



Cabinet Legislation Committee

Minute of Decision

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Civil Aviation Bill: Approval for Introduction

Portfolio Transport

On 5 August 2021, the Cabinet Legislation Committee:

- 1 **noted** that in October 2016, the previous government agreed to policy changes to the Civil Aviation Act 1990 and Airport Authorities Act 1966 to:
 - 1.1 reflect recommendations from a 2014 review [CAB-16-MIN-0568];
 - 1.2 reduce the risk of alcohol and drug impairment in the commercial aviation sector [CAB-16-MIN-0020];
 - 1.3 improve aviation security as proposed in the Domestic Aviation Security Review [NSC-16-MIN-0001];
- 2 **noted** that in April 2019, Cabinet reconfirmed key decisions made by the previous government on the Civil Aviation Bill (the Bill) in 2016, and to release an exposure draft of the Bill [CAB-19-MIN-0167];
- 3 **noted** that in August 2019, the Cabinet Economic Development Committee (DEV) agreed to give effect in domestic legislation, via the Bill, to New Zealand's participation in the Carbon Offsetting and Reduction Scheme for International Aviation [DEV-19-MIN-0226];
- 4 **noted** that in March 2020, DEV agreed that the Bill include amendments to create powers to intervene against illegally operated drones, and address matters arising from submissions on the exposure draft of the Bill and from further work on the Bill [DEV-20-MIN-0030];
- 5 **noted** that in June 2020, Cabinet agreed to the Ministry of Transport consulting with key stakeholders on a proposed airport licensing regime to achieve better outcomes at airports [CAB-20-MIN-0248];
- 6 **noted** that in June 2021, the Cabinet Business Committee took decisions on final policy, including changes to the regulation of airports, security at airports and enforcement of the civil aviation system [CBC-21-MIN-0059];

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[REDACTED]

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- 8 **approved** for introduction the Civil Aviation Bill [PCO 18744/31.0], subject to the final approval of the government caucus and sufficient support in the House of Representatives;
- 9 **agreed** that the Bill be introduced in August 2021;
- 10 **agreed** that the government propose that the Bill:
- 10.1 be referred to the Transport and Infrastructure Select committee for consideration;
- 10.2 come into force 18 months after enactment.

RELEASED BY THE MINISTER OF TRANSPORT

Rebecca Davies
Committee Secretary

Present:

Hon Chris Hipkins (Chair)
Hon Andrew Little
Hon David Parker
Hon Poto Williams
Hon Kris Faafoi
Hon Michael Wood
Hon Dr Ayesha Verrall

Officials present from:

Office of the Prime Minister
Officials Committee for LEG

[IN CONFIDENCE]

Office of the Minister of Transport
Cabinet Legislation Committee

Civil Aviation Bill: Approval for Introduction

Proposal

- 1 This paper seeks approval to introduce the Civil Aviation Bill (the Bill) to the House (proposed Bill attached).

Executive summary

- 2 The Bill will replace the Civil Aviation Act 1990 (CA Act) and the Airport Authorities Act 1966 (AA Act) with a single, modern statute that will provide a durable platform for civil aviation in New Zealand now and well into the future. The policy objective of the Bill is a safe, secure and resilient civil aviation system.
- 3 Work has been underway on the Bill for at least five years. It is a large Bill that contains a range of policy proposals which cumulatively will benefit the operation of the aviation sector in terms of safety, security, emissions, and economic outcomes. Change has become urgent in some areas, and the Bill's introduction to parliament is highly anticipated by the sector.
- 4 I am now seeking your agreement to introduce this Bill.

The Bill proposes a number of policy changes, which have been agreed by successive governments

- 5 The CA Act sets the overall framework for aviation safety, security, and economic regulation in New Zealand. The AA Act provides for local authorities and airport companies to be authorised as airport authorities with functions and powers to operate airports.
- 6 The Bill is the culmination of a review process initiated in 2014 by a public consultation paper, *Civil Aviation Act 1990 and Airport Authorities Act 1966 Consultation Document 2014* (the 2014 Review). The Bill has undergone a long period of development, with a number of key policy decisions made over the intervening years.
- 7 In October 2016, a previous government agreed to policy changes to the CA Act and AA Act [CAB-16-MIN-0568 refers] to:
 - 7.1 reflect recommendations from the 2014 review;
 - 7.2 reduce the risk of alcohol and drug impairment in the commercial aviation sector [CAB-16-MIN-0184 refers]; and

