

Questions for your submission

This submission form is intended to be used alongside the consultation document to guide your feedback. Please give reasons for your answers or in support of your position so that your viewpoint is clearly understood, and also to provide more evidence to support decisions.

You can send us a written submission focusing on the questions in this document that are relevant to you by completing all or part of this submission template.

Please email your written submission to ca.act@transport.govt.nz with the word "Submission" in the subject line, or post it to:

Civil Aviation Act Review
Ministry of Transport
PO Box 3175
Wellington 6140

The deadline for all forms of submission is 31 October 2014.

Your role

Your name

██████████

Your email address

██

Why is your email needed?

Your email address is needed in case we need to contact you with any questions about your submission.

1. What is your interest in Civil Aviation Act and Airport Authorities Act Review?

Are you:

☐ A private individual?

☒ Part of the transport industry?

2. If you are part of the sector, please describe your role:

██████████ Air Hawkes Bay Ltd – Part 141 and Part 135

Part A: Statutory framework

Item A1: Legislative structure

Question A1a: Which option do you support?

- ☐ **Option 1:** Amalgamate the Civil Aviation Act and the Airport Authorities Act
- ☐ **Option 2:** Separate the provisions in the Civil Aviation Act into three separate Acts:
 - (i) an Act dealing with safety and security regulation
 - (ii) an Act dealing with airline and air navigation services regulation
 - (iii) an Act dealing with airport regulation
- ☐ **Option 3:** Status Quo – Civil Aviation Act and Airport Authorities Act maintained.
- ☐ **Some other option** (please describe):

Support Option 1

Please state your reasons:

Would be easy to administer under one Act

Item A2: Purpose statement and objectives

Question A2a: Do you support the concepts listed in Part A, paragraph 29 for inclusion in a purpose statement?

Subject area of the Act or Acts	Purpose	Do you support?
Safety and security related	To contribute to a safe and secure civil aviation system	<input type="checkbox"/> <input checked="" type="checkbox"/> Yes <input type="checkbox"/>
Economic - airport related	To facilitate the operation of airports, while having due regard to airport users	<input type="checkbox"/> <input checked="" type="checkbox"/> Yes <input type="checkbox"/>
Economic – airline related	To provide for the regulation of international New Zealand and foreign airlines with due regard to New Zealand's civil aviation safety and security regime and bilateral air services	<input type="checkbox"/> <input checked="" type="checkbox"/> Yes <input type="checkbox"/>
	To enable airlines to engage in collaborative activity that enhances competition, while minimising the risk resulting from anti-competitive behaviour ¹	<input type="checkbox"/> <input checked="" type="checkbox"/> Yes <input type="checkbox"/>
	To provide a framework for international and domestic airline liability that balances the rights of airlines and passengers	<input type="checkbox"/> <input checked="" type="checkbox"/> Yes <input type="checkbox"/>

Please state your reasons:

¹ Depending on the outcome of the review, international air carriage competition provisions may be moved out of transport legislation and into the Commerce Act 1986.

Part A: Statutory framework

Question A2b: What other concepts do you think should be included in the purpose statement of the Act or Acts? (Please specify)

Question A2c: Should the revision of statutory objectives align with the purpose of the Act or Acts?

Question A2d: Do you support the revision of statutory objectives to include a requirement that decision-makers (for example, the Minister, the CAA, and the Secretary of Transport) be required to carry-out their functions in an effective and efficient manner?

Yes – identify the functions and responsibilities to each level of decision makers.

Item A3.4: Independent statutory powers

Question A3.4: Should independent statutory powers continue to reside with the Director of Civil Aviation?

☐ Yes

☐

Please state your reasons here.

In part Yes – however, it would be appropriate to allow a provision for an appeal process or Ombudsman that allows some form of oversight.

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Participant obligations

Question B2: Are there any issues in relation to participant obligations and Director's powers in Part 2 of the Civil Aviation Act 1990 that you think should be addressed? If so, what options do you propose to address the issue(s)?

Medical certification

Item B3: Certification pathways and stable conditions

Question B3a: Which option do you support?

☐ **Option 1:** Status quo – two pathways for medical certification

✓ **Option 2:** Develop a third pathway for medical certification for individuals affected by stable, long-term or fixed conditions.

