

CIVIL AVIATION BILL

EXPLANATORY NOTE

THE purpose of this Bill is to establish a Department of Civil Aviation, to define its powers and functions, and to consolidate the Civil Aviation Act 1948 and its amendments.

PART I

DEPARTMENT OF CIVIL AVIATION

Clause 3 provides for the appointment of a Minister of Civil Aviation. The Minister is now referred to in legislation as the Minister in Charge of Civil Aviation.

Clause 4 constitutes a Department of Civil Aviation. The Department will be responsible for the administration of the Acts referred to in the First Schedule.

Clause 5 prescribes the principal functions of the Department which are generally to encourage civil aviation and provide for the safe operation of aircraft in New Zealand. In addition it will be a function of the Department to provide a national meteorological service.

Clause 6 provides for the appointment of a Secretary for Civil Aviation who shall be the administrative head of the Department.

Clause 7 provides for the appointment of other officers and employees of the Department.

Clause 8 provides that officers shall act under the direction of the Secretary.

Clause 9 provides for the delegation of powers by the Minister to the Secretary.

Clause 10 provides for the delegation of powers by the Secretary to officers of the Department.

Clause 11 authorises the Minister to establish aerodromes and facilities in connection with air navigation.

No. 65—1

Price 2s. 6d.

Clause 12 confers additional powers on the Minister in respect of aerodromes and facilities.

Clause 13 provides for the making of charges and dues for the purpose of providing funds for the establishment, maintenance, and operation of works, facilities, and services authorised by the proposed Act or otherwise for the purposes of civil aviation.

Clause 14 authorises the Minister to hold inquiries in connection with the functions of the Department.

Clause 15 provides for an annual report to be submitted to the Minister by the Secretary.

PART II

OPERATIONS AND TECHNICAL SERVICES

Clause 16 provides for the appointment of an officer of the Department to be Director of Operations and Technical Services who shall have such special functions and duties as may be conferred on him by regulations or by the Minister.

Clause 17 provides that the Director of Operations may delegate his powers and functions to officers of the Department.

PART III

INVESTIGATION OF ACCIDENTS

Clause 18 constitutes a branch of the Department as the Accidents Investigation Branch and provides for the appointment of an officer of the Department as Chief Inspector of Accidents who shall have special functions conferred on him by regulations or by the Minister. The Chief Inspector will be under the general directions of the Secretary in respect of administrative matters but in the exercise of his special functions shall act independently.

Clause 19 provides for the making of regulations relating to the investigation of accidents.

PART IV

THE METEOROLOGICAL SERVICE

Clause 20 constitutes a branch of the Department as the New Zealand Meteorological Service and provides for the appointment of an officer of the Department as Director of Meteorological Services.

Clause 21 prescribes the functions of the Meteorological Service which will not be confined to matters affecting aviation.

PART V

MISCELLANEOUS PROVISIONS

Clause 22 confers special powers on the Governor-General in cases of emergency.

Clause 23 makes special provisions in respect of nuisance, trespass, and responsibility for damage. No change is made in the effect of the present law except that a new provision relating to the liability of persons descending from aircraft by parachute has been inserted by *subclause (4)*.

Clause 24 provides for special penalties for the dangerous operation of aircraft.

Clause 25 provides for the sale of liquor at international airports.

Clause 26 provides that the Act shall bind the Crown except in specified cases.

Clause 27 confers an indemnity in respect of messages transmitted through any aeronautical communication service.

Clause 28 applies the Act to the Cook Islands

Clause 29 confers on the Governor-General power to make regulations for the purpose of giving effect to the Chicago Convention and generally for regulating civil aviation. The provisions are similar to those at present existing.

Clause 30 makes general provisions as to Orders in Council and regulations.

Clause 31 validates certain regulations imposing airways dues and airport charges.

Clause 32 makes transitional provisions.

Clause 33 makes consequential amendments.

Clause 34 repeals enactments replaced by the Bill.

Hon. Mr McAlpine

CIVIL AVIATION

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A BILL INTITULED

An Act to constitute the Department of Civil Aviation and to consolidate and amend the law relating to civil aviation

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

No. 65—1

1. Short Title and commencement—(1) This Act may be cited as the Civil Aviation Act 1964.

(2) This Act shall come into force on the first day of October, nineteen hundred and sixty-four.