- 7.3 improve aviation security as proposed in the Domestic Aviation Security Review [NSC-16-MIN-0001 refers].
- 8 In April 2019, Cabinet reconfirmed the key decisions made by the previous government. Cabinet also agreed to release an exposure draft of the Bill, together with a commentary document, for consultation with the sector [CAB-19-MIN-0167 refers].
- 9 In August 2019, the Cabinet Economic Development Committee (DEV) agreed to give effect in domestic legislation, via the Bill, to New Zealand's participation in the Carbon Offsetting and Reduction Scheme for International Aviation (CORSA) [DEV-19-MIN-0226 refers].
- 10 In March 2020, DEV agreed that the Bill address matters arising from submissions on the exposure draft and from further work on the Bill [DEV-20-MIN-0030 refers].
- 11 In June 2020, Cabinet directed the Ministry of Transport to consult with key stakeholders on policy options to achieve better outcomes at airports [CAB-20-MIN-0248 refers].
- 12 In June 2021, Cabinet approved final policy proposals including changes to the regulation of airports, aviation security services at airports, and enforcement of the civil aviation system [CBC-21-MIN-0059 refers].

The Bill updates the regulatory design of the civil aviation system...

- 13 The aviation sector is dynamic and has changed significantly in the decades since the CA Act and the AA Act were first enacted. The pace of this change continues to accelerate as new technologies transform aviation, along with new and emerging threats to the safety and security of the aviation system.
- 14 While the Bill substantially re-enacts the CA Act and parts of the AA Act, it updates the legislation by:
- 14.1 including a purpose statement to provide guidance and clarity about what the legislation is intended to achieve and to guide statutory decisions and interpretation;
 - 14.2 incorporating modern drafting techniques, layout and structure, thereby improving the accessibility of the legislation;
 - 14.3 aligning with other similar or overlapping regulatory systems, such as the Health and Safety at Work Act 2015 (HSWA); and
 - 14.4 incorporating amendments that account for new and emerging technologies such as drones and increasing automation.

... and implements new policy...

- 15 Notable policy decisions that the Bill implements include measures to:

- 15.1 improve the safety and security of New Zealand's aviation system by strengthening the management of the risk of drug and alcohol impairment in the commercial aviation sector following the Carterton balloon incident;
- 15.2 improve the quality and level of safety information reported to the safety regulator, including ensuring people who self-report incidents are provided certain protections from enforcement action and reported information is protected (known as 'Just Culture');
- 15.3 provide a power for constables, and suitably qualified and trained individuals authorised by the Director of Civil Aviation, to intervene against drones that are being operated in a manner that is an offence under civil aviation law or being used in the commission of an imprisonable offence under other Acts;
- 15.4 enable me, as the Minister of Transport, to declare that an area within a security designated aerodrome is a 'landside security area' for up to 30 days at a time, if necessary, to respond to threats to civil aviation, enable New Zealand to be part of a concerted international response to a threat to aviation security, or to support the main or additional purposes of the Bill (including implementing obligations under international civil aviation conventions, agreements, and understandings, and preserving New Zealand's national security and national interests);
- 15.5 enable aviation security officers to exercise their search powers (which are clarified under the Bill) in those 'landside security areas';
- 15.6 preserve New Zealand's national security and national interests by empowering me to consider national security considerations;
- 15.7 implement a new approach to airport regulation that will:
 - 15.7.1 establish a registration regime for airport operators;
 - 15.7.2 introduce Enforceable Regulatory Undertakings (ERUs) for some airport operators, to support greater collaboration between airport operators and government agencies;
 - 15.7.3 provide for an exemption for airports from operating as a commercial undertaking if a majority of local authority shareholders agree; and
 - 15.7.4 clarify the obligations of airports under the Public Works Act 1981 in respect of airport land.

... alongside necessary policy changes

16 The Bill also includes measures to:

- 16.1 improve the efficiency and effectiveness of regulatory decision-making to facilitate a growing and competitive aviation sector, including by strengthening the process for authorising airline cooperative arrangements;
- 16.2 enable New Zealand to meet its obligations under CORSIA; and
- 16.3 revise financial penalty levels to provide an effective deterrent and align with those for similar offending under other comparable, recent legislation such as the HSWA.

