

New Zealand.



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1934, No. 25.

AN ACT to make Provision for the Licensing and Control of Commercial Aircraft Services. [31st October, 1934.] Title.

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

1. This Act may be cited as the Transport Licensing (Commercial Aircraft Services) Act, 1934. Short Title.

2. (1) In this Act, unless the context otherwise requires,— Interpretation.

“Aerodrome” means any definite and limited ground or water area intended to be used, either wholly or in part, for the landing or departure of aircraft:

“Aircraft” includes aircraft using gas lighter than air as a means of support and having means of propulsion, and all aeroplanes, seaplanes, flying-boats, or other aircraft heavier than air, and having means of propulsion:

“Aircraft service” means any service by aircraft for the carriage of passengers or goods for hire or reward in respect of any journey beginning and ending in New Zealand other than a service in which the aircraft used leave from and return to the same aerodrome without any intermediate stop:

“Board” means the Transport Co-ordination Board:

“Commissioner” means the Commissioner of Transport:

“Fares” includes any charge of any nature for the carriage of passengers:

“Goods” means all kinds of movable property, including animals and mails:

“License” means an aircraft-service license issued under this Act:

“Licensee” means the holder for the time being of a license issued under this Act:

“Minister” means the Minister of Transport.

(2) The first day of each of the months of March, June, September, and December shall be a quarter-day for the purposes of this Act.

PART I.

LICENSING OF AIRCRAFT SERVICES.

Commercial aircraft services to be carried on only pursuant to aircraft-service license granted under this Act.

3. (1) It shall not be lawful after the passing of this Act for any person to carry on in any part of New Zealand any aircraft service otherwise than pursuant to the authority and in conformity with the terms of an aircraft-service license granted under this Act :

Provided that any aircraft service which is being carried on immediately before the passing of this Act may continue to be carried on for a period of twenty-eight days after the passing of this Act, and if within that period an application for such a license in respect of such service is duly made under section six or section twenty-one of this Act such service may continue to be carried on until such application is disposed of.

(2) Every person who contrary to the provisions of this section carries on any aircraft service commits an offence, and is liable to a fine of one hundred pounds and to a further fine of ten pounds for every day on which such offence is committed.

(3) If any company carries on an aircraft service contrary to the provisions of this section, every director or other person acting in the management of the service shall, in addition to any penalty to which the company may be liable, be liable to a fine of ten pounds for every day on which such service is so carried on.

4. Every person commits an offence and is liable to a fine of fifty pounds for each such offence who does any act in any capacity as agent for any aircraft service which may be lawfully carried on only pursuant to a license under this Act if at the time of his doing such act such a license is not in force in respect of such service.

5. Aircraft-service licenses shall be granted only by the Board :

Provided that the Chairman or any other member of the Board, or any person duly authorized for the purpose by the Board, may in any case of urgency grant on behalf of the Board a temporary license, but shall report such grant to the next meeting of the Board.

Offence for agent to book passengers or goods for unlicensed service.

Licenses to be granted by Transport Co-ordination Board.

6. (1) Every application for a license shall be in the prescribed form and shall be forwarded to the Commissioner accompanied by the prescribed fee.

Application for license to be forwarded to Commissioner of Transport.

(2) The Commissioner shall, on being satisfied that the application is duly made, transmit the same to the Board.

(3) The Commissioner shall, in every case, place before the Board all such information at his disposal (whether obtained from the applicant or not) as will assist the Board in dealing with the application.

7. (1) On receiving an application for a license, other than an application for a temporary license, the Board shall, in the prescribed form, give not less than three days' public notice in one or more newspapers having a regular circulation in the localities to be served by the aircraft-service of the receipt of such application, fixing in such notice a time and place at which it will hold a public sitting for the purpose of receiving evidence and representations in favour of, or against the granting of, the application by persons who in the opinion of the Board are directly interested, and shall also give not less than three clear days' notice of such time and place to the applicant.

Board to advertise receipt of application and hold public sitting.

(2) The Board shall hold such public sitting in such place as it deems most convenient, having regard to the nature of the business.

