



# Civil Aviation Amendment Act (No 2) 2004

Public Act 2004 No 95  
Date of assent 30 November 2004  
Commencement see section 2

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## The Parliament of New Zealand enacts as follows:

### 1 Title

- (1) This Act is the Civil Aviation Amendment Act (No 2) 2004.
- (2) In this Act, the Civil Aviation Act 1990 is called “the principal Act”.

### 2 Commencement

This Act comes into force on 1 December 2004.

### 3 Interpretation

Section 2 of the principal Act is amended by repealing the definitions of **Minister**, **Ministry**, and **Secretary**, and substituting, in their appropriate alphabetical order, the following definitions:

“**Minister** means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime

Minister, is for the time being responsible for the administration of this Act or the relevant Part or provision of this Act

“**Ministry** means the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

“**Secretary** means the chief executive of the Ministry”.

#### **4 New sections 14 to 14C substituted**

The principal Act is amended by repealing section 14, and substituting the following sections:

##### **“14 Objectives of Minister**

The objectives of the Minister under this Act are—

- “(a) to undertake the Minister’s functions in a way that contributes to the aim of achieving an integrated, safe, responsive, and sustainable transport system; and
- “(b) to ensure that New Zealand’s obligations under international civil aviation agreements are implemented.

##### **“14A Functions of Minister**

The functions of the Minister under this Act are—

- “(a) to promote safety in civil aviation:
- “(b) to administer New Zealand’s participation in the Convention and any other international aviation convention, agreement, or understanding to which the Government of New Zealand is a party:
- “(c) to administer the Crown’s interest in the aerodromes referred to in Part X:
- “(d) to make rules under this Act.

##### **“14B Search and rescue operations**

“(1) The Minister—

- “(a) must establish, maintain, and operate a search and rescue co-ordination centre to co-ordinate and conduct—
  - “(i) an aviation search and rescue operation; and
  - “(ii) a maritime search and rescue operation; and
  - “(iii) any other search and rescue operation that the Minister considers appropriate; and
- “(b) may exercise any powers that may be necessary or desirable—

- “(i) for the effective co-ordination and performance of a search and rescue operation specified in paragraph (a); and
  - “(ii) to implement any international convention or agreement relating to search and rescue to which New Zealand is a party; and
  - “(c) may appoint persons to, either generally or in any particular case, participate in or co-ordinate a search and rescue operation specified in paragraph (a).
- “(2) The Minister may authorise the payment, out of money appropriated for the purpose by Parliament, of an amount that the Minister considers appropriate to—
- “(a) any person who assisted in a search and rescue operation specified in subsection (1)(a) at the request of a person appointed under subsection (1)(c); or
  - “(b) the owner of any vehicle, ship, or aircraft used in a search and rescue operation specified in subsection (1)(a) in response to a request by a person appointed under subsection (1)(c).

**“14C Minister may direct agencies with respect to search and rescue operations**

The Minister may direct the Civil Aviation Authority or the Maritime Safety Authority, or any other Crown entity or government agency for which the Minister is responsible and whose functions are consistent with search and rescue operations, to do any or all of the following:

- “(a) operate and maintain the search and rescue co-ordination centre established under section 14B(1)(a):
- “(b) co-ordinate, or participate in the co-ordination of, any search and rescue operation specified in section 14B(1)(a):
- “(c) perform, or participate in the performance of, any search and rescue operation specified in section 14B(1)(a):
- “(d) exercise any or all of the powers of the Minister under section 14B(1)(b) and (c) and section 14B(2).”

**5 Power of Minister to make ordinary rules**

Section 28(1) of the principal Act is amended by repealing paragraph (c), and substituting the following paragraphs:

- “(c) assisting aviation safety and security, including (but not limited to) personal security:
- “(ca) assisting economic development:
- “(cb) improving access and mobility:
- “(cc) protecting and promoting public health:
- “(cd) ensuring environmental sustainability:
- “(ce) any matter related or reasonably incidental to any of the following:
  - “(i) the Minister’s objectives under section 14:
  - “(ii) the Minister’s functions under section 14A:
  - “(iii) the Authority’s objectives under section 72AA:
  - “(iv) the Authority’s functions and duties under section 72B:
  - “(v) the Director’s functions and powers under section 72I:”.

## 6 Matters to be taken into account in making rules

Section 33(2) of the principal Act is amended by repealing paragraphs (e) and (f), and substituting the following paragraphs:

- “(e) the need to maintain and improve aviation safety and security, including (but not limited to) personal security:
- “(f) whether the proposed rule—
  - “(i) assists economic development:
  - “(ii) improves access and mobility:
  - “(iii) protects and promotes public health:
  - “(iv) ensures environmental sustainability:
- “(fa) the costs of implementing measures for which the rule is being proposed:”.