Structure of the Bill

- 17 The Bill comprises 10 parts as well as accompanying schedules. Part 1 sets out the purpose of the Bill which is primarily to facilitate the operation of a safe and secure civil aviation system. Part 2 sets out the obligations and duties of aviation participants, continues the regulator roles and functions of the Civil Aviation Authority (CAA) and Airways Corporation of New Zealand, and provides for registries and information services related to aviation activities.
- 18 Part 3 provides for the making of civil aviation rules by the Minister of Transport – much of the detail of the working of the civil aviation system is provided in rules. Part 4 sets the requirements for aviation participants including being in possession of an aviation document, medical certification, and drug and alcohol management plans.
- 19 Part 5 relates to aviation security at aerodromes and navigation installations while Part 6 provides for international air services licensing and alliances. Part 7 governs the operation of airports and Part 8 provides for international and domestic carriage of passengers and goods by air, including liability and limitation provisions.
- 20 Part 9 provides for the monitoring, investigation and enforcement of the civil aviation regulatory regime. Part 10 provides various regulation-making powers and miscellaneous provisions to bring the regime in line with international protocols and ensure we meet our international obligations.

Detail on the updates to the regulatory design

- 21 The Bill updates and modernises the legislation in a number of significant ways, leading with a new purpose statement (“to facilitate the operation of a safe and secure civil aviation system”) and new features, including updating the regulator powers and the compliance and enforcement framework, and enabling the making of transport instruments.

Regulator powers

- 22 The regulatory powers and compliance and enforcement framework in the CA Act largely reflect the 1980s context of its development. The Bill takes the opportunity to update regulator powers and the compliance and enforcement

framework to keep the regime in line with other overlapping regulatory systems – principally HSWA (under which the CAA is the health and safety at work regulator for aviation). Key changes are:

- 22.1 **Improvement notices and non-disturbance notices** – powers to issue improvement notices will give CAA enforcement officers a wider range of regulatory tools to require up-front action to address safety concerns, and non-disturbance notices will safeguard sites under investigation from interference to allow inspectors to perform their functions under the legislation;
- 22.2 **Court injunctions to restrain contraventions of civil aviation law** – prosecution and administrative action are usually effective tools to deal with non-compliance. In some circumstances, however, an offender may choose continued non-compliance, and to pay any fines that might eventuate. Similar injunctions are used in a number of regimes including financial markets, and are planned in other parts of the transport regulatory system; and
- 22.3 **Clearer exemption powers** – the Bill modernises the current CA Act provisions to give clear powers to grant class exemptions, revoke exemptions, set time limits on exemptions, amend exemptions, or enable exemptions from regulations. Similar issues are being addressed for powers of exemption in the Land Transport Act and the Maritime Transport Act [DEV-19-MIN-0222 refers].

Transport instruments

- 23 The detailed requirements and standards of civil aviation legislation are contained in civil aviation rules made by the Minister of Transport. Matters requiring relatively frequent adjustment or that are highly technical in nature can result in the rules becoming out of date and the regulatory system constantly having to play catch-up to remove unnecessary barriers and compliance costs.
- 24 The concept of the transport instrument is designed to enable the Minister of Transport to allocate the maintenance of detailed requirements within transport rules or regulations to a specified person (e.g. the director of the relevant transport agency in the case of rules). A rule must explicitly provide for a matter to be dealt with in a transport instrument, and the instrument's scope and use must be determined by the Minister. Transport instruments must be consulted on and *Gazetted*, and are disallowable instruments.
- 25 This new mechanism will enable a quick response to change, ensure decision-making sits at the right level in terms of authority and expertise, support efficiency and accountability, and ensure the regulatory system is up to date.

Further detail on areas of substantial policy change

- 26 The Bill includes some significant policy changes, reflecting the changes in the civil aviation system globally. These are set out below.

Drug and alcohol management

- 27 The Bill implements measures to strengthen management of the risk of drug and alcohol impairment in the commercial aviation sector. This problem was identified following the Carterton hot air balloon crash in 2012 and Transport Accident Investigation Commission investigations of other accidents.
- 28 The main features of these measures are that commercial aviation operators must develop a drug and alcohol management plan (DAMP).
- 29 DAMPs must provide for random alcohol and drug testing of safety-sensitive workers. A DAMP operator must prohibit a worker from performing a safety-sensitive activity if they refuse consent or return a test result that exceeds a permissible level of alcohol or a testable drug specified in the DAMP.

