

1964/25

THE CIVIL AVIATION CHARGES REGULATIONS 1964

BERNARD FERGUSSON, Governor-General

ORDER IN COUNCIL

At the Government Buildings at Wellington this 2nd day of March 1964

Present:

THE RIGHT HON. KEITH HOLYOAKE, C.H., PRESIDING IN COUNCIL

PURSUANT to the Civil Aviation Act 1948, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

REGULATIONS

1. (1) These regulations may be cited as the Civil Aviation Charges Regulations 1964.

(2) These regulations shall come into force on the 1st day of April 1964.

PART I

INTERPRETATION AND APPLICATION OF REGULATIONS

2. (1) In these regulations, unless the context otherwise requires,—
- “Airport Authority”, in relation to an aerodrome, means the Crown or any body, authority, organisation, or person for the time being responsible for the management and maintenance of the aerodrome:
- “Domestic operator” means a person carrying on in New Zealand one or more of the following flight operations:
- (a) Air transport operations; being operations, other than those referred to in paragraph (b), (c), (d), or (e) hereof, in which aircraft are used for the carriage of passengers or goods for hire or reward comprising—
- (i) Scheduled air services—in which the operations are conducted to fixed schedules, to and from specified terminals in New Zealand over specified routes with or without intermediate stopping places between terminals; and

(ii) Non-scheduled air services—in which the operations are not conducted to fixed schedules to and from specified terminals in New Zealand, including operations in which the aircraft used leaves from and returns to the same aerodrome without an intermediate stop:

- (b) Aerial work operations:
- (c) Flight training operations:
- (d) Special operations:
- (e) Private operations:

Terms used in paragraph (b), (c), (d), or (e) of this definition shall, for the purposes of these regulations, have the same meanings as defined in regulation 131 of the Civil Aviation Regulations 1953*:

“Goods” includes freight, baggage, and mails:

“Gross operating revenue” means the actual amount paid or payable to the operator in respect of flight operations carried on by him without taking into account any costs or expenses incurred by the operator in respect of the operations:

“Gross weight”, in relation to an aircraft, means the maximum take-off weight approved by the Director of Civil Aviation in respect of the aircraft in relation to the particular aerodrome concerned, calculated to the nearest one thousand pounds:

“Hire or reward” includes any payment, consideration, gratuity or benefit, directly or indirectly charged, demanded, received or collected, for the use of an aircraft by a person who, as owner, lessee, hirer, pilot, or otherwise, has possession of or control over the aircraft or has directed the movement of the aircraft:

“Hirer”, in relation to an aircraft, includes any person, other than the owner, lawfully entitled to possession of the aircraft:

“International operator” means a person operating an aircraft in respect of journeys beginning in New Zealand and ending outside New Zealand, or beginning outside New Zealand and ending in New Zealand, or beginning and ending outside New Zealand with an intermediate stop in New Zealand, or beginning and ending in New Zealand with an intermediate stop outside New Zealand:

“New Zealand” does not include the Cook Islands or the Tokelau Islands:

“Operator”, in relation to an aircraft, means the person who, as owner or hirer, is making use of the aircraft, either personally or through his servants or agents:

“Revenue flight” means a flight in which gross operating revenue is earned.

(2) In determining the gross operating revenue of any operator for the purposes of these regulations, the following provisions shall apply:

- (a) Where an operator contracts to sell and deliver fertiliser or other goods the property of the operator, any amount paid or payable under the contract to the operator in respect of the sale of the goods shall not be deemed part of his gross operating revenue:

*S.R. 1953/108 (Reprinted with Amendments Nos. 1-6: S.R. 1962/13)
Amendment No. 7: S.R. 1962/139

- (b) Where a single ticket, consignment note, or other document authorising the carriage of a passenger or goods is issued by an operator in respect of any carriage between two aerodromes, the gross operating revenue of the operator in respect of any such carriage shall be determined in relation to the aerodrome of origin and in respect of the complete journey referred to in the document and, in any such case, no account shall be taken of intermediate stops or of any change of aircraft which may occur during the journey from the aerodrome of origin to the aerodrome of destination.

