

# **AIR NAVIGATION ACT 1974**

## **No. 124 of 1974**

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###### **PART I—AMENDMENTS OF THE AIR NAVIGATION ACT**

###### **PART II—AMENDMENTS OF THE AIRPORTS (SURFACE TRAFFIC) ACT**

# AIR NAVIGATION ACT 1974

## No. 124 of 1974

An Act to amend the *Air Navigation Act 1920-1973* and for purposes connected therewith.

BE IT ENACTED by the Queen, the Senate and the House of Representatives of Australia, as follows:—

### PART I—PRELIMINARY

Short title  
and citation.

1. (1) This Act may be cited as the *Air Navigation Act 1974*.<sup>1</sup>

(2) The *Air Navigation Act 1920-1973*<sup>2</sup> is in this Act referred to as the Principal Act.

(3) The Principal Act, as amended by this Act, may be cited as the *Air Navigation Act 1920-1974*.

Commence-  
ment.

2. (1) Subject to sub-sections (2) and (3), this Act shall come into operation on the day on which it receives the Royal Assent.<sup>1</sup>

(2) Sections 4, 5 and 10 and sub-section 6 (1) shall come into operation on a date to be fixed by Proclamation.

(3) Sections 7, 9 and 13 and sub-section 12 (1) shall come into operation on a date to be fixed by Proclamation.

### PART II—PROVISIONS RELATING TO THE AIR NAVIGATION ACT

Interpret-  
ation.

3. A reference in a provision of this Part to the Principal Act shall be read as a reference to the Principal Act as amended by any provision of this Act that came into force before the commencement of that first-mentioned provision.

4. After section 2A of the Principal Act the following section is inserted:—

Act not to  
apply to state  
aircraft.

“2B. Except where the contrary intention appears, this Act does not apply to, or in relation to, a state aircraft.”

Interpret-  
ation.

5. Section 3 of the Principal Act is amended—

(a) by omitting from sub-section (1) the definition of “aircraft” and substituting the following definition:—

“ ‘aircraft’ means any machine or craft that can derive support in the atmosphere from the reactions of the air; ”;  
and

(b) by omitting paragraph (a) of the definition of “state aircraft” in sub-section (1) and substituting the following paragraph:—

“(a) aircraft of any part of the Defence Force (including any aircraft that is commanded by a member of that Force in the course of his duties as such a member), other than any aircraft that by virtue of registration under the regulations is an Australian aircraft; and”.

6. (1) Section 26 of the Principal Act is amended by inserting after sub-section (1) the following sub-section:— Regulations.

“(1A) Regulations under sub-section (1) may apply to, and in relation to, state aircraft.”.

(2) Section 26 of the Principal Act is amended by inserting after paragraph (c) of sub-section (2) the following paragraph:—

“(ca) the charging and recovery of fees and other charges in respect of matters specified in the regulations, being matters in relation to which expenses are incurred by Australia under this Act or under the regulations (including, but without limiting the generality of the foregoing, fees and other charges in respect of, or for applications or examinations for, the grant, issue, renewal or variation of licences, certificates, approvals, permits, registrations or exemptions under the regulations), but not being fees or charges the amounts or rates of which exceed amounts or rates that are reasonably related to the expenses incurred by Australia in relation to the matters in respect of which the fees or charges are payable or that otherwise amount to taxation;”.

7. The Principal Act is amended as set out in Part I of Schedule 1. Amendments concerning the Director-General.

8. The Principal Act is further amended as set out in Part I of Schedule 2. Minor amendments.

9. (1) For all purposes of the *Air Navigation Act 1920-1971* and of that Act as amended and in force at any time before the commencement of that section and for all purposes of any regulations in force at any time before the commencement of this section under that Act or under that Act as so amended, the office of Secretary to the Department of Transport and Director-General of Civil Aviation shall be deemed to have been the same office as the office of Director-General of Civil Aviation. Validation and transitional.