(3) At such public sitting the Board shall hear all evidence tendered and representations made which it deems relevant to the subject-matter of the application, save that at any time during such sitting it may decide not to receive further evidence or representations.

(4) Any such sitting may, in the discretion of the Board, be adjourned from time to time and from place to place.

8. (1) In considering any application for an aircraft-service license the Board shall generally have regard to—

Matters to be considered before determining application for license.

(a) The extent to which the proposed service is necessary or desirable in the public interest; and

(b) The needs of New Zealand or the district or districts as a whole proposed to be served, in relation to transport, whether by air, land, or water; and

- (c) The value of the proposed service and the aircraft and ground organization thereof for auxiliary defence or other purposes in case of national or local emergency,—

and if it is then of opinion that the proposed service is unnecessary or undesirable it shall refuse to grant a license.

(2) If after having had regard to the matters mentioned in the last preceding subsection the Board proposes to give further consideration to the application, it shall take into account—

- (d) The financial ability of the applicant to carry on the proposed service, and the likelihood of his carrying it on satisfactorily :
- (e) Time-tables or frequency of the proposed service :
- (f) The proposed fares and charges for the carriage of passengers and goods :
- (g) The transport services of any kind, whether by air, land, or water, already provided in respect of the localities to be served and in respect of the proposed routes :
- (h) The transport requirements of such localities, including such requirements in respect of the carriage of mails :
- (i) The aircraft proposed to be used in connection with the service :
- (j) The type and suitability of the aerodromes proposed to be used and the facilities thereat for services of the type in respect of which the application is made :
- (k) Any evidence and representations received by it at the public sitting, and any representations otherwise made by the Government Railways Board, local authorities, or other public bodies, or any persons carrying on transport services of any kind (whether by air, land, or water) likely to be affected, or any officer of the Defence Forces appointed by the Minister of Defence in that behalf either for the purposes of the particular application or such applications generally, and any representations contained in any petition presented to it signed by not fewer than twenty-five adult residents of any locality proposed to be served :

Provided that, before taking into consideration any adverse representations made otherwise than at the public sitting, the Board shall give the applicant and all other persons likely to be affected a reasonable opportunity to reply to such representations:

(l) Such other matters as may be prescribed by regulations in that behalf.

9. The Board may, after duly considering an application therefor, grant or refuse a license. Grant or refusal of licenses.

10. Every license shall be either— Classification of licenses.

(a) A temporary license—meaning thereby a license for a service to be carried on for a specified period of not more than seven days or a license for any specified special occasion or occasions; or

(b) A continuous license—meaning thereby a license other than a temporary license.

11. (1) In granting any license the Board may prescribe— Granting of licenses.

(a) The class and number of aircraft to be used in connection with the service and the seating or other accommodation for passengers of such aircraft by reference to a minimum number or a maximum number or to both such numbers:

(b) The class and quantity or weight of any goods that may be carried on any such aircraft:

(c) A date not later than which the service shall be commenced:

(d) The localities to be served:

(e) The frequency of service to be observed:

(f) The fares to be charged for the carriage of passengers and the charges to be made for the carriage of goods:

(g) Such other matters and conditions as may be prescribed by regulations, or as the Board thinks proper.

(2) Instead of prescribing particular localities to be served the Board may grant a license to authorize the carrying-on of an aircraft service generally throughout New Zealand, subject to such special conditions (if any) as it thinks proper to impose, but in respect of any such

license so granted the Board may, at any time during its currency or on any renewal thereof, or during the period for which any such renewal is granted, restrict the effect of the license in such manner and to such extent as it thinks fit.

12. The Board may, before granting any aircraft-service license, call upon the applicant for such license (whether or not at the time of making such application he was actually carrying-on the service to which it relates) to furnish to the satisfaction of the Board proof that his liability in respect of the death of or bodily injury to passengers and in respect of loss of or damage to any goods that may be conveyed by such service is covered by insurance or otherwise to such extent as the Board deems reasonable, having regard to the nature and extent of such service.

