

Civil Aviation Amendment Bill

Government Bill

As reported from the Transport and Industrial Relations
Committee

Commentary

Recommendation

The Transport and Industrial Relations Committee has examined the Civil Aviation Amendment Bill and recommends that it be passed with the amendments shown.

Introduction

The Civil Aviation Amendment Bill amends the Civil Aviation Act 1990 (the Act) and repeals the Carriage by Air Act 1967. The bill aims to remove regulatory barriers to airlines operating under the air services arrangements with Australia by allowing progressive implementation of mutual recognition of aviation certification. This principle will initially be limited to air transport operations using aircraft of a certain seating capacity or weight.¹ However, it is envisaged that ultimately there will be mutual recognition of all aviation-related certification not covered by the Trans-Tasman Mutual Recognition Act.

The mutual recognition provisions of the bill will come into effect simultaneously with the equivalent provisions in Australia.

¹ For passenger operations, a capacity of more than 30 passenger seats or a maximum certificated take-off weight of more than 15,000 kg, and for cargo operations a maximum certificated take-off weight of more than 15,000 kg or a maximum payload capacity of more than 3,410 kg. This is provided for by amendments to Part 2 of Schedule 2 amending the civil aviation rules.

The focus of the bill is two-fold. It is to improve aviation safety by providing enhanced measures to deal with unruly passengers. It also clarifies what constitutes dangerous goods and stipulates the level of fines for breaches of the regulations for the carriage of such by air. Another significant component involves carrying over provisions from the Carriage by Air Act 1967 relating to domestic air carrier liability for passenger delay.

This commentary focuses on the main issues raised during the hearing of evidence and the consideration phases. It does not cover minor or technical changes recommended in order to align the bill with equivalent provisions in Australia's Civil Aviation Legislation Amendment (Mutual Recognition with New Zealand and Other Matters) Bill 2003.

Amendment to definition of dangerous goods

We recommend an amendment to the definition of dangerous goods (new clause 4(2)) to include articles and substances that are capable of posing a risk to health, safety, property, and the environment, as listed in the International Civil Aviation Organisation Technical Instructions. We also recommend that the definition capture substances with properties that would result in their being classified as dangerous goods using the criteria in the Technical Instructions. This will address submitters' concerns that the current definition should be consistent with the official International Civil Aviation Organisation definition, but that it should also include additional hazardous substances.

Definition of 'ANZA mutual recognition agreements' to be re-focused

We recommend an amendment to new clause 4(1) to restrict the definition of 'ANZA mutual recognition agreements' to the commitments in bilateral arrangements between New Zealand and Australia that deal with mutual recognition.² This is because the definition in the bill as introduced refers to bilateral instruments between Australia and New Zealand that do not deal solely with mutual recognition.

² These are the Australia-New Zealand Single Aviation Market Arrangements done on 19 Sept 1996, and the Memorandum of Understanding on Open Skies between the Governments of Australia and New Zealand, signed on 20 November 2000.

Issuing and responding to temporary stop notice

The bill empowers the New Zealand Director of Civil Aviation to issue a temporary stop notice if he/she considers that there is a serious risk to civil aviation safety as a result of operations conducted by the holder of an Australian Air Operator's Certificate (AOC) with Australia New Zealand Aviation (ANZA) privileges. This would bring an immediate halt to the relevant air operations in New Zealand conducted by the holder. It is anticipated that the issuing of a temporary stop notice would be a last resort contingency, as the host authority would first refer the problem to the home authority. However, it might be necessary if the home authority failed to provide adequate oversight, or if instant action was required in the interest of safety.

We recommend a number of amendments to clause 7, which inserts new Part 1A into the Act, to clarify the rights and responsibilities of the Director of Civil Aviation both in issuing and in responding to a temporary stop notice, and to align the various provisions with the Australian legislation.

Temporary stop notice may be issued for all or any air operations

We recommend an amendment to clause 7, inserting section 11C(1), to ensure that it is possible for the Director to issue a temporary stop notice for all or any air operations carried out by the holder of an Australian AOC with ANZA privileges. This recognises that it may be necessary to cease only certain activities, such as one sector of a route schedule or the operation of a particular aircraft type, rather than an airline's entire operations within New Zealand.

Amending or revoking temporary stop notice

New section 11C(5), as inserted by clause 7, empowers the Director to amend or revoke a temporary stop notice before the period specified in the notice has expired. We recommend an amendment to provide that the Director is obliged to amend or revoke a temporary stop notice if he or she has been notified of the Australian Director's decision in response to the notice. This brings the provision into line with the equivalent provision in the Australian legislation.

Also, we recommend a provision to prohibit the Director from delegating the power to revoke or amend a temporary stop notice. The bill as introduced prohibits the Director from delegating the

power to issue a notice and we consider the same prohibition should be placed on the Director's power to revoke, as is the case in the Australian legislation.

Responding to Australian stop notice

We recommend an amendment to clause 7, which inserts section 11H, to require the Director to comply with mutual recognition agreements when responding to an Australian stop notice. This is consistent with the Australian legislation.

For consistency we also recommend an amendment to clause 10 to recognise the Director's power to impose permanent conditions on a New Zealand AOC with ANZA privileges, in certain circumstances. These circumstances are if the Director has been advised that the Civil Aviation Safety Authority has given the holder a temporary stop notice and the conditions are necessary in the interests of aviation safety.

Levels of penalties for offences

The bill updates the penalties for certain offences against the Act and sets out the penalties for new aviation offences created under the bill. It focuses on unruly passenger offences, relating to bad behaviour on an aircraft that compromises safety standards.

The penalties for unruly passenger offences were developed taking into account that legislation already exists to address more serious or criminal behaviour, such as offences involving intentional endangerment. The intention is also to ensure that the penalties reflect the nature of the offence, are proportionate to existing penalties for the offences or analogous offences, and correspond to penalties applying in other jurisdictions for equivalent offences.

Some submitters suggested that a number of penalties set out in the bill are insufficient to provide adequate deterrent. Taking these factors into account we recommend amendments to a number of sections concerning unruly passenger offences in new Part 5A, as inserted by clause 24, and amendments to clauses 17 and 36 relating to penalties for body corporates.

Actions endangering safety of aircraft

We recommend that the fine levels for offences outlined in clause 24, new sections 65F, 65G(1)(c) and 65H, concerning actions endangering the safety of an aircraft, are increased from \$5,000 to

\$10,000. The penalties are relative to existing penalties in the Act relating to offences committed by individuals, and reflect the serious nature of the offences, which include intentional interference with the performance of a crew member's duties and interference with an aircraft. The amendments also align the penalties with existing penalties for comparable offences in Australian and United Kingdom legislation.

Offensive language and behaviour

We agree with submitters that offensive language and behaviour towards aircrew is unacceptable. It also causes disruption to the work of aircrew, representing a potential safety hazard, and upsets passengers. We recognise that determining what is offensive language or behaviour, as well as proving it has taken place, can be problematic. Accordingly, we recommend a number of amendments to improve the enforceability of new sections 65G, 65K, and 65Q, as inserted by clause 24.

The bill makes it explicit that it is an offence to use any threatening, offensive or insulting language on an aircraft. We recommend that the fine level for such an offence against a crew member is increased to \$5,000. As a safeguard, we also recommend that any offence relating to the use of offensive or insulting language may be excused if the defendant proves that he or she had reasonable grounds for believing that the words would not be overheard. This is provided for in amendments to sections 65G and 65K.

As disorderly and offensive language and behaviour offences may be hard to prove we recommend an amendment to new section 65Q to provide that these are summary offences only. This is because issuing an infringement notice for an offensive language offence would be too susceptible to challenge on evidential grounds. We also recommend the creation of an additional lower level offence to capture behaviour that interferes with the performance of a crew member's duties that does not require 'intent' to be proved. This would attract a penalty of a maximum fine of \$5,000.

We do not recommend any amendments to the bill in respect of offences involving sexual harassment of crew members as this is covered by the Crimes Act 1961.

Ability of aircrew to restrain unruly passengers

We do not recommend any amendments to the bill to explicitly provide that aircrew may restrain unruly passengers. This is because there are already existing provisions, in the Aviation Crimes Act 1972 and the Crimes Act 1961, that permit the crew members to restrain unruly passengers.

Intoxicated persons not exempted on grounds of medication

The intent of subsection 65I, as inserted by clause 24, is that a patient on a course of medication should not be captured by the offence of being intoxicated on an aircraft. We recommend an amendment to this subsection to avoid the circumstance whereby an intoxicated person could avoid prosecution by providing a medical note stating that they are on medication. The amendment clarifies that this offence is excusable only if the person is intoxicated as a result of medication that has been prescribed in accordance with medical authorisation, and the person is under medical care. For clarification purposes, we also recommend an amendment stipulating that responsibility for assessing whether a person is intoxicated is that of the pilot-in-command (or senior flight attendant authorised by the pilot-in-command).

Compliance with commands of pilot-in-command

We recommend an amendment to clause 24, inserting section 65J, to increase the penalty for non-compliance with the commands of a pilot-in-command from \$3,000 to \$5,000. This recognises the authority of the pilot-in-command and his/her central role in ensuring safety and the good order and discipline required on an aircraft.

We also recommend amendments to clarify that a pilot-in-command may issue commands through certain authorised personnel. A person not complying with commands issued by the pilot-in-command, or the authorised personnel, is excused from penalty if that person cannot understand those commands due to disability or an inability to understand the language.

Smoking to be offence on all aircraft

We consider that clarification is required to ensure that smoking any substance is an offence that applies on all aircraft. Accordingly we recommend an amendment to clause 24, inserting section 65N, and a

consequential amendment transferring sections 8(2) and 17(9) of the Smoke-free Environments Act 1990 to the bill.

Increased penalty for intentionally taking dangerous goods onto aircraft

We recommend the penalty for individuals intentionally carrying dangerous goods onto a plane, as set out in clause 24 (new section 65O) is increased to a maximum of \$2,500. We hope this goes some way to addressing submitters' concerns that the maximum penalty of \$2,000 in the bill as introduced is not high enough to act as a deterrent. This penalty is recommended bearing in mind that offences relating to the carriage of dangerous goods already exist in civil aviation rules and the Crimes Act 1961.

Consequential to this amendment, we recommend an increase to the maximum fine and infringement fee payable by body corporates for the carriage of dangerous goods, to \$15,000 and \$6,000 respectively. This is provided for by amendment to the regulations in new clause 36.

We would like to clarify for submitters that the Act provides for both Aviation Security Service officers and sworn police to seize and detain any dangerous goods detected if they have reasonable grounds to believe they may not be carried lawfully on an aircraft. Further, we are not aware of any situation where the removal of suspected dangerous goods by aircrew has been challenged.

Increased fine for body corporates flouting temporary stop notice

We recommend clause 17, inserting new section 46E, be amended to increase the maximum fine to \$100,000 for body corporates that fail to comply with the requirement to cease conducting air operations when issued with a temporary stop notice. This is because we do not consider that a maximum fine of \$50,000 is sufficient to deter body corporates from flying under a temporary stop notice, as it would be cheaper for them to keep operating and incur the penalty.

Clause 31—Aviation Security Service may assist Police

Clause 31 amends section 80 of the Act to enable the Aviation Security Service to provide security support services to the New Zealand Police. This may involve the security service assisting in

incidents such as bomb scares where the police would require the use of the service's explosive detector dog capability.

We recommend an amendment to clause 31 to allow the Aviation Security Service to assist the police to undertake security screening for important events, even when the security threat is low. This may apply to certain events or functions where the police are obliged to undertake security screening work, and could involve the provision of equipment and personnel for x-ray screening of people and baggage.

The assistance of the Aviation Security Service is subject to both the Commissioner of Police being satisfied that assistance is necessary on the basis of a security risk assessment, and to the Aviation Security Service being satisfied that the provision of those services will not compromise aviation security services. We recommend that the word 'services' be deleted from proposed section 80(ea)(ii) to clarify that the Aviation Security Service is not deployed on non-aviation-related duties to the detriment of aviation security. Though the same personnel are involved, aviation security applies to services provided at airports, while security support services relates to support services provided to the police in a different environment.

Concerns of Regulations Review Committee

The bill inserts additional rule-making powers into the Act to allow mutual recognition to be implemented incrementally. This will enable the development of detailed regulatory requirements that may be necessary on the extension of mutual recognition, without the need to amend the Act.

The Regulations Review Committee has expressed concerns that the regulation powers in the bill as introduced are too broad, and that they do not provide appropriate indication of the actual intention of the rules. It is also considered that other amendments concerning the rules could be confusing to interpret.