Protection of safety information – a ‘Just Culture’ approach

- 30 Civil Aviation Rules and the CA Act require aviation participants to report aviation accidents and incidents to the CAA. Timely access to accurate safety information in these reports allows the CAA to take a more proactive, evidence-based approach to accident prevention.
- 31 Just Culture principles seek to improve the quality and level of safety information provided. They ensure people who self-report incidents are provided certain protections from enforcement action and reported information is protected. Just Culture is a concept widely promoted by international regulators and the International Civil Aviation Organization (ICAO).
- 32 The Bill makes a number of adjustments to ensure the overall integrity of the information provided via, for example, flight accident and incident reports, cockpit voice and video recorders, and flight data recorders. It provides that enforcement action should not be taken in respect of infringements of civil aviation law, which come to the CAA’s attention through an incident report filed under the CAA’s incident reporting system.
- 33 The Bill also prevents accident and incident reports from being used as evidence against the reporter of such information in a criminal proceeding, except in a proceeding regarding the falsity of the report. This protection is equivalent to those found in other New Zealand legislation, and aims to protect a person’s fundamental right against self-incrimination.
- 34 This protection is not absolute. ICAO recommendations note that Just Culture protections must continue to allow for the proper administration of justice.
- 35 The Bill therefore gives the Director of Civil Aviation discretion to take enforcement action against an otherwise protected person, when there is a

public interest in taking such action. Also in line with the ICAO recommendation, the Just Culture limitation does not prevent a prosecution under another statute, such as the Crimes Act 1961 or the HSWA.

Unmanned aircraft (drones)

- 36 Existing CA Act provisions relating to accident and incident reporting and the responsibilities of the Pilot in Command of an aircraft (PIC) were designed on the assumption that the PIC would be on board. They are not adaptable for new and developing aviation technology, such as unmanned or autonomous aircraft, where a pilot may not be present on the aircraft.
- 37 The Bill ensures that in the absence of a pilot on board, accident and incident reporting responsibilities and the duties, powers and responsibilities of the PIC fall to the operator of the aircraft.
- 38 The Bill also establishes new drone intervention powers. Their purpose is to support rules to provide for the safe and effective integration of drones into the civil aviation system and respond to serious misuse of drones.
- 39 The new powers will enable constables and suitably qualified response officers to intervene against drones that have no person on board that are being operated in a manner that is an offence under civil aviation law, or used in the commission of an imprisonable offence under another Act. The powers range from preventing take-off, to seizure or detention of the drone or its controlling mechanism, and destruction of the drone.

Airspace management

- 40 The Bill includes a new offence to cover situations where, without reasonable excuse, a person intentionally operates an aircraft in controlled airspace or a restricted area and knows that they do not hold the appropriate authorisation to operate the aircraft in that airspace, or are reckless as to that matter.

National security

- 41 Under the Outer Space and High-altitude Activities Act 2017, a national security assessment is part of the space regime licensing process for operations taking place between the lower limit of outer space and above the upper limit of controlled airspace (the area between approximately 18kms and 100kms above mean sea level).
- 42 Potentially, some high altitude technologies now under development could also operate in lower altitudes in New Zealand airspace, and could involve national security concerns. However, activities at lower altitudes are subject only to the civil aviation regulatory regime.
- 43 National security concerns are outside the scope of the current civil aviation regime, which relates to safety risks from the carriage of dangerous goods and aviation security risks from unlawful interference with an aircraft.

- 44 To address potential national security risks in the civil aviation system, the Bill empowers the Minister, on the basis of national security concerns, to issue a notice:
- 44.1 preventing entry of an operator or operation into the civil aviation system;
 - 44.2 removing any operator or operation from the civil aviation system; and
 - 44.3 imposing conditions on any operator or operation.
- 45 The Bill also provides for the Minister to make civil aviation rules specifying when an application for the issue or renewal of an aviation document is subject to national security considerations.

