



ANALYSIS

<p>Title</p> <p>1. Short Title and commencement</p> <p>2. Interpretation</p> <p>3. Delegation by Director of Civil Aviation Division</p> <p>4. New Part IIA inserted in principal Act</p> <p style="text-align: center;">PART IIA</p> <p style="text-align: center;">AIRWAYS SERVICES</p> <p>17A. Meaning of 'airways services'</p>	<p>17B. Corporation to be sole provider of certain airways services</p> <p>17C. Provision of other airways services</p> <p>17D. Rights of entry</p> <p>17E. Recovery of charges</p> <p>17F. Evidence</p> <p>17G. Evasion of charges</p> <p>5. Special provisions as to Crown</p> <p>6. Repeals</p>
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1987, No. 108

An Act to amend the Civil Aviation Act 1964

BE IT ENACTED by the Parliament of New Zealand as follows:
[29 June 1987]

1. Short Title and commencement—(1) This Act may be cited as the Civil Aviation Amendment Act (No. 2) 1987, and shall be read together with and deemed part of the Civil Aviation Act 1964 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 1st day of January 1988.

2. Interpretation—Section 2 of the principal Act is hereby amended by inserting, in their appropriate alphabetical order, the following definitions:

“ ‘Airways services’ has the meaning given to it by section 17A of this Act:

“ ‘Corporation’ means Airways Corporation of New Zealand Limited, a company incorporated under the Companies Act 1955 pursuant to the State-Owned Enterprises Act 1986:”.

3. Delegation by Director of Civil Aviation Division—

Section 17 of the principal Act is hereby amended by repealing subsection (4), and substituting the following subsection:

- “(4) Any delegation made under this section may be made—
 “(a) To a specified officer or to officers of a specified class; or
 “(b) To the holders for the time being of a specified office or class of offices; or
 “(c) Where the proposed recipients of delegations are employees of any incorporated body supplying airways services under Part IIA of this Act, to any specified class of such employees.”

4. New Part IIA inserted in principal Act—The principal Act is hereby amended by inserting, after Part II, the following Part:

“PART IIA

“AIRWAYS SERVICES

“17A. **Meaning of ‘airways services’**—In this Act the term ‘airways services’ means—

- “(a) Air traffic control service for aerodrome traffic (in this Act called ‘aerodrome control service’);
 “(b) Air traffic control service for controlled flights in control areas (in this Act called ‘area control service’);
 “(c) Air traffic control service for arriving or departing controlled flights (in this Act called ‘approach control service’);
 “(d) A service provided for the purpose of giving advice and information useful for the safe and efficient conduct of flights (in this Act called ‘flight information service’);
 “(e) A service provided for the purpose of giving advice and information useful for the safe and efficient conduct of flights in the immediate environment of an aerodrome, irrespective of whether or not any aircraft to which such advice or information is directed is in the immediate environment of an aerodrome (in this Act called ‘aerodrome flight information service’);
 “(f) Aerodrome rescue fire services.

“17B. **Corporation to be sole provider of certain airways services**—Subject to the Civil Defence Act 1983, the Corporation shall be the only person entitled to provide the following services in New Zealand:

- “(a) Area control service:
- “(b) Approach control service:
- “(c) Flight information service.

“17C. **Provision of other airways services**—Subject to the Civil Defence Act 1983, the only persons entitled to provide aerodrome control service, aerodrome flight information service and aerodrome rescue fire services shall be any persons holding a licence or certificate required by the Director of the Civil Aviation Division pursuant to regulations made under section 29 of this Act, for the purpose of providing such services.

“17D. **Rights of entry**—(1) Subject to subsection (3) of this section, the Corporation may—

“(a) Enter upon any land for the purpose of gaining access to cables, wires, navigational aids, or other equipment used for the purpose of carrying out the functions of the Corporation, being equipment installed before the 1st day of January 1988; and

“(b) Perform any act or operation necessary for the purpose of inspecting, maintaining, or repairing any such equipment.

“(2) A certificate under the seal of the Corporation containing a statement that any equipment of a kind referred to in subsection (1) of this section was installed before the 1st day of April 1987 shall be admissible in evidence in any proceedings and shall, in the absence of proof to the contrary, constitute proof of that statement.

“(3) The power to enter upon land conferred by subsection (1) of this section shall be subject to the following conditions:

“(a) Entry to the land shall be made only by an officer, employee, or agent of the Corporation authorised by it in writing, or by persons under the immediate control of such an officer, employee, or agent:

“(b) Reasonable notice of the intention to enter shall be given:

“(c) Entry shall be made at reasonable times:

“(d) The officer, employee, or agent shall have with him or her, and shall produce on initial entry and if required to do so, evidence of his or her authority and identity.

These conditions shall not apply where the entry is necessary in circumstances of probable danger to life or property.

“(4) Any equipment owned by the Corporation fixed to or installed over or under any land that is not owned by the

Corporation shall be deemed to be lawfully fixed or installed and shall continue to be fixed or installed until the Corporation otherwise decides and no person other than the Corporation shall have any interest in any such equipment by reason only of having an interest in the land.

“17E. **Recovery of charges**—(1) Subject to subsection (2) of this section, where airways services are used in respect of any aircraft, the person whose name appears in respect of that aircraft on an aircraft register established pursuant to regulations made under this Act shall, whether or not that person is the actual user of the services, be deemed to be the user and shall be personally liable to pay all amounts due to the supplier of the services.

“(2) Any person who would otherwise be liable to pay for the use of airways services in terms of subsection (1) of this section shall not be so liable if that person—

“(a) Proves that during any relevant period of use of the aircraft that person is not entitled, whether alone or together with some other person, to possession of the aircraft or that another person was unlawfully in possession of it; and

“(b) Has taken all reasonable steps to supply the supplier of the services with such information as would identify the actual user.

“17F. **Evidence**—(1) Any document used in recording services in relation to the movement of any aircraft and purporting to have been initiated by an air traffic controller employed by any incorporated body providing airways services shall be admissible in every Court and in every judicial examination or proceeding as prima facie evidence that the airways services described in such document were provided on the date and for the aircraft referred to thereon.

“(2) A document certified by an employee of an incorporated body providing airways services to be a computer record of the provision of airways services, the particulars whereof have been recorded or stored in the usual and ordinary course of the business of such incorporated body, shall be admissible as if it were a document to which subsection (1) of this section applies.

“(3) For the purposes of this section the expression ‘computer record’ includes a microfiche, a microfiche printout, a computer printout, or any other document produced by a device by means of which information is recorded or stored.

“17G. **Evasion of charges**—The Collector of Customs may refuse to receive any entry or give any discharge or clearance

or to take any report inwards or outwards of any aircraft liable to pay charges in respect of the use of airways services until the pilot in command of the aircraft produces a certificate, under the hand of a person authorised in that regard by any incorporated body supplying airways services under this Part of this Act, that—

“(a) All charges in respect of the use of airways services have been paid; or

“(b) Sufficient security has been given for the payment of such charges and of the expenses which might arise from the nonpayment of those charges.”

5. Special provisions as to Crown—Section 26 of the principal Act is hereby amended by adding the following subsection:

“(2) Notwithstanding subsection (1) of this section, nothing in Part IIA of this Act (except section 17D) shall bind the Crown.”

6. Repeals—Sections 11 (2) and 22 of the principal Act are hereby repealed.

This Act is administered in the Ministry of Transport.