Clause 14—new rule-making powers to be more specific

We recommend an amendment to clause 14, which inserts section 28(1)(ab) to make the rule-making powers in the bill more specific, and to bring this provision in line with the equivalent provision in Australia's Civil Aviation Legislation Amendment (Mutual Recognition with New Zealand and Other Matters) Bill. We consider that the wording should be more specifically defined to

reflect that the intention is to allow New Zealand to incrementally implement the mutual recognition powers. Accordingly we recommend wording in line with that of clause 35 of the Australian bill, which empowers the Governor-General to make regulations ‘allowing for the mutual recognition of aviation certifications in accordance with the ANZA mutual recognition agreements’.

We also consider that the rule-making power in clause 14, proposed section 28(1)(ac), is more specific than the other provisions in section 28 and that it is appropriate that this be moved to section 30 of the Act.

Clause 16—bill to amend some civil aviation rules instead of adding separate Schedule

We recommend that clause 16, inserting proposed section 37A and Schedule 7, be deleted. Consequential to this we recommend the deletion of clause 34, and Schedule 1 (which inserts new Schedule 7).

However, we agree with the intent of these clauses, which is to ensure that Australian carriers should not be subject to certain rules imposed by New Zealand. This follows the principle that mutual recognition is predicated on the regulation of an AOC holder by the ‘home’ country rather than the ‘host’ country, and that differences between Australian and New Zealand regulatory requirements are acceptable, because the different systems produce equivalent safety outcomes.

However, rather than setting out a Schedule listing the rules that do not apply, we are of the opinion it is preferable to have a more flexible approach that allows Australian AOC’s with ANZA privileges to more readily identify which rules apply and which do not. Accordingly, we recommend amendments to the application provisions of the rules set out in Schedule 7, to specify the provisions that do not apply. This is provided for by amendment to Schedule 2, Part 1, of the bill.

Airlines still to be liable for passenger delays

Clause 32 carries over the provisions of the Carriage by Air Act 1967 relating to airline liability in the event of delay.³ A number of

³ Under these provisions the carrier is still liable to pay a maximum of 10 times the fare paid for the carriage or the total cost of the damage sustained (the lesser amount), but is not liable in the event of force majeure (events beyond

submissions were concerned at the retention of these provisions, arguing it is inappropriate to penalise the air industry, particularly given that air travel is no longer considered an unreliable or unusual mode of travel that warrants these consumer protections. They also argued that airlines have a particular incentive to run on time, arising from competition, congested airports, loss of landing slots, and air traffic control delays.

We have some sympathy for submitters' views. However, on balance we consider it is appropriate that delayed passengers retain the legal right to claim compensation. While airlines do have an incentive to run on time they also have an incentive to overbook passengers and cancel flights that have low loadings. There is anecdotal evidence that domestic flights in New Zealand are being cancelled as a result of low loadings. Further, it is notable that, internationally, concerns about passenger delays are rising rather than falling.⁴

In this instance it is necessary to treat the air industry differently from land and sea transport because passengers expect to be able to use scheduled air services, often on a regular basis, to travel long distances very quickly. This is particularly the case for business people who are prepared to pay extra as their time is valuable to them. It is uncertain whether the Consumer Guarantees Act 1993 could provide adequate protection to air passengers as an airline may 'contract out' of the Act in the provision of services for businesses, thereby limiting the scope of its liability.

Air New Zealand submitted that if consumer laws are to be addressed this should be done in a more comprehensive way and not in this legislation. We disagree. These provisions are specific to the aviation industry. The parallel provisions relating to international air carrier liability are already included in Part 9A of the Act.

Scenic flight operations and air ambulances will not be captured

Some submitters noted that the carry over of these provisions in new Part 9B could have the effect of extending liability provisions to all forms of commercial aviation including helicopters, balloons and tourist scenic flying. This is not the intention of the bill. Accordingly

its control such as weather conditions or compliance with directions from lawful authorities).

⁴ The European Parliament has also passed legislation requiring passengers to be compensated for delay caused by overbooking. Research also indicates concern has been growing in the United States, with all major airlines having since 1999 introduced 'voluntary' Customer Service Plans, after being warned by Congress of possible legislation if they did not do so.

we recommend replacing the word ‘aircraft’ with ‘aeroplane’, as defined in Part 1 of the Civil Aviation Rules.⁵ This is provided for by amendment to new section 91U(1), as inserted by clause 32. We also recommend an amendment to new section 91W(2) (clause 32) to exclude any carriage of passengers by air on a single flight where the place of departure and the intended place of destination are the same. To address submitters’ concerns we would like to clarify that air ambulances would not be liable under these provisions, as the passenger of an air ambulance would not ordinarily enter into a contract for carriage with the operator.

Consequential to these amendments we recommend amendments to the Aviation Crimes Act 1972 (inserted by new Schedule 3). This is in recognition that for the Aviation Crimes Act to function effectively, the definition of a passenger should be in respect of an ‘aircraft’, which is the term used in that Act, rather than an ‘aeroplane’.

Disclosure of information

Concerns raised by Assistant Privacy Commissioner

We recommend amendments to clauses 6 and 11 to address concerns raised by the Assistant Privacy Commissioner regarding the non-disclosure of information. The Director may refuse to disclose prejudicial personal information relevant to certain decisions if to do so would endanger any person’s safety. For example, if the Director has received information about a pilot whom the informant has reason to believe is unfit to fly, it would be inadvisable for the Director to release personal information about the informant if such an action put that person’s safety at risk. The amendments will clarify that in the event of a complaint from an individual regarding non-disclosure, the non-disclosure would be treated as if the information were withheld in reliance on section 27(1)(d) of the Privacy Act 1993.

No amendments to protect disclosure of Flight Operational Quality Assurance data

The New Zealand Air Line Pilots’ Association submitted that the bill should include provisions to provide legislative protection

⁵ Part 1 of the civil aviation rules defines ‘aeroplane’ as ‘a power-driven heavier-than-air aircraft deriving its lift in flight chiefly from aerodynamic reactions on surfaces which remain fixed under given conditions of flight.’

regarding the disclosure of Flight Operational Quality Assurance (FOQA) information. ⁶ FOQA data is primarily collected to enhance safety and improve operational performance through identifying and correcting problems that occur in normal operations. The Air Line Pilot's Association is concerned that the potential disclosure of FOQA data for reasons other than this, such as through Official Information Act requests and disclosure via the discovery process in civil proceedings, may be used by the Civil Aviation Authority against operators or pilots. Consequently, pilots may feel at risk of punitive actions by individual employers and, as a result, the data may cease to be provided voluntarily.

However, we do not recommend an amendment for the protection of FOQA information in the bill, as this would be inconsistent with current developments regarding best practice. The Civil Aviation Authority's preference is for the New Zealand aviation community to move away from a 'no blame' approach for accidents and towards a more balanced 'just culture' approach. ⁷ This allows for the reporting of incidents but also identifies a disciplinary outcome where the individual's behaviour has breached pre-determined standards.

Further, we do not see that protections are necessary. There are currently no rules requiring the use of FOQA data in New Zealand, and none in prospect.

Compliance with Human Rights Act 1993

We recommend the insertion of new clause 25A to delete the discriminatory provision in section 72A(2) of the Act restricting membership of the Civil Aviation Authority to New Zealand citizens or residents. This is to comply with the Human Rights Act 1993 (which as of 1 January 2002 also applies to legislation), and relates to the right to be free from discrimination on the grounds of nationality.

Matter outside the bill

During the hearing of evidence we were very interested to learn that New Zealand does not have full membership of the United Nations

⁶ A FOQA program involves the collection of flight data using a Quick-Access Recorder that is periodically removed from the aircraft and analysed by a computer system.

⁷ This approach encourages people to come forward and report incidents in the interests of safety. It recognises that honest mistakes should not be penalised, but that it is valid to discipline mishaps caused by intoxication or malicious behaviour.

Committee of Experts on the Transport of Dangerous Goods, which currently has 25 full voting members and meets every two years. In addition it does not regularly attend that committee's sub-committee meetings that occur biannually in in-between years, and involve drafting recommendations to the main committee.

This has important implications for New Zealand as we invariably adopt the decisions of the United Nations Committee of Experts on the Transport of Dangerous Goods for our land transport rules. We consider New Zealand is being disadvantaged by having only observer status, and were particularly concerned to hear of instances where we have missed out on having input into significant decisions simply because we do not have voting rights.

Although this matter is outside the scope of the bill, we are of the view that this position should be rectified, and that any New Zealand representative chosen should have the relevant commercial experience and technical expertise. We encourage the Government to approach the United Nations Committee of Experts on the Transport of Dangerous Goods with a view to submitting New Zealand's case for procuring full membership.

Appendix

Committee process

The Civil Aviation Amendment Bill was referred to the committee on 29 July 2003. The closing date for submissions was 3 September 2003. We received and considered 13 submissions from interested groups and individuals. We heard 9 submissions, which included holding hearings in Auckland. Hearing of evidence took 4 hours 58 minutes and consideration took 5 hours 19 minutes.

We were assisted by advisers from the Ministry of Transport and the Civil Aviation Authority, and received advice from the Regulations Review Committee.

Committee membership

Hon Mark Gosche (Chairperson)

Gerry Brownlee (Deputy Chairperson)

Peter Brown

Deborah Coddington

Dave Hereora

Lynne Pillay

Hon Judith Tizard

Mike Ward

Hon Maurice Williamson

Helen Duncan was Chairperson until 7 October 2003. Mark Gosche replaced Helen Duncan as a permanent member of the committee on 8 October 2003.

Hon Roger Sowry was Deputy Chairperson until 3 November 2003. Hon Maurice Williamson and Gerry Brownlee replaced Hon Roger Sowry and John Key as permanent members of the committee on 4 November 2003. Gerry Brownlee was elected Deputy Chairperson on 6 November 2003.

Key to symbols used in reprinted bill

As reported from a select committee

Struck out (unanimous)

Subject to this Act,

Text struck out unanimously

New (unanimous)

Subject to this Act,

Text inserted unanimously

{Subject to this Act,}

Words struck out unanimously

Subject to this Act,

Words inserted unanimously

Hon Harry Duynhoven

Civil Aviation Amendment Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the Civil Aviation Amendment Act **2003**.
- (2) In this Act, the Civil Aviation Act 1990¹ is called “the principal Act”.

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¹ 1990 No 98

Part 1 Preliminary provisions

2 Commencement

- (1) **Sections 4(1), 5, 6(1) and (2), 7, 8, 9(1), 10, 12, 13(1) to (4) and (6) to (8), 14, 14A, 15A, (16), 17, 25, 26, 27, 28(1), and (35(1), and Schedule 1) 36(1), and Part 1 of Schedule 2** come into force on—
- (a) **31 December 2003**; or
- (b) an earlier date appointed by the Governor-General by Order in Council.
- (2) The rest of this Act comes into force on **1 March 2004**.

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3 Purpose

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The purpose of this Act is to—

- (a) implement the ANZA mutual recognition agreements; and
- (b) deter, and provide penalties for, certain types of unruly behaviour that may occur on an aircraft; and
- (c) amend the principal Act by incorporating, with modifications, the provisions of New Zealand law relating to civil liability for delay suffered by passengers during domestic carriage by air currently located in Part II of the Carriage by Air Act 1967; and
- (d) repeal the Carriage by Air Act 1967; and
- (e) amend the principal Act to include a number of miscellaneous changes.

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Part 2**Amendments to principal Act and related provisions**

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4 Interpretation

- (1) Section 2 of the principal Act is amended by inserting, in their appropriate alphabetical order, the following definitions:
- “ANZA means Australia New Zealand Aviation

Struck out (unanimous)

“ANZA mutual recognition agreements means—

“(a) the Australia–New Zealand Single Aviation Market Arrangements done on 19 September 1996; and

“(b) the Memorandum of Understanding between the Governments of Australia and New Zealand on Open Skies signed on 20 November 2000; and 5

“(c) any amendments to, substitutions for, or supplements to—

“(i) the 1996 Single Aviation Market Arrangements; and 10

“(ii) the Memorandum of Understanding between the Governments of Australia and New Zealand on Open Skies signed on 20 November 2000

New (unanimous)

“ANZA mutual recognition agreements means the commitments, to the extent that they relate to the mutual recognition of aviation-related certification that is not covered by the Trans-Tasman Recognition Arrangement, stated in— 15

“(a) the Australia–New Zealand Single Aviation Market Arrangements done on 19 September 1996; and

“(b) the Memorandum of Understanding on Open Skies Between the Governments of Australia and New Zealand signed on 20 November 2000; and 20

“(c) any amendments to, substitutions for, or supplements to—

“(i) the Australia–New Zealand Single Aviation Market Arrangements done on 19 September 1996; and 25

“(ii) the Memorandum of Understanding on Open Skies Between the Governments of Australia and New Zealand signed on 20 November 2000 30

“Australia means the Commonwealth of Australia; and, when used in a geographical sense, includes any external territory of Australia

“**Australian AOC with ANZA privileges** has the same meaning as in section 3(1) of the Civil Aviation Act 1988 (Aust)

“**Australian temporary stop notice** has the same meaning as in section 3(1) of the Civil Aviation Act 1988 (Aust) 5

“**CASA** means—

“(a) the Civil Aviation Safety Authority established by the Civil Aviation Act 1988 (Aust); and

“(b) any successor of that Authority

“**New Zealand AOC with ANZA privileges** has the meaning set out in **section 11G** 10

“**New Zealand temporary stop notice** means a notice issued under **section 11C(1)**”.