13. (1) Every license shall be in the prescribed form, and be signed on behalf of the Board by any member thereof, or by an officer of the Board acting by direction thereof, and, subject to section nineteen hereof, shall take effect according to its tenor to authorize the licensee, but no other person, to carry on an aircraft service in accordance with the terms and conditions of the license during the duration thereof.

(2) It shall be a condition of every license (whether inserted therein or not) that the licensee will not abandon or curtail the authorized service without the consent of the Board, to which he shall give such notice as the Board directs of his intention to abandon or curtail the service.

(3) If any licensee abandons or curtails any service in breach of the last preceding subsection the Board may, in its discretion,—

- (a) Revoke his license and also any other license under this Act held by the licensee; and
- (b) Disqualify him or any partnership or company of which he may be a member, for such period as it thinks fit, from obtaining another such license,—

and may either in lieu of or in addition to any such penalty impose a monetary penalty not exceeding twenty-five pounds, which may be recovered in any Court of competent jurisdiction as a debt due to the Crown.

Special conditions (as to insurance, &c.) precedent to grant of license.

The license and its effect.

(4) It shall also be a condition of every license (whether inserted therein or not) that no aircraft shall be used in connection with the service to which the license relates unless and until all fees payable in respect of such aircraft under any Act have been duly paid.

14. (1) The Commissioner shall, in accordance with regulations in that behalf, keep such registers of licenses issued under this Act as are prescribed by such regulations. Registers of licenses.

(2) The contents of every such register may be evidenced in any proceedings by a certificate under the hand of the Commissioner, and every such certificate shall be *prima facie* evidence of the matters stated therein.

(3) A certificate under the hand of the Commissioner that on a date specified in such certificate the name of any person did not appear in any register as the holder of a license under this Act shall, until the contrary is proved, be sufficient evidence that such person was not the holder of such a license on that date.

15. Except in the case of a temporary license, every license when issued on a quarter-day shall take effect on that day, and in every other case shall be deemed to have taken effect on the quarter-day immediately preceding the date on which the license is issued, and in each such case shall, unless sooner revoked, or unless expressed to expire at any earlier date, expire on the completion of five years after the quarter-day on which it took effect: Duration of license.

Provided that where application for the renewal of a license is duly made in accordance with section seventeen hereof, such license shall, where the application for renewal is not disposed of before the date of expiry of the license, continue in force until the application is disposed of unless the Board otherwise directs.

16. (1) The Board during the currency of a license may, of its own motion or on the application of the licensee, amend or revoke any of the terms or conditions of such license or add any new terms and conditions which in its opinion are necessary in the public interest. Amendment or revocation of terms and conditions of license.

(2) The Board shall give to the licensee, and to every other person who in its opinion is likely to be affected, seven days' notice of its intention to exercise any power conferred on it by this section.

(3) Every such amendment or revocation, or addition of new terms and conditions made pursuant to this section, shall be noted in the appropriate register.

(4) Where for any reason it is not practicable to hold a meeting of the Board for the purpose of passing a resolution in exercise of any of the powers conferred on it by the foregoing provisions of this section, the assent of all the members signified in writing or by telegram to the amendment or revocation of any term or condition of a license or the addition of any new term or condition, as the case may be, shall be as effective as and be deemed to be a resolution of the Board duly passed at a meeting thereof :

Provided that a record of such action as aforesaid as of the date on which the last such assent was signified shall be entered in the minutes of the next meeting of the Board.

Renewal of
licenses.

17. (1) Every application for the renewal of a license shall be made in the prescribed form not less than twenty-eight days before the day on which such license expires. Every such application shall be forwarded through the Commissioner.

(2) Section seven hereof shall apply to every application for the renewal of a license as if it were an application for a new license.

(3) No person shall be entitled as of right to a renewal of a license, and in considering any application for renewal the Board shall take into account all that it is directed by section eight hereof to take into account in considering an original application for a license.

(4) In granting any renewal of a license the Board may either endorse the existing license or it may issue a new license in lieu thereof, but any such new license shall show on the face thereof that it is in renewal of a license.

