



Civil Aviation (Safety) Levies Order 2002

Silvia Cartwright, Governor-General

Order in Council

At Wellington this 25th day of March 2002

Present:

Her Excellency the Governor-General in Council

Pursuant to section 42A of the Civil Aviation Act 1990, Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following order.

Contents

1	Title	9	Aerodrome operators must pay departing international passenger levy
2	Commencement		
3	Interpretation		
4	Application	10	Aviation operators must pay participation levy
5	Domestic air passenger operators must pay domestic passenger levy	11	Forms
6	Counting passengers of certain operators	12	GST included
7	Returns and payment arrangements for domestic passenger levy	13	Revocation
8	Domestic passenger levy not payable for certain passengers		
			Schedule Participation levies

Order

1 Title

This order is the Civil Aviation (Safety) Levies Order 2002.

2 Commencement

This order comes into force on 1 May 2002.

3 Interpretation

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

Act means the Civil Aviation Act 1990

aerodrome operator means a holder of an aerodrome operating certificate for an aerodrome from which international civil air passengers depart

Authority means the Civil Aviation Authority of New Zealand established under section 72A of the Act

aviation operator means a person who holds a valid certificate of registration issued under section 9(1) of the Act for an aircraft

departing international passenger levy means the levy imposed by clause 9

Director means the person who is for the time being the Director of Civil Aviation under section 72I of the Act

domestic air passenger operator means an operator who—

(a) is—

(i) a holder of an airline air operator certificate issued in accordance with Part 119 who may conduct domestic passenger operations in accordance with Part 121 or Part 125; or

(ii) a foreign air operator who is—

(A) approved by the Director to conduct domestic passenger operations within New Zealand; and

(B) conducting operations of the kind specified in subparagraph (i); or

(iii) a holder of a foreign air operator certificate issued in accordance with Part 129 who may conduct passenger operations on any domestic sector; and

(b) conducts or intends to conduct a regular air transport passenger service; and

(c) either—

(i) has carried more than 20 000 passengers in the previous 12 months; or

- (ii) if the operator is a new operator, intends to carry more than 20 000 passengers in the next 12 months

domestic passenger levy means the levy imposed by clause 5

domestic sector means the flight sector or leg within New Zealand that is between an aircraft's take-off and its next landing (other than an in-flight emergency)

MCTOW means maximum certificated take-off weight

participation levy means the levy imposed by clause 10

regular air transport passenger service means a service offered by an operator consisting of 4 or more air transport operations for the carriage of passengers between 2 or more aerodromes within any consecutive 28-day period.

(2) In this order,—

- (a) a reference to a numbered Part is a reference to the Part so numbered in the Civil Aviation Rules; and
- (b) a reference to a certificate is a reference to a certificate issued under section 9 of the Act.

4 Application

Nothing in this order applies to the carriage of persons in aircraft operated by—

- (a) the New Zealand Defence Force; or
- (b) the armed forces of any country other than New Zealand.

5 Domestic air passenger operators must pay domestic passenger levy

- (1) A domestic air passenger operator must pay to the Authority a levy calculated at the rate of \$2.00 per passenger carried by the operator on each domestic sector of a regular air transport passenger service flight.
- (2) Despite subclause (1), if the number of passengers actually carried by an domestic air passenger operator in the immediately preceding 12-month period of operation is smaller than 15 000, then, as at the commencement of the next 12-month period, the operator must be regarded as an aviation operator for the purposes of clause 10 and is liable to pay the participation levy instead of the domestic passenger levy.

6 Counting passengers of certain operators

- (1) In estimating the total number of passengers an operator intends to carry in any 12-month period, only those passengers who are to be carried on a regular air transport passenger service that is operating in accordance with Part 121 or Part 125 or Part 129 may be counted.
- (2) In calculating the total number of passengers for the purposes of regulation 5(2) or regulation 10(2), only those passengers who are carried on a regular air transport passenger service that is operating in accordance with Part 121 or Part 125 or Part 129 may be counted.

7 Returns and payment arrangements for domestic passenger levy

- (1) On the first day of each month, a domestic air passenger operator must make a lump sum payment to the Authority of an amount agreed between that domestic air passenger operator and the Authority that reflects the domestic air passenger operator's best estimate of the domestic passenger levy payable under clause 5 for the preceding month.
- (2) On the 20th day of each month, a domestic air passenger operator must—
 - (a) submit precise details to the Authority of—
 - (i) the number of domestic sectors flown; and
 - (ii) the number of passengers carried for which the domestic passenger levy is payable on each domestic sector flown; and
 - (iii) the domestic passenger levy payable by that domestic air passenger operator for the preceding month; and
 - (b) pay the amount (if any) equal to the difference between the domestic passenger levy payable by the domestic air passenger operator for the preceding month and the amount paid by the domestic air passenger operator under subclause (1) for that month.
- (3) If the amount paid by the domestic air passenger operator under subclause (1) for the preceding month exceeds the domestic passenger levy payable by the domestic air passenger operator for that month, the domestic air passenger operator must deduct from the next amount to be paid by the

domestic air passenger operator under that subclause the amount that has been overpaid.

- (4) A domestic air passenger operator must maintain, and make available to the Authority on request, records of the regular air transport passenger service flights operated by that domestic air passenger operator that show separately—
- (a) the number of passengers carried on domestic sectors flown by the operator; and
 - (b) the number of passengers in each of the categories specified in clause 8 for whom the domestic passenger levy is not payable; and
 - (c) the number of passengers for whom the domestic passenger levy is payable.