- (2) Section 2 of the principal Act is amended by repealing the definition of **dangerous goods**, and substituting the following definition: 15

Struck out (unanimous)

“**dangerous goods** means articles or substances that are—

“(a) capable of posing significant risk to health, safety, or property when transported by air; and

“(b) classified in the ICAO’s *Technical Instructions for the Safe Transport of Dangerous Goods by Air*”. 20

New (unanimous)

“**dangerous goods** means articles or substances that are capable of posing risk to health, safety, property, or the environment and—

“(a) are listed in, or classified in accordance with, the ICAO’s *Technical Instructions for the Safe Transport of Dangerous Goods by Air*; or 25

“(b) have properties that would result in the articles or substances being classified as dangerous goods under the ICAO’s *Technical Instructions for the Safe Transport of Dangerous Goods by Air*”. 30

- (3) Section 2 of the principal Act is amended by adding the following definition:

“unruly passenger offence—

“(a) means an offence against **Part 5A**; and

“(b) includes an offence to which **section 65C** applies.”

New (unanimous)

4A Application of Act

Section 4(1) of the principal Act is amended by inserting, after 5
the expression “section 53A”, the words “, Part 5A,”.

5 Grant or renewal of aviation document

Struck out (unanimous)

Section 9(1)(b) of the principal Act is amended by repealing 10
subparagraph (iii), and substituting the following
subparagraph:

“(iii) meets all other relevant prescribed requirements
(including, in the case of a New Zealand AOC
with ANZA privileges, the requirements speci-
fied in section 11G); and”

New (unanimous)

Section 9(1) of the principal Act is amended by inserting, after 15
paragraph (b), the following paragraph:

“(ba) in the case of a New Zealand AOC with ANZA
privileges,—

“(i) the requirements in **section 11G(2)** are met; and

“(ii) the applicant meets or will meet the conditions in 20
section 11G(4); and”

6 Criteria for fit and proper person test

(1) Section 10(1) of the principal Act is amended by adding the
following paragraph:

“(g) in the case where (of a person to whom) a New Zealand 25
AOC with ANZA privileges applies, the person’s com-
pliance with the conditions specified in **section 11G(4)** (all
the requirements specified in section 11G).”

- (2) Section 10(4)(a) of the principal Act is amended by omitting the words “and (f)”, and substituting the words “(f), and (g)”.
- (3) Section 10 of the principal Act is amended by repealing subsection (7), and substituting the following subsection:

Struck out (unanimous)

- “(7) If the Director determines not to disclose any information in reliance on subsection (6), the Director must inform the person of the fact of non-disclosure and,— 5
- “(a) in the case of non-disclosure to an individual of information about the individual, inform the individual that he or she may, under the Privacy Act 1993, complain to the Privacy Commissioner about that non-disclosure; and 10
- “(b) in any other case,—
- “(i) inform the person that the person may seek a review by an Ombudsman of that non-disclosure under the Official Information Act 1982; and 15
- “(ii) the provisions of that Act apply to that non-disclosure as if, following a request under that Act for the information withheld, the information had been withheld in reliance on section 6(d) of that Act.” 20

New (unanimous)

- “(7) If the Director determines not to disclose any information in reliance on subsection (6), the Director must inform the person of the fact of non-disclosure and,—
- “(a) in the case of non-disclosure to an individual of information about the individual,— 25
- “(i) inform the individual that he or she may, under the Privacy Act 1993, complain to the Privacy Commissioner about that non-disclosure; and
- “(ii) the provisions of that Act apply to that non-disclosure as if, following a request under that Act for the information withheld, the information had been withheld under section 27(1)(d) of that Act; and 30

New (unanimous)

- “(b) in any other case,—
- “(i) inform the person that the person may seek a review by an Ombudsman of that non-disclosure under the Official Information Act 1982; and
 - “(ii) the provisions of that Act apply to that non-disclosure as if, following a request under that Act for the information withheld, the information had been withheld under section 6(d) of that Act.”

- 7 New Part 1A inserted** 10
The principal Act is amended by inserting, after Part I, the following Part:

**“Part 1A
“ANZA mutual recognition**

“Preliminary provisions

- “11A Purpose** 15
The purpose of this Part is to implement the ANZA mutual recognition agreements.

“Australian AOCs with ANZA privileges

- “11B Holder of Australian AOC with ANZA privileges entitled to conduct air operations in New Zealand** 20

- “(1) The holder of an Australian AOC with ANZA privileges may conduct air operations to, from, or within New Zealand if the holder provides the Director with—**

- “(a) a copy of the Australian AOC with ANZA privileges; and** 25

- “(b) written notice of the following:**

- “(i) the details of all conditions imposed by CASA in relation to the Australian AOC with ANZA privileges; and

Struck out (unanimous)

- “(ii) the holder’s Australian business address, telephone and fax numbers, and email address; and

Struck out (unanimous)

- “(iii) the holder’s New Zealand business address, telephone and fax numbers, and email address; and
 “(iv) any other prescribed information; and

New (unanimous)

- “(ii) the holder’s Australian—
 “(A) business address; and 5
 “(B) telephone number; and
 “(C) fax number (if any); and
 “(iii) the holder’s New Zealand—
 “(A) business address; and
 “(B) telephone number; and 10
 “(C) fax number (if any); and
 “(iv) the holder’s email address (if any); and
 “(v) any other prescribed information; and

- “(c) the holder’s consent in writing to the making of inquiries to, and the exchange of information with, CASA regarding that holder’s civil aviation activities. 15

- “(2) A holder of an Australian AOC with ANZA privileges must ensure that the Director is advised of every alteration to the Australian AOC with ANZA privileges or to the information provided by the holder to the Director within 7 days of the date on which the alteration is made. 20

Struck out (unanimous)

- “(3) A holder of an Australian AOC with ANZA privileges permitted to conduct air operations to, from, or within New Zealand must conduct those air operations in accordance with—
 “(a) this Act; and 25
 “(b) any conditions specified in the Australian AOC with ANZA privileges.

“11C New Zealand temporary stop notice

- “(1) The Director may give the holder of an Australian AOC with ANZA privileges a written temporary stop notice that requires the holder to cease conducting all or any air operations in New 30

Zealand for the period (which must not be more than 7 days) specified in the notice.

- “(2) The Director may issue a New Zealand temporary stop notice only if the Director considers that, as a result of the holder conducting all or any air operations in New Zealand, there is a serious risk to civil aviation safety in New Zealand. 5
- “(3) Immediately on receiving a New Zealand temporary stop notice, the holder must cease conducting the air operations specified in the notice in New Zealand for the period specified in the notice. 10
- “(4) The Director (*must*) may not delegate the power to issue or revoke a New Zealand temporary stop notice.
- “(5) The Director may amend or revoke a New Zealand temporary stop notice before the period specified in that notice has expired. 15

New (unanimous)

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| <p>“(6) The Director must revoke a New Zealand temporary stop notice if the Authority receives notification from CASA of the Director of CASA’s response to the New Zealand temporary stop notice.</p> |
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“11D **Contents of New Zealand temporary stop notice** 20

- “(1) A New Zealand temporary stop notice must specify—
- “(a) the reasons why the Director considers that there is a serious risk to civil aviation safety in New Zealand; and
 - “(b) the period for which the holder of the Australian AOC with ANZA privileges must cease conducting air operations in New Zealand. 25
- “(2) Failure to comply with **subsection (1)** does not invalidate the New Zealand temporary stop notice.

“11E **Director to notify CASA about New Zealand temporary stop notice** 30

As soon as practicable after giving a New Zealand temporary stop notice to the holder of an Australian AOC with ANZA privileges, the Director must give CASA a copy of the notice and any other information that CASA may require.

*“AOCs with ANZA privileges***“11F Requirements for AOCs with ANZA privileges**

- “(1) Whenever the Director makes a decision under this Act in relation to a New Zealand AOC with ANZA privileges, the Director must take into account all relevant Australian and New Zealand regulatory requirements in relation to New Zealand AOCs with ANZA privileges. 5
- “(2) In making a decision under this Act in relation to a New Zealand AOC with ANZA privileges, the Director—
- “*(a)* must, if appropriate, consult CASA; and 10
- “*(b)* may take into account any of the following items that the Director receives from CASA:
- “*(i)* advice;
- “*(ii)* guidelines;
- “*(iii)* recommendations; 15
- “*(iv)* other relevant information.

“11G Grant of New Zealand AOC with ANZA privileges

- “*(1)* The Director may, in accordance with this Act and any rules made under this Act, grant to an air operator in New Zealand an authorisation (called a New Zealand AOC with ANZA privileges) that will authorise the air operator to conduct air operations to, from, or within Australia. 20
- “*(2)* Before the Director may grant a New Zealand AOC with ANZA privileges, the Director must—
- “*(a)* be satisfied that the air operator will be conducting air operations to, from, or within New Zealand; and 25
- “*(b)* receive from the licensing authority written confirmation that, if the New Zealand AOC with ANZA privileges is issued to the air operator, the licensing authority considers that the air operator will be eligible to conduct air operations in Australia under the air services arrangements in place between Australia and New Zealand; and 30
- “*(c)* be satisfied that the air operator has complied with, or is capable of complying with, all the relevant requirements of the Civil Aviation Act 1988 (Aust) and regulations and civil aviation orders made under that Act that relate to safety; and 35
- “*(d)* consult with CASA.

- “(3) A New Zealand AOC with ANZA privileges may be granted by amending an appropriate existing aviation document or by granting an appropriate new aviation document.
- “(4) A New Zealand AOC with ANZA privileges is subject to the condition that the holder— 5
- “(a) must conduct air operations to, from, or within New Zealand; and
- “(b) must not hold an Australian AOC with ANZA privileges authorising the holder to conduct air operations that are covered by the New Zealand AOC with ANZA privileges; and 10
- “(c) must comply with all the requirements of the Civil Aviation Act 1988 (Aust) and regulations and civil aviation orders made under that Act that apply to the holder; and 15
- “(d) must undertake the supervision of its management systems from or within New Zealand; and
- “(e) must ensure that the training and supervision of its employees is principally undertaken from or within New Zealand; and 20
- “(f) must ensure that the majority of resources associated with the exercise of the privileges of the AOC are situated within New Zealand; and
- “(g) must ensure that the people who control the exercise of the privileges of the AOC spend the majority of their time in New Zealand. 25
- “(5) A New Zealand AOC with ANZA privileges may be issued on any other conditions that the Director thinks appropriate.
- “(6) In **subsection (2), licensing authority** has the same meaning as in Part VIIIA. 30
- “11H Action by Director when CASA gives Australian temporary stop notice to holder of New Zealand AOC with ANZA privileges**
- “(1) After the Director receives notification from CASA that CASA has given the holder of a New Zealand AOC with ANZA privileges an Australian temporary stop notice, the Director must— 35
- “(a) immediately consider the circumstances that gave rise to the giving of the notice; and

- “(b) decide, as soon as practicable and in accordance with the ANZA mutual recognition agreements, whether he or she should—
- “(i) suspend in whole or in part the New Zealand AOC with ANZA privileges under section 17; or 5
 - “(ii) revoke in whole or in part the New Zealand AOC with ANZA privileges under section 18; or
 - “(iii) impose conditions on the New Zealand AOC with ANZA privileges under section 17 or section 18; or 10
 - “(iv) take any other action in relation to that New Zealand AOC holder.
- “(2) The Director must notify CASA of his or her decision and of any action taken.
- “11I **Change of country of certification** 15
- “(1) This section applies if the Director believes on reasonable grounds that—
- “(a) it would be in the interests of Australian and New Zealand civil aviation safety for the holder to conduct air operations in the Australian civil aviation system; and 20
 - “(b) the holder of *(an)* a New Zealand AOC with ANZA privileges is no longer able to comply with all the conditions specified in **section 11G(4)**.
- “(2) If this section applies, the Director must— 25
- “(a) consult with CASA; and
 - “(b) notify the holder—
 - “(i) that the Director believes on reasonable grounds that the holder is no longer able to comply with all the conditions specified in **section 11G(4)**; and 30
 - “(ii) of the grounds for the Director’s belief; and
 - “(c) allow the holder at least 90 days from the date of the Director’s notification under **paragraph (b)** to refute and comment on the Director’s belief.
- “(3) If, after the process referred to in **subsection (2)** has been properly completed, the Director is satisfied that, in the interests of Australian and New Zealand civil aviation safety, the holder should no longer exercise ANZA privileges, the Director may— 35
- “(a) amend the New Zealand AOC with ANZA privileges: 40

“(b) withdraw the privileges attaching to the AOC.