## 7 New section 72AA inserted

The principal Act is amended by inserting, after section 72A, the following section:

### “72AA Objective of Authority

The objective of the Authority is to undertake its safety, security, and other functions in a way that contributes to the aim of achieving an integrated, safe, responsive, and sustainable transport system.”

**8 Functions of Authority**

- (1) Section 72B of the principal Act is amended by repealing subsections (1) and (4).
- (2) Section 72B(2) of the principal Act is amended by omitting the words “In furtherance of its principal function, the Authority shall also have the following functions:”, and substituting the words “The Authority has the following functions:”.
- (3) Section 72B(2) of the principal Act is amended by repealing paragraphs (a) to (c), and substituting the following paragraphs:
  - “(a) to promote civil aviation safety and security in New Zealand:
  - “(b) to promote civil aviation safety and security beyond New Zealand in accordance with New Zealand’s international obligations:”.
- (4) Section 72B(2) of the principal Act is amended by repealing paragraph (i), and substituting the following paragraphs:
  - “(i) to co-operate with, or to provide advice and assistance to, any government agency or local government agency when requested to do so by the Minister, but only if the Minister and the Authority are satisfied that the performance of the functions and duties of the Authority will not be compromised:
  - “(ia) to provide information and advice with respect to civil aviation, and to foster appropriate information education programmes with respect to civil aviation, that promote its objective:”.
- (5) Section 72B of the principal Act is amended by repealing subsection (2A), and substituting the following subsection:

“(2A) The Authority must, if directed to do so by the Minister under section 14C, do any or all of the following:

  - “(a) operate and maintain the search and rescue co-ordination centre established under section 14B(1)(a):
  - “(b) co-ordinate, or participate in the co-ordination of, any search and rescue operation specified in section 14B(1)(a):
  - “(c) perform, or participate in the performance of, any search and rescue operation specified in section 14B(1)(a):

“(d) exercise any or all of the powers of the Minister under section 14B(1)(b) and (c) and section 14B(2).”

(6) Section 72B of the principal Act is amended by repealing subsection (3), and substituting the following subsection:

“(3) The Authority must carry out any other civil aviation functions and duties that—

“(a) are conferred on it by this Act or any other Act; and

“(b) the Minister may prescribe by notice in the *Gazette*.”

## 9 Director of Civil Aviation

Section 72I of the principal Act is amended by inserting, after subsection (3)(b), the word “; and” and the following paragraphs:

“(c) monitor adherence, within the civil aviation system, to any regulatory requirements relating to—

“(i) safety and security, including (but not limited to) personal security:

“(ii) access and mobility:

“(iii) public health:

“(iv) environmental sustainability:

“(v) any other matter; and

“(d) ensure regular reviews of the civil aviation system to promote the improvement and development of its safety and security.”

## 10 Functions and duties of Aviation Security Service

Section 80 of the principal Act is amended by inserting, after paragraph (ea), the following paragraph:

“(eb) to co-operate with, or to provide advice and assistance to, any government agency or local government agency when requested to do so by the Minister, but only if the Minister and the Aviation Security Service are satisfied that the performance of the functions and duties of the Aviation Security Service will not be compromised:”.

## 11 Limitation of liability

(1) Section 91G(2) of the principal Act is amended by omitting the words “Articles 21 and 22” in both places where they occur, and substituting in each case the words “Article 21 or Article 22”.

- (2) Section 91G of the principal Act is amended by repealing subsection (3), and substituting the following subsection:
- “(3) A court before which proceedings are brought to enforce a liability that is limited by Article 21 or Article 22 of the Montreal Convention or Article 22 of the amended Convention has jurisdiction, where the liability is, or may be, partly enforceable in other proceedings in New Zealand or elsewhere, to—
- “(a) award an amount less than the court would have awarded if the limitation applied solely to the proceedings before the court; or
- “(b) make any part of its award conditional on the result of any other proceedings.”

## **12 Repeals**

- (1) Schedule 2 of the Civil Aviation Amendment Act 2004 is amended by repealing the item relating to the Civil Aviation Amendment Act 2002.
- (2) Section 29(5) of the Civil Aviation Amendment Act 2002 is repealed.
- (3) Section 199 of the Maritime Transport Act 1994 is repealed.

## **13 Transitional provisions relating to rules**

- (1) Nothing in this Act affects the validity of a rule that—
- (a) was in force immediately before the commencement of this Act; or
- (b) has been made but is to come into force after the commencement of this Act.
- (2) If a notice of intention to make a rule has been published under section 34(1)(a) of the principal Act as in force immediately before the commencement of this Act, but has not been made before that commencement,—
- (a) the proposed rule may be made in accordance with the law in force immediately before that commencement; or
- (b) if the Minister so directs, a new rule may be prepared, notified, and made in accordance with the law in force on the commencement of this Act.

**Legislative history**

16 November 2004	Divided from Transport Legislation Bill (Bill 172–2) as Bill 172–3A
30 November 2004	Third reading
30 November 2004	Royal assent

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This Act is administered in the Ministry of Transport.

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