3. (1) Subject to subclause (2) of this regulation, these regulations apply—

- (a) To all aircraft registered in New Zealand pursuant to the Civil Aviation Regulations 1953*:
 (b) To all aircraft in New Zealand territory, whether or not they are registered in New Zealand.
 (2) Nothing in these regulations shall apply—
 (a) To any aircraft used for the purposes of Her Majesty's naval, military, or air forces:
 (b) To aircraft owned by the Crown and used for the purposes of the Air Department:
 (c) To aircraft used in foreign military or diplomatic service or for the ceremonial purposes of any Government.

PART II

AIRWAYS DUES

4. Every operator of an aircraft to which these regulations apply shall be charged and shall pay for the use of airways facilities owned, operated, or maintained by the Crown, airways dues in accordance with Part V of these regulations.

5. Every domestic operator liable for airways dues shall in each month forward to the Air Secretary a return of his gross operating revenue during the previous month together with payment of the dues thereon unless the operator has made other arrangements, approved by the Air Secretary, for furnishing returns and for the payment of the airways dues.

6. For the purposes of this Part of these regulations the term "airways facilities" includes aeronautical communications, meteorological services, navigational aids, approach and landing aids, air traffic control, taxiway and obstruction lighting, crash-fire services, search and rescue services, and all other technical en route approach and aerodrome facilities designed for the safety of flight.

PART III

AIRPORT DUES

7. Subject to the provisions of these regulations, every operator of an aircraft to which these regulations apply shall be charged and shall pay for the use of public licensed aerodromes and facilities related thereto, airport dues in accordance with Part V of these regulations.

*S.R. 1953/108 (Reprinted with Amendments Nos. 1-6: S.R. 1962/13)
 Amendment No. 7: S.R. 1962/139

8. Every domestic operator who makes use of any public licensed aerodrome shall in each month forward to each Airport Authority concerned a return of his gross operating revenue during the previous month together with payment of the dues thereon unless the operator has made other arrangements, approved by the Air Secretary, for furnishing returns and for the payment of the airport dues.

9. For the purposes of this Part of the regulations the expression "aerodromes and facilities related thereto" shall include only that part of the aerodrome intended for the movement of aircraft consisting of strips, runways, taxiways, stopways, holding bays, and common-user aprons; including the turfed areas between and adjacent to runways and taxiways, and also perimeter fencing and other airfield improvements.

PART IV

INTERNATIONAL LANDING CHARGES

10. Every international operator shall pay airways dues and airport dues payable under these regulations in the form of a combined charge (in these regulations referred to as a landing charge) for each landing at a New Zealand aerodrome of an aircraft operated by him in an international service:

Provided that landing charges under this regulation shall not be payable in any of the following instances:

- (a) A test flight carried out before the impending departure of an aircraft for the purpose of a proving test of an aircraft or of its equipment or the airport:
- (b) A flight undertaken in connection with the issue, amendment, reinstatement, validation, or renewal of a certificate of airworthiness:
- (c) A flight undertaken solely in connection with the training or checking of a person as a member of the flight crew of an aircraft:
- (d) A route familiarisation flight:
- (e) A flight in connection with a search and rescue operation:
- (f) The use of an alternate airfield made necessary by reason of the designated stopping place being unusable due to weather or other causes when the aircraft subsequently flies direct to the designated stopping place and pays landing fees before departure from New Zealand:
- (g) The return of a flight to the point of origin due to mechanical failure, meteorological conditions, or other reasons affecting the safety of flight:
- (h) A non-revenue flight being undertaken for the purpose of placing the aircraft in position for the commencement of a revenue flight.

11. Landing charges shall be charged and paid on demand before take-off unless the operator has made arrangements, approved by the Air Secretary, for furnishing returns of landings during a period of time and for periodic payment of the landing charges.

PART V

SCALE OF CHARGES

International Operations

12. The landing charge payable by international operators shall be 12s. per 1,000 lb of the gross weight of the aircraft comprising 5s. in respect of airways dues and 7s. in respect of airport dues.

Domestic Air Transport Operations

13. (1) Airways dues payable by domestic operators carrying on air transport operations shall be at the rate of 6 per cent of the gross operating revenue derived from all such operations:

Provided that airways dues shall be 3 per cent only of so much of the gross operating revenue proved to the satisfaction of the Air Secretary to be derived from flight operations with aircraft of less than 12,500 lb gross weight.