“(4) Any person in respect of whom a decision is taken under **subsection (3)** may appeal against that decision to a District Court under section 66.

“11J **Delegation of Australian powers relating to Australian AOCs with ANZA privileges to employees of Authority** 5

An employee of the Authority may, subject to any directions from the Director of CASA, perform any function or exercise any power delegated to that employee under the Civil Aviation Act 1988 (Aust) for the purpose of enabling that employee to perform the function or exercise the power in New Zealand in respect of Australian AOCs with ANZA privileges.” 10

8 Director may require or carry out safety and security inspections and monitoring 15

(1) Section 15(1)(a) of the principal Act is amended by inserting, after the words “aviation document”, the words “or an Australian AOC with ANZA privileges”.

(2) Section 15 of the principal Act is amended by inserting, after subsection (1), the following subsection: 20

“(1A) In the case of an Australian AOC with ANZA privileges, the Director may only carry out inspections and monitoring at the request of CASA.”

(3) Section 15 of the principal Act is amended by inserting, after subsection (2), the following subsection: 25

“(2A) The Director may, in respect of a holder of a New Zealand AOC with ANZA privileges, carry out in Australia any inspections and monitoring that the Director considers necessary in the interests of civil aviation safety.”

9 Power of Director to suspend aviation document or impose conditions 30

(1) Section 17(1) of the principal Act is amended by adding the word “; or” and also by adding the following paragraph:

“(e) in the case of a holder of *(an)* a New Zealand AOC with ANZA privileges, has received from the Director of CASA a copy of an Australian temporary stop notice given to the holder.” 35

- (2) Section 17(4) of the principal Act is amended by adding the following paragraph:
- “(e) impose permanent conditions under section 18.”
- (3) Section 17(4A) of the principal Act is amended—
- (a) by inserting, after the words “aviation document”, the words “, or notice of the proposed imposition of permanent conditions,”: 5
- (b) by inserting, after the word “document” in the last place where it appears, the words “or to impose permanent conditions on the document”. 10
- 10 Power to revoke aviation document or impose conditions**
Section 18 of the principal Act is amended by inserting, after subsection (1), the following subsection:
- “(1A) Without limiting subsection (1), the Director may revoke or impose permanent conditions on an aviation document if the Director— 15
- “(a) has been advised by the Director of CASA that CASA has given the holder of the document an Australian temporary stop notice; and
- “(b) considers that the revocation or imposition of permanent conditions is necessary in the interests of aviation safety.” 20
- 11 Criteria for action taken under section 17 or section 18**
Section 19 of the principal Act is amended by repealing subsection (7), and substituting the following subsection: 25

Struck out (unanimous)

- “(7) If the Director determines not to disclose any information in reliance on subsection (6), the Director must inform the person of the fact of non-disclosure and,—
- “(a) in the case of non-disclosure to an individual of information about the individual, inform the individual that the individual may, under the Privacy Act 1993, complain to the Privacy Commissioner about that non-disclosure; and 30
- “(b) in any other case,—

Struck out (unanimous)

- “(i) inform the person that the person may seek a review by an Ombudsman of that non-disclosure under the Official Information Act 1982; and
- “(ii) the provisions of that Act apply to that non-disclosure as if, following a request under that Act for the information withheld, the information had been withheld in reliance on section 6(d) of that Act.”

New (unanimous)

- “(7) If the Director determines not to disclose any information in reliance on subsection (6), the Director must inform the person of the fact of non-disclosure and,—
- “(a) in the case of non-disclosure to an individual of information about the individual,—
- “(i) inform the individual that the individual may, under the Privacy Act 1993, complain to the Privacy Commissioner about that non-disclosure; and
- “(ii) the provisions of that Act apply to that non-disclosure as if, following a request under that Act for the information withheld, the information had been withheld under section 27(1)(d) of that Act; and
- “(b) in any other case,—
- “(i) inform the person that the person may seek a review by an Ombudsman of that non-disclosure under the Official Information Act 1982; and
- “(ii) the provisions of that Act apply to that non-disclosure as if, following a request under that Act for the information withheld, the information had been withheld under section 6(d) of that Act.”

12 Delegation of Authority’s or Director’s functions or powers to persons outside Authority

Section 23B of the principal Act is amended by inserting, after subsection (2), the following subsection:

“(2A) Any function or power that may be delegated under subsection (2) to a person in New Zealand who is not an employee of the Authority may be delegated under that subsection to an officer of CASA for the purpose of enabling that officer to perform the function or exercise the power in Australia in respect of New Zealand AOCs with ANZA privileges.” 5

13 General power of entry

(1) Section 24(1) of the principal Act is amended by inserting, after the words “rules made under this Act”, the words “or for the purpose of the ANZA mutual recognition agreements”. 10

(2) Section 24 of the principal Act is amended by inserting, after subsection (1), the following subsection:

“(1A) In the case of an Australian AOC with ANZA privileges, the power conferred by subsection (1) may only be exercised at the request of CASA.” 15

(3) Section 24(2) of the principal Act is amended by inserting, after paragraph (a), the following paragraph:

“(ab) in the case of an Australian AOC with ANZA privileges, a breach of the Civil Aviation 1988 (Aust) or of regulations or orders made under that Act is being, or is about to be, committed; or” 20

(4) Section 24(2)(b) of the principal Act is amended by inserting, after the word “document”, the words “or Australian AOC with ANZA privileges”. 25

(5) Section 24(3) of the principal Act is amended by inserting, after the word “authorised”, the words “to have access to or”.

(6) Section 24(3)(a) of the principal Act is amended by inserting, after the word “Act”, the words “or, in the case of an Australian AOC with ANZA privileges, under Australian law”. 30

(7) Section 24(3) of the principal Act is amended by repealing paragraph (b), and substituting the following paragraph:

“(b) must, if a document is surrendered under paragraph (a), orally inform the relevant aviation document holders or, if applicable, the relevant Australian AOC with ANZA privileges holder, as soon as practicable, and in writing that the document has been surrendered.” 35

- (8) Section 24(6) of the principal Act is amended by adding the word “; and” and the following paragraph:
- “(c) in the case of an Australian AOC with ANZA privileges, that the power is being exercised at the request of CASA.”

5

New (unanimous)

13A Interpretation

Section 27A(1) of the principal Act is amended by repealing the definition of **medical certificate**, and substituting the following definition:

“**medical certificate** means a medical certificate—

10

“(a) issued by the Director under this Part to an applicant or licence holder; or

“(b) recognised by the Director under the rules”.

14 Power of Minister to make ordinary rules

Section 28(1) of the principal Act is amended by inserting, after paragraph (a), the following paragraph(s):

15

“(ab) to (give effect to) allow for the mutual recognition of safety certifications in accordance with the ANZA mutual recognition agreements:”.

Struck out (unanimous)

“(ac) to provide for privileges of an air operator certificate to include conducting air operations in Australia:”.

20

New (unanimous)

14A Rules relating to general matters

Section 30 of the principal Act is amended by inserting, after paragraph (c), the following paragraph:

“(ca) to provide for the privileges of an air operator certificate to include conducting air operations in Australia:”

25

15 Procedures relating to rules

- (1) Section 32(1) of the principal Act is amended by repealing paragraph (c), and substituting the following paragraph: 5
- “(c) set out fully the requirements of the rule, except where certain information is, under section 36, incorporated in the rule by reference.”
- (2) Section 32(2) of the principal Act is amended by repealing paragraph (c), and substituting the following paragraph: 10
- “(c) set out fully the requirements of the rule, except where certain information is, under section 36, incorporated in the rule by reference.”

New (unanimous)**15A Matters to be taken into account in making rules**

- Section 33(2) of the principal Act is amended by repealing paragraph (g), and substituting the following paragraph: 15
- “(g) the international circumstances in respect of—
- “(i) aviation safety and security; and
- “(ii) mutual recognition of safety certifications in accordance with the ANZA mutual recognition agreements.”

Struck out (unanimous)**16 New section 37A inserted** 20

The principal Act is amended by inserting, after section 37, the following section:

- “37A **Specified civil aviation rules do not apply to air operations conducted in New Zealand under Australian AOCs with ANZA privileges** 25
- The civil aviation rules specified in **Schedule 7** do not apply to air operations conducted in New Zealand under an Australian AOC with ANZA privileges.”

17 New sections 46D and 46E inserted

The principal Act is amended by inserting, after section 46C, the following sections: 30

- “46D Failure to provide information to Director relating to Australian AOCs with ANZA privileges**
- “(1) Every person commits an offence who conducts an air operation in New Zealand while in breach of **section 11B(1) or (2)**.
- “(2) Every person who commits an offence against **subsection (1)** is liable,— 5
- “(a) in the case of an individual, to a fine not exceeding \$5,000; or
- “(b) in the case of a body corporate, to a fine not exceeding \$25,000. 10
- “46E Failure to cease conducting air operations in New Zealand**
- “(1) Every person commits an offence who fails to comply with **section 11C(3)**.
- “(2) Every person who commits an offence against **subsection (1)** is liable,— 15
- “(a) in the case of an individual, to a fine not exceeding \$10,000; or
- “(b) in the case of a body corporate, to a fine not exceeding ~~(\$50,000)~~ \$100,000.” 20
- 18 Communicating false information or failing to disclose information relevant to granting or holding of aviation document**
- Section 49(2) of the principal Act is amended by—
- (a) omitting from paragraph (a) the expression “\$5,000”, and substituting the expression “\$10,000”; 25
- (b) omitting from paragraph (b) the expression “\$30,000”, and substituting the expression “\$50,000”.
- 19 Carrying on scheduled international air service without licence or contrary to licence** 30
- Section 49A(2) of the principal Act is amended by—
- (a) omitting from paragraph (a) the expression “\$5,000”, and substituting the expression “\$10,000”;
- (b) omitting from paragraph (b) the expression “\$30,000”, and substituting the expression “\$50,000”. 35

- 20 Operating unauthorised non-scheduled international flight or carrying on non-scheduled international flight contrary to licence**
Section 49B(2) of the principal Act is amended by—
- (a) omitting from paragraph (a) the expression “\$3,000”, and substituting the expression “\$6,000”: 5
 - (b) omitting from paragraph (b) the expression “\$15,000”, and substituting the expression “\$30,000”.
- 21 Failure to notify accident or incident**
Section 52B of the principal Act is amended by repealing subsection (2), and substituting the following subsection: 10
- “(2) Every pilot-in-command or operator who commits an offence against subsection (1) is liable,—
- “(a) in the case of an individual, to a fine not exceeding \$10,000 and, if the offence is a continuing one, to a further fine not exceeding \$2,000 for every day or part of a day during which the offence is continued; or 15
 - “(b) in the case of a body corporate, to a fine not exceeding \$50,000 and, if the offence is a continuing one, to a further fine not exceeding \$10,000 for every day or part of a day during which the offence is continued.” 20
- 22 Failure to provide identifying information**
Section 52C(2) of the principal Act is amended by—
- (a) omitting from paragraph (a) the expression “\$5,000”, and substituting the expression “\$10,000”: 25
 - (b) omitting from paragraph (b) the expression “\$30,000”, and substituting the expression “\$50,000”.
- 23 Offences to be punishable on summary conviction**
Section 65(1) of the principal Act is amended by omitting the words “of this Act”, and substituting the words “and **Part 5A**”. 30
- 24 New Part 5A inserted**
The principal Act is amended by inserting, after Part V, the following Part:

**“Part 5A
“Unruly passenger offences**

“Preliminary provisions

“65A Application of this Part

- “(1) This Part applies to any unruly passenger offence committed— 5
- “(a) on an aircraft in New Zealand, regardless of the nationality of the aircraft:
- “(b) outside New Zealand on an aircraft in flight, regardless of the nationality of the aircraft, if the next landing of the aircraft is New Zealand. 10
- “(2) For the purposes of this Part, an aircraft is in flight from the time when all its external doors are closed after embarkation until the time when any external door is opened for disembarkation. 15

Struck out (unanimous)

- “(3) **Subsection (2)** does not apply to a forced landing of an aircraft in flight until competent authorities assume responsibility for the aircraft.

