

Civil Aviation Amendment Act 1976

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An Act to amend the Civil Aviation Act 1964

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

1 Short Title

This Act may be cited as the Civil Aviation Amendment Act 1976, and shall be read together with and deemed part of the Civil Aviation Act 1964 (hereinafter referred to as the principal Act).

2 Interpretation

Section 2 of the principal Act is hereby amended by inserting, in their appropriate alphabetical order, the following definitions:

“Aviation security officer” means a person for the time being employed in the Aviation Security Service:

“Aviation Security Service” means the Aviation Security Service established by section 21b(1) of this Act:

“Designated aerodrome” means an aerodrome for the time being designated as a security aerodrome pursuant to section 21c of this Act:

“Designated installation” means a navigation installation for the time being designated as a security navigation installation pursuant to section 21c of this Act:

“Justified” has the meaning assigned to it by section 2 of the Crimes Act 1961:

“Navigation installation” means any building, facility, works, apparatus, equipment, or place, which is not part of an aerodrome, but is used wholly or mainly to assist air traffic control or as an aid to air navigation, and includes any land adjacent to any such building, facility, works, apparatus, equipment, or place and used wholly or mainly in connection therewith:

“Security area” means an area that the Director has, pursuant to section 21e(1) of this Act, declared to be a security area”.

3 Principal functions of the Department

Section 5(1) of the principal Act is hereby amended by inserting, after paragraph (f), the following paragraph:

“(ff) To provide an aviation security service.”.

4 New Part inserted

The principal Act is hereby further amended by inserting, after Part IV, the following Part:

Part IVa

“Airport Security”

“21a Airport Security

The prevention of the commission of crimes against the Aviation Crimes Act 1972, and the protection of persons and property from dangers arising from the commission or attempted commission of such crimes, shall be the responsibility of the Police of New Zealand and the Aviation Security Service established under section 21b of this Act.

“21b Aviation Security Service

- “(1) There shall be a branch of the Civil Aviation Division of the Ministry of Transport to be called the Aviation Security Service.
- “(2) The Secretary shall be responsible for the administration of the Aviation Security Service.
- “(3) Without limiting the powers, functions, duties, or responsibilities of the Police of New Zealand under this or any other enactment, and without limiting the generality of subsection (1) of this section, the Aviation Security Service shall—
 - “(a) Carry out passenger and baggage screening, and, where necessary, searches of passengers, baggage, cargo, aircraft, aerodromes, and navigation installations;
 - “(b) Carry out aerodrome security patrols and patrols of navigation installations;
 - “(c) Review, inquire into, and keep itself informed on security techniques, systems, devices, practices, and procedures related to the protection of civil aviation and persons employed in or using it;
 - “(d) Undertake, or encourage or supervise, such experimental or research work in respect of any aspect of aviation security as the Director of the Civil Aviation Division may think desirable;
 - “(e) For the purposes of better carrying out any of its functions under this Act, co-operate with the police, government departments, airport authorities, airline operators, and authorities administering the airport security services of, other countries, and with any appropriate international organisation;
 - “(f) Exercise and perform such other functions and duties as may be conferred on it by any enactment.

“21c Designated aerodromes and navigation installations

- “(1) The Minister may, by notice in the *Gazette*, designate any aerodrome or navigation installation as a security aerodrome or security navigation installation.

“(2) Any designation under subsection (1) of this section may at any time be revoked, in whole or in part, or amended by the Minister by notice in the *Gazette*.

“21d Right of access

“(1) Subject to subsections (2) and (3) of this section, an aviation security officer on duty may at any time enter any designated aerodrome or designated installation, or any aircraft, building, or place in any part of a designated aerodrome or designated installation, for the purpose of exercising and carrying out his powers, functions, and duties under this Act:

“Provided that, unless the aviation security officer is accompanied by an officer of the Police, the power of entry conferred by this subsection shall be limited to peaceful and non-forcible entry.

“(2) Where the Police have taken command of any situation at an aerodrome or navigation installation, the rights of aviation security officers to enter any part thereof or any aircraft, building, or place shall be subject to such limitation as the senior member of the Police present specifies.

“(3) Subsection (1) of this section shall not apply to an aircraft or vehicle not being used for commercial purposes unless the aviation security officer believes on reasonable grounds that there is in that vehicle or aircraft any person or thing likely to endanger the aerodrome or installation or any of its facilities or any person.

“21e Security areas

“(1) The Secretary may for security reasons declare, by a sign or signs affixed at the perimeter thereof, that an area within a designated aerodrome or designated installation is a security area.

“(2) No person other than a member of the Police on official duties or an aviation security officer shall enter or remain in any security area unless authorised by the Secretary or the airport manager or other person having control thereof.

“(3) Every person in a security area shall, on the request of an aviation security officer, state his name and address (and produce satisfactory evidence of its correctness) and the purpose of his presence in the security area and his authority to enter it.

“(4) An aviation security officer may order to leave a security area any person who has failed or refused to give satisfactory evidence of his name and address when so requested by the aviation security officer, or who has failed to satisfy the aviation security officer that he is authorised to be there.

“(5) An aviation security officer, and any person whom he calls to his assistance, may use such force as may be reasonably necessary to remove from any security area any person who fails or refuses forthwith to leave the security

area after having been ordered by an aviation security officer to do so pursuant to subsection (4) of this section.

“(6) Every person commits an offence against this Act who, on being found in a security area,—

- “(a) Fails or refuses to state his name and address, and his authority to enter the security area after having been requested to do so under subsection (3) of this section by an aviation security officer; or
- “(b) Fails or refuses forthwith to leave the security area after having been ordered by an aviation security officer to do so.