2. Interpretation—In this Act, unless the context otherwise requires,— 5

“Aerodrome” means any defined area of land or water intended or designed to be used either wholly or partly for the landing, departure, movement, and servicing of aircraft; and includes any buildings, 10 installations, and equipment on or adjacent to any such area used in connection with the aerodrome or its administration:

“Aircraft” means any machine that can derive support in the atmosphere from the reaction of the air: 15

“Air navigation” means the operation of guiding an aircraft from one place to another; and includes the operation of fixing the position of an aircraft when required:

“Air traffic” includes the movement of aircraft on an aerodrome: 20

“Convention” means the Convention on International Civil Aviation signed on behalf of the Government of New Zealand in Chicago on the seventh day of December, nineteen hundred and forty-four; and 25 includes the international standards and recommended practices and procedures from time to time adopted by the International Civil Aviation Organisation, in pursuance of Article 37 of the Convention:

“Department” means the Department of Civil Aviation 30 constituted under this Act:

“Director of Operations” means the Director of Operations and Technical Services appointed under this Act:

“Meteorological Service” means the New Zealand 35 Meteorological Service established under this Act:

“Minister” means the Minister of Civil Aviation:

“New Zealand” includes the Cook Islands and the Tokelau Islands:

“Secretary” means the Secretary for Civil Aviation 40 appointed under this Act.

PART I

DEPARTMENT OF CIVIL AVIATION

3. Minister of Civil Aviation—(1) The Governor-General may from time to time appoint a Minister of the Crown to
5 be Minister of Civil Aviation.

(2) The Minister shall have the general administration of this Act.

4. Department of Civil Aviation—There shall be a Department of State to be known as the Department of Civil
10 Aviation which, under the control of the Minister, shall be charged with the administration of this Act and of the enactments specified in the First Schedule to this Act and with such other functions as may be lawfully conferred on it.

5. Principal functions of the Department—(1) The principal functions of the Department shall be—

- (a) To promote and encourage the orderly and economic development of civil aviation:
- 20 (b) To exercise such functions as may be necessary to ensure the safe operation of aircraft:
- (c) To initiate and carry out surveys into any aspect of civil aviation:
- (d) To provide for the investigation of accidents in which aircraft are involved:
- 25 (e) To advise the Minister and Government Departments on all matters affecting civil aviation:
- (f) To provide a national meteorological service:
- (g) To carry out such functions and duties as may be conferred on it by this or any other enactment or as
30 the Minister may from time to time direct.

(2) For the purpose of enabling the Department to carry out its functions the Minister may—

- 35 (a) Give special directions to the Secretary or such other officer of the Department as he thinks fit in connection with the administration of this Act or any other Act administered by the Department:
- (b) Exercise such powers as are conferred on him by this or any other enactment:
- 40 (c) Exercise such other powers as are reasonably necessary for the effective performance of the functions of the Department.

6. Secretary for Civil Aviation—There shall from time to time be appointed under the State Services Act 1962 a Secretary for Civil Aviation, who shall be the administrative head of the Department of Civil Aviation.

7. Appointment of other officers and employees—There shall from time to time be appointed under the State Services Act 1962 such other officers and employees of the Department as may be necessary. 5

8. Officers to act under the direction of the Secretary—Subject to the provisions of section 16, section 18, and section 20 of this Act, all officers and employees of the Department shall act under the direction of the Secretary in the exercise and performance of the powers, duties, and functions conferred or imposed on them by any enactment administered by the Department. 10 15

9. Delegation of powers by Minister—(1) The Minister may from time to time, either generally or particularly, delegate to the Secretary all or any of the powers which are conferred on him as Minister of Civil Aviation by any enactment, including powers delegated to him under any enactment, but not including the power to delegate under this section or the power to consent to a delegation under section 10 of this Act. 20

(2) Subject to any general or special directions given or conditions attached by the Minister, the Secretary may exercise any powers delegated to him as aforesaid in the same manner and with the same effect as if they had been conferred on him directly by this section and not by delegation. 25

(3) Unless and until any such delegation is revoked, it shall continue in force according to its tenor. In the event of the Minister by whom any such delegation has been made ceasing to hold office, it shall continue to have effect as if made by the person for the time being holding office as Minister and, in the event of the Secretary to whom any such delegation has been made ceasing to hold office, it shall continue to have effect as if made to the person for the time being holding office as Secretary or, if there is no Secretary in office or if the Secretary is absent from duty, to the person for the time being directed under the State Services Act 1962 to act in the place of the Secretary. 30 35 40

(4) Where the Secretary purports to act pursuant to any delegation under this section, he shall be presumed to be acting in accordance with the terms of the delegation in the absence of proof to the contrary.

5 (5) Every such delegation shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Minister.

10. Delegation of powers by Secretary—(1) The Secretary may from time to time, either generally or particularly,
10 delegate to such officer or officers or employee or employees of the Department as he thinks fit all or any of the powers exercisable by him under any enactment including any powers delegated to him under any enactment, but not including this present power of delegation:

15 Provided that the Secretary shall not delegate any power delegated to him by the Minister without the written consent of the Minister, or any power delegated to him under the State Services Act 1962 without the written consent of the State Services Commission.

20 (2) Subject to any general or special directions given or conditions attached by the Secretary, the officer or employee to whom any powers are delegated under this section may exercise those powers in the same manner and with the same effect as if they had been conferred on him directly
25 by this section and not by delegation.

