



# **Civil Aviation Amendment Act 2005**

**No. 86, 2005**

**An Act to amend the *Civil Aviation Act 1988*, 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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# Civil Aviation Amendment Act 2005

No. 86, 2005

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## **An Act to amend the *Civil Aviation Act 1988*, and for related purposes**

[Assented to 6 July 2005]

The Parliament of Australia enacts:

### **1 Short title**

This Act may be cited as the *Civil Aviation Amendment Act 2005*.

### **2 Commencement**

This Act commences on the day on which it receives the Royal Assent.

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### **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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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—Relationship between certain anti-discrimination legislation and regulations under the Civil Aviation Act 1988**

### **Part 1—Amendments**

#### ***Civil Aviation Act 1988***

##### **1 After subsection 98(6)**

Insert:

- (6A) The regulations may contain provisions relating to medical standards that are inconsistent with the *Sex Discrimination Act 1984* if the inconsistency is necessary for the safety of air navigation.

Note: See also Part 2 of Schedule 1 to the *Civil Aviation Amendment Act 2005*.

- (6B) The regulations may contain provisions that are inconsistent with the *Disability Discrimination Act 1992* if the inconsistency is necessary for the safety of air navigation.

Note: See also Part 2 of Schedule 1 to the *Civil Aviation Amendment Act 2005*.

- (6C) CASA must consult the Human Rights and Equal Opportunity Commission about any proposal that regulations be made containing provisions that are inconsistent as mentioned in subsection (6A) or (6B). However, a failure to consult the Commission does not affect the validity of any regulations so made.

#### ***Disability Discrimination Act 1992***

##### **2 At the end of section 47**

Add:

Note: See also subsection 98(6B) of the *Civil Aviation Act 1988*, which allows regulations made under that Act to contain provisions that are

**Schedule 1** Relationship between certain anti-discrimination legislation and regulations under the Civil Aviation Act 1988

**Part 1** Amendments

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inconsistent with this Act if the inconsistency is necessary for the safety of air navigation.

***Sex Discrimination Act 1984***

**3 At the end of section 40**

Add:

Note: See also subsection 98(6A) of the *Civil Aviation Act 1988*, which allows regulations made under that Act to contain provisions relating to medical standards that are inconsistent with this Act if the inconsistency is necessary for the safety of air navigation.



## **Part 2—Provisions dealing with the effect of the Civil Aviation Regulations 1988 and the Civil Aviation Safety Regulations 1998**

### **4 Definitions**

In this Part:

*amend* includes repeal.

*original Civil Aviation Regulations* means the regulations purportedly made, before the commencement of this Schedule, by Statutory Rules 1988, No. 158, as the *Civil Aviation Regulations 1988*.

*original Civil Aviation Safety Regulations* means the regulations purportedly made, before the commencement of this Schedule, by Statutory Rules 1998, No. 237, as the *Civil Aviation Regulations 1998*.

Note: The *Civil Aviation Regulations 1998* were renamed as the *Civil Aviation Safety Regulations 1998* by the *Civil Aviation Amendment Regulations 2002 (No 11)*.

### **5 Effect of the Civil Aviation Regulations and the Civil Aviation Safety Regulations before the commencement of this Schedule**

- (1) Subject to subitem (3), the rights and liabilities of all persons are, by force of this item, declared to be, and always to have been, the same as if:
  - (a) the amendment made by item 1 of this Schedule had been in force during the period:
    - (i) starting immediately before the time when the original Civil Aviation Regulations purported to commence; and
    - (ii) ending on the commencement of this Schedule; and
  - (b) regulations had been in force during that period that were in the same terms as the original Civil Aviation Regulations, as purportedly amended from time to time during that period.
- (2) Subject to subitem (3), the rights and liabilities of all persons are, by force of this item, declared to be, and always to have been, the same as if:
  - (a) the amendment made by item 1 of this Schedule had been in force during the period:

**Schedule 1** Relationship between certain anti-discrimination legislation and regulations under the Civil Aviation Act 1988