Aviation security at security designated airports and navigation installations

- 46 The Bill continues the current aviation security regime contained in the CA Act. However, it clarifies the interface with the Aviation Crimes Act 1972 as well as the current powers of aviation security officers, particularly with respect to:
- 46.1 search powers relating to vehicles, unattended items and checked baggage;
 - 46.2 the use of explosive detector dogs; and
 - 46.3 powers to deal with dangerous goods.
- 47 The Bill strengthens protections for aviation security personnel, by making it an offence to assault an aviation security officer or interfering with an explosives detection dog.
- 48 The Bill also strengthens the existing airport identity card (AIC) regime, which will help to ensure that people with access to sensitive areas of an aerodrome are authorised to be there and those without authorisation can be identified and managed. This is supported by new offences for being found in a security area without being screened or without authorisation.
- 49 The Bill expands the potential role Avsec can play at security designated aerodromes at times of heightened security threats. The Bill proposes that I, as the Minister of Transport, can declare a “landside” (public access) area of a security designated aerodrome to be a “landside security area” for up to 30 days at a time. During that time, aviation security officers would be able to perform their existing powers of search in relation to any person entering the designated area, with that person’s consent. This allows airport security to be much more flexible in response to threats that may be posed in public areas, rather than on aircraft.
- 50 The current power to search people in or upon entry to an “airside” area (for example at passenger screening points) is unchanged.

Airport regulation – airport registration and Enforceable Regulatory Undertakings

- 51 An airport registration regime will move airports from a system of authorisation through an Order in Council to a system of administrative approval by the Secretary of Transport, and will give the Ministry greater oversight of ongoing compliance.
- 52 Airport operators that transition to the registration regime will retain their existing rights and obligations under the AA Act in an updated form.
- 53 All registered airports would also have an obligation to consult stakeholders on any spatial plans they develop. This will bring government and aviation stakeholders to the table early in the planning process, even at airports where government agencies are not routinely present.
- 54 Further, registration will include enforceable regulatory undertakings (ERUs) for airports where government agencies routinely operate. The ERU will require government agencies to collaboratively agree their phased requirements (for space and infrastructure) over a five-year period, and for airports to present a plan to the Secretary for Transport as to how they will meet those requirements.
- 55 The ERU will be approved by the Secretary for Transport, after which it becomes binding for a five-year period (unless it needs to be revised sooner with the agreement of all parties).

Airport pricing

- 56 Section 4A of the AA Act currently provides that, following consultation, airports can “set prices as they see fit”.
- 57 In the exposure draft, section 4A was removed on the basis that the Companies Act 1993 provides adequate basis for airports to operate their business, and that section 4A may be hindering consultations between airports and airlines regarding landing charges.
- 58 After considering submissions on the exposure draft, Cabinet agreed to retain a provision that, following consultation, airports may still “set prices” but the words “as they see fit” are to be removed. The Bill reflects this decision.

Requirement for airports to act commercially

- 59 The current AA Act requires that airports operated or managed by an airport authority must be run as commercial undertakings.
- 60 Prior to COVID-19, some larger airports were among the highest earning businesses in New Zealand. On the other hand, smaller regional airports are unable to earn sufficient revenue to fund maintenance or replacement runway and terminal infrastructure on a commercial basis.
- 61 Following public consultation on this matter and input from key stakeholders, the Bill retains the default requirement that airports operate commercially.

This remains important to ensure that the appropriate investment in airport infrastructure continues.

- 62 However, the Bill also proposes an exception to this requirement, recognising that some airports have no reasonable prospect of operating as a profitable business, and that local authority objectives may be for public benefit rather than commercial. This exception could be triggered by provisions in the airport company's constitution or a determination by the owners.

Public Works Act obligations in relation to airport land

- 63 The Bill clarifies that all airport land is deemed to be either a government work or local work for the purposes of the Public Works Act 1981 and that it is the Crown (i.e. the Chief Executive of Land Information New Zealand as its agent) or the local authority who are responsible for administering the obligations with regard to sections 40 and 41 of that Act.
- 64 The Bill also provides that the Crown may lodge a caveat on airport land that is deemed a government work and was transferred under section 3A(6A) of the AA Act.

Many necessary changes are also part of the Bill

Aviation alliances

- 65 The Bill strengthens the regime for alliance agreements between airlines. It does this by including:
- 65.1 a process for consultation on authorisation decisions;
 - 65.2 criteria which the Minister must take into account when making a decision; and
 - 65.3 the ability to impose conditions on authorisations.

