



# **Civil Aviation Legislation Amendment Act 2003**

**No. 83, 2003**

**An Act to amend the law relating to aviation, and  
for related purposes**

Note: An electronic version of this Act is available in SCALEplus  
(<http://scaleplus.law.gov.au/html/comact/browse/TOCN.htm>)



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**No. 83, 2003**

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## **An Act to amend the law relating to aviation, and for related purposes**

*[Assented to 6 September 2003]*

The Parliament of Australia enacts:

### **1 Short title**

This Act may be cited as the *Civil Aviation Legislation Amendment Act 2003*.

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## 2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent	6 September 2003
2. Schedule 1, item 1	A single day to be fixed by Proclamation, subject to subsection (3)	6 September 2004
3. Schedule 1, item 2	A single day to be fixed by Proclamation, subject to subsection (3)	6 September 2004
4. Schedule 1, item 3	At the same time as the provision covered by item 2 of this table	6 September 2004
5. Schedule 1, items 4 to 7	The day on which this Act receives the Royal Assent	6 September 2003
6. Schedule 1, items 8 to 18	At the same time as the provision covered by item 2 of this table	6 September 2004
7. Schedule 1, items 19 to 23	The day on which this Act receives the Royal Assent	6 September 2003
8. Schedule 2, item 1	At the same time as the provision covered by item 3 of this table	6 September 2004
9. Schedule 2, item 2	The day on which this Act receives the Royal Assent	6 September 2003
10. Schedules 3 and 4	The day on which this Act receives the Royal Assent	6 September 2003

Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table is for additional information that is not part of this Act. This information may be included in any published version of this Act.

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- (3) If a provision covered by item 2 or 3 of the table does not commence within the period of 12 months beginning on the date on which this Act receives the Royal Assent, it commences on the first day after the end of that period.

### **3 Schedule(s)**

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## Schedule 1—Amendment of the Civil Aviation Act 1988

### 1 Subsection 3(1)

Insert:

*aeronautical product* means any part or material that is, or is intended by its manufacturer to be, a part of or used in an aircraft, unless excluded by the regulations.

### 2 Subsection 3(1) (definition of *Australian aircraft*)

Repeal the definition, substitute:

*Australian aircraft* means:

- (a) aircraft registered in Australia; and
- (b) aircraft in Australian territory, other than foreign registered aircraft and state aircraft.

Note: Some references to Australian aircraft may be affected by the operation of section 4A.

### 3 Subsection 3(1)

Insert:

*maintenance* means any task required to ensure, or that could affect, the continuing airworthiness of an aircraft or aeronautical product, including any one or combination of overhaul, repair, inspection, replacement of an aeronautical product, modification or defect rectification.

### 4 Subsection 3(1) (paragraph (a) of the definition of *state aircraft*)

Omit “, other than any aircraft that by virtue of registration under the regulations is an Australian aircraft”.

### 5 After paragraph 9(3)(c)

Insert:

- (ca) entering into 83 bis agreements on behalf of Australia;

### 6 Subsection 20AA(1)

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Repeal the subsection, substitute:

*Flying an unregistered aircraft*

- (1) A person must not fly an aircraft within Australian territory if:
- (a) the aircraft is not registered under the regulations; and
  - (b) the aircraft is, under this Act or those regulations, required to be registered under those regulations.

Penalty: Imprisonment for 2 years.

- (1A) Subsection (1) does not apply to an aircraft that is employed in private operations and that possesses the nationality of a Contracting State.

Note: A defendant bears an evidential burden in relation to the matter in subsection (1A) (see subsection 13.3(3) of the *Criminal Code*).

**7 Subsection 20AA(2)**

Omit “subsection (1)”, substitute “subsection (1A)”.

**8 Subsection 20AA(3)**

Repeal the subsection, substitute:

*Flying without a certificate of airworthiness*

- (3) An owner, operator, hirer (other than the Crown) or pilot of an Australian aircraft must not commence a flight in the aircraft, or permit a flight in the aircraft to commence, if:
- (a) there is no certificate of airworthiness under the regulations in force in respect of the aircraft; and
  - (b) the regulations do not authorise the flight without the certificate.

Penalty: Imprisonment for 2 years.

*Flying without satisfying safety requirements*

- (4) An owner, operator, hirer (other than the Crown) or pilot of an Australian aircraft must not commence a flight in the aircraft, or permit a flight in the aircraft to commence, if one or more of the following apply:

- (a) there is outstanding a requirement imposed by or under the regulations in relation to the maintenance of the aircraft;
- (b) the aircraft will require maintenance before the flight can end;
- (c) there is a defect or damage that may endanger the safety of the aircraft or any person or property;
- (d) the aircraft is unsafe for flight.

Penalty: Imprisonment for 2 years.

**9 Subsection 20AB(2)**

Repeal the subsection, substitute:

- (2) A person must not carry out maintenance on:
  - (a) an Australian aircraft; or
  - (b) an aeronautical product in Australian territory; or
  - (c) an aeronautical product for an Australian aircraft;if the person is not permitted by or under the regulations to carry out that maintenance.

Penalty: Imprisonment for 2 years.

**10 Subsection 20AB(4)**

Repeal the subsection, substitute:

- (4) In this section, *flight time* has the same meaning as in the regulations.