(2) Any act or thing done (including any instrument made or issued)—

- (a) before 30 November 1973 by a person holding, or performing the duties of, the office of Director-General of Civil Aviation; or
- (b) on or after that date and before the commencement of this section by a person holding, or performing the duties of, the office of Secretary to the Department of Transport and Director-General of Civil Aviation,

under or for the purposes of—

- (c) the *Air Navigation Act* 1920 or of that Act as amended and in force when the act or thing was done or the instrument was made or issued; or
- (d) any particular regulations in force under that Act or under that Act as amended and in force when the act or thing was done or the instrument was made or issued,

has effect, after the commencement of this section, as if the act or thing had been done, or the instrument had been made or issued, by the Secretary to the Department of Transport under or for the purposes of the Principal Act as amended by this Act or those regulations as in force under the Principal Act as amended by this Act, as the case requires.

(3) In the application, after the commencement of this section, of any regulations or other instrument in force or subsisting under or for the purposes of the Principal Act immediately before the commencement of this section, any reference in those regulations or in that instrument to the Director-General of Civil Aviation or to the Secretary to the Department of Transport and Director-General of Civil Aviation shall be read as including a reference to the Secretary to the Department of Transport.

(4) In this section, a reference to the office of Director-General of Civil Aviation is a reference to the office of Director-General of Civil Aviation referred to in the Principal Act.

Regulations to continue in force, &c.

**10.** Regulations in force under the Principal Act immediately before the date of commencement of this section continue in force and have the same meaning as if made under the Principal Act as amended by this Act.

Regulations may be made before Proclamation date.

**11.** At any time after this Act receives the Royal Assent and before the date fixed under sub-section 2 (2), regulations may be made for the purposes of the Principal Act as amended by sections 4 and 5 and sub-section 6 (1) of this Act as if those sections and that sub-section had come into operation on the day on which this Act receives the Royal Assent, but regulations so made shall not come into operation before the date so fixed under sub-section 2 (2).

**PART III—PROVISIONS RELATING TO THE AIRPORTS  
(SURFACE TRAFFIC) ACT**

**12.** (1) The *Airports (Surface Traffic) Act 1960-1973*<sup>3</sup> is amended as set out in Part II of Schedule 1. Amend-  
ments and  
citation.

(2) The *Airports (Surface Traffic) Act 1960-1973* is further amended as set out in Part II of Schedule 2.

(3) The *Airports (Surface Traffic) Act 1960-1973*, as amended by this Part, may be cited as the *Airports (Surface Traffic) Act 1960-1974*.

**13.** (1) For all purposes of the *Airports (Surface Traffic) Act 1960-1966* and of that Act as amended and in force at any time before the commencement of this section, the office of Secretary to the Department of Transport and Director-General of Civil Aviation shall be deemed to have been the same office as the office of Director-General of Civil Aviation. Validation  
and  
transitional.

(2) Any act or thing done (including any instrument made or issued)—

(a) before 30 November 1973 by a person holding, or performing the duties of, the office of Director-General of Civil Aviation; or

(b) on or after that date and before the commencement of this section by a person holding, or performing the duties of, the office of Secretary to the Department of Transport and Director-General of Civil Aviation,

under or for the purposes of the *Airports (Surface Traffic) Act 1960* or of that Act as amended and in force when the act or thing was done or the instrument was made or issued, has effect, after the commencement of this section, as if the act or thing had been done, or the instrument had been made or issued, by the Secretary to the Department of Transport under or for the purposes of the *Airports (Surface Traffic) Act 1960-1973* as amended by this Act.

(3) In this section, a reference to the Director-General of Civil Aviation is a reference to the office of Director-General of Civil Aviation referred to in the *Airports (Surface Traffic) Act 1960-1973*.

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## SCHEDULE 1 Section 7 and sub-section 12 (1)