(2) Airport dues payable by domestic operators carrying on air transport operations shall be at the rate of 3 per cent of the gross operating revenue earned in respect of flight operations from public licensed airfields.

Aero Club Operations

14. (1) Airways dues payable by Aero Clubs carrying on flight operations shall be at the rate of 6 per cent of the gross operating revenue derived from all such operations:

Provided that:

- (a) Airways dues shall be 3 per cent only of so much of the gross operating revenue proved to the satisfaction of the Air Secretary to be derived from air transport operations with aircraft of less than 12,500 lb gross weight:
- (b) Airways dues shall be 1 per cent only of so much of the gross operating revenue proved to the satisfaction of the Air Secretary to be derived from operations other than air transport operations:
- (c) Airways dues shall not be payable in respect of flight training operations.

(2) Airport dues payable by Aero Clubs shall be at the rate of 3 per cent of gross operating revenue earned in respect of flight operations from public licensed airfields:

Provided that airport dues shall not be payable in respect of flight training operations carried on by Aero Clubs.

(3) Airport Authorities may negotiate separate charges for use made of their airfields by Aero Clubs for which charges are not prescribed by these regulations.

Aerial Work Operations

15. (1) Airways dues payable by aerial work operators shall be at the rate of 1 per cent of so much of the gross operating revenue proved to the satisfaction of the Air Secretary to be derived from flight operations other than air transport operations.

(2) Airport dues payable by aerial work operators shall be at the rate of 3 per cent of gross operating revenue earned in respect of flight operations from public licensed airfields.

(3) Airport Authorities may negotiate separate charges for use made of their airfields by aerial work operators for which charges are not prescribed by these regulations.

Private Operations

16. Airport Authorities may negotiate separate charges for use made of their airfields for which charges are not prescribed by these regulations.

PART VI

PAYMENT OF DUES

17. Airways dues and airport dues shall be payable as follows:

- (a) The landing charge payable by international operators shall be payable as to 5s. per 1,000 lb gross weight of aircraft for airways dues to the Air Secretary on behalf of the Crown and as to 7s. per 1,000 lb gross weight of aircraft for airport dues to the Airport Authority. Where the Airport Authority is the Crown, the airport dues shall be paid to the Air Secretary on behalf of the Crown:
- (b) Domestic airways dues shall be payable in all cases to the Air Secretary on behalf of the Crown:
- (c) Domestic airport dues shall be payable in all cases to the Airport Authority concerned. Where the Airport Authority is the Crown the payments shall be made to the Air Secretary on behalf of the Crown.

18. (1) Where under these regulations returns of gross operating revenue are required to be made by an operator, the returns shall in all cases be made on forms provided for the purpose by the Air Secretary and certified as correct by the owner, manager, or director of the operating business.

(2) Any return to which subclause (1) of this regulation applies shall, unless the Air Secretary otherwise approves, be also certified by the auditor of each operator which is a company or, if the operator is not a company, by a public accountant.

(3) Within three months after the close of an operator's financial year a statutory declaration by the owner, manager, or director of the operating business or a certificate by the auditor or, if the operator is not a company, by a public accountant, setting out the gross operating revenue earned by the operator from each public licensed aerodrome used during the year shall be supplied to each of the Airport Authorities concerned. Where the Airport Authority is the Crown, the statutory declaration or certificate shall be supplied to the Air Secretary.

(4) Every operator liable for the payment of airways dues and airport dues shall, within three months after the close of his financial year, supply to the Air Secretary, on forms provided for the purpose by the Air Secretary, his certified gross annual operating revenue in respect of each public licensed aerodrome used and also his certified total gross annual operating revenue in respect of all flight operations.

PART VII

SPECIAL PROVISIONS

19. There shall be deducted from all airport dues payable by the New Zealand National Airways Corporation an amount representing 7 per cent thereof and this amount shall be distributed by the Corporation to those Airport Authorities controlling any airport at which transshipment passengers of the Corporation handled by that airport amount to more than 5 per cent of all of the Corporation passengers handled at that airport in any year in the proportion which the total transshipment passengers of the Corporation handled at each such airport bears to the total of those transshipment passengers handled at all such airports.

