined he shall not in any subsequent proceedings taken against him by the owner be precluded from disputing the reasonableness of any damages recovered from or paid by the owner.

(2) Where any aircraft has been *bona fide* demised, let, or hired out for a period exceeding fourteen days to any other person by the owner thereof, and no pilot, commander, navigator, or operative member of the crew of the aircraft is in the employment of the owner, this section shall have effect as though for references to the owner there were substituted references to the person to whom the aircraft has been so demised, let, or hired out.

8. (1) Where an aircraft is flown in such a manner as to be the cause of unnecessary danger to any person or property on land or water, the pilot or the person in charge of the aircraft, and also the owner thereof, unless he proves to the satisfaction of the Court that the aircraft was so flown without his actual fault or privity, shall be liable on summary conviction to a fine not exceeding two hundred pounds, or to imprisonment for a term not exceeding six months, or to both such imprisonment and fine.

Penalty for dangerous flying.

Cf. *ibid.*, s. 10

(2) For the purposes of this section the expression "owner" in relation to an aircraft includes any person to whom the aircraft is demised, let, or hired out at the time of the offence.

(3) The provisions of this section shall be in addition to and not in derogation of any general safety or other regulations under this Act.

9. The law relating to wreck and to salvage of life or property, and to the duty of rendering assistance to vessels in distress (including the provisions of the Shipping and Seamen Act, 1908, and any other

Wreck and salvage.

Cf. *ibid.*, s. 11

Act relating to those subjects), shall apply to aircraft on or over the sea or tidal waters as it applies to vessels, and the owner of an aircraft shall be entitled to a reasonable reward for salvage services rendered by the aircraft to any property or persons in any case where the owner of a ship would be so entitled :

Provided that the Governor-General may from time to time, by Order in Council, make modifications of and exemptions from the provisions of any such law in their application to aircraft, to such extent and in such manner as appears necessary or expedient.

Power to provide for investigation of accidents.

Cf. 10 & 11 Geo. V, c. 80, s. 12

10. (1) The Governor-General may from time to time, by Order in Council, make regulations providing for the investigation of any accident arising out of or in the course of air navigation.

(2) Without prejudice to the generality of the foregoing provisions, regulations under this section may contain provisions—

(a) Requiring notice to be given of any such accident as afore-said in such manner and by such persons as may be specified in the regulations :

(b) Prohibiting, pending investigation, access to or interference with aircraft to which an accident has occurred, and authorizing any person, so far as may be necessary for the purposes of an investigation, to have access to, examine, remove, take measures for the preservation of, or otherwise deal with any such aircraft :

(c) Authorizing or requiring the cancellation, revocation, suspension, endorsement, or surrender of any license or certificate granted under this Act or under any Proclamation, Order in Council, or regulations made thereunder, where it appears on an investigation that the license or certificate ought to be cancelled, revoked, suspended, endorsed, or surrendered, and for the production of any such license or certificate for the purpose of being so dealt with :

Provided that nothing in this section shall limit the powers of the Minister of Marine or of any Receiver of Wreck under section two hundred and sixty-three and sections two hundred and sixty-six to two hundred and sixty-nine inclusive of the Shipping and Seamen Act, 1908.

(3) If any person contravenes or fails to comply with any regulations under this section he shall be liable on summary conviction to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months.

General provisions as to Orders in Council, &c.

11. (1) Any Proclamation, Order in Council, or regulations under this Act may apply generally throughout New Zealand and the territorial waters adjacent thereto, or within any specified part or parts thereof, and may apply to all aircraft or to any specified class or classes of aircraft.

(2) In so far as the by-laws of any local authority in force in any locality are inconsistent with or repugnant to the provisions of any Proclamation, Order in Council, or regulations under this Act in force in the same locality, the by-laws shall, in so far as they relate to aircraft and air navigation, be deemed to be subject to such Proclamation, Order in Council, or regulations, notwithstanding that such by-laws may have been made under some other Act.

(3) All Proclamations, Orders in Council, and regulations made under this Act shall be published in the *Gazette*, and shall be laid before both Houses of Parliament within fourteen days after the gazetting thereof if Parliament is then in session, and if not, then within fourteen days after the commencement of the next ensuing session.

12. (1) This Act shall not apply to aircraft belonging to or exclusively employed in the service of His Majesty : Special provisions
as to Crown.

Provided that the Governor-General may from time to time, by Order in Council, apply to any such aircraft, with or without modification, any of the provisions of this Act or of any Orders in Council or regulations made thereunder.

(2) Nothing in this Act, or in any Orders in Council or regulations thereunder, shall prejudice or affect the rights, powers, or privileges of the Minister of Marine in respect of lighthouses.

13. (1) The Aviation Act, 1918, is hereby repealed.

Repeal.

(2) All Orders in Council, regulations, warrants, offices, appointments, registers, books, records, licenses, certificates, notices, and generally all acts of authority which originated under the said Act, and are subsisting or in force on the passing of this Act, shall, so far as consistent with the provisions of this Act, enure for the purposes thereof as fully and effectually as if they had originated under this Act, and accordingly shall, where necessary, be deemed to have so originated.

Savings.

(3) All matters and proceedings commenced under the said Act and pending or in progress on the passing of this Act may be continued, completed, and enforced under the corresponding provisions of this Act (if any), and if there are no such corresponding provisions, then in the same manner as if this Act had not been passed.

(4) All references in any unrepealed enactment to the Aviation Act, 1918, shall, unless the context otherwise requires, be hereafter read as references to this Act.