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Statutory Rules 1984 No. 1

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Air Navigation (Aircraft Noise) Regulations

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Regulations under the *Air Navigation Act 1920*.

Dated 2 August 1984.

N. M. STEPHEN

Governor-General

By His Excellency's Command,

(Sgd) K. C. Beazley

Minister of State for Aviation

Citation

1. These Regulations may be cited as the Air Navigation (Aircraft Noise) Regulations.

Interpretation

2. In these Regulations, unless the contrary intention appears—
 "aircraft" means—

- (a) an aircraft to which the standards specified in Chapter 2 of Part II of Volume I of the Annex are expressed by the Annex to be applicable;
- (b) a derived version of an aircraft referred to in paragraph (a), being a derived version to which the standards specified in Chapter 2 of Part II of Volume I of the Annex are expressed by the Annex to be applicable; or

- (c) an aircraft to which the standards specified in Chapter 3, 5, 6 or 8 of Part II of Volume I of the Annex are expressed by the Annex to be applicable,

but does not include a state aircraft or a foreign aircraft;

“authorized officer” means a person who is an authorized officer for the purposes of these Regulations by virtue of an appointment under regulation 4;

“Commonwealth aircraft” has the same meaning as in the Air Navigation Regulations;

“derived version”, in relation to an aircraft, has the same meaning as in Volume I of the Annex;

“foreign aircraft” has the same meaning as in the Air Navigation Regulations;

“inspector” means an inspector appointed under regulation 11;

“noise certificate” means a certificate, whether or not consisting of a separate document, issued, or deemed to have been issued, under regulation 6;

“operator” means a person, organization, or enterprise engaged in, or offering to engage in, an aircraft operation;

“the Annex” means Annex 16 to the Chicago Convention, being that Annex as in force at the commencement of these Regulations.

Application

3. (1) These Regulations apply to and in relation to—

- (a) international air navigation;
- (b) air navigation in relation to trade and commerce with other countries and among the States;
- (c) air navigation within the Territories;
- (d) air navigation to or from the Territories;
- (e) air navigation, other than air navigation referred to in paragraph (a), (b), (c) or (d), that consists of landing at, or taking off from, any place acquired by the Commonwealth for public purposes; and
- (f) air navigation in which a Commonwealth aircraft is engaged.

(2) These Regulations do not apply to or in relation to an aircraft—

- (a) that, immediately before the date of commencement of these Regulations, was registered under the Air Navigation Regulations; and
- (b) that continues to be registered by virtue of a registration effected before that date,

unless, by reason of modification of the aircraft effected on or after that date, the level of noise emitted by the aircraft is significantly increased.

Authorized officer

4. The Secretary may, by writing signed by him, appoint an officer of the Department to be an authorized officer for the purposes of these Regulations.

Applications for noise certificate

5. (1) The owner or operator of an aircraft may apply in writing to the Secretary or to an authorized officer for the issue of a noise certificate in relation to the aircraft.

(2) An applicant under sub-regulation (1) shall furnish to the Secretary or the authorized officer such information relating to the aircraft as is reasonably required by the Secretary or the authorized officer for a proper consideration of the application.

Issue of noise certificate

6. (1) Where an aircraft in respect of which an application is made under regulation 5 conforms with the standards in respect of noise expressed in the Annex to be applicable to aircraft of the class to which that aircraft belongs, the Secretary or the authorized officer to whom the application is made shall cause to be issued to the applicant a noise certificate in relation to that aircraft.

(2) Where the Secretary or an authorized officer makes a decision to refuse the issue of a noise certificate, he shall cause notice in writing of that decision to be given to the applicant.

Contents of noise certificates

7. (1) A noise certificate issued under regulation 6 shall—

- (a) certify that the aircraft to which it relates complies with the standards in respect of noise expressed in the Annex to be applicable to aircraft of the class to which the aircraft belongs;
- (b) where the aircraft is registered in Australia—contain a statement that the aircraft is so registered; and
- (c) contain the following particulars in respect of the aircraft to which it relates:
 - (i) the serial number of the aircraft as designated by the manufacturer;
 - (ii) the type and model of the aircraft as designated by the manufacturer;
 - (iii) particulars of any additional modifications incorporated for the purpose of compliance with the applicable noise certification standards;
 - (iv) the maximum weights at which compliance with the applicable noise certification standards has been demonstrated;
 - (v) the noise level or levels and their 90 per cent confidence limits at the reference point or points for which compliance with the applicable noise certification standards has been demonstrated.

(2) Words and expressions used in this regulation and in Volume I of the Annex have in this regulation, unless the contrary intention appears, the same respective meanings as they have in that volume of the Annex.

Noise certificate deemed to be issued in certain circumstances

8. (1) Where the manufacturer of an aircraft that engages in air navigation has included in the flight manual for the aircraft a statement to the effect that the aircraft—

- (a) conforms with the relevant standards in respect of noise contained in the Annex; or
- (b) complies with the requirements of a relevant law,

there shall be deemed to have been issued under regulation 6 a noise certificate in relation to that aircraft.

(2) Sub-regulation (1) does not apply in relation to an aircraft in respect of which a noise certificate has at any time been revoked.