20. (1) Airport Authorities may negotiate charges for the parking of aircraft:

Provided that no such charge shall be made to regular air transport operators when their aircraft are parked in the normal course of their schedule:

Provided also that no charge shall in any case be made in respect of aircraft which remain parked for less than 6 hours or remain parked when take-off is delayed by weather conditions.

(2) Parking fees shall not include special services or privileges which may be required by operators by way of security, lighting, or otherwise. The amount charged for any such special services shall be such amount as may be agreed upon between the operator and the Airport Authority.

PART VIII

GENERAL PROVISIONS

21. Where the same person carries on business in New Zealand both as an international operator and a domestic operator, the airways dues and airport dues payable under these regulations shall be charged at the appropriate rates prescribed by these regulations in accordance with the class of operations in which the aircraft concerned is for the time being engaged.

22. (1) Airport dues and airways dues shall be recoverable in any court of competent jurisdiction from the operator by the Air Secretary in his official name where any such dues are payable to the Air Secretary, and airport dues shall be so recoverable by the Airport Authority to which they are payable.

(2) If at any time within three months after the payment of airport dues or airways dues the Air Secretary or the Airport Authority concerned is satisfied that any such dues have been paid in excess or have been paid in respect of an operation for which any such dues were not properly chargeable, there shall be made a refund of the amount paid in excess or error.

23. The licensee of a private licensed aerodrome may make such charges in place of airport dues as the Minister may approve.

24. The licensee of a private licensed aerodrome, in respect of those facilities and services used by aircraft which are not included in the facilities referred to in regulation 9 hereof, may make such charges in respect of those facilities and services as the Minister may approve.

25. (1) Except as provided in these regulations, an operator shall not be liable for any charges in respect of the use of an aerodrome or any facilities in connection therewith:

Provided that nothing in these regulations shall be construed to affect the provisions of the Harbours Act 1950:

Provided also that where these regulations permit the negotiation of the payment of fees or charges, any fees or charges payable pursuant thereto shall be recoverable in any court of competent jurisdiction.

(2) Where these regulations permit the negotiation of the payment of fees or charges and any such negotiations are not successful, the matter may be referred to the Minister by either party to the negotiations and the Minister, whose decision shall be final, may make such decision as he considers equitable in the circumstances. Any fees or charges made pursuant to an approval of the Minister under this subclause shall be recoverable in any court of competent jurisdiction.

26. (1) Any person who contravenes, or fails to comply with, any provision of these regulations shall be guilty of an offence against these regulations.

(2) Any person who makes a false or misleading statement or declaration in, or in connection with, any return to be furnished under these regulations commits an offence against these regulations.

(3) Any operator who has made arrangements pursuant to these regulations for the furnishing of returns and who fails to furnish those returns in accordance with the terms of the arrangements commits an offence against these regulations and shall be liable on summary conviction to a fine not exceeding £5 for every day during which the offence continues.

(4) Any person who commits an offence against these regulations for which a penalty is not otherwise provided shall be liable on summary conviction to a fine not exceeding £200 or to imprisonment for a term not exceeding six months.

27. The Civil Aviation Charges Regulations 1954,* the Civil Aviation Charges Regulations 1954, Amendment No. 2, the Civil Aviation Charges Regulations 1954, Amendment No. 3, the Civil Aviation Charges Regulations 1954, Amendment No. 4, and the Civil Aviation Charges Regulations 1954, Amendment No. 5, are hereby revoked.

T. J. SHERRARD,
Clerk of the Executive Council.

*S.R. 1954/48

Amendment No. 2: 1959/197
Amendment No. 3: 1961/57
Amendment No. 4: 1961/79
Amendment No. 5: 1962/75

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations prescribe the rates of dues payable by operators for the use of airways facilities and airport facilities.

Different rates are prescribed in respect of international operators and domestic operators, and a distinction is made in respect of air transport operations and other domestic operations. No charges, other than those authorised by the regulations, may be made for the use of an aerodrome or facilities connected with an aerodrome without the approval of the Minister.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 5 March 1964.

These regulations are administered in the Air Department.