“(7) Every person who commits an offence under subsection (6) of this section and, after having been warned that he commits that offence, persists in its commission, may be detained by an aviation security officer and in that case he shall as soon as may be practicable be delivered to a member of the Police.

“(8) A passenger embarking or disembarking directly through gateways or thoroughfares in an airport approved for that purpose by the manager of the airport shall be deemed to be authorised by the Secretary to pass through any security area forming part of those gateways or thoroughfares.

“21f Powers of arrest

“(1) Every aviation security officer is justified in arresting without warrant any person on or in the vicinity of any designated aerodrome or designated installation if he has reasonable grounds to believe that an offence has been or is being committed by that person against any of the following enactments:

- “(a) Sections 3, 4, 5, and 11 of the Aviation Crimes Act 1972;
- “(b) Section 16 of the Arms Act 1958 (which relates to unlawful carriage of firearms, ammunition, or explosives).

“(2) Any person called upon to do so by an aviation security officer is justified in assisting him in good faith to arrest any person.

“(3) An aviation security officer shall as soon as may be practicable deliver any person he arrests to a member of the Police.

“21g Arrest of persons delivered to Police

“(1) A member of the Police shall accept delivery of a person whom an aviation security officer seeks to deliver to him under this Part of this Act if he has reasonable grounds to suspect that person of having done or omitted anything that is an offence against section 21e(6) of this Act or any enactment specified in section 21f(1) of this Act.

“(2) A member of the Police who accepts delivery of a person pursuant to subsection (1) of this section shall forthwith arrest that person.

“(3) An aviation security officer who detains any person in accordance with the provisions of section 21e(7) of this Act and delivers him to a member of the

Police, and any person who at his request and in good faith assists an aviation security officer in doing so, is justified in so detaining and delivering that person and in using such force as may be reasonably necessary in doing so.

“21h Powers of Police

Every member of the Police shall have and may exercise all or any of the powers conferred on an aviation security officer by this Part of this Act.

“21i Personation or obstruction of aviation security officers

Every person commits an offence against this Act who:

- “(a) Not being an aviation security officer, by words, conduct, or demeanour, pretends that he is an aviation security officer, or puts on or assumes the dress, name, designation, or description of an aviation security officer; or
- “(b) Wilfully obstructs, or incites or encourages any person to obstruct, an aviation security officer in the execution of his duty.

“21j Offences and penalties

Every person who commits an offence against section 21e(6) or section 21i of this Act shall be liable on summary conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding \$ 500, or to both.”

5 Regulations

(1) Section 29(2) of the principal Act is hereby amended by inserting, after paragraph (e), the following paragraphs:

- “(ea) Providing for the approval, regulation, control, prescription, substitution, and amendment by the Secretary of tariffs for the carriage by air of persons and cargo between New Zealand and any place outside New Zealand and requiring the adherence to all or any of the tariffs so approved, regulated, controlled, prescribed, substituted, or amended of persons engaged in providing or arranging such carriage;
- “(eb) Requiring airline operators, travel agents, tour wholesalers, freight forwarders, customs agents, and other persons in New Zealand engaged in the provision or arrangement of carriage by air for passengers or cargo (whether for reward or on behalf of members or employees, and whether or not that transport is intended to be provided together with any other service or form of transport) to keep, for such period as may be prescribed, and make available for inspection by the Secretary or persons authorised by him, books, records (including computer records), documents, papers, and receipts relating to all or any of the following matters:
 - “(i) The fares charged or intended to be charged for the carriage by air of any passenger or group of passengers and the conditions subject to which those fares apply or are intended to apply;

- “(ii) The charges made or intended to be made for the carriage of baggage and cargo by air, and the conditions subject to which those charges apply or are intended to apply;
- “(iii) The charges and conditions for agency commissions charged, paid, offered, provided, or demanded in respect of the carriage or intended carriage by air of passengers, baggage, and cargo;
- “(iv) The rewards, bonuses, rebates, discounts, in-flight services and privileges, and other benefits advertised, offered, given, paid, provided, or allowed in respect of the carriage or intended carriage by air of passengers, baggage, and cargo;
- “(v) In the case of any service comprising both transport by air and any other services (such as accommodation, entertainment, admission to any place or event, the provision of a guide, food, the provision of equipment, or transport of any other kind), the proportion of the total amount of any charge made or intended to be made therefor that is attributable to each other service;

“Provided that this paragraph shall not apply to carriage by air within New Zealand:

- “(ec) Providing for the issue of identification cards by the Secretary to any person or class of person, and prescribing the circumstances within an aerodrome or navigation installation in which a person to whom such a card is issued must produce or display it.”.

(2) The said section 29 is hereby further amended by inserting in subsection (3) (as amended by section 7(1) of the Civil Aviation Amendment Act 1975), before the words “Any regulations”, the words “Subject to subsection (3a) of this section.”.

(3) The said section 29 is hereby further amended by inserting, after subsection 3, the following subsection:

- “(3a) Any regulations made under subsection (2)(ea) of this section may prescribe offences in respect of the contravention of or non-compliance with the regulations and the amounts of the fines that may be imposed in respect of any such offences, which fines shall be an amount not exceeding \$ 5,000.”

6 Consequential amendments

(1) Section 2 of the Aviation Crimes Act 1972 is hereby amended by inserting, after the definition of the term “ordinarily resident in New Zealand”, the following definition:

“Aviation security officer” means an aviation security officer within the meaning of the Civil Aviation Act 1964.”.

(2) Section 12(1) of the Aviation Crimes Act 1972 is hereby amended by inserting, after the words “New Zealand Police,”, the words “any aviation security officer.”.

(3) Section 12(5) of the Aviation Crimes Act 1972 is hereby amended by inserting, after the words “for the purpose”, the words “, or any aviation security officer.”.

This Act is administered in the Ministry of Transport.