(3) Every person purporting to act pursuant to any delegation under this section shall be presumed to be acting in accordance with the terms of the delegation in the absence of proof to the contrary.

30 (4) Any delegation under this section may be made to a specified officer or employee or to officers or employees of a specified class, or may be made to the holder or holders for the time being of a specified office or class of offices.

35 (5) Any delegation under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Secretary.

(6) Any such delegation shall, until revoked, continue in force according to its tenor, notwithstanding the fact that the Secretary by whom it was made may have ceased to
40 hold office, and shall continue to have effect as if made by the successor in office of that Secretary.

11. Powers of Minister in respect of aerodromes and facilities—(1) Subject to the provisions of subsection (2) of section 2 of the Ministry of Works Act 1943, the Minister may for the purposes of civil aviation establish, maintain, and operate aerodromes and services and facilities in connection with the operation of any aerodrome or with the operation of aircraft engaged in civil aviation. 5

(2) Without limiting the general powers hereinbefore conferred, the Minister may establish, maintain, and operate radio navigational aids, beacons and lighting systems, air traffic control services, aeronautical communication services, search and rescue services, crash fire and ground safety services, buildings and accommodation, and such other services and facilities as the Minister thinks necessary for the purpose of providing for the safety and efficient operation of aircraft engaged in civil aviation. 10 15

(3) All works undertaken under the authority of this section shall be public works within the meaning of the Public Works Act 1928.

(4) The powers conferred by this section are in addition to and not in derogation of any powers conferred by any other enactment and nothing in this section shall be construed to limit or affect the powers conferred on any person or authority by any other enactment. 20

12. Further powers of Minister—(1) In the exercise of his powers and functions under this Act and subject to the provisions thereof, the Minister may do all that is necessary or convenient to be done for, or as incidental to, the establishment, maintenance, and operation by him of any aerodrome under his complete or partial control or of any services or facilities in connection with the operation of any such aerodrome in all respects as if the operation of the aerodrome or of the services or facilities were a commercial undertaking and in particular may himself carry out any work or undertaking in respect of which he is authorised to enter into an agreement under subsection (3) of this section. 25 30 35

(2) Any power given to the Minister under this Act in respect of any aerodrome or any facilities in connection with any aerodrome may be exercised by him whether or not the aerodrome or the facilities had been established by him under this Act. 40

(3) The Minister and any one or more local authorities, bodies, or persons may from time to time enter into and carry out such agreements for the execution, control, operation, or management of any work or undertaking authorised by this Act as may to them seem most suited to the circumstances.

(4) Any agreement entered into under subsection (3) of this section may provide:

- 10 (a) For the establishment, maintenance, or operation of any aerodrome or services and facilities in connection with the operation of the aerodrome as a joint venture between the Minister and any other party or parties to the agreement:
- 15 (b) For the vesting of aerodrome buildings and facilities in trust for aerodrome purposes in any authority, body, or person approved by the Minister in that behalf:
- 20 (c) For the exchange, leasing or subleasing of land or buildings vested in the Crown for the purposes of this Act and not immediately required for those purposes:
- 25 (d) For the transfer of the management of any aerodrome under the control of the Minister, or of any facilities connected with the operation of any such aerodrome, from the Minister to any other party or parties to the agreement at such times and subject to such terms and conditions as may be agreed upon:
- 30 (e) For the transfer to the Minister of the control, management, or operation of any aerodrome, or any facilities in connection with the operation of any aerodrome, under the control of any authority, body, or person and for the vesting in or leasing to the Minister of any real or personal property necessary for the purpose of any such transfer:
- 35 (f) For the control of access to aerodromes by any persons or aircraft and for the prohibition or control of the use of aerodromes for any purpose not related to civil aviation:
- 40 (g) For the establishment, maintenance, management, and operation at any aerodrome of refreshment rooms, bookstalls, booking offices, travel agencies, and such other facilities as may be considered necessary or convenient for the operation of the aerodrome or
- 45 for the convenience of persons using the aerodrome:

- (h) For contributions by parties to the agreement in respect of the cost of any work or undertaking to which the agreement relates:
- (i) For the apportionment or allocation between parties to the agreement of the cost of any work or undertaking to which the agreement relates: 5
- (j) For the payment of grants or subsidies or the making of advances to any party to the agreement in respect of any work or undertaking to which the agreement relates: 10
- (k) For the entering into contracts of insurance by any party to the agreement in respect of such matters in relation to the agreement as may require the provision of insurance.
- (5) Any agreement entered into under subsection (3) of this section may from time to time be varied by the parties thereto or may be terminated in accordance with the terms thereof. 15
- (6) Any agreement relating to the development or reconstruction of an aerodrome entered into by the Minister of Works under section 31 of the Finance Act (No. 3) 1944 may include any provision referred to in subsection (4) of this section. 20
- 13. Charges and dues—**(1) For the purpose of providing funds for the establishment, maintenance, and operation of works, facilities, and services under this Act or otherwise for the purposes of civil aviation there shall be charged, in accordance with this Act and regulations thereunder, charges, fees, and dues of such amounts or at such rates as may be prescribed in that behalf. 25 30
- (2) Any such charges, fees, or dues shall be payable by persons owning or operating aircraft or by such class or classes of any such persons as may be prescribed in that behalf and shall be payable to such person or authority as may be prescribed in that behalf. 35
- (3) Any person by whom any such charges, fees, or dues are payable shall make such returns in such manner and subject to such conditions as may be prescribed in that behalf.
- (4) The powers conferred by this section are in addition to and not in derogation of any other enactment. 40