8 Domestic passenger levy not payable for certain passengers

For each regular air transport passenger service flight, a domestic passenger levy is not payable for—

- (a) a member of the crew of that regular air transport passenger service flight;
- (b) a member of the crew of a regular air transport passenger service flight who is being carried on a regular air transport passenger service flight solely for the purposes of positioning that crew member to carry out his or her duties as an employee of the operator;
- (c) a child under the age of 2 years;
- (d) a person who is carried from an aerodrome outside of New Zealand to an aerodrome in New Zealand and who is then carried in the same aircraft with the same flight number to another aerodrome in New Zealand;
- (e) a person who is carried from an aerodrome in New Zealand to another aerodrome in New Zealand and who is then carried in the same aircraft with the same flight number to an aerodrome outside of New Zealand;
- (f) a person who is duly authorised by the Director to exercise, in respect of the regular air transport passenger service flight, a function or power of the Director or a flight examination function.

9 Aerodrome operators must pay departing international passenger levy

- (1) An aerodrome operator must pay to the Authority a levy calculated at the rate of \$1.00 for each international passenger departing from that aerodrome operator's aerodrome.
- (2) The levy imposed by subclause (1) is not payable for—
 - (a) a member of the crew of any aircraft departing from New Zealand; or
 - (b) a member of the crew of any aircraft being carried on an aircraft departing from New Zealand solely for the purpose of positioning that crew to carry out their duties as employees of an international operator; or
 - (c) a child under the age of 2 years; or
 - (d) a passenger travelling on an aircraft used for the purpose of the New Zealand Defence Force; or
 - (e) a passenger in transit through New Zealand who—
 - (i) does not leave the transit or arrival or departure areas of the aerodrome; or
 - (ii) leaves the transit or arrival or departure areas only because of an interruption to a flight caused by the unserviceability of an aircraft or any other essential facility, or caused by any other delay beyond the control of the passenger or the international operator concerned.
- (3) On the first day of each month, an aerodrome operator must make a lump sum payment to the Authority of an amount agreed between that aerodrome operator and the Authority that reflects the aerodrome operator's best estimate of the departing international passenger levy payable under subclause (1) for the preceding month.
- (4) On the 20th day of each month, an aerodrome operator must—
 - (a) submit precise details to the Authority of—
 - (i) the number of international civil air passengers for whom the departing international passenger levy is payable by that aerodrome operator for the preceding month; and
 - (ii) the amount of departing international passenger levy that is payable by that aerodrome operator for that month; and

- (b) pay the amount (if any) equal to the difference between the departing international passenger levy payable by the aerodrome operator for the preceding month and the amount paid by the aerodrome operator under subclause (3) for that month.
- (5) If the amount paid by the aerodrome operator under subclause (3) for the preceding month exceeds the departing international passenger levy payable by the aerodrome operator for that month, the aerodrome operator must deduct from the next amount to be paid by the aerodrome operator under that subclause the amount that has been overpaid.
- (6) An aerodrome operator must maintain, and make available to the Authority on request, records of international passengers departing from the aerodrome that show separately—
 - (a) the number of international passengers departing; and
 - (b) the number of passengers for whom the departing international passenger levy is payable; and
 - (c) the number of passengers in each of the categories specified in subclause (2) for whom the departing international passenger levy is not payable.

10 Aviation operators must pay participation levy

- (1) An aviation operator other than a domestic air passenger operator must pay an annual participation levy in accordance with the Schedule.
- (2) Despite subclause (1), if the number of passengers actually carried by an aviation operator in any 12-month period is larger than 20 000, then, as at the commencement of the next 12-month period, the operator must be regarded as a domestic air passenger operator for the purposes of clause 5 and is liable to pay the domestic passenger levy instead of the participation levy.

11 Forms

The Authority may provide forms to be used for—

- (a) providing information to the Authority under this order;
- (b) paying the domestic passenger levy and the participation levy.

12 GST included

- (1) The rate of the domestic passenger levy specified in clause 5 is inclusive of goods and services tax.
- (2) The rate of the departing international passenger levy specified in clause 9(1) is inclusive of goods and services tax.
- (3) The rates of participation levy set out in the Schedule are exclusive of goods and services tax.

13 Revocation

The Civil Aviation (Safety) Levies Order 1995 (SR 1995/114) is revoked.

cl 10(1)

Schedule Participation levies

Category (MCTOW)	Annual levy per aircraft (\$)
Heavy (exceeding 100 000 kg)	10,000
Medium heavy (exceeding 13 600 kg but not exceeding 100 000 kg)	2,400
Medium (exceeding 5 700 kg but not exceeding 13 600 kg)	1,000
Medium light (exceeding 2 730 kg but not exceeding 5 700 kg)	400
Light (exceeding 1 000 kg but not exceeding 2 730 kg) for—	
air transport/aerial work, where the aviation operation holds an air service certificate or an aerial work certificate	150
private, where the aviation operator does not hold an air service certificate or an aerial work certificate	85
Very light (not exceeding 1 000 kg) for—	
air transport/aerial work, where the aviation operation holds an air service certificate or an aerial work certificate	150
private, where the aviation operator does not hold an air service certificate or an aerial work certificate	60

Marie Shroff,
Clerk of the Executive Council.

Explanatory note

This note is not part of the order, but is intended to indicate its general effect.

This order, which comes into force on 1 May 2002, imposes safety levies under the Civil Aviation Act 1990. It revokes and replaces the

Civil Aviation (Safety) Levies Order 1995. It specifies the following levies:

- a domestic passenger levy; and
- a departing international passenger levy; and
- a set of participation levies.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 28 March 2002.

This order is administered in the Ministry of Transport.