**11 Subsection 24(2)**

Repeal the subsection, substitute:

- (2) A person must not tamper with:
  - (a) an aircraft; or
  - (b) an aeronautical product that is of such a type that tampering with it may endanger the safety of an aircraft or any person or property;if tampering with it may endanger the safety of the aircraft or any person or property.

Penalty: Imprisonment for 2 years.

**12 Subsection 27AC(3) (definition of *aircraft component*)**

Repeal the definition.

**13 Subsection 27AC(3) (definition of *aircraft material*)**

Repeal the definition.

**14 Subsection 27AC(3) (paragraph (b) of the definition of *inspection or test*)**

Repeal the paragraph, substitute:

- (b) any aeronautical product that is a part of, or that relates to, any aircraft covered by the application;

**15 Subsection 28(3) (paragraph (c) of the definition of *key personnel*)**

Omit “aircraft maintenance”, substitute “aircraft airworthiness and maintenance control”.

**16 Subparagraph 28A(1)(d)(iii)**

Repeal the subparagraph, substitute:

- (iii) of the country or countries in which maintenance was carried out on the aircraft during that year, other than line maintenance; and

**17 Subparagraph 28A(1)(g)(ii)**

Repeal the subparagraph, substitute:

- (ii) the name and address of the person responsible for controlling the airworthiness and maintenance of the aircraft (whether or not the person is the applicant); and
- (iii) a separate signed statement from each of those persons that they understand their respective responsibilities under the regulations; and

**18 Subsection 28A(2)**

Repeal the subsection, substitute:

- (2) In this section:

*line maintenance*, in relation to an aircraft, means routine checks, inspections and malfunction rectifications performed en route and

at base stations on the aircraft during transit, turn-around or night stops.

**19 Subsection 32AHA(1)**

Omit “An investigator may apply to a magistrate for”, substitute “A magistrate may, on application made by an investigator, make”.

**20 Subsection 32AHA(1)**

After “commenced”, insert “, or there is a reasonable likelihood that such proceedings will not commence,”.

**21 Section 32AL**

Omit “court of competent jurisdiction”, substitute “magistrate”.

**22 Section 32AL**

After “destroy”, insert “, or otherwise dispose of,”.

Note: The heading to section 32AL is replaced by the heading “**Destruction or disposal of certain goods**”.

**23 Section 32AL**

Omit “the court”, substitute “the magistrate”.

## **Schedule 2—Amendment of the Air Navigation Act 1920**

### **1 Subsection 3(1) (definition of *Australian aircraft*)**

Repeal the definition, substitute:

*Australian aircraft* means Australian aircraft within the meaning of the *Civil Aviation Act 1988*.

### **2 Subsection 3(1) (paragraph (a) of the definition of *state aircraft*)**

Omit “, other than any aircraft that by virtue of registration under regulations made under the *Civil Aviation Act 1988* is an Australian aircraft”.

## **Schedule 3—Amendment of the Airports Act 1996**

### **1 Section 192**

Repeal the section.

## **Schedule 4—Amendment of the Air Services Act 1995**

### **1 Paragraphs 8(1)(a), (aa) and (b)**

Repeal the paragraphs, substitute:

- (a) providing services and facilities:
  - (i) for the purpose of Australia or another country giving effect to the Chicago Convention; or
  - (ii) for the purpose of Australia or another country giving effect to another international agreement relating to the safety, regularity or efficiency of air navigation; or
  - (iii) otherwise for purposes relating to the safety, regularity or efficiency of air navigation, whether in or outside Australia;
- (b) promoting and fostering civil aviation, whether in or outside Australia;

### **2 Paragraphs 8(1)(d) and (e)**

Repeal the paragraphs, substitute:

- (d) carrying out activities to protect the environment from the effects of, and the effects associated with, the operation of:
  - (i) Commonwealth jurisdiction aircraft, whether in or outside Australia; or
  - (ii) other aircraft outside Australia;
- (e) any functions prescribed by regulations in relation to the effects of, and effects associated with, the operation of:
  - (i) Commonwealth jurisdiction aircraft, whether in or outside Australia; or
  - (ii) other aircraft outside Australia;

### **3 At the end of subsection 8(1)**

Add:

- ; (j) providing services and facilities, whether or not related to aviation, for a purpose other than one that is mentioned or implied in any of paragraphs (a) to (i), if doing so:
  - (i) is within the executive or legislative powers of the Commonwealth; and

- (ii) utilises AA's spare capacity; and
- (iii) maintains or improves the technical skills of AA's employees; and
- (iv) does not impede AA's capacity to perform its other functions.

**4 After subsection 8(1)**

Insert:

(1A) In paragraphs (1)(a) and (j):

*facilities* includes equipment.

*provide*, in relation to facilities, includes build, maintain, operate, license, buy, sell or lease the facilities.

*services* includes:

- (a) air traffic services;
- (b) an aeronautical information service;
- (c) an aeronautical radio navigation service;
- (d) an aeronautical telecommunications service;
- (e) rescue and fire fighting services.

**5 Subsection 8(3)**

After "Subject to", insert "subsection (5)".

**6 At the end of section 8**

Add:

- (5) Subject to section 16, in performing its function under paragraph (1)(a), AA must give priority to providing services and facilities in relation to air navigation within Australian-administered airspace.



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*[Minister's second reading speech made in—  
House of Representatives on 27 March 2003  
Senate on 11 August 2003]*

(42/03)