14. **Inquiries**—(1) The Minister may from time to time make, or appoint any other person or persons to make, such inquiries as he thinks necessary or expedient for the purpose of securing the improvement, development, and better regulation and administration of civil aviation and all matters incidental thereto or to the functions of the Department.

(2) For the purposes of this section the provisions of the Commissions of Inquiry Act 1908 shall, as far as they are applicable and with the necessary modifications, apply as if the Minister and every person appointed by him were a Commission appointed under that Act.

(3) No person shall be deemed to be employed in the service of Her Majesty for the purposes of the State Services Act 1962 or of the Superannuation Act 1956 by reason of his having been appointed to make inquiries under subsection (1) of this section.

15. **Annual report**—(1) As soon as practicable after the end of each year ending with the thirty-first day of March the Secretary shall furnish to the Minister a report of the activities of the Department during that year.

(2) A copy of the report shall be laid before Parliament within twenty-eight days after its receipt by the Minister if Parliament is then in session, and, if not, within twenty-eight days after the commencement of the next ensuing session.

PART II

OPERATIONS AND TECHNICAL SERVICES

16. **Director of Operations and Technical Services**—

(1) There shall from time to time be appointed under the State Services Act 1962 an officer of the Department to be called the Director of Operations and Technical Services who shall have such special duties and functions as may be imposed or conferred on him by regulations under this Act or by the Minister.

(2) The Director of Operations shall be under the general direction of the Secretary but nothing in this subsection shall derogate from any of the powers, duties, and discretions conferred or imposed on him by regulations under this Act or by the Minister.

17. Delegation by Director of Operations—(1) The Director of Operations may from time to time, either generally or particularly, delegate to such officer or officers of the Department as he thinks fit or, with the consent of the Minister, to any person not an officer of the Department all or any of the powers exercisable by him under any enactment, but not including this present power of delegation. 5

(2) Subject to any general or special direction given or condition attached by the Director of Operations, the person to whom any powers are delegated under this section may exercise those powers in the same manner and with the same effect as if they had been conferred on him directly by this section and not by delegation. 10

(3) Every person purporting to act pursuant to any delegation under this section shall be presumed to be acting within the terms of the delegation in the absence of proof to the contrary. 15

(4) Any delegation under this section may be made to a specified officer or to officers of a specified class, or may be made to the holder or holders for the time being of a specified office or class of offices. 20

(5) Every delegation under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Director of Operations.

(6) Every such delegation shall, until revoked, continue in force according to its tenor, notwithstanding the fact that the Director by whom it was made may have ceased to hold office, and shall continue to have effect as if made by the person for the time being holding office as Director of Operations. 30

PART III

INVESTIGATION OF ACCIDENTS

18. Accidents Investigation Branch—(1) There shall be a branch of the Department to be called the Accidents Investigation Branch. 35

(2) There shall from time to time be appointed under the State Services Act 1962 an officer of the Department to be called the Chief Inspector of Accidents who shall be responsible for the administration of the Accidents Investigation Branch and shall have such special duties and functions as may be imposed or conferred on him by regulations under this Act or by the Minister. 40

(3) The Chief Inspector of Accidents shall be under the general direction of the Secretary in respect of administrative matters but in the exercise of his special duties and functions under this Part of this Act he shall act independently and shall not be subject to the directions of the Secretary or of any other officer of the Department, and nothing in this subsection shall derogate from any of the powers, duties, and discretions conferred or imposed on him by regulations under this Act or by the Minister.