New (unanimous)

- “(3) Despite **subsection (2)**, in the case of a forced landing an aircraft is in flight until the time when the competent authorities of the country in which the forced landing takes place, or, in the case of a forced landing in a place that is not within the territorial limits of any country, the competent authorities of any country, assume responsibility for the aircraft and for persons and property on board the aircraft. 20
25

“65B Liability for offences against this Part despite extraterritoriality

Any person who commits an act or omission on an aircraft in flight outside New Zealand that would be an offence against this Part if it occurred within New Zealand is, subject to this Act, liable as if the act or omission had occurred in New Zealand. 30

“65C Liability for offences under Summary Offences Act 1981 despite extraterritoriality

“(1) Any person who commits an act or omission on an aircraft in flight outside New Zealand that would, if it occurred in New Zealand, be an offence against sections 3 (disorderly behaviour), 7 (fighting in public place), 9 (common assault), 11 (wilful damage), (21,) or 27 (indecent exposure) of the Summary Offences Act 1981, is liable as if the act or omission had occurred in New Zealand. 5

New (unanimous)

“(2) For the purposes of subsection (1), the reference to public place in the provisions in sections 3 (disorderly behaviour), 7 (fighting in public place), and 27 (indecent exposure) of the Summary Offences Act 1981 includes an aircraft. 10

Struck out (unanimous)

“65D Certified consent of Attorney-General

No proceedings for an unruly passenger offence may be commenced without the certified consent of the Attorney-General if— 15

- “(a) the offence has been committed on a foreign aircraft outside New Zealand; and
- “(b) the offence carries a maximum sentence of more than 3 months’ imprisonment. 20

New (unanimous)

“65D Foreign aircraft outside New Zealand

“(1) An infringement notice may be issued, or proceedings commenced, for an unruly passenger offence committed on a foreign aircraft outside New Zealand if— 25

- “(a) the pilot-in-command—
 - “(i) makes a request in the prescribed form to the Aviation Security Service or the Police to issue an infringement notice or to commence proceedings; and 30

New (unanimous)

- | | |
|--|----|
| “(ii) provides an undertaking in the prescribed form that he or she (or the operator of the aircraft) has not made or will not make a similar request to the authorities of any other state; and | |
| “(b) in the case of proceedings, the Attorney-General consents. | 5 |
| “(2) To avoid doubt, a person may, in respect of an unruly passenger offence, be arrested, charged, remanded in custody, or released on bail before the Attorney-General decides whether or not to consent to proceedings. | 10 |
| “(3) Despite subsection (1)(b) , proceedings for an unruly passenger offence committed on a foreign aircraft outside of New Zealand may be commenced without the Attorney-General’s consent if— | |
| “(a) a copy of the infringement notice is filed under section 65S(1) ; or | 15 |
| “(b) the defendant requests a hearing in respect of the infringement offence to which the infringement notice relates. | |
| “(4) In any proceedings for an offence under this Part, the pilot-in-command’s request and undertaking, if made in the prescribed form or forms, are— | 20 |
| “(a) admissible in evidence; and | |
| “(b) in the absence of proof to the contrary, sufficient evidence of the matters stated in the form or forms. | 25 |

“65E Proceedings for offences

- | | |
|---|----|
| “(1) Subject to section 65Q(2) , the offences specified in this Part (except sections 65F and 65G(1)(c)) are triable summarily. | |
| “(2) The offences specified in sections 65F and 65G(1)(c) are triable on indictment. | 30 |
| “(3) Despite anything to the contrary in the Summary Proceedings Act 1957, any information for an offence referred to in subsection (1) may be laid at any time within 12 months after the date of the offence. | |
| “(4) Subject to section 65C , nothing in this Part affects the liability of any person under any other enactment. | 35 |

*“Unruly passenger offences***“65F (Acts) Strict liability for acts endangering safety**

“(1) A person commits an offence who (*recklessly or negligently*) acts in a manner (*likely to*) that endangers an aircraft or any person in an aircraft.

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“(2) Every person who commits an offence against **subsection (1)** is liable to imprisonment for a term not exceeding 2 years or a fine not exceeding ~~(\$5,000)~~ \$10,000.

“65G Disruptive conduct towards crew member

“(1) Every person commits an offence who, while in an aircraft,—

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“(a) uses any threatening, offensive, or insulting words towards a crew member; or

“(b) behaves in a threatening, offensive, insulting, or disorderly manner towards a crew member; or

New (unanimous)

“(ba) behaves in a manner that interferes with the performance by a crew member of his or her duties; or

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“(c) intentionally interferes with the performance by a crew member of his or her duties.

“(2) Every person who commits an offence against **subsection (1)(a) or (b) or (ba)** is liable to a fine not exceeding ~~(\$3,000)~~ \$5,000.

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“(3) Every person who commits an offence against **subsection (1)(c)** is liable to imprisonment for a term not exceeding 2 years or a fine not exceeding ~~(\$5,000)~~ \$10,000.

New (unanimous)

“(4) It is a defence in a prosecution under **subsection (1)(a)** for using offensive or insulting words if the defendant proves that he or she had reasonable grounds to believe that his or her words would not be overheard by a crew member.

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“65H Interference with aircraft

“(1) Every person commits an offence who tampers or interferes with any aircraft, any component of an aircraft, or its equipment, including, but not limited to, smoke detectors.

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“(2) Every person who commits an offence against **subsection (1)** is liable to a fine not exceeding ~~(\$5,000)~~ \$10,000.

“65I Intoxicated persons (*not permitted*) on aircraft

“(1) Every person (except a *(patient)* person under medical care) commits an offence who—

“(a) is intoxicated and boards an aircraft; or

“(b) becomes intoxicated on an aircraft.

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Struck out (unanimous)

“(2) Every person who commits an offence against **subsection (1)** is liable to a fine not exceeding \$3,000.

New (unanimous)

“(2) Every person who commits an offence against—

“(a) **subsection (1)(a)** is liable to a fine not exceeding \$5,000;

“(b) **subsection (1)(b)** is liable to a fine not exceeding \$3,000.

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Struck out (unanimous)

“(3) For the purposes of this section, a person is intoxicated if the person is under the influence of an intoxicating liquor, a drug, or any other substance to such an extent as to be incapable of properly looking after himself or herself.

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New (unanimous)

“(3) For the purposes of this section, a person is intoxicated if the pilot-in-command (or senior flight attendant authorised by the pilot-in-command for this purpose) has reasonable grounds to believe that the person is under the influence of an intoxicating liquor, or substance to such an extent as to—

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“(a) be incapable of properly looking after himself or herself; or

“(b) actively present a hazard to the aircraft or to persons on the aircraft; or

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New (unanimous)

“(c) offend against the good order and discipline required on an aircraft.

“(4) For the purposes of this section, **person under medical care** means a person who—

“(a) is under the supervision of an attendant; and

“(b) has become intoxicated as a result of taking prescription medication in accordance with a medical authorisation.

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“65J Non-compliance with commands given by pilot-in-command

“(1) Every person commits an offence who fails to comply with any commands given to the person directly by the pilot-in-command, or indirectly by the pilot-in-command through a crew member, in accordance with his or her duties under section 13 or the rules.

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“(2) Despite section 28(6), every person who commits an offence against **subsection (1)** is liable to a fine not exceeding (\$3,000)\$5,000.

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New (unanimous)

“(3) It is a defence in a prosecution under this section if the defendant proves that he or she failed to comply with a command given by the pilot-in-command because, by reason of a disability or linguistic ability, he or she lacked the capacity to understand or act on that command.

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“65K Offensive behaviour or (*language*) words**Struck out (unanimous)**

“(1) Every person commits an offence who, on any aircraft, behaves in a threatening, offensive, insulting, or disorderly manner.

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New (unanimous)

- “(1) Every person commits an offence who, on any aircraft,—
- “(a) behaves in a threatening, offensive, insulting, or disorderly manner; or
- “(b) uses threatening, offensive, or insulting words.

- “(2) Every person who commits an offence against **subsection (1)** is liable to a fine not exceeding \$2,500. 5

New (unanimous)

- “(3) It is a defence in a prosecution under **subsection (1)(b)** for using offensive or insulting words if the defendant proves that he or she had reasonable grounds to believe that his or her words would not be overheard. 10

“65L Portable electronic devices not to be operated

- “(1) Every person commits an offence who operates a portable electronic device on board an aircraft in breach of the rules.
- “(2) Despite **section 28(6)**, every person who commits an offence against **subsection (1)** is liable to a fine not exceeding \$2,500. 15

“65M Non-compliance with seating and seatbelt instructions

- “(1) Every person commits an offence who fails to comply with an instruction given by a crew member, passenger information signs, or placards to—
- “(a) occupy a seat or berth; and 20
- “(b) fasten and keep fastened about the person any installed safety belt or safety harness.
- “(2) Every person who commits an offence against **subsection (1)** is liable to a fine not exceeding \$2,500.

“65N No smoking

- “(1) Every person commits an offence who smokes— 25
- “(a) when instructed not to smoke by a crew member, passenger information signs, or placards; or

New (unanimous)

“(ab) while on any aircraft that is carrying passengers for hire or reward on any internal flight; or

“(b) in contravention of section 96A(6).

- “(2) Every person who commits an offence against **subsection (1)** is liable to a fine not exceeding \$2,500. 5
- “(3) In subsection (1), **to smoke** has the meaning set out in section 96A(1).

“65O Dangerous goods

- “(1) Every person commits an offence who, in breach of the rules, carries or causes to be carried on an aircraft any dangerous goods. 10
- “(2) Despite **section 28(6)**, every person who commits an offence against **subsection (1)** is liable to a fine not exceeding ~~(\$2,000)~~\$2,500.

*“Infringement procedure 15***“65P Procedure for certain unruly passenger offences**

- “(1) If any offence specified in **section 65Q(2)** is alleged to have been committed by any person (in this section, the **defendant**), the pilot-in-command of the aircraft at the time of the alleged offence may, by any available means, notify, or cause to be notified, ~~(either)~~— 20
- “(a) an aviation security officer; or
- “(b) a member of the police.
- “(2) If an aviation security officer or a member of the police has reason to believe that a defendant has committed any offence specified in **section 65Q(2)**,— 25
- “(a) the defendant may be proceeded against for the alleged offence under the Summary Proceedings Act 1957; or
- “(b) the aviation security officer or the member of the police may issue an infringement notice in respect of the 30
- alleged offence.
- “(3) If an aviation security officer or a member of the police has reasonable cause to suspect that a person has committed any offence specified in **section 65Q(2)**, he or she may *(demand particulars of the name and address of that person)* require 35

the person to give his or her full name, address, and date of birth.

- “(4) If the aviation security officer or the member of the police has reasonable grounds to suppose that any *(particulars)* details provided under **subsection (3)** are false or misleading, he or she may require the person to *(supply satisfactory evidence of those particulars)* give such verification of those details as it is reasonable in the circumstances to require that person to provide. 5

New (unanimous)

- “(4A) If the person, without reasonable excuse, refuses or fails to comply with a request under **subsection (3) or subsection (4)**, and persists in that refusal or failure after being warned by the aviation security officer or member of the police that he or she may be arrested for committing an offence by that refusal or failure, a member of the police may arrest that person without warrant. 10 15

- “(4B) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$1,000 who, without reasonable excuse,—

“(a) refuses or fails to comply with a request under **subsection (3) or subsection (4)**; or 20

“(b) gives details that are false or misleading in a material respect to an aviation security officer or member of the police in response to such a request.

- “(5) Evidence produced by the defendant to the aviation security officer or member of the police under **subsection (4)** must be inspected *(immediately)* without delay and returned to the defendant as soon as practicable after the inspection has concluded. 25

- “(6) An aviation security officer or a member of the police— 30

“(a) may deliver an infringement notice (or a copy of it) to the defendant personally; or

“(b) may send it (or a copy of it) to the defendant by post addressed to the defendant’s last known place of residence or business. 35

“65Q Form of infringement notice

- “(1) An infringement notice under **section 65P** must be in the prescribed form, and must specify—
- “(a) enough details to inform the defendant fairly of the time, place, and nature of the offence alleged; and 5
 - “(b) the amount of the infringement fee specified in respect of that offence in **subsection (2)**; and
 - “(c) where the fee may be paid; and
 - “(d) the time within which the fee may be paid; and
 - “(e) how and where payment may be made under **section 65R**; 10
and
 - “(f) a summary of how the provisions of section 21(10) of the Summary Proceedings Act 1957 apply to the offence alleged; and
 - “(g) that the defendant has a right to request a hearing; and 15
 - “(h) a statement of the consequences if the defendant neither pays the fee nor requests a hearing; and
 - “(i) any other particulars as are prescribed by regulations made under this Act.
- “(2) The infringement fee is— 20

Struck out (unanimous)

- “(a) in the case of an offence against **section 65G(1)(a) or (b)**, \$600:
- “(b) in the case of an offence against **section 65H**, \$1,000:
- “(c) in the case of an offence against **section 65I**, \$600:
- “(d) in the case of an offence against **section 65J**, \$600: 25
- “(e) in the case of an offence against **section 65K**, \$500:

New (unanimous)

- “(ea) in the case of an offence against **section 65I(1)(a)**, \$1,000:
- “(eb) in the case of an offence against **section 65I(1)(b)**, \$600:
- “(f) in the case of an offence against **section 65L**, \$500:
- “(g) in the case of an offence against **section 65M**, \$500: 30
- “(h) in the case of an offence against **section 65N**, \$500:
- “(i) in the case of an offence against **section 65O**, ~~(\$400)~~\$500.