(3) In sub-regulation (1), “relevant law” means a law of a Contracting State relating to the control of aircraft noise the requirements of which are incapable of being complied with by an aircraft that does not satisfy the requirements of the Annex with respect to noise certification.

Aircraft not to fly unless noise certificate in force

9. (1) Subject to sub-regulation (2), an aircraft shall not engage in air navigation unless—

- (a) a noise certificate in relation to that aircraft is currently in force; and
- (b) in the case of an aircraft engaged in international air navigation—evidence of such noise certification is carried on the aircraft.

(2) Sub-regulation (1) does not apply to an aircraft—

- (a) while it is undergoing testing by an inspector for the purpose of determining whether the aircraft conforms with the relevant standards in respect of noise contained in the Annex; or
- (b) while it is undergoing testing required by the Secretary or an authorized person under the Air Navigation Regulations for the purpose of determining whether a certificate of airworthiness should be issued, renewed or validated under those Regulations.

(3) The operator and the pilot in command of an aircraft that engages in air navigation in contravention of this regulation is guilty of an offence and is punishable, upon conviction, by a fine not exceeding \$1,000 or by imprisonment for a term not exceeding 6 months or both such fine and imprisonment.

Revocation of noise certificate

10. (1) Where an aircraft in relation to which a noise certificate has been, or is deemed by these Regulations to have been, issued ceases to conform with the standards in respect of noise expressed in the Annex to be applicable to aircraft of the class to which the aircraft belongs, the Secretary or an authorized officer may give to the operator of the aircraft notice in writing of his intention to revoke the noise certificate.

(2) Where—

- (a) an aircraft in relation to which a notice is given under sub-regulation (1) does not, within the period that is the prescribed period in relation to that aircraft, conform with the standards in respect of noise expressed in the Annex to be applicable to aircraft of the class to which the aircraft belongs; or
- (b) the operator of an aircraft in respect of which a noise certificate is in force fails, without reasonable excuse, to comply with any reasonable requirement made by an inspector under these Regulations in respect of the aircraft,

the Secretary or an authorized officer may, by notice in writing given to the operator of the aircraft, revoke the noise certificate issued in relation to the aircraft.

(3) For the purposes of paragraph (2) (a), the period that is the prescribed period in relation to an aircraft is the period of 30 days or such longer period as the Secretary or an authorized officer, within that period of 30 days, allows commencing on the day immediately succeeding the day on which the notice is given under sub-regulation (1).

(4) The operator of an aircraft shall, as soon as possible after receipt by him of notice of revocation of a noise certificate—

- (a) except where paragraph (b) or (c) applies—return the noise certificate, or cause it to be returned, to the Secretary or an authorized officer;
- (b) where the noise certificate is contained in a document that also contains other material—present that document, or cause it to be presented, to the Secretary or an authorized officer for noting thereon the fact of revocation; or
- (c) in the case of an aircraft in relation to which, by virtue of sub-regulation 8 (1), a noise certificate is deemed to have been issued—present the flight manual for the aircraft to the Secretary or an authorized officer for noting thereon the fact of revocation.

Penalty: \$500.

(5) Where—

- (a) under sub-regulation (1) or (2), a notice is given by the Secretary or an authorized officer to the operator of an aircraft; and
- (b) the operator is not the owner of the aircraft,

the Secretary or the authorized officer shall give a copy of the notice to the owner of the aircraft.

Inspectors

11. (1) The Secretary, or an authorized officer, may, by writing signed by him, appoint such persons as he thinks fit to be inspectors for the purposes of these Regulations.

(2) The Secretary or an authorized officer shall give to each person appointed by him under sub-regulation (1) a certificate signed by the Secretary or the authorized officer certifying that the person is an inspector for the purposes of these Regulations.

(3) An inspector may require the operator of an aircraft—

(a) in respect of which an application has been made under regulation 5; or

(b) in respect of which a noise certificate is in force,

to make the aircraft available for inspection at any reasonable time, and may inspect the aircraft when so made available, for the purpose of determining whether it conforms with or continues to conform with, as the case may be, the standards in respect of noise expressed in the Annex to be applicable to the class of aircraft to which the aircraft belongs.

(4) An inspector may, in the course of inspecting an aircraft, carry out such tests in relation to the aircraft, including tests carried out while it is in flight (whether or not the inspector is on board the aircraft), as are necessary for determining whether the aircraft conforms with the relevant standards in respect of noise.

Giving of notices

12. A notice, or a copy of a notice, referred to in these Regulations may be given to a person by leaving it at a place at which the person carries on business or by sending it by post to him at his last known place of business or residence.

Review by Administrative Appeals Tribunal

13. (1) An application may be made to the Administrative Appeals Tribunal for review of a decision by the Secretary or an authorized officer—

(a) refusing the issue of a noise certificate under regulation 6; or

(b) revoking a noise certificate under sub-regulation 10 (2).

(2) A notice referred to in sub-regulation 6 (2) or 10 (2) shall include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1975*, application may be made to the Administrative Appeals Tribunal for review of the decision to which the notice relates by or on behalf of a person whose interests are affected by the decision.

(3) A failure to comply with sub-regulation (2) in relation to a decision does not affect the validity of the decision.

NOTE

1. Notified in the *Commonwealth of Australia Gazette* on

1984.

10 August/