10 **19. Regulations as to investigation of accidents**—The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

- 15 (a) Providing for the investigation of any accident or any unusual or dangerous incident arising out of or in connection with air traffic or air navigation:
- (b) Providing for the appointment of Inspectors, having such qualifications as may be prescribed, for the purposes of making inquiries under the regulations:
- 20 (c) Prescribing the powers, functions, and duties of Inspectors appointed under the regulations:
- (d) Requiring notice to be given of any such accident or incident as aforesaid in such manner and by such persons as may be prescribed:
- 25 (e) Requiring a report to be made, in such manner and by such person as may be prescribed, of any mechanical or structural defect discovered during the operation of any aircraft:
- 30 (f) Prohibiting, pending investigation, access to or interference with aircraft to which an accident has occurred, and authorising any person, so far as may be necessary for the purposes of an investigation, to have access to, examine, remove, take measures for the preservation of, or otherwise deal with any such aircraft:
- 35 (g) Conferring on any person holding an investigation under the regulations the rights and powers of a Commission under the Commission of Inquiries Act 1908, and applying all or any of the provisions of that Act accordingly:
- 40 (h) Prescribing the procedure to be followed at the hearing of any inquiry under the regulations:

- (i) Prescribing penalties, not exceeding a fine of two hundred pounds or imprisonment for a term of six months, for the breach of any regulation under this section:
- (j) Providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act relating to the investigation of accidents and for the due administration thereof. 5

PART IV

THE METEOROLOGICAL SERVICE 10

20. Meteorological Service—(1) There shall be a branch of the Department to be called the New Zealand Meteorological Service.

(2) There shall from time to time be appointed under the State Services Act 1962 an officer of the Department to be called the Director of Meteorological Services who shall be responsible for the administration of the Meteorological Service and who shall have such duties and functions as may be imposed or conferred on him by regulations under this Act or by the Minister. 15 20

(3) The Director of Meteorological Services shall be under the general direction of the Secretary but nothing in this subsection shall derogate from any of the powers, duties, and discretions conferred or imposed on him by regulations under this Act or by the Minister. 25

21. Functions of Meteorological Service—(1) The principal functions of the Meteorological Service shall be—

- (a) To provide a meteorological service for the benefit of all sections of the community:
- (b) To promote the advancement of the science of meteorology: 30
- (c) To advise the Minister and Government Departments on all matters relating to meteorology.

(2) In the exercise of its functions the Meteorological Service shall generally do what is considered necessary for the efficient operation of a meteorological service and, in particular, it may, from time to time,— 35

- (a) Arrange the making and recording of meteorological observations:
- (b) Promote standardisation in the making of meteorological observations: 40

- (c) Collect and preserve meteorological records:
- (d) Compile meteorological statistics:
- (e) Conduct meteorological research and investigation:
- (f) Furnish advice on meteorological matters:
- 5 (g) Publish meteorological information and the results of research and investigation:
- (h) Make and issue forecasts of the weather and other meteorological conditions:
- 10 (i) Supply meteorological information to Government Departments, persons engaged in civil aviation, and all other bodies or persons needing any such information:
- (j) Cooperate with the authority administering the meteorological service of any other country or with any appropriate international organisation in relation to meteorological matters:
- 15 (k) Exercise such functions and duties as may be conferred on it by any enactment or as the Minister may from time to time direct.
- 20 (3) Charges of such amounts and in such circumstances as may be approved in that behalf by the Minister or as may be prescribed by regulations under this Act may be made in respect of any information supplied or services provided by the Meteorological Service.

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PART V

GENERAL

- 22. Special powers in case of emergency—**(1) In time of war, whether actual or imminent, or of national emergency, the Governor-General may, by Proclamation, regulate or
- 30 prohibit, either absolutely or subject to such conditions as may be contained in the Proclamation, and notwithstanding the provisions of this Act or of any regulations thereunder, the flight of all or any descriptions of aircraft over New Zealand or any portion thereof; and, without limiting the
- 35 generality of this provision, any such Proclamation may provide for taking possession of and using for the purposes of the Armed Forces of New Zealand any aerodrome or any aircraft, machinery, plant, material, or thing found therein or thereon, or any aviation equipment elsewhere, and for
- 40 regulating or prohibiting the use, erection, building, maintenance, or establishment of any aerodrome, flying school, or any class or description thereof.

(2) Any such Proclamation may provide for the imposition of penalties to secure compliance with the Proclamation, not exceeding those which may be imposed pursuant to subsection (3) of section 29 of this Act, and may authorise such steps to be taken in order to secure that compliance as appear to the Governor-General to be necessary. 5

(3) Any person who suffers direct injury or loss owing to the operation of a Proclamation under this section shall be entitled to receive compensation therefor, the amount of the compensation to be fixed by agreement with the Minister with the concurrence of the Minister of Finance, or in default of agreement, to be fixed by the Land Valuation Court: 10

Provided that no compensation shall be payable by reason of the operation of a general Proclamation under this section prohibiting flying in New Zealand or any part thereof. 15

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

23. Nuisance, trespass, and responsibility for damage—

(1) Any regulations made under section 29 of this Act may provide for regulating the conditions under which noise or vibration may be caused by aircraft or aircraft engines on aerodromes and may provide that subsection (2) of this section shall apply to any aerodrome in respect of which provisions as to noise and vibration caused by aircraft is so made. 20 25