**Part 2** Provisions dealing with the effect of the Civil Aviation Regulations 1988 and the Civil Aviation Safety Regulations 1998

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- (i) starting immediately before the time when the original Civil Aviation Safety Regulations purported to commence; and
    - (ii) ending on the commencement of this Schedule; and
  - (b) regulations had been in force during that period that were in the same terms as the original Civil Aviation Safety Regulations, as purportedly amended from time to time during that period.
- (3) This item does not affect the rights and liabilities arising between parties to a proceeding heard and finally determined by a court before the commencement of this Schedule, to the extent that those rights and liabilities arose from, or were affected by:
- (a) the original Civil Aviation Regulations (as purportedly amended as mentioned in paragraph (1)(b)); or
  - (b) the original Civil Aviation Safety Regulations (as purportedly amended as mentioned in paragraph (2)(b)).

## **6 Effect of the Civil Aviation Regulations and the Civil Aviation Safety Regulations on and after the commencement of this Schedule**

- (1) The original Civil Aviation Regulations, as purportedly amended up to the commencement of this Schedule, have effect on and after the commencement of this Schedule as if the amendment made by item 1 of this Schedule had been in force during the period:
- (a) starting immediately before the time when the original Civil Aviation Regulations purported to commence; and
  - (b) ending on the commencement of this Schedule.
- (2) The original Civil Aviation Safety Regulations, as purportedly amended up to the commencement of this Schedule, have effect on and after the commencement of this Schedule as if the amendment made by item 1 of this Schedule had been in force during the period:
- (a) starting immediately before the time when the original Civil Aviation Safety Regulations purported to commence; and
  - (b) ending on the commencement of this Schedule.
- (3) Regulations under section 98 of the *Civil Aviation Act 1988* may deal with matters of a transitional, application or saving nature relating to the fact that the original Civil Aviation Regulations (as purportedly
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Relationship between certain anti-discrimination legislation and regulations under the  
Civil Aviation Act 1988 **Schedule 1**  
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Aviation Safety Regulations 1998 **Part 2**

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amended as mentioned in subitem (1)), and the original Civil Aviation  
Safety Regulations (as purportedly amended as mentioned in  
subitem (2)) are taken to have effect as provided in subitems (1) and (2).

## **Schedule 2—Other amendments**

### **Part 1—References to foreign aircraft**

#### *Civil Aviation Act 1988*

##### **1 Paragraph 7(a)**

Omit “foreign aircraft”, substitute “foreign registered aircraft”.

##### **2 Paragraph 7(aa)**

Omit “foreign aircraft”, substitute “foreign registered aircraft”.

##### **3 Subsection 9(4)**

Omit “foreign aircraft”, substitute “foreign registered aircraft”.

##### **4 Subsection 25(1)**

Omit “an aircraft”, substitute “a foreign registered aircraft”.

##### **5 Subsection 25(2)**

Omit “an aircraft”, substitute “a foreign registered aircraft”.

##### **6 Subsection 25(3)**

Omit “foreign aircraft”, substitute “foreign registered aircraft”.

Note: The heading to section 25 is altered by omitting “**foreign aircraft**” and substituting “**foreign registered aircraft**”.

##### **7 Subdivision C of Division 2 of Part III (heading)**

Repeal the heading, substitute:

#### **Subdivision C—Operation of a foreign registered aircraft without AOC**

## **Part 2—Ongoing licence conditions**

### *Civil Aviation Act 1988*

#### **8 After paragraph 28BA(1)(a)**

Insert:

- (aa) the condition subject to which the AOC has effect because of section 28BAA;

#### **9 Subsection 28BA(2)**

After “paragraph (1)(a)”, insert “or (aa)”.

#### **10 After section 28BA**

Insert:

#### **28BAA Certain conditions for grant of AOC also have effect as ongoing conditions on the AOC**

An AOC has effect subject to the condition that CASA remains satisfied as mentioned in paragraphs 28(1)(a) and (b) in relation to the operations that are covered by the AOC.

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*[Minister’s second reading speech made in—  
House of Representatives on 16 March 2005  
Senate on 14 June 2005]*

(50/05)

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