Implementing CORSIA

- 66 In October 2016, the ICAO agreed on a global aspirational goal to achieve carbon neutral growth in the international aviation sector from 2020, and agreed to introduce a global market-based measure (CORSIA).
- 67 Cabinet agreed to New Zealand participating in CORSIA from its commencement in 2021 [EGI-16-MIN-0232 refers]. This decision was reconfirmed by Cabinet in 2019 and agreed to legislation implementing CORSIA in New Zealand to form part of the Bill [CAB-19-MIN-0439 refers].

Updated financial penalty levels

- 68 The Bill updates financial penalty levels to adequately reflect the significance of the offence, provide an effective deterrent, be proportionate and in line with

penalties for similar offending under other comparable, recent legislation such as the HSWA.

- 69 The general effect has been to significantly increase existing maximum fines for offences that involves serious risk, offending that involves fraud or deception, and misconduct by individuals or entities in positions of responsibility.

Impact analysis

- 70 Regulatory Impact Statements have been prepared by the Ministry of Transport in accordance with the necessary requirements, and have accompanied each paper seeking Cabinet approval of a policy relating to the Bill [CAB-16-MIN-0568; CAB-16-MIN-0184; NSC-16-MIN-0001; CAB-19-MIN-0167; DEV-19-MIN-0226; DEV-20-MIN-0030; CBC-21-Min-0059 refer]

Compliance

- 71 I consider that the Bill complies with:
- 71.1 the principles of the Treaty of Waitangi;
 - 71.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
 - 71.3 the disclosure statement requirements (a disclosure statement has been prepared and is attached to the paper);
 - 71.4 the principles and guidelines set out in the Privacy Act 2020;
 - 71.5 relevant international standards and obligations;
 - 71.6 the Legislation Design and Advisory Committee's Legislation Guidelines (2018 edition).

Consultation

- 72 My officials have undertaken several rounds of consultation:
- 72.1 public consultation on the Civil Aviation Act 1990 and Airport Authorities Act 1966 Review in 2014;
 - 72.2 public consultation has included the release of an exposure draft of the Bill in mid-July 2019 and an invitation for submissions;
 - 72.3 targeted consultation with key stakeholders in mid-2020 on policy proposals relating to the regulation of airports.
- 73 The following government departments, agencies and organisations were consulted on the relevant parts of the Bill: the Office of the Privacy Commissioner, the New Zealand Customs Service, the Treasury, the Ministry

of Business, Innovation and Employment (MBIE - Immigration, Health and Safety, Radio Spectrum, Tourism, and Competition and Consumer), WorkSafe New Zealand, the Ministry of Justice, the Civil Aviation Authority, Te Kawa Mataaho Public Service Commission, the New Zealand Police, the New Zealand Defence Force, the Commerce Commission, the Ministry of Health, the Ministry for Primary Industries, the Combined Threat Assessment Group and the Department of Internal Affairs.

74 The Department of the Prime Minister and Cabinet has been informed.

Binding on the Crown

75 The Bill replaces the Civil Aviation Act 1990 and the Airport Authorities Act 1966 and binds the Crown.

Creating new agencies or amending law relating to existing agencies.

76 The Bill will not create a new agency.

Allocation of decision-making powers

77 The Bill sets out various statutory powers of decision for the Minister of Transport, the Director of Civil Aviation (in their capacity as the aviation regulator), the Secretary for Transport, and medical convenor (appointed by the Minister). The Bill also sets out various paths to appeal and review such decisions, including appeals through the Courts. In the case of delegated legislation (including the making of Civil Aviation Rules), the Bill includes specific statutory requirements regarding consultation.