(5) The renewal of any license shall take effect for a period of not more than five years from the expiry of the license in renewal of which it is granted, but any such renewal may be granted in advance to take effect as aforesaid.

Revocation of
and suspension
of licenses.

18. (1) The Board may at any time, and if so directed by the Minister shall, hold a public inquiry as to whether or not any aircraft service carried on under the authority

of a license under this Act is being carried on in conformity with the terms and conditions of the license.

(2) Not less than fourteen clear days' public notice of the day, time, and place fixed for such inquiry shall be given in one or more newspapers having a regular circulation in the localities served by such aircraft service, and particulars of the matters proposed to be inquired into shall be given in writing to the licensee not later than ten days before the day on which the inquiry is to be held.

(3) For the purposes of such inquiry the provisions of the Commissions of Inquiry Act, 1908, shall, so far as they are applicable, apply as if the Board were a Commission of Inquiry appointed under that Act.

(4) If as a result of such inquiry the Board is satisfied that the licensee is not carrying on the service in all respects in conformity with the license, or that he has disposed of such service to any other person, then the Board may revoke such license.

(5) Instead of revoking any license as aforesaid the Board may suspend the same for such period as it thinks fit, and it may, in any case, without holding such inquiry as aforesaid, so suspend any license if it is satisfied that the licensee has wilfully committed a breach of any of the conditions of the license.

(6) Notwithstanding anything contained in the foregoing provisions of this section, a license may be revoked by the Board if the service authorized by it is not commenced on the due date therefor stated in the license.

(7) Every revocation or suspension of a license shall be noted in the appropriate register, and shall be notified by the Board to the principal Commissioned Officer of Police in every district or area in which the service to which such license relates is carried on.

19. (1) Any license under this Act may, subject to the provisions of this section, be transferred to any person. Transfer of
licenses.

(2) Application for the transfer of any license shall be made in the prescribed form, and the provisions of section six hereof shall apply to every such application.

(3) The Board shall give to every person who, in its opinion, is likely to be affected seven days' notice of its intention to consider any application for a transfer as aforesaid.

(4) The Board, after duly considering the application and any objections thereto, may grant or refuse the transfer of the license, but shall not in any case grant a transfer unless it is satisfied that the proposed transferee is financially able to carry on the service and is likely to carry it on satisfactorily.

20. (1) The Governor-General may make regulations prescribing the accounts and records in relation to an aircraft service that the Minister may require to be kept by persons carrying on an aircraft service pursuant to a license under this Act, and prescribing the financial and statistical returns that the Minister may require to be made to him by such persons.

(2) Every person carrying on any aircraft service pursuant to a license under this Act shall keep such of the prescribed accounts and records in relation thereto as the Minister may from time to time, by notice published in the *Gazette*, require, and shall make to the Minister in such manner and at such times as the Minister may from time to time notify by writing under his hand, addressed to such person, such of the prescribed financial and statistical returns as the Minister may in such notice require him to make.

(3) Every person who fails to comply with any of the requirements of the Minister pursuant to this section commits an offence and is liable to a fine of twenty pounds, and, in the case of a continuing offence, to a further fine of five pounds for every day during which the offence continues.

21. (1) Notwithstanding anything to the contrary in the foregoing provisions of this Act, every club, the principal object of which is the encouragement or practice of aviation and which at the passing of this Act is incorporated in New Zealand under any Act, shall be entitled to an aircraft-service license (hereinafter in this section called a special license) entitling it, subject to the provisions of this section, to carry on a commercial aircraft service during the currency of such license.

(2) Every application for a special license shall be in the prescribed form and, accompanied by the prescribed fee, shall be forwarded to the Commissioner through the New Zealand Aero Club (Incorporated), which, in

Accounts to be kept and returns to be made by licensees.

Special provision as to licenses for certain "aero" clubs.

transmitting the application, shall make a recommendation as to the minimum fares and charges which the applicant club should be required to make and receive for the carriage of passengers and goods.

(3) The Commissioner shall, on being satisfied that the application is duly made, transmit the same to the Board.