(2) No action shall lie in respect of nuisance by reason only of the noise and vibration caused by aircraft or aircraft engines on an aerodrome to which this subsection applies by virtue of any regulations made under section 29 of this Act so long as the provisions of the regulations are duly complied with. 30

(3) No action shall lie in respect of trespass, or in respect of nuisance, by reason only of the flight of aircraft over any property at a height above the ground which having regard to wind, weather, and all the circumstances of the case is reasonable, or the ordinary incidents of any such flight, so long as the provisions of this Act and of any regulations or Proclamation made thereunder are duly complied with; but where material damage or loss is caused by an aircraft in flight, taking off, landing, or alighting, or by any person in any such aircraft, or by any article or person falling from 35 40

any such aircraft, to any person or property on land or water, damages shall be recoverable from the owner of the aircraft in respect of the damage or loss, without proof of negligence or intention or other cause of action, as if the damage or loss
5 had been caused by his fault, except where the damage or loss was caused by or contributed to by the fault of the person by whom the same was suffered:

Provided that where material damage is caused as afore-
said in circumstances in which—

10 (a) Damages are recoverable from the owner in respect of the said damage or loss by virtue only of the preceding provisions of this subsection; and

(b) A legal liability is created in some person other than
15 the owner to pay damages in respect of the said damage or loss,—

the owner shall be entitled to be indemnified by that other person against any claim in respect of the said damage or loss.

(4) Notwithstanding the provisions of subsection (3) of this
20 section, no damages shall be recoverable under that subsection from the owner of an aircraft in respect of damage or loss caused by a person descending from the aircraft by parachute but, in any such case, damages shall be recoverable from that person and the provisions of the said subsection (3) shall,
25 with the necessary modifications, have effect as if the person descending were the owner of the aircraft:

Provided that nothing in this subsection shall apply to damage or loss caused by a person descending from an aircraft by parachute if the descent is for the purpose of avoiding
30 injury or death, and the provisions of the said subsection (3) shall apply to any such damage or loss.

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

40 (6) For the purposes of this section the term “fault” means negligence, breach of statutory duty, or other act or omission which gives rise to a liability in tort or would, apart from the Contributory Negligence Act 1947, give rise to the defence of contributory negligence.

24. Penalty for dangerous operation of aircraft—(1) Where an aircraft is operated in such a manner as to be the cause of unnecessary danger to any person or property, the pilot or the person in charge of the aircraft, and also the owner thereof unless he proves to the satisfaction of the Court that the aircraft was so operated without his actual fault or privity, shall be liable on summary conviction to a fine not exceeding five hundred pounds, or to imprisonment for a term not exceeding twelve months, or to both. 5

(2) For the purposes of this section the term “owner”, in relation to an aircraft, includes any person to whom the aircraft is demised, let, or hired out at the time of the offence. 10

(3) The provisions of this section shall be in addition to and not in derogation of any general safety or other regulations under this Act. 15

25. Sale of liquor at international airports—(1) The Governor-General may from time to time by Order in Council make regulations providing for the sale of liquor at international airports in such circumstances and subject to such conditions as may be prescribed in the regulations. 20

(2) No liquor shall be sold under the authority of any such regulations otherwise than to passengers on aircraft departing from New Zealand and any such regulations shall contain provisions to ensure that any liquor so sold shall not be delivered by or on behalf of the purchaser to any other person within New Zealand or consumed within New Zealand. 25

(3) Every person who does any act in contravention of this section or of any regulations under this section commits an offence and is liable on summary conviction to a fine not exceeding fifty pounds. 30

(4) Nothing in the Sale of Liquor Act 1962 shall apply to the sale of liquor pursuant to the authority of any regulations under this section.

(5) For the purposes of this section the term “international airport” means any airport specified in that behalf in the regulations and from which aircraft customarily leave New Zealand for places beyond New Zealand. 35

26. Special provisions as to Crown—(1) This Act shall bind the Crown:

Provided that, except as provided by any other Act or by regulations under this Act, nothing in this Act or in any Proclamation, Order in Council, or regulations under this Act shall apply to aircraft used for the purposes of any of
5 the Armed Forces of New Zealand.

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

10 **27. Indemnity in respect of certain messages**—(1) No person shall have any right to compensation nor shall any liability be imposed upon Her Majesty or the Minister by reason of any error, omission, or delay in the transmission of any message to which this section applies.

15 (2) This section applies to any message of a class prescribed in that behalf by regulations under this Act (not being a message which may affect the safety of any aircraft) transmitted through any aeronautical communication service established under this Act and operated by or under the
20 control of the Minister.

28. Application of Act to Cook Islands—(1) Except as otherwise provided by this section, this Act shall extend to and be in force in the Cook Islands and the Tokelau Islands.

25 (2) The following provisions of this Act shall have no application in the Cook Islands or the Tokelau Islands:

(a) Subsection (2) of section 25:

(b) Subsection (2) of section 29.