“65R Payment of fees

“(1) If an infringement notice under **section 65P** (or a copy of it) is served by delivering it to the defendant (*either before or after the defendant disembarks from the aircraft*) on arrival at an international airport for an offence on an international flight, the defendant may choose to pay immediately the infringement fee in the manner specified in the notice.

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“(2) All infringement fees received in respect of an infringement notice under **section 65P**, whether immediately after service or later, must be paid into the Crown Bank Account.

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“65S Filing of notices

“(1) The informant or an aviation security officer (not necessarily the informant) or a member of the police (not necessarily the informant), as the case may be, may file in a District Court a copy of the infringement notice under **section 65P** after a period of 14 days from the date of service of the infringement notice, or a copy of the infringement notice, if—

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“(a) the infringement fee for the offence has not by then been paid to the informant (*at the address*) as specified in the notice (*or immediately under section 65R*); and

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“(b) the informant has not by then received at (*that address*) the address specified in the notice a notice requesting a hearing in respect of that offence.

“(2) The copy of the infringement notice filed under **subsection (1)** must have recorded on it the date and method of service on the defendant.

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“(3) If an infringement notice under **section 65P** has been issued and served, the Summary Proceedings Act 1957 applies as if that notice were a reminder notice served under section 21(2) of that Act, and the provisions of that Act apply, with all necessary modifications, to the alleged offence as if—

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“(a) the reference in section 21(1)(b) to filing a copy of a reminder notice under the section were a reference to filing a copy of the infringement notice under **subsection (1)** of this section; and

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“(b) **subsection (1)** of this section were in the place of section 21(3); and

“(c) the reference in section 21(3A) to a copy of a reminder notice not having been filed under section 21(3) were a

- reference to a copy of the infringement notice not having been filed under **subsection (1)** of this section; and
- “(d) the reference in section 21(5) to a copy of a reminder notice filed under section 21(3) were a reference to a copy of the infringement notice filed under **subsection (1)** of this section; and 5
- “(e) the reference in section 21(6)(b) and (10)(a) to a period of 28 days after the service of a reminder notice were a reference to the period of 14 days after the service of the infringement notice; and 10
- “(f) the references to reminder notices in the definition of defendant in sections 2 and 78B, and in any other relevant provisions of that Act, were references to the infringement notice.
- “(4) Despite section 203(1) of the Summary Proceedings Act 1957, an infringement notice under **section 65P** may be issued and served on a Sunday. 15
- “(5) For the purpose of **subsection (1)**, an infringement notice sent by post is deemed to have been served on the defendant when it was posted. 20
- “65T Savings**
- “(1) Nothing in this Part applies to any—
- “(a) proceedings commenced before the commencement of this Act; or
- “(b) cause of action that arose before the commencement of this Act; or 25
- “(c) act or omission that occurred before the commencement of this Act.
- “(2) All proceedings commenced under any other enactment for an offence committed before the commencement of this Part may be continued and completed under that other enactment as if this Part had not come into force.” 30

25 Appeal to District Court

Section 66(5) of the principal Act is amended by adding the following paragraphs: 35

- “(e) to issue a medical certificate under section 27B (other than a decision under subsection (5)(b) of that section):
- “(f) to impose or amend conditions, restrictions, or endorsements on a medical certificate under section 27I(7)(a):

- “(g) to disqualify a licence holder under section 271(7)(c):
- “(h) to revoke a medical certificate under section 271(7)(d) and (11):
- “(i) to implement the results of a report by the convener under section 27L or section 27M: 5
- “(j) to amend an AOC with ANZA privileges or withdraw those privileges under **section 11(3).**”

New (unanimous)

- | | | |
|------------|---|----|
| 25A | Civil Aviation Authority of New Zealand established
Section 72A(2) of the principal Act is amended by omitting the words “who shall be New Zealand citizens or permanent residents of New Zealand”. | 10 |
|------------|---|----|
-
- 26 Functions of Authority**
Section 72B(2) of the principal Act is amended by adding the following paragraph:
“(j) to enter into technical or operational arrangements, or both, with civil aviation authorities of other countries.” 15
 - 27 Director of Civil Aviation**
Section 72I of the principal Act is amended by inserting, after subsection (3C), the following subsection:
“(3D) The Director may enter into arrangements with CASA for the purpose of giving effect to the ANZA mutual recognition agreements.” 20
 - 28 Civil Aviation Registry**
 - (1) Section 74(2) of the principal Act is amended by inserting, after paragraph (a), the following paragraph: 25
“(ab) every Australian AOC with ANZA privileges:”.
 - (2) Section 74 of the principal Act is amended by adding the following subsection:
“(4) Subsection (3) is subject to the Privacy Act 1993.”
 - 29 Powers and duties of Minister to require screening** 30
Section 77A of the principal Act is amended by inserting, after subsection (5), the following subsection:

“(5A) A direction is not a regulation for the purposes of the Acts and Regulations Publication Act 1989.”

30 Powers and duties of Director to require screening

Section 77B of the principal Act is amended by inserting, after subsection (5), the following subsection:

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“(5A) A direction is not a regulation for the purposes of the Acts and Regulations Publication Act 1989.”

31 Functions and duties of Aviation Security Service

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

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“(ea) to provide security support services to the police when requested by the Commissioner of Police, but only subject to the following conditions:

Struck out (unanimous)

“(i) the Commissioner of Police is satisfied that the provision of those services to the police is necessary on the basis of a security threat assessment; and

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“(ii) the Aviation Security Service is satisfied that the provision of those services to the police will not compromise aviation security services.”

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New (unanimous)

“(i) the Commissioner of Police is satisfied that the provision of those services to the New Zealand Police is necessary to enable the New Zealand Police to carry out its security duties; and

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“(ii) the Aviation Security Service is satisfied that the provision of those services to the New Zealand Police will not compromise aviation security.”

32 New Part 9B inserted

The principal Act is amended by inserting, after Part 9A, the following Part:

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**“Part 9B
“Domestic carriage by air**

“91U Interpretation

“(1) In this Part, unless the context otherwise requires,—

“**actual carrier** means a person, other than the contracting carrier, who— 5

“(a) performs the whole or part of the carriage contracted for by the contracting carrier with the authority of the contracting carrier; but

“(b) is not, in relation to that carriage, a successive carrier 10

New (unanimous)

“**aeroplane** means a power-driven heavier-than-air aircraft deriving its lift in flight chiefly from aerodynamic reactions on surfaces that remain fixed under given conditions of flight

“**carrier** includes a contracting carrier and an actual carrier

“**contract** includes an arrangement made without consideration 15

“**contracting carrier**—

“(a) means a person who, as a principal, makes a contract for carriage with a passenger, or with a person acting on behalf of the passenger; and 20

“(b) includes a successive carrier

“**international carriage**, in relation to carriage by air, means carriage in which, according to the contract between the parties, the place of departure and the place of destination, whether or not there is a break in the carriage or a transshipment, are— 25

“(a) within the territories of 2 countries; or

“(b) within the territory of a single country if there is an agreed stopping place within the territory of another country 30

“**passenger** means a person carried under a contract for carriage other than a person—

“(a) assigned by the carrier for duty as a member of the crew of the *(aircraft)* aeroplane; or

“(b) carried for the sole purpose of receiving or giving instruction in the control or navigation of (*aircraft*) an aeroplane in flight

“**successive carrier** means a person who performs part of the carriage if the carriage—

“(a) is performed by 2 or more persons in successive stages; and

“(b) has been regarded by the parties as a single operation, whether it has been agreed on by a single contract or by 2 or more contracts.

“(2) If any question arises as to whether or not an actual carrier has authority from a contracting carrier to perform any carriage, that authority is, in the absence of proof to the contrary, to be presumed.

Compare: 1967 No 151 s 18

“91V **Application of this Part**

“(1) This Part applies to any carriage by air (other than international carriage) in which, according to the contract between the parties,—

“(a) the place of departure and the place of destination are both in New Zealand; and

“(b) there is no agreed stopping place outside New Zealand.

“(2) **Subsection (1)** applies even if—

“(a) the (*aircraft*) aeroplane in which the carriage takes place is at the same time engaged in international carriage; or

“(b) the contract for the carriage of any passenger is made without consideration.

“(3) This section applies subject to **section 91W**.

Compare: 1967 No 151 s 19(1)

“91W **Exclusions**

“(1) This Part does not apply to any carriage by air by an (*aircraft*) aeroplane while it is being used solely for military purposes by the Armed Forces.

New (unanimous)

<p>“(2) This Part does not apply to any carriage by air on a single flight in respect of which, according to the contract between the parties, the place of departure and the intended place of destination are the same.</p>

Compare: 1967 No 151 s 19(3), (4)

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“91X Provisions if carriage performed by actual carrier

“(1) If the whole or any part of any carriage to which this Part applies is performed by an actual carrier,—

“(a) both the contracting carrier and the actual carrier are subject to any liability imposed by this Part as follows: 10

“(i) the contracting carrier is liable in respect of the whole of the carriage contemplated in the contract between the contracting carrier and the passenger; and

“(ii) the actual carrier is liable solely in respect of the carriage that the actual carrier performs: 15

“(b) the acts and omissions of the actual carrier, and of the actual carrier’s servants and agents acting within the scope of their employment, must, in relation to the carriage performed by the actual carrier, be treated as also those of the contracting carrier: 20

“(c) the acts and omissions of the contracting carrier, and of the contracting carrier’s servants and agents acting within the scope of their employment, must, in relation to the carriage performed by the actual carrier, be treated as also those of the actual carrier: 25

“(d) any special agreement under which the contracting carrier assumes obligations not imposed by this Part, or any waiver of rights conferred by this Part, does not affect the actual carrier unless agreed to by the actual carrier. 30

“(2) An act or omission specified in **subsection (1)(c)** does not subject the actual carrier to liability exceeding the limits specified in **section 91ZC**.

Compare: 1967 No 151 s 20

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“91Y Provisions if carriage performed by successive carriers

If carriage is performed or is to be performed by successive carriers, the contracting carrier who is liable is the successive carrier who performed or was to perform the carriage where the delay occurred.

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Compare: 1967 No 151 s 21

“91Z Liability of carrier in respect of delay

“(1) A carrier is liable for damage caused by delay in the carriage of passengers.

“(2) Despite **subsection (1)**, a carrier is not liable for damage caused by delay if the carrier proves that the delay— 10

“(a) arose by reason of—

“(i) meteorological conditions; or

“(ii) compliance with instructions, advice, or information given by an air traffic control service; or 15

“(iii) obedience to orders or directions given by a lawful authority; or

“(b) was made necessary by force majeure; or

“(c) was necessary for the purpose of saving or attempting to save life. 20

Compare: 1967 No 151 s 25

“91ZA Avoidance of liability

The carrier is not liable under this Part if the carrier proves that—

“(a) the carrier, or the carrier’s servants or agents, had taken all necessary measures to avoid the damage; or 25

“(b) it was not possible for the carrier, or the carrier’s servants or agents, to have taken those measures.

Compare: 1967 No 151 s 26

“91ZB Contributory negligence

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If the carrier proves that the damage was caused, or contributed to, by the negligence of the passenger, the court may, in accordance with the Contributory Negligence Act 1947, exonerate the carrier wholly or partly from liability.

Compare: 1967 No 151 s 27

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“91ZC Limitation of liability

“(1) The liability of the carrier in respect of damage caused by delay is limited to the lesser of—

“(a) the amount of damage proved to have been sustained as a result of the delay; or

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“(b) an amount representing 10 times the sum paid for the carriage.

“(2) Despite **subsection (1)**, the carrier may, by special contract, increase the amount of the carrier’s liability under that subsection.

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“(3) This Part does not affect any rule of law relating to remoteness of damage.

Compare: 1967 No 151 s 28

“91ZD Contracting out

“(1) A provision in a contract of carriage or in any bylaws made by a carrier purporting to relieve the carrier of liability, or to fix a lower limit than the appropriate limit of liability referred to in **section 91ZC**, has no effect.