(4) Where the application is duly made the Board shall, in the prescribed form, issue to the club a special license, which shall specify the minimum fares and charges to be made and received by the club in respect of the carriage of passengers and goods, and such conditions with respect to the carrying-on of the service as the Board thinks fit, and any other conditions prescribed in that behalf by regulations. In fixing such minimum fares and charges the Board shall have due regard to the minimum charges recommended by the New Zealand Aero Club (Incorporated).

(5) Every special license may be signed on behalf of the Board by any member thereof, or by an officer of the Board acting by direction thereof, and shall have effect according to its tenor to authorize the holder thereof to carry passengers or goods by aircraft under a contract express or implied for the use of such aircraft as a whole in respect of a journey specified by the person or persons so contracting with the holder, but in no other manner.

(6) Whether inserted therein or not the following shall be conditions of every special license, namely:—

(a) That the holder shall use in connection with the service to which the license relates—

(i) Only such aircraft as at the passing of this Act are owned by the holder or are otherwise lawfully in its possession for use; or

(ii) Aircraft acquired in replacement of such aircraft as aforesaid, being of no greater carrying capacity in any case than the particular aircraft replaced; and

(iii) Such additional aircraft (if any) as the Board may from time to time, on application by the holder under section sixteen hereof, authorize to be used in connection with such service:

(b) That no aircraft shall be used in connection with such service unless and until all fees payable in respect of such aircraft under any Act have been duly paid.

(7) The provisions of sections seven, fourteen, sixteen, eighteen (except subsection six), and twenty-one hereof shall apply with respect to every special license in all respects as if it were a license issued under section six hereof:

Provided that the power conferred on the Board by the said section sixteen shall be exercised only on the application of the licensee forwarded through the New Zealand Aero Club (Incorporated).

(8) Nothing in sections six, eight to thirteen, fifteen, seventeen, and nineteen hereof shall have any application to a special license.

(9) Every special license shall, unless sooner revoked, continue in force until the completion of four years after the passing of this Act, and shall then expire, and shall not be renewed; but nothing in this subsection shall prevent the holder making application at any time for a license under section six hereof.

PART II.

GENERAL.

Service of notices.

22. Any notice required to be served on any person for the purposes of this Act may be served by causing the same to be delivered to that person, or to be left at his usual or last known place of abode or business or the address stated by him in any application or other document under this Act, or to be sent by registered letter addressed to him at such place of abode or business or address.

Offences to be tried summarily.

23. (1) All proceedings in respect of offences under this Act shall be taken in a summary way on the information of the Commissioner or any other person appointed by the Commissioner for that purpose, or any member of the Police Force, and shall be heard before a Stipendiary Magistrate alone.

(2) No person appointed by the Commissioner under the last preceding subsection shall be called upon to prove that he has been so appointed.

24. In any proceedings for an offence under this Act,— Evidence and proof.

(a) If it is shown that passengers or goods were carried on any aircraft, such passengers or goods shall be deemed to have been carried in such manner as to bring the aircraft under the requirements of this Act unless the defendant satisfies the Magistrate to the contrary :

(b) The allegation in the information that an aircraft service is being carried on shall be sufficient evidence of that fact until the contrary is proved :

(c) Any license may be proved by the production of a copy of that license certified to be correct by the Commissioner, or by the Chairman of the Board :

(d) Judicial notice shall be taken of the signature of the Minister, the Commissioner, and the Chairman and every other member of the Board.

25. All fees, fines, and other moneys received or recovered under this Act shall be paid into the Public Account to the credit of the Consolidated Fund, and all expenses incurred in carrying out the provisions of this Act shall be paid out of moneys to be from time to time appropriated by Parliament for the purpose. Application of fees and fines, and expenses of administration.

26. Every provision in any Act conferring on the Crown or any local authority or public body power to establish, carry on, and maintain any service for the carriage of passengers or goods by means of aircraft shall be read subject to the provisions of this Act. Certain provisions of other Acts, &c., to be read subject to this Act.