30 (3) The amount of compensation payable to any person resident in the Cook Islands or the Tokelau Islands under subsection (3) of section 22 of this Act shall be fixed by agreement with the Minister of Island Territories or, in default of agreement, by arbitration in accordance with the Arbitration Act 1908.

35 **29. Regulations**—(1) The Governor-General may from time to time, by Order in Council, make such regulations as appear to him necessary or expedient—

- (a) For carrying out the Convention, any annex thereto relating to international standards and recommended practices and procedures (being an Annex adopted in accordance with the Convention), and any amendment of the Convention or any such Annex made in accordance with the Convention; or 5
- (b) Generally for regulating civil aviation:
- (c) For the administration of the Meteorological Service and prescribing such matters as may be necessary to enable that service to carry out its functions. 10
- (2) Without limiting the general power hereinbefore conferred, regulations may be made under this section for all or any of the following purposes:
 - (a) For the licensing, inspection, and regulation of aerodromes, for access to, or for prohibiting or controlling access to, aerodromes and places where aircraft have landed, for access to factories for the purpose of inspecting work therein carried on in relation to aircraft, or parts thereof, or aviation equipment, and for prohibiting or regulating the use of unlicensed aerodromes: 20
 - (b) For the licensing of persons performing prescribed functions in relation to the operation, maintenance, or airworthiness of aircraft, requiring that any such persons be the holders of licences, certificates, or ratings of prescribed kinds, and providing for the grant, renewal, cancellation, suspension or variation of any such licences, certificates, or ratings by a prescribed Authority or officer and for the endorsement thereof, and for appeals against decisions of any such Authority or officer: 30
 - (c) For minimising or preventing interference with the use or effectiveness of apparatus used in connection with air traffic or air navigation, and for prohibiting or regulating the use of any such apparatus: 35
 - (d) Generally for securing the safety, efficiency, and regularity of air traffic and the safety of aircraft and of persons and property carried therein, for preventing aircraft endangering other persons and property, and, in particular, for the detention of aircraft for any of the purposes specified in this paragraph: 40

- 5 (e) Requiring any person or any class of persons owning or operating an aircraft used for any purpose in respect of which a licence is not required under the Air Services Licensing Act 1951 or under the International Air Services Licensing Act 1947 to insure, in such manner and to such extent as may be prescribed, against any liability which may arise out of or in connection with the operation of the aircraft in respect of the death of or bodily injury to any person and in respect of the loss of or damage to any property:
- 10 (f) Regulating the display of signs and lights likely to endanger aircraft:
- 15 (g) Regulating the use of the civil air ensign and any other ensign authorised for purposes connected with civil aviation:
- (h) For the registration, marking, classification, and certification of aircraft and aircraft components:
- 20 (i) Prescribing requirements as to the airworthiness of aircraft and aircraft components:
- (j) Prescribing or regulating the amount or rate of charges, fees, or dues payable under this Act and the persons by whom any such charges, dues, or fees are payable:
- 25 (k) Prescribing the fees to be paid in respect of the issue, validation, renewal, extension, or variation of any certificate, licence, or other document or the undergoing of any examination or test required by the regulations and in respect of any other matters in relation to which it appears to the Governor-General in Council to be expedient for the purposes of the regulations to charge fees:
- 30 (l) For obtaining such information as may be required for the purposes of the regulations, and for the forms of applications, certificates, and other documents required under the regulations:
- 35 (m) Prohibiting or permitting, subject to such conditions as the Minister may impose, the operation of international flights by aircraft to, from, or within New Zealand:
- 40 (n) Regulating or controlling the use of civil aerodromes by aircraft, whether civil or otherwise, and regulating or controlling the use of any such aerodromes or any part thereof or any appurtenances thereto by
- 45 the general public:

- (o) For the establishment and award, emoluments, and tenure of scholarships or fellowships relating to aeronautical research or other matters of benefit to civil aviation:
- (p) Exempting from the provisions of the regulations or any of them any aircraft or persons or any class of aircraft or persons: 5
- (q) Prescribing offences against the regulations:
- (r) Providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for the administration thereof. 10
- (3) Any regulations under this section may provide for the imposition of penalties not exceeding imprisonment for a term of six months or a fine of two hundred pounds, or both.
- (4) Any regulations under this section may confer on the Director of Operations power to issue, in such manner as may be prescribed, instructions, orders, or requirements for the purpose of ensuring the safety of aircraft and, when the regulations so provide, any such instruction, order, or requirement shall be complied with by all persons affected thereby. 15 20

30. General provisions as to Orders in Council and Proclamations—(1) Any Proclamation, Order in Council, or regulations under this Act may apply generally throughout New Zealand, or within any specified part or parts thereof, and may apply to all aircraft or to any specified class or classes of aircraft. 25