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“(2) The invalidity under **subsection (1)** of a provision in a contract of carriage or in any bylaws does not, by itself, make any other provision of that contract or those bylaws invalid.

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Compare: 1967 No 151 s 30

“91ZE Wilful or reckless misconduct

“(1) The limits of liability referred to in **section 91ZC** do not apply if it is proved that the damage resulted from an act or omission of the carrier done—

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“(a) with intent to cause damage; or

“(b) recklessly and with knowledge that damage would probably result.

“(2) The limits of liability referred to in **section 91ZC** do not apply if it is proved that the damage resulted from an act or omission of the carrier’s servants or agents done—

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“(a) with intent to cause damage; or

“(b) recklessly and with knowledge that damage would probably result; and

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“(c) while the servant or agent was acting within the scope of that servant’s or agent’s employment.

Compare: 1967 No 151 s 31

“91ZF Servants or agents of carrier

“(1) If an action in respect of any damage is brought against a servant or agent of a carrier, and the servant or agent proves that the servant or agent acted within the scope of the servant’s or agent’s employment or authority, the servant or agent is entitled to rely on the limits of liability, if any, that the carrier would be entitled to invoke under **section 91ZC** in an action against the carrier in respect of that damage. 5

“(2) **Subsection (1)** does not apply if it is proved that the damage resulted from an act or omission of the servant or agent done— 10

“(a) with intent to cause damage or recklessly; and

“(b) with knowledge that damage would probably result.

Compare: 1967 No 151 s 32

“91ZG Aggregation of damages

The aggregate of the amounts recoverable from the carriers, and from their servants or agents acting within the scope of their employment who are jointly and severally subject to liability under this Part, must not exceed the limits referred to in **section 91ZC**. 15 20

Compare: 1967 No 151 s 33

“91ZH Aggregate liability

The limitations referred to in **section 91ZC** apply to the aggregate liability of a carrier, or a servant or agent of a carrier acting within the scope of the servant’s or agent’s employment, in all proceedings that are brought against the carrier or servant or agent under the law of New Zealand, together with any proceedings brought against the carrier or servant or agent outside New Zealand. 25 30

Compare: 1967 No 151 s 34

“91ZI Just and equitable orders and awards

“(1) A court before which proceedings are brought to enforce a liability that is limited by this Part may, at any stage of the proceedings, make any order that appears to the court to be just and equitable in view of— 35

“(a) the provisions of this Part; and

- “(b) any other proceedings that have been, or are likely to be, commenced in New Zealand or elsewhere to enforce the liability in whole or in part.
- “(2) Without limiting **subsection (1)**, a court before which proceedings are brought to enforce a liability that is limited by this Part may, if the liability is, or may be, enforceable in other proceedings in New Zealand or elsewhere,—
- “(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.

Compare: 1967 No 151 s 35

“91ZJ Tortfeasors

- “(1) The limitations on liability referred to in **section 91ZC** apply if—
- “(a) proceedings are brought by a tortfeasor to obtain a contribution from another tortfeasor; and
- “(b) the tortfeasor from whom contribution is sought is the carrier, or a servant or agent of the carrier.
- “(2) Proceedings to which **subsection (1)** applies may not be brought by a tortfeasor to obtain a contribution from another tortfeasor after 2 years from the time when judgment is obtained against the tortfeasor seeking to obtain the contribution.
- “(3) This Part does not affect proceedings brought against any tortfeasor (other than the carrier or its servant or agent).

Compare: 1967 No 151 s 36

“91ZK Relationship between carriers

This Part does not—

- “(a) prevent a carrier from entering into special contractual arrangements with another carrier; or
- “(b) affect the rights and obligations of the carriers between themselves.

Compare: 1967 No 151 s 37

“91ZL Limitation of actions

- “(1) An action may not be brought under this Part against a carrier, or a servant or agent of a carrier acting within the scope of his

or her employment, after 2 years from the later of the following dates:

- “(a) the date of the arrival of the (*aircraft*) aeroplane at the destination; or
 - “(b) if the (*aircraft*) aeroplane did not arrive at the destination,—
 - “(i) the date on which the (*aircraft*) aeroplane ought to have arrived at the destination; or
 - “(ii) the date on which the carriage stopped.
- “(2) Despite **subsection (1)**, application may be made to the court, after giving notice to the intended defendant, for leave to bring an action at any time within 6 years after the date on which the cause of action accrued as provided in **subsection (1)**.
- “(3) On application under **subsection (2)**, the court may grant leave accordingly if it considers that it is just to do so and if it considers that—
- “(a) the delay in bringing the action was caused by—
 - “(i) mistake of fact; or
 - “(ii) mistake of any matter of law other than the provisions of this subsection; or
 - “(iii) any other reasonable cause; or
 - “(b) the intended defendant was not materially prejudiced in the defendant’s defence or otherwise by the delay.
- “(4) If the court grants leave under **subsection (3)**, that leave may be subject to such conditions (if any) that the court thinks just to impose.
- “(5) This section applies subject to the special provisions relating to tortfeasors in **section 91ZJ**.

Compare: 1967 No 151 s 39

“91ZM **Combined carriage** 30

If a contract of carriage made with an air carrier provides for the carriage to be performed partly by air and partly by a mode of carriage other than by air, this Part applies only to the carriage by air.

Compare: 1967 No 151 s 40”.

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New (unanimous)**32A Minister may prohibit smoking on international air routes**

Section 96A(1) of the principal Act is amended by omitting from the definition of **to smoke** the word “tobacco”.

33 Regulations

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Section 100(1)(d) of the principal Act is amended—

- (a) by omitting from subparagraph (i) the expression “\$5,000”, and substituting the expression “\$10,000”;
- (b) by omitting from subparagraph (ii) the expression “\$30,000”, and substituting the expression “\$50,000”.

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Struck out (unanimous)**34 New Schedule 7 added**

The principal Act is amended by adding the **Schedule 7** set out in **Schedule 1**.

35 Repeals

- (1) Sections 96B(3) and (5) and 96C to 96F of the principal Act are repealed.
- (2) The Carriage by Air Act 1967 is repealed.

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36 Consequential amendments

- (1) The Civil Aviation Rules are amended in the manner set out in **Part 1 of Schedule 2** as from the date of commencement specified in, or appointed under, **section 2(1)**.
- (2) The Civil Aviation Rules are amended in the manner set out in **Part 2 of Schedule 2** as from the date of commencement specified in **section 2(2)**.
- (3) The Acts specified in **Schedule 3** are amended in the manner set out in that schedule.
- (4) Schedule 1 of the Civil Aviation (Offences) Regulations 1997 (SR 1997/56) is amended by—
 - (a) revoking the item relating to rule 19.7(b);
 - (b) revoking the item relating to rule 91.5(b);
 - (c) revoking the item relating to rule 91.5(c):

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- (d) omitting from the item relating to rule 91.7(a) the words “Person shall not operate, and operator”, and substituting the word “Operator”:
- (e) omitting from the third column of the item relating to rule 91.7(a) the expression “1,250”, and substituting the expression “2,500”: 5
- (f) omitting from the fourth column of the item relating to rule 91.7(a) the expression “7,500”, and substituting the expression “15,000”:
- (g) omitting from the item relating to rule 91.11 the words “interfere with crew member or”: 10

Struck out (unanimous)

- (h) inserting in the fifth column of the item relating to rule 91.11 the expression “1,000”:
- (i) inserting in the sixth column of the item relating to rule 91.11 the expression “6,000”: 15

New (unanimous)

- (h) omit from the third column of the item relating to rule 91.11 the expression “5,000” and substitute the expression “10,000”:
- (i) omit from the fourth column of the item relating to rule 91.11 the expression “30,000” and substitute the expression “50,000”: 20
- (j) omitting from the third column of the item relating to rule 92.13 the expression “625”:

New (unanimous)

- (ja) omit from the fourth column of the item relating to rule 92.13 the expression “3,750” and substitute the expression “15,000”: 25
- (k) omitting from the fifth column of the item relating to rule 92.13 the expression “250”:

New (unanimous)

- | |
|---|
| (l) omit from the sixth column of the item relating to rule 92.13 the expression “1,500” and substitute the expression “6,000”. |
|---|

- (5) The Civil Aviation (Offences) Regulations 1997 (SR 1997/56) are amended by—
- (a) adding the **Schedule 3** set out in **Schedule 4**, and
 - (b) inserting in clause 5, after the words “Schedule 2”, the words “, and every infringement notice under section 65P of the Act must be in the form set out in Schedule 3”.

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Struck out (unanimous)

Schedule 1
New Schedule 7 added to principal Act

s 34

Schedule 7
**Civil aviation rules that do not apply to air
operations conducted in New Zealand under
Australian AOCs with ANZA privileges**

s 37A

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Rule	Description	
19.15	Operations within New Zealand of foreign aircraft	
19.205	Pilot qualification	
19.207	Primary means GPS operations	10
91.111(1)	Documents to be carried	
91.112	Daily flight records	
91.115	Flight attendant requirements	
91.121	Stowage of passenger service	
91.123	Flight instruction	15
91.201(1)(i)	Safety of aircraft (document inspection)	
91.205	Crew members at stations	
91.207	Occupation of seats and wearing of restraints	
91.209	Use of oxygen equipment	
91.211	Passenger briefing	20
91.213	Carry-on baggage	
91.215	Carriage of cargo	
91.221	Flying equipment and operating information	
91.241(b)	Compliance with ATC clearances and instructions (prohibiting pilot compliance if rules breached)	25
91.249(b)	Aircraft call signs (enabling pilot-in-command to use abbreviated call-sign)	
91.401	Minimum crew	
91.501	General requirements	
91.503	Location of instruments and equipment	30
91.505	Seating and restraints	
91.507	Passenger information signs	
91.509	Minimum instruments and equipment	
91.511	Night VFR instruments and equipment	
91.513	VFR communication equipment	35
91.515	Communication and navigation equipment – VFR over water	
91.517	IFR instruments and equipment	
91.519	IFR communication and navigation equipment	
91.521	Category II and III precision approach equipment	
91.523	Emergency equipment	40
91.525	Flights over water	
91.527	Aircraft operations on water	
91.529	Emergency locator transmitter	
91.531	Oxygen indicators	

Struck out (unanimous)**Schedule 7—continued**

Rule	Description	
91.533	Oxygen for non-pressurised aircraft	
91.537	Inoperative instruments and equipment	
91.539	Approval of minimum equipment list	
91.543	Altitude alerting system or device – turbojet or turbofan	5
91.545	Assigned altitude indicator	
91.707	Emergency parachute assemblies	
119.5	Requirement for an air operator certificate	
121.79	Emergency light operation	
121.81	Passenger safety	10
121.83	Passenger information	
121.89	Flight recorder requirements	
121.91(b)	Refuelling and defuelling operations (permitting refuelling and defuelling while passengers on board)	
121.91(c)	Refuelling and defuelling operations (permitting refuelling and defuelling while engines running)	15
121.93	Fuel spillage	
121.803	Operator responsibilities	
121.805	Flight crew responsibilities	
129.5	Requirement for a foreign air transport operator certificate	20

Schedule 2 s 36(1), (2)
Consequential amendments to Civil Aviation Rules

Part 1

Amendments coming into force on 31 December 2003 or
earlier date appointed by Order in Council 5

Rule 1.1

Insert, in their appropriate alphabetical order:

“**Australian AOC with ANZA privileges** has the same
meaning as in section 3(1) of the Civil Aviation Act 1988
(Aust) 10

“**New Zealand AOC with ANZA privileges** has the meaning
set out in **section 116** of the Act”.

New (unanimous)

Rule 1.3

Insert, after the abbreviation **AMSL**, the following abbreviation:

“**ANZA** means Australia New Zealand Aviation” 15

Rule 19.15((c))

Struck out (unanimous)

Add the words “or an operation conducted under an Australian AOC
with ANZA privileges”.

New (unanimous)

Add the following paragraph:

“(d) Nothing in paragraph (a) or paragraph (b) applies to 20
aircraft engaged in air operations conducted in New
Zealand under an Australian AOC with ANZA
privileges.”

Rule 19.201

Add the following paragraph: 25

“(c) The conditions and requirements prescribed in 19.205
and 19.207 do not apply to air operations conducted in

Part 1—continued

New (unanimous)

Rule 19.201—continued

New Zealand under an Australian AOC with ANZA privileges.”