27. (1) Save as otherwise specially mentioned in this Act, the provisions of this Act are in addition to, and shall not derogate from, the provisions of other Acts relating to the licensing and control of aircraft. * Save as specially provided, this Act not to derogate from provisions of other Acts, including Air Navigation Act, 1931.

(2) In particular, no aircraft by virtue of its being used in connection with any aircraft service licensed under this Act shall be exempt from the operation of any regulations under the Air Navigation Act, 1931, relating to aircraft of the type or class to which it belongs. See Reprint of Statutes, Vol. I, p. 424

Regulations.

28. The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes, namely:—

- (a) Prescribing all forms in relation to licenses under this Act:
- (b) Prescribing the registers to be kept under this Act, the matters to be entered therein, and the form of such registers and the means by which entries therein shall be verified:
- (c) Prescribing the accounts and records to be kept by licensees under this Act, and the form thereof, and the manner in and the times at which returns in respect of such accounts and records shall be furnished to the Minister:
- (d) Prescribing the form of, the manner in, and time at which, any information required to be furnished for any purpose under this Act shall be so furnished, and the nature of any such information:
- (e) Prescribing all such other forms and such notices as may be deemed necessary for any purpose under this Act:
- (f) Providing for the custody, production, and cancellation on revocation of licenses under this Act, and providing for and requiring the return of licenses that have been revoked, and the production of licenses for the alteration, modification, variation, or revocation of the terms or conditions thereof, or the addition thereto of new terms and conditions:
- (g) Prescribing conditions subject to which a duplicate of any license may be issued in cases where the same has been lost, destroyed, or defaced:
- (h) Prescribing any matters which may be considered necessary with respect to insurance or other security against accidents to persons and damage to property required under this Act:
- (i) Classifying aircraft and aircraft services for the carriage of passengers or goods required to be licensed under this Act:
- (j) Prescribing matters in relation to the equipment and the inspection of aircraft, or any particular class or classes thereof for the purposes of this Act:

- (k) Prescribing the documents, plates, and marks to be carried by aircraft used in connection with licensed aircraft services, and the manner in which they are to be carried :
- (l) Regulating the carriage of passengers' luggage and of goods on aircraft :
- (m) Providing for the safe custody and redelivery or disposal of any property accidentally left in any such aircraft, and fixing the charges to be made in respect thereof :
- (n) Generally regulating the carrying-on of services licensed under this Act :
- (o) Prescribing the fees to be payable under this Act and the persons liable to pay the same :
- (p) Prescribing fines, not exceeding ten pounds, for the breach of any such regulations or for failure to comply with any condition, duty, or obligation lawfully imposed in any manner by or under any such regulation or (in cases where no specific penalty is imposed by this Act) by this Act :
- (q) Prescribing all such other matters as may be necessary or expedient for the purpose of giving full effect to this Act.

29. (1) All regulations made under the last preceding section shall be published in the *Gazette*. Provisions as to regulations.

(2) Any such regulations may—

(a) Apply generally throughout New Zealand or within any specified district or districts or part or parts thereof, or to any specified route or routes, and may from time to time be so applied by the Minister by notice in the *Gazette*, and any such notice may at any time in like manner be revoked :

(b) Be so made that different regulations shall apply with respect to different classes of licensed services or different classes or descriptions of aircraft, or with respect to the same class or description of aircraft in different circumstances.

(3) The operation of any regulations published as aforesaid may, if so provided therein, be wholly suspended until they are applied by the Minister by notice in the *Gazette*. Any such notice may at any time in like manner be revoked.

(4) All regulations under this Act shall be laid before both Houses of Parliament within fourteen days after the gazetting thereof if Parliament is then in session, and if not, then within fourteen days after the commencement of the next ensuing session.

30. Nothing in section eighteen of the Police Offences Act, 1927, shall apply to any person working on Sunday in connection with any aerodrome or aircraft, whether or not such aerodrome or aircraft is used in connection with an aircraft service licensed under this Act.

31. This Act shall bind the Crown.

Sunday flying
not an offence
under section 18
of Police Offences
Act, 1927.

See Reprint
of Statutes,
Vol. II, p. 511

Act to bind
Crown.