78 The Bill complies with the relevant requirements set out in the LDAC guidelines.

Associated regulations

79 Two sets of regulations will be re-made under the new Act:

79.1 Civil Aviation Charges Regulations (No 2) 1991

79.2 Civil Aviation (Offences) Regulations 2006

80 There are also some Orders in Council that will have the same treatment:

80.1 Civil Aviation (ANZA Mutual Recognition Agreement) Order 2007

80.2 Civil Aviation (Cape Town Convention and Aircraft Protocol Declarations) Order 2010

81 Civil Aviation (Safety and Security) Levies Order 2002

Other instruments

- 82 The Bill contains provisions that allow for the making of regulations and Civil Aviation Rules.
- 83 The Bill also contains a provision to empower the creation and use of transport instruments. The purpose of specified instruments is to define terms, prescribe matters, or make other provision in relation to any activity or thing, including (without limitation) listing standards, controlling activities, setting requirements, procedures, or means of compliance, setting competency requirements, and providing for exceptions. Transport instruments are intended to allow the resolution of matters requiring relatively frequent adjustment or that are highly technical in nature.

Definition of Minister/department

- 84 The Bill contains a definition of a **Minister** as a Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of the Act or the relevant Part or provision. The Minister has the power to make rules. Much of the detail of the working of the civil aviation system is provided in rules.
- 85 The Bill contains a definition of **Ministry** that means the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of the Act.
- 86 The Bill contains a definition of **Secretary** that means the chief executive of the Ministry. The Secretary has a number of regulatory functions, duties and powers under the Act.
- 87 The Bill contains a definition of **Director** that means the person who is for the time being the Director of Civil Aviation. The Director has functions, powers and duties conferred by the Act.

Commencement of legislation

- 88 The Civil Aviation Bill is expected to come into force 18 months after enactment. This is to allow time to develop the necessary delegated legislation (particularly the Civil Aviation Rules), and to give the aviation industry appropriate time to make any necessary changes for compliance at an operational level.

Parliamentary stages


- 89 
- 89 **Confidential**
- 90 I intend to introduce the Bill in August 2021 with the intention that it is passed, if possible, in the first half of 2022.

- 91 To achieve this timeline, I will seek the House of Representative's approval for the Bill to be considered by the Transport and Infrastructure Select Committee, and be reported back in six months.

Proactive Release

- 92 This paper will be proactively released on the Ministry of Transport's website following the Bill's introduction into the House of Representatives, with any redactions in line with the Official Information Act 1982.

Recommendations

- 93 I recommend that the Cabinet Legislation Committee (LEG):
- 1 **note** that on 31 October 2016, the previous government agreed [CAB-16-MIN-0568 refers] to policy changes to the Civil Aviation Act 1990 and Airport Authorities Act 1966 to reflect recommendations from a 2014 review, reduce the risk of alcohol and drug impairment in the commercial aviation sector [CAB-16-MIN-0184 refers], and improve aviation security as proposed in the Domestic Aviation Security Review [NSC-16-MIN-0001 refers];
 - 2 **note** that on 15 April 2019, Cabinet reconfirmed key decisions made by the previous government on the Civil Aviation Bill (the Bill) in 2016, and to release an exposure draft of the Bill [CAB-19-MIN-0167 refers];
 - 3 **note** that on 28 August 2019, the Cabinet Economic Development Committee (DEV) agreed to give effect in domestic legislation, via the Bill, to New Zealand's participation in the Carbon Offsetting and Reduction Scheme for International Aviation [DEV-19-MIN-0226 refers];
 - 4 **note** that on 11 March 2020, DEV agreed that the Bill include amendments to create powers to intervene against illegally operated drones, and address matters arising from submissions on the exposure draft of the Bill and from further work on the Bill [DEV-20-MIN-0030 refers];
 - 5 **note** that on 2 June 2020, Cabinet agreed to the Ministry of Transport consulting with key stakeholders on a proposed airport licensing regime to achieve better outcomes at airports [CAB-20-MIN-0248 refers];
 - 6 **note** that on 21 June 2021, Cabinet confirmed decisions made by the Cabinet Business Committee on final policy proposals, including changes to the regulation of airports, security at airports and enforcement of the civil aviation system [CBC-21-Min-0059 and CAB-21-Min-0231 refer];
 - 7 
 - 8 **Confidential**
approve the Bill for introduction, subject to the final approval of the government caucus and sufficient support in the House of Representatives;
 - 9 **agree** that the Bill be introduced in August 2021;

- 10 **agree** that the government propose that the Bill:
- 10.1 be referred to the Transport and Infrastructure Select committee for consideration;
 - 10.2 come into force 18 months after enactment.

Authorised for lodgement

Hon Michael Wood

Minister of Transport

RELEASED BY THE MINISTER OF TRANSPORT