Rule 91.1

Add the following paragraph:

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“(e) The following rules do not apply in the case of air operations conducted in New Zealand under an Australian AOC with ANZA privileges:

“(1) 91.111(1):

“(2) 91.112:

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“(3) 91.115:

“(4) 91.121:

“(5) 91.123:

“(6) 91.201(1)(i):

“(7) 91.205:

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“(8) 91.207:

“(9) 91.209:

“(10) 91.211:

“(11) 91.213:

“(12) 91.215:

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“(13) 91.221:

“(14) 91.241(b):

“(15) 91.249(b):

“(16) 91.401:

“(17) 91.501:

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“(18) 91.503:

“(19) 91.505:

“(20) 91.507:

“(21) 91.509:

“(22) 91.511:

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“(23) 91.513:

“(24) 91.515:

“(25) 91.517:

“(26) 91.519:

“(27) 91.521:

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“(28) 91.523:

Part 1—*continued***New (unanimous)****Rule 91.1**—continued

“(29) 91.525:

“(30) 91.527:

“(31) 91.529:

“(32) 91.531:

“(33) 91.533:

“(34) 91.537:

“(35) 91.539:

“(36) 91.543:

“(37) 91.545:

“(38) 91.707:”

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Rule 108.1**Struck out (unanimous)**

Insert, after the expression “129”, the words “, and requires the holders of Australian AOCs with ANZA privileges to comply with those rules”.

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New (unanimous)

Omit the words “and Part 129” and substitute the words “, Part 129, and for operations conducted under an Australian AOC with ANZA privileges”.

New rule 108.63

Insert, after rule 108.61:

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“108.63 Air security programme required

The holder of an Australian AOC with ANZA privileges must establish and implement an air operator security programme that meets the relevant requirements of this Part.”

Part 1—*continued***New (unanimous)****Rule 119.1**

Revoke and substitute the following rule:

“119.1 Purpose

“(a) This Part prescribes requirements for the certification and continuing operations of persons domiciled in New Zealand conducting air operations under Parts 121, 125, and 135. 5

“(b) This Part does not apply to the holder of an Australian AOC with ANZA privileges.” 10

Rule 119.11

Omit paragraph (a) and substitute the following paragraph:

“(a) An applicant is entitled to an airline air operator certificate if the Director is satisfied that, in accordance with section 9 of the Act,— 15

“(1) the applicant meets the applicable requirements of Subpart B; and

“(2) the applicant, where the applicant is a natural person, and the applicant’s senior persons required by 119.51(a)(1) and (2) are fit and proper persons; and 20

“(3) the granting of the certificate is not contrary to the interests of aviation safety; and

“(4) in the case of a New Zealand AOC with ANZA privileges, the airline operations to, from, or within Australia will be conducted using— 25

“(i) in the case of passenger operations, aircraft with a capacity of more than 30 passenger seats, or a maximum certificated take-off weight of more than 15,000 kg; and

“(ii) in the case of cargo or combined cargo and passenger operations, aircraft with a maximum certificated take-off weight of more than 15,000 kg or a maximum payload capacity of more than 3410 kg.” 30

Rule 119.15(b)

Add the words “; and” and the following paragraph: 35

Part 1—*continued***Rule 119.15(b)**—continued

“(9) where applicable, the authorisations and limitations for routes and areas of air operations (*in Australia (ANZA operations)*) conducted in Australia by a holder of a New Zealand AOC with ANZA privileges.”

New (unanimous)**New rule 121.15**

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Insert, after rule 121.13:

“121.15 **Applicability to air operations conducted under an Australian AOC with ANZA privileges**

The following rules do not apply in the case of air operations conducted in New Zealand under an Australian AOC with ANZA privileges:

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“(1) 121.79:

“(2) 121.81:

“(3) 121.83:

“(4) 121.89:

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“(5) 121.91(b):

“(6) 121.91(c):

“(7) 121.93:

“(8) 121.803:

“(9) 121.805.”

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Rule 129.3**Struck out (unanimous)**

Omit the word “or” from the definition of **foreign air transport operation**, and substitute the word “and”.

New (unanimous)

Revoke the definition of **foreign air transport operation** and substitute the following definition:

25

“**foreign air transport operation** means an air transport operation conducted by a person not domiciled in New Zealand that is—

Part 1—*continued***New (unanimous)****Rule 129.3**—*continued*

- “(a) to or from New Zealand; or
- “(b) within New Zealand as part of an air operation to or from New Zealand.”

Rule 129.5

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Revoke this rule and substitute the following rule:

“129.5 Requirement for certificate

- “(a) No person shall perform an operation to which this Part applies except under the authority of, and in accordance with, a foreign air operator certificate issued under this Part. 10
- “(b) The requirements in paragraph (a) do not apply to air operations conducted in New Zealand under an Australian AOC with ANZA privileges.”

Part 2

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Amendments coming into force on 1 March 2004

Rule 1.1

Revoke the definition of **dangerous goods** and substitute:

Struck out (unanimous)

- “**dangerous goods** means articles or substances that are—
- “(a) capable of posing significant risk to health, safety, or property when transported by air; and 20
- “(b) classified in the ICAO’s *Technical Instructions for the Safe Transport of Dangerous Goods by Air*”.

New (unanimous)

- “**dangerous goods** means articles or substances that are capable of posing risk to health, safety, property, or the environment and— 25

Part 2—continued

New (unanimous)

Rule 1.1—continued

- “(a) are listed in, or classified in accordance with, the ICAO’s *Technical Instructions for the Safe Transport of Dangerous Goods by Air*; or
- “(b) have properties that would result in the articles or substances being classified as dangerous goods under the ICAO’s *Technical Instructions for the Safe Transport of Dangerous Goods by Air*.”.

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Rule 19.7

Revoke paragraph (b).

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Rule 91.5

Revoke paragraphs (a) and (b).

Rule 91.7(b)

Omit the words “New Zealand registered”.

Rule 91.11

Revoke and substitute:

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“91.11 Prohibition against interference with aircraft and aviation facilities

A person must not tamper or interfere with any aircraft, any component of an aircraft, or its equipment, including, but not limited to, smoke detectors, or with fixed or mobile equipment used for the operation or navigation of any aircraft.”

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Rule 108.53(b)(5)

Insert, before the word “cargo”, the word “baggage,”.

Rule 108.53(b)(8)

Omit the words “and baggage” in both places where they appear and substitute in each case the words “, crew, and baggage”.

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Struck out (unanimous)

Omit the words “an aviation security organisation” and substitute the word “a”.

Part 2—*continued***Rule 108.53(b)(8)**—continued**New (unanimous)**

Omit the words “an aviation security organisation certificate issued under Part 140” and substitute the words “an aviation security service certificate issued in accordance with Part 140”.

Insert, before the word “Director”, the words “Minister or the”.

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Rule 108.55(b)(12)

Omit the words “a passenger” and substitute the words “passenger, crew,”.

Struck out (unanimous)

Omit the words “an aviation security organisation” and substitute the word “a”.

10

New (unanimous)

Omit the words “an aviation security organisation certificate issued under Part 140” and substitute the words “an aviation security service certificate issued in accordance with Part 140”.

Schedule 3

Consequential amendments to other Acts

s 36(3)

Aviation Crimes Act 1972 (1972 No 137)

Insert in section 2(1), after **aviation security officer**:

“**carrier**(,) **and contract**(, *and passenger*,) **in relation to any contract of carriage, have the same meanings as in section 91U** of the Civil Aviation Act 1990, whether the contract of carriage is for international carriage or domestic carriage; and **passenger** includes a person who has reported to a servant or agent of the carrier for the purpose of going on board an aircraft pursuant to a contract to carry him or her as a passenger”.

New (unanimous)

Insert, in section 2(1), after the definition of **ordinarily resident in New Zealand**, the following definition:

“**passenger** means a person carried under a contract for carriage other than a person—

“(a) assigned by the carrier for duty as a member of the crew of the aircraft; or

“(b) carried for the sole purpose of receiving or giving instruction in the control or navigation of aircraft in flight”.

Repeal the definition of **baggage, cargo, carrier, contract, and passenger** in section 2(1).

Civil Aviation Amendment Act 2002 (2002 No 15)

Repeal section 29(5) and substitute:

“(5) Section 91G(3) of the principal Act is amended by inserting, after the words ‘limited by’, the words ‘Articles 21 and 22 of the Montreal Convention or’.”

Crimes Act 1961 (1961 No 43)

Insert in sections 8(7) and 400(2), after the expression “1994”, the words “or **Part 5A** of the Civil Aviation Act 1990”.

Goods and Services Tax Act 1985 (1985 No 141)

Omit from section 11A(1)(b) the words “the Carriage by Air Act 1967”, and substitute the words “that Act”.

Judicature Act 1908 (1908 No 89)

Omit from rules 219(j) and 223 in the Second Schedule the words “the Carriage by Air Act 1967, or Part 9A” and substitute in each case the words “Part 9A or **Part 9B**”.

New (unanimous)**Smoke-free Environments Act 1990** (1990 No 108)

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Repeal section 8(2).

Repeal section 17(9).

Schedule 4 s 36(5)
New Schedule 3 added to Civil Aviation (Offences)
Regulations 1997

Section 65P, Civil Aviation Act 1990

Notice number: 5
 Date of notice:
 Enforcement authority:
 Issued by: *[full name, being an aviation security officer or a member of the police]*
 This notice is issued to the person described below (who is referred to as the **defendant**) in respect of the alleged offence described below. 10

Details of defendant

Name:
 Address: 15
 Occupation: Passport number and country of
 Date of birth: issue (if applicable):

Details of alleged offence

Date: Time: **(Date) Day of week:**
 Place: S M T W T F S 20
 Aircraft nationality and registration:

(Offence number)

Offence description **Infringement fee payable** 25
 1. \$
 2. \$
 3. \$

Service details

(To be completed only on copy to be filed in court.) 30
 Method of service:
 Personal service [] Registered or ordinary post []
 Served by: *[full name]* On: *[date]*

Payment of infringement fee

The infringement fees may be paid (not later than 14 days after service of this notice) at the following address, either in person or by sending it by post:

[address where fee may be paid].

5

Cheques or money orders should be made payable to the *[specify enforcement authority]* and should be crossed and marked “Not Negotiable”. An official receipt will be issued following payment. If this notice has been served on you *(at an international airport) on arrival at a port that has been approved under the Biosecurity Act 1993 for an offence on an international flight*, you may choose to pay the infringement fee immediately. Payment may be made at the *(Infringement Notice Cashier Desk located within the arrival hall) MAF Collections Booth located in the arrivals area of the International Terminal Building in New Zealand currency, or by EFTPOS or approved credit cards (or by electronic funds transfer)*. An official receipt will be issued following payment.

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Important: The notes printed on the back of this notice set out important information.

1 Defences

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You have a defence against any proceedings for the offence alleged in this notice if you can prove that the infringement fee has been paid to the enforcement authority, either—

- (a) at the address for payment shown on the front of this notice before or within 14 days after you have been served with this notice; or
- (b) by immediate payment (if you were served with this notice at an international airport for an offence on an international flight).

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Note that late payment, or payment at any other address, will not be a defence.

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2 Right to request hearing

You have the right to request a hearing. A request for a hearing must be made in writing, be signed by you, and be delivered to the address specified on the front of this notice before or within 14 days after you have been served with this notice.

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- If you request a hearing, you may deny liability for the offence, or admit liability and make submissions as to penalty or any other matter.
- If you deny liability for the offence, the enforcement authority will serve you with a notice of hearing setting out the place and time at which the matter will be heard by the Court (unless the enforcement authority decides not to start court proceedings).

Note that, if the Court finds you guilty of the offence, costs will be imposed in addition to any fine. 10

If you admit liability for the offence but want the Court to consider your submissions, you should, in your request for a hearing,—

- (a) admit the offence; and
- (b) set out the written submissions you wish to be considered by the Court. 15

The enforcement authority will then file your letter with the Court (unless the enforcement authority decides not to commence court proceedings). There will be no oral hearing before the Court if you follow this course of action. 20

Note that costs will be imposed in addition to any fine.

3 **Consequences of taking no action**

If, within 14 days after being served with this notice, you have not paid the infringement fee and the enforcement authority has not received a request for a hearing, you will become liable to pay costs **in addition** to the infringement fee (unless the enforcement authority decides not to commence court proceedings against you). 25

4 **Questions and other correspondence**

When writing or making payment, please include— 30

- (a) the date of the infringement notice; and
- (b) the infringement notice number; and
- (c) the identifying number of each alleged offence and the course of action you are taking in respect of the alleged offence(s); and 35

(d) your address for replies.

Further details of your rights and obligations are set out in sections 65P, 65Q, 65R, 65S, and 65T of the Civil Aviation Act 1990 and section 21 of the Summary Proceedings Act 1957.

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Note that all queries and all correspondence regarding this notice must be directed to the enforcement authority at the address shown.

Legislative history

1 July 2003	Introduction (Bill 64-1)
29 July 2003	First reading and referral to Transport and Industrial Relations Committee
November 2003	Reported from Transport and Industrial Relations Committee (Bill 64-2)