## AMENDMENTS CONCERNING THE DIRECTOR-GENERAL OF CIVIL AVIATION

## PART I—AMENDMENTS OF THE AIR NAVIGATION ACT

Provision	Amendment
Section 3 (1)	(a) Omit the definition of "the Director-General". (b) Insert at the end of the sub-section the following definition:— "the Secretary' means the Secretary to the Department of Transport."
Section 8 (4)	Omit "Director-General", substitute "Secretary".
Section 9 (2)	Omit "Director-General", substitute "Secretary".
Section 12 (1)	Omit "Director-General", substitute "Secretary".
Section 14 (2)	Omit "Director-General", substitute "Secretary".
Section 14 (3)	Omit "Director-General", substitute "Secretary".
Section 14 (4)	Omit "Director-General", substitute "Secretary".
Section 14 (5)	Omit "Director-General", substitute "Secretary".
Section 14 (7)	Omit "Director-General", (wherever occurring), substitute "Secretary".
Section 17	Omit "Director-General", substitute "Secretary".
Section 18	Omit "Director-General", (wherever occurring), substitute "Secretary".
Section 20 (2)	(a) Omit from paragraph (a) "Department of Civil Aviation", substitute "Department of Transport". (b) Omit from paragraph (d) "Director-General", substitute "Secretary".
Section 22 (5)	Omit "Director-General", substitute "Secretary".
Section 22 (6)	Omit "Director-General" (wherever occurring), substitute "Secretary".
Section 26 (2)	Omit from paragraph (h) "Director-General" (wherever occurring), substitute "Secretary".
Section 31 (1)	Omit "Director-General", substitute "Secretary".
Section 31 (3)	Omit "Director-General", substitute "Secretary".

## PART II—AMENDMENTS OF THE AIRPORTS (SURFACE TRAFFIC) ACT

Provision	Amendment
Section 3 (1)	(a) From the definition of "authorized person" omit "Director-General", substitute "Secretary". (b) Omit the definition of "the Director-General". (c) Insert after the definition of "the owner" the following definition:— "the Secretary' means the Secretary to the Department of Transport;"
Section 6 (1)	Omit "Director-General", substitute "Secretary".
Section 7 (1)	Omit "Director-General", substitute "Secretary".
Section 7 (2)	Omit "Director-General", substitute "Secretary".
Section 9 (3)	Omit "Director-General", substitute "Secretary".
Section 13 (5)	Omit "Director-General", substitute "Secretary".
Section 16 (1)	Omit "Director-General" (wherever occurring), substitute "Secretary".
Section 17	Omit "Director-General" (wherever occurring), substitute "Secretary".
Section 20 (1)	Omit "Director-General", substitute "Secretary".
Section 20 (3)	Omit "Director-General", substitute "Secretary".

**SCHEDULE 2**      Section 8 and sub-section 12 (2)

**OTHER AMENDMENTS**

**PART I—AMENDMENTS OF THE AIR NAVIGATION ACT**

Provision	Amendment
Section 2A . . . . .	Omit "the Commonwealth", substitute "Australia".
Section 3 (1) . . . . .	From the definition of "Australian territory" omit "the Commonwealth" (wherever occurring), substitute "Australia".
Section 16 . . . . .	Omit "the Commonwealth", substitute "Australia".
Section 20 (2) . . . . .	Omit "the Commonwealth" (wherever occurring), substitute "Australia".
Section 21 (3) . . . . .	Omit "the Commonwealth", substitute "Australia".
Section 24 . . . . .	Omit "the Commonwealth", substitute "Australia".

**PART II—AMENDMENTS OF THE AIRPORTS (SURFACE TRAFFIC) ACT**

Provision	Amendment
Section 3 (1) . . . . .	(a) From the definition of "airport" omit "the Commonwealth" (wherever occurring), substitute "Australia". (b) From paragraph (b) of the definition of "authorized person" omit "the Commonwealth", substitute "Australia".
Section 5 . . . . .	Omit "the Commonwealth" (wherever occurring), substitute "Australia".
Section 16 (2) . . . . .	Omit "the Commonwealth", substitute "Australia".
Section 19 . . . . .	Omit "the Commonwealth", substitute "Australia".

**NOTES**

1. Act No. 124, 1974; assented to 3 December 1974.
2. Act No. 50, 1920, as amended by No. 93, 1936; Nos. 6 and 89, 1947; No. 80, 1950; No. 39, 1960; No. 72, 1961; No. 8, 1963; No. 93, 1966; No. 79, 1971; No. 130, 1973; and No. 216, 1973 (as amended by No. 20, 1974).
3. Act No. 40, 1960, as amended by No. 93, 1966; and No. 216, 1973 (as amended by No. 20, 1974).