(2) In so far as the bylaws of any local authority in force in any locality are inconsistent with or repugnant to the provisions of any Proclamation, Order in Council, or regulations under this Act in force in the same locality, the bylaws shall, in so far as they relate to aircraft and air traffic be deemed to be subject to the Proclamation, Order in Council, or regulations, notwithstanding that any such bylaws may have been made under some other Act. 30

31. Validation of certain regulations—(1) The Civil Aviation Charges Regulations 1954 and the Civil Aviation Charges Regulations 1964 are hereby validated and confirmed as from their making and declared to have been lawfully made. 35

(2) All dues, charges, or fees prescribed in the regulations referred to in subsection (1) of this section shall be payable and recoverable in accordance with those regulations in all respects as if those regulations were at all times valid and lawfully made. 40

(3) Any person who under the regulations referred to in subsection (1) of this section was required to make any return shall, if he has not already done so, make that return within two months after the commencement of this Act and, if he fails to do so, he commits an offence against this Act and shall be liable on summary conviction to a fine not exceeding two hundred pounds.

(4) Nothing in this section shall render any person liable to prosecution for an offence under the regulations referred to in subsection (1) of this section committed before the commencement of this Act for which he would not have been liable if subsections (1) and (2) of this section were not in force.

32. Transitional provisions—(1) All references to the Minister in Charge of Civil Aviation in any Act, regulation, rule, order, other enactment, agreement, deed, instrument, application, notice, or other document whatsoever in force at the commencement of this Act, shall, unless the context otherwise requires, be read as references to the Minister of Civil Aviation.

(2) Subject to the provisions of section 26 of the Defence Act 1964, all references to the Air Department or to the Air Secretary in any Act, regulation, rule, order, other enactment, agreement, deed, instrument, application, notice, or other document whatsoever in force at the commencement of this Act, shall, unless the context otherwise requires, be read as references, as the case may require, to the Department of Civil Aviation or to the Secretary for Civil Aviation.

(3) Subject to the provisions of subsection (4) of this section, all references to the Director of Civil Aviation in any Act, regulation, rule, order, other enactment, agreement, deed, instrument, application, notice, or other document whatsoever in force at the commencement of this Act, shall, unless the context otherwise requires, be read as references to the Director of Operations and Technical Services.

(4) Where any agreement, deed, instrument, or other document (other than an enactment) contains a reference to the Director of Civil Aviation in relation to a function which under this Act is to be exercised by the Secretary, that reference shall, unless the context otherwise requires, be read as a reference to the Secretary for Civil Aviation.

- 33. Consequential amendments**—(1) The Second Schedule to the State Services Act 1962 is hereby amended as follows:
- (a) By omitting the words “Air Department”:
 - (b) By inserting, after the words “Audit Department”, the words “Department of Civil Aviation”. 5
- (2) The Third Schedule to the State Services Act 1962 is hereby amended as follows:
- (a) By omitting the references to the Air Department and the officers of that Department referred to in that Schedule: 10
 - (b) By inserting, after the reference to the Audit Department, the words—
 - “Civil Aviation Secretary for Civil Aviation. 15
 - Director of Operations and Technical Services.” 15
- (3) Part I of the Schedule to the Parliamentary Commissioner (Ombudsman) Act 1962 is hereby amended as follows:
- (a) By omitting the words “The Air Department”: 20
 - (b) By inserting, after the words “The Department of Agriculture”, the words “The Department of Civil Aviation”.
- 34. Repeals**—The enactments specified in the Second Schedule to this Act are hereby repealed. 25

SCHEDULES

Section 4**FIRST SCHEDULE**

ENACTMENTS TO BE ADMINISTERED BY DEPARTMENT OF CIVIL AVIATION

- 1951, No. 25—The Air Services Licensing Act 1951.
 1962, No. 19—The Carriage by Air Act 1962.
 1947, No. 17—The International Air Services Licensing Act 1947.
 1929, No. 9—The Local Authorities Empowering (Aviation Encouragement) Act 1929.
 1945, No. 28—The New Zealand National Airways Act 1945.

Section 34

SECOND SCHEDULE

ENACTMENTS REPEALED

- 1937, No. 7—The Air Department Act 1937. (1957 Reprint, Vol. 1, p. 173.)
- 1948, No. 12—The Civil Aviation Act 1948. (1957 Reprint, Vol. 2, p. 107.)
- 1955, No. 40—The Civil Aviation Amendment Act 1955. (1957 Reprint, Vol. 2, p. 117.)
- 1958, No. 57—The Civil Aviation Amendment Act 1958.
- 1960, No. 45—The Civil Aviation Amendment Act 1960.
- 1961, No. 68—The Western Samoa Act 1961: So much of the Second Schedule as relates to the Civil Aviation Act 1948.
- 1961, No. 77—The Civil Aviation Amendment Act 1961.
- 1962, No. 53—The Civil Aviation Amendment Act 1962.
- 1963, No. 79—The Civil Aviation Amendment Act 1963.