✓ **Some other option** (please describe):

There should be a more economical process to obtain the desired outcome. Option 1 is too costly and restrictive.

NZ should also recognise other ICAO participating countries medical certificates as below.

Please state your reasons

Question B3b: What savings would likely occur from a third pathway to medical certification?

Item B4: Provision for the recognition of overseas and other Medical Certificates

Question B4a: Should the Act allow the Director to recognise medical certificates issued by an ICAO contracting State?

- ☐ **Yes**
- ☒ **Yes, but only those without any operational endorsements issued by States with a robust aviation medical certification regime**

Please state your reasons

This will save costs and allow further capability to attract international participants

Question B4b: Should the Director of Civil Aviation or the State that has issued the medical certificate provide oversight?

Only if there are conditions on the medical.

Question B4c: If you agree that the Director of Civil Aviation should provide oversight, what provisions in Part 2A of the Civil Aviation Act should apply?

Item B5: Medical Convener

Question B5a: Which is your preferred option?

- ☐ **Option 1:** Status quo continue: Medical Convenor retained (Ministry of Transport preferred option)
- ☒ **Option 2:** Status quo continues and a separate fee for the Medical Convener is charged to applicants
- ☐ **Option 3:** Disestablish Medical Convener role
- ☐ **Other option:** please describe

Option 2 - the convener process should remain but needs to be more independent and transparent.

Please state your reasons here

Question B5b: How much would you be prepared to pay to have your case reviewed by the Medical Convenor?

Are there any other issues with the provisions in Part 2A of the Civil Aviation Act that you think should be addressed? If so, what options do you propose to address the issue(s)?

Offences and penalties

Item B6: Penalty levels

Question B6a: Which is your preferred option?

- ☐ **Option 1:** Status quo – penalty levels remain unchanged
- ☐ **Option 2:** Increase penalty levels
- ☐ **Other option:** Please describe

No comment

Question B6b: If you consider that increases to penalty levels are necessary, which penalties, and by how much?

Item B7: Acting without the necessary aviation document

Question B7: Which is your preferred option?

- ☐ **Option 1:** Status quo
- ☐ **Option 2:** Amend the provision to separate out the offences (Ministry of Transport preferred option)
- ☐ **Other option:** Please describe

No comment

Please state your reasons

Appeals

Item B8: Appeals process

Question B8a: Should a specialist aviation panel or tribunal be established in addition to the current District Court process?

☐ ☒ **Yes**

☐ **No**

Please state your reasons:

A provision to challenge the Director's decisions must be allowed for.

Ombudsman or independent review panel maybe a more economic and efficient option

Questions B8b: How much would you be prepared to pay for a panel review?

Rules and regulatory frameworks

Item B9: Rule making

Question B9a: What enhancements could be made to the rule-making process?

The Rule workflow process from CAA - MOT – Minister – Cabinet appears to be cumbersome and has not kept up with technology changes. There has to be a more effective and efficient process to review and write rules.

Maybe look into more delegation or the appointment of Industry Specialists to assist with the Rules development.

Question B9b: Which is your preferred option?

- ☐ **Option 1:** Status quo – no change
- ☐ **Option 2:** Power for Civil Aviation Authority Board (CAA Board) to make temporary rules
- ☐ **Option 3:** Power to enable the Minister to delegate some of his/her rule-making powers to the Director or CAA Board
- ☐ **Option 4:** Creation of a new tertiary level of legislation (e.g. Standards)
- ☐ **Some other option:** Please describe

As above

Question B9c: If you prefer Option 3 (Delegation of some of the Minister's rule-making powers to the CAA Board or Director), what matters should the Director or CAA Board be delegated to make rules for?

Question B9d: Is a 'first principles' review of rule-making required to consider the out of scope options (paragraphs 183 – 187) in more detail?

☐ **Yes**

☐ **No**

Please state your reasons:

Item B10: Possible amendments to Part 3

Question B10: What matters should the Minister take into account when making rules?
Please specify and state your reasons.

Information management

Item B11: Accident and incident reporting

Question B11a: What are the barriers to fully reporting accidents and incidents to CAA?

Possible prosecution

CAA not reciprocating information collated from accidents/incidents back to industry in a timely manner.

Question B11b: What could be done to overcome the barriers in Question B11a?

Evidence of Just Culture within CAA

Item B12: Accessing personal information for fit and proper person assessments

Question B12a: What information does the Director need to undertake a fit and proper person assessment?

No comment

Question B12b: Should the Director be able to compel an organisation to provide information about a person in order to undertake a fit and proper person test?

☒ **Yes**

☐ **No**

Please state your reasons:

Security

Item B13: Search powers

Question B13a: Should the Aviation Security Service (Avsec) be allowed to search unattended items in the landside part of the aerodrome?

☐ ☒ **Yes**

☐ **No**

Please state your reasons here.

Question B13b: Should Avsec be allowed to search vehicles, in the landside part of the aerodrome, using non-invasive tools such as Explosive Detector Dogs (EDD)?

☐ ☒ **Yes**

☐ **No**

Please state your reasons here.

Question B13c: Do you support the use of EDD within a landside environment of an airport, including public car parks and airport terminals generally? In particular, do you consider it appropriate for EDD to be used around people, including non-passengers?

☒ **Yes**

☐ **No**

Please state your reasons:

Issue B15: Security check procedures and airport identity cards

Question 15: Do you have any comments regarding Security Check Determinations (sections 77F and G) and the Airport Identity Card regime?

We support the recommendations

Item B16: Alternative terminal configurations

Question B16a: Should alternative airport designs or configurations be allowed in the future, for example, a common departure terminal?

☐ ☒ **Yes**

☐ **No**

Please state your reasons here.

Question B16b: If yes, how should processing costs be funded?

User pay

No comments for the following Part C, D and E

Item F1: Airways' statutory monopoly

Section 35 of the Civil Aviation Amendment Act 1992 provides for the repeal of Airways' statutory monopoly on a date to be appointed by the Governor-General by Order in Council.

We recommend:

- repeal of Section 35 of the Civil Aviation Amendment Act 1992; and
- the retention of Section 99 of the Civil Aviation Act 1990 (which provides for Airways to be the sole provider of area control services, approach control services, and flight information services).

Question F1: Do you agree with our recommendation?

☐ **Yes**

☐ **No**

Please state your reasons:

No comment

Item F3: Length of time before the Director can revoke an aviation document because of unpaid fees or charges

Question F3: Which is your preferred option?

- ☐ **Option 1:** Status quo – the Director of Civil Aviation may revoke an aviation document if the related fee or charge is overdue by six months
- ☐ **Option 2:** Reduce the threshold from six to four months
- ☐ **Some other option** (please describe):

No comment

Please state your reasons:

Item F4: Power to stop supplying services until overdue fees and charges have been paid

Question F4: Which is your preferred option?

- ☐ **Option 1:** Status quo – Section 41(4) the Civil Aviation Act provides for the CAA, the Director and other persons to decline to process an application or provide a service under the Act until the appropriate fee or charge has been paid (or arrangements for payment made).
- ☒ **Option 2:** Amend section 41(4) to clarify its intention – to explicitly provide for the CAA, the Director and other persons to decline to process an application or provide a service under the Act until the appropriate fee or charge or outstanding debt has been paid (or arrangements for payment made).
- ☐ **Some other option** (please describe):

Please state your reasons:

Item F5: The Civil Aviation Authority's ability to audit operators that collect levies

Question F5: Which is your preferred option?

- ☐ **Option 1:** Status quo – the Act does not allow the CAA to require an audit of operators from which it collects levies.
- ☐ ☒ **Option 2:** Amend section 42B to include a power for the CAA to require an audit of operators from which it collects levies at the CAA's own cost
- ☐ **Some other option** (please describe):

Please state your reasons:

Item F6: Fees and charges for medical costs

Question F6: Which is your preferred option?

- ☐ **Option 1:** Status quo – section 38(1)(b) of the Civil Aviation Act allows the Governor-General to make regulations prescribing the fees and charges for the purpose of reimbursing the CAA for “costs directly associated with” the Director and Convener’s functions under Part 2A of the Act.
- ☐ **Option 2:** Clarify section 38(1)(b) that this section is intended to cover a broad range of services and corporate overheads associated with the Director and Convener’s functions under Part 2A of the Act
- ☐ **Some other option** (please describe):

Industry participants should only be covering fair and reasonable direct costs of CAA.

Please state your reasons:
