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Statutory Rules 1990 No. ^h1

397/

Air Navigation (Aircraft Noise) Regulations² (Amendment)

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 *29 November* 1990.

BILL HAYDEN
Governor-General

By His Excellency's Command,

Bob Collins.

Minister of State for Shipping and
Aviation Support

1. Amendment

1.1 The Air Navigation (Aircraft Noise) Regulations are amended as
set out in these Regulations.

2. Regulation 2 (Interpretation)

2.1 Definition of "aircraft":

Omit the definition, substitute:

"'aircraft' does not include:

- (a) a state aircraft; or
- (b) a foreign aircraft that has been in Australian territory for a
continuous period of less than 1 month; or
- (c) an aircraft that is specifically designed for:
 - (i) acrobatic purposes; or
 - (ii) fire fighting purposes; or
 - (iii) agricultural purposes;"

2.2 Definition of "authorized officer":

Omit the definition, substitute:

"**'authorised officer'** means a person appointed under regulation 4:".

2.3 Definition of "noise certificate":

At the end, add " , or issued under regulation 6A".

2.4 Definition of "relevant law":

Omit "authorized", substitute "authorised".

3. Regulation 3 (Application)

3.1 Subregulation 3 (2):

Omit the subregulation, substitute:

"(2) These Regulations do not apply to an aircraft that:

(a) immediately before the date on which this subregulation commences, was registered under the Air Navigation Regulations or the Civil Aviation Regulations; and

(b) continues to be registered under those Regulations;

unless the aircraft is modified, after that date, in a manner that significantly increases the level of noise that the aircraft emits.

4. Regulation 4 (Authorised officer)

4.1 After "him", insert "or her".

4.2 Omit "authorized", substitute "authorised".

5. Regulation 5 (Applications by owner or operator of an aircraft)

5.1 Subregulation 5 (1):

Omit the subregulation, substitute:

"(1) The owner or operator of an aircraft may apply in writing to the Secretary or an authorised officer for:

(a) a noise certificate in relation to the aircraft; or

(b) permission under regulation 9A for the aircraft to engage in air navigation without a noise certificate."

5.2 Subregulation 5 (2):

Omit "authorized" (wherever occurring), substitute "authorised".

6. Regulation 6 (Issue of noise certificate)

6.1 Subregulation 6 (1):

Omit the subregulation, substitute:

"(1) Subject to regulation 6A, if an aircraft in respect of which an application is made under paragraph 5(1)(a) 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, the Secretary or

the authorised officer to whom the application is made must issue to the applicant a noise certificate in relation to the aircraft.”.

6.2 Subregulation 6 (2):

Omit “authorized”, substitute “authorised”.

6.3 Subregulation 6 (2):

After “he”, insert “or she”.

7. New regulation 6A

7.1 After regulation 6, insert:

Issue of noise certificate for aircraft of a type specified in the Schedule

“6A. (1) If an aircraft in respect of which an application is made under regulation 5:

- (a) is of a type specified in column 2 of an item in the Schedule;
and
- (b) complies with the standards in respect of aircraft noise specified in the provisions of the Annex specified in column 3 of that item:

the Secretary or the authorised officer to whom the application is made must issue to the applicant a noise certificate in relation to that aircraft.

“(2) For the purposes of subregulation (1), the noise level that is emitted by an aircraft of a type specified in column 2 of an item in the Schedule must be determined by reference to the test procedures set out in the provisions of the Annex specified in column 4 of that item.

“(3) If an aircraft is a of a type that is described in column 2 of more than 1 item in the Schedule:

- (a) subregulation (1) applies if the aircraft complies with the standards in respect of noise specified in the provisions of the Annex specified in column 3 of any 1 of those items: and
- (b) the aircraft does not breach these Regulations by reason only of the fact that it does not comply with the standards in respect of noise specified in the provisions of the Annex specified in column 3 of the other item or items.

“(4) If the Secretary or an authorised officer refuses to issue a noise certificate, he or she must give notice in writing of the decision to the applicant.

“(5) Unless the contrary intention appears, words and expressions used in the Schedule and in Volume I of the Annex have the same meaning as in that Volume.”.

8. Regulation 7 (Contents of noise certificate)**8.1 Subregulation 7 (1):**

Omit "regulation 6", substitute "these Regulations".

8.2 Paragraph 7 (1) (a):

Omit the paragraph, substitute:

"(a) certify:

- (i) in the case of an aircraft of a type specified in column 2 of an item in the Schedule—that the aircraft complies with standards in respect of aircraft noise specified in the Annex; or
- (ii) in any other case—that the aircraft conforms with the standards in respect of noise expressed in the Annex to be applicable to aircraft of the class to which the aircraft belongs; and".

9. Regulation 9 (Aircraft not to fly unless noise certificate in force)**9.1 Subregulation 9 (1):**

Omit "sub-regulation (2)". substitute "subregulation (2) and regulation 9A".

9.2 Paragraph 9 (2) (a):

Omit the paragraph, substitute:

"(a) while it is undergoing testing by an inspector for the purpose of determining whether:

- (i) in the case of an aircraft of a type specified in column 2 of an item in the Schedule—the aircraft complies with the standards in respect of aircraft noise specified in the provisions of the Annex specified in column 3 of that item; or
- (ii) in any other case—the aircraft conforms 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".

10. New regulation 9A**10.1 After regulation 9. insert:****Aircraft that are permitted to engage in air navigation without a noise certificate**

"9A. (1) If an aircraft does not comply with:

- (a) in the case of an aircraft of a type specified in column 2 of an item in the Schedule—the standards in respect of aircraft noise specified in the provisions of the Annex specified in column 3 of that item; or
- (b) in any other case—the standards in respect of noise expressed

in the Annex to be applicable to aircraft of the class to which the aircraft belongs;

the owner or operator of the aircraft may apply to the Secretary or an authorised officer for permission for the aircraft to engage in air navigation without a noise certificate.

“(2) If an application is made under subregulation (1), the Secretary or the authorised officer to whom the application is made may give permission in writing for the aircraft to engage in air navigation without a noise certificate if he or she is satisfied that:

- (a) the extent to which the aircraft exceeds those standards is not significant; or
- (b) the historical significance of the aircraft justifies giving the permission; or
- (c) the aircraft is to be used solely for a purpose that is in the public interest.

“(3) If the Secretary or an authorised officer gives permission for an aircraft to engage in air navigation without a noise certificate, on the ground that the aircraft is to be used solely for a purpose that is in the public interest, the permission must specify:

- (a) the purpose for which the aircraft is to be used; and
- (b) the period, not exceeding 1 month, during which the aircraft may engage in air navigation.”.

11. Regulation 10 (Revocation of noise certificate)

11.1 Subregulation 10 (1):

Omit the subregulation, substitute:

“(1) If an aircraft in relation to which a noise certificate has been issued, or is deemed to have been issued, ceases to conform with:

- (a) in the case of an aircraft of a type specified in column 2 of an item in the Schedule—the standards in respect of aircraft noise specified in the provisions of the Annex specified in column 3 of that item; or
- (b) in any other case:
 - (i) the standards in respect of noise expressed in the Annex to be applicable to aircraft of the class to which the aircraft belongs; or
 - (ii) the requirements of a relevant law;

the Secretary or an authorised officer may give to the operator of the aircraft notice in writing that the Secretary or the authorised officer intends to revoke the noise certificate.”.

11.2 Paragraph 10 (2) (a):

Omit the paragraph, substitute:

“(a) an aircraft in relation to which a notice is given under

subregulation (1) does not, within the prescribed period, comply with:

- (i) in the case of an aircraft of a type specified in column 2 of an item in the Schedule—the standards in respect of aircraft noise specified in the provisions of the Annex specified in column 3 of that item; or
- (ii) in any other case:
 - (A) 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 requirements of a relevant law; or”.

11.3 Subregulation 10 (2):

Omit “authorized”. substitute “authorised”.

11.4 Subregulation 10 (3):

Omit “authorized”. substitute “authorised”.

11.5 Subregulation 10 (4):

Omit “authorized” (wherever occurring), substitute “authorised”.

11.6 Subregulation 10 (5):

Omit “authorized” (wherever occurring), substitute “authorised”.

12. Regulation 11 (Inspectors)

12.1 Subregulations 11 (1) and (2):

Omit the subregulations, substitute:

“(1) The Secretary or an authorised officer may, in writing, appoint:

- (a) a member of the staff of the Civil Aviation Authority; or
- (b) a person who is able to measure the level of noise emitted by an aircraft;

as an inspector.

“(2) The Secretary or the authorised officer who appoints a person as an inspector must issue to the person an identity card, bearing a recent photograph of the person, stating that the person is an inspector appointed under these Regulations.

“(2A) A person who ceases to be an inspector must not fail or refuse, without reasonable excuse, to return his or her identity card to the Secretary as soon as practicable.

Penalty: \$100.”.

12.2 Subregulation 11 (3):

Omit all the words after “for the purpose of determining”, substitute:

“whether the aircraft complies with:

- (c) in the case of an aircraft of a type specified in column 2 of an item in the Schedule—the standards in respect of aircraft noise

specified in the provisions of the Annex specified in column 3 of that item; or

(d) in any other case:

- (i) the standards in respect of noise expressed in the Annex to be applicable to aircraft of the class to which the aircraft belongs; or
- (ii) the requirements of a relevant law.”.

12.3 After subregulation 11 (3), insert:

“(3A) An inspector may not:

- (a) require the operator of an aircraft referred to in subregulation (3) to make the aircraft available for inspection; or
- (b) inspect the aircraft;

if he or she fails to produce his or her identity card when requested to do so.”.

13. Regulation 13 (Review by Administrative Appeals Tribunal)

13.1 Subregulation 13 (1):

Omit the subregulation, substitute:

“(1) An application may be made to the Administrative Appeals Tribunal for the review of a decision made by the Secretary or an authorised officer:

- (a) refusing to issue a noise certificate under regulation 6 or 6A; or
- (b) refusing to permit an aircraft to engage in air navigation under regulation 9A; or
- (c) revoking a noise certificate under subregulation 10 (2).”.

14. New Schedule

14.1 Add at the end:

SCHEDULE

Regulation 6A

NOISE LEVELS AND TESTING PROCEDURES FOR CERTAIN AIRCRAFT

Column 1 Item No.	Column 2 Type of aircraft	Column 3 Provisions of the Annex for noise levels	Column 4 Provisions of the Annex for test procedure
1	Subsonic jet aircraft requiring a runway length (with no stopway or clearway) of 610 metres or less at maximum certificated mass for airworthiness for which: (a) the application for a certificate of airworthiness for the prototype was accepted by the certifying authority; or	2.2, 2.4, 2.5	2.2, 2.3, 2.6, Appendix 1

SCHEDULE—continued

Column 1	Column 2	Column 3	Column 4
Item No.	Type of aircraft	Provisions of the Annex for noise levels	Provisions of the Annex for test procedure
	(b) another equivalent prescribed procedure was carried out by the certifying authority; before 6 October 1977		
2	Subsonic jet aircraft powered by engines with a by-pass ratio of 2 or more and for which a certificate of airworthiness for the individual aircraft was first issued before 1 March 1972	2.2, 2.4, 2.5	2.2, 2.3, 2.6, Appendix 1
3	Subsonic jet aircraft powered by engines with a by-pass ratio of less than 2: (a) for which: (i) the application for a certificate of airworthiness for the prototype was accepted by the certifying authority; or (ii) another equivalent prescribed procedure was carried out by the certifying authority; before 1 January 1969; and (b) for which a certificate of airworthiness for that aircraft was first issued before 1 January 1976	2.2, 2.4, 2.5	2.2, 2.3, 2.6, Appendix 1
4	Subsonic jet aircraft, including derived versions, requiring a runway length (with no stopway or clearway) of 610 metres or less at maximum certificated mass for airworthiness, for which: (a) the application for a certificate of airworthiness for the prototype was accepted by the certifying authority; or (b) another equivalent prescribed procedure was carried out by the certifying authority; on or after 6 October 1977	3.2, 3.4, 3.5	3.2, 3.3, 3.6, 3.7, Appendix 2
5	Derived version of a subsonic jet aircraft for which: (a) the application for a certificate of airworthiness for the prototype was carried out by the certifying authority before 6 October 1977, or	2.2, 2.4, 2.5	2.2, 2.3, 2.6, Appendix 1

SCHEDULE—continued

Column 1 Item No.	Column 2 Type of aircraft	Column 3 Provisions of the Annex for noise levels	Column 4 Provisions of the Annex for test procedure
	(b) another equivalent prescribed procedure was carried out by the certifying authority before 26 November 1981		
6	Propeller-driven aircraft, including derived versions, of a maximum certified take-off mass exceeding 5,700 kg, for which: (a) the application for a certificate of airworthiness for the prototype was accepted by the certifying authority; or (b) another equivalent prescribed procedure was carried out by the certifying authority; before 6 October 1977	5.2, 5.4, 5.5	5.2, 5.3, 5.6, 5.7, Appendix 2
7	Propeller-driven aircraft, including derived versions, of a maximum certificated take-off mass exceeding 5,700 kg, requiring a runway length (with no stopway or clearway) of 610 metres or less at maximum certificated mass for airworthiness, and for which: (a) the application for a certificate of airworthiness for the prototype was accepted by the certifying authority; or (b) another equivalent prescribed procedure was carried out by the certifying authority; on or after 6 October 1977 and before 1 January 1985	5.2, 5.4, 5.5	5.2, 5.3, 5.6, 5.7 Appendix 2
8	Propeller-driven aircraft of a maximum certificated take-off mass not exceeding 9,000 kg for which: (a) the application for a certificate of airworthiness for the prototype was accepted by the certifying authority; or (b) another equivalent prescribed procedure was carried out by the certifying authority; before 1 January 1975	6.2, 6.3	6.2, 6.4, 6.5, Appendix 3
9	Propeller-driven aircraft of a maximum certificated take-off mass not exceeding 9,000 kg for which a certificate of airworthiness for that aircraft was first issued before 1 January 1980	6.2, 6.3	6.2, 6.4, 6.5, Appendix 3

SCHEDULE—continued

Column 1	Column 2	Column 3	Column 4
Item No.	Type of aircraft	Provisions of the Annex for noise levels	Provisions of the Annex for test procedure
10	Helicopters designed exclusively for external load carrying purposes for which: (a) the application for a certificate of airworthiness for the prototype was accepted by the certifying authority; or (b) another equivalent prescribed procedure was carried out by the certifying authority; on or after 1 January 1985	8.2, 8.4, 8.5	8.2, 8.3, 8.6, 8.7, Appendix 4
11	Helicopters for which: (a) the application for a certificate of airworthiness for the prototype was accepted by the certifying authority; or (b) another equivalent prescribed procedure was carried out by the certifying authority; before 1 January 1985	8.2, 8.4, 8.5	8.2, 8.3, 8.6, 8.7, Appendix 4
12	Helicopters for which: (a) an application for a change of type design was accepted by the certifying authority; or (b) another equivalent prescribed procedure was carried out by the certifying authority; before 17 November 1988	8.2, 8.4, 8.5	8.2, 8.3, 8.6, 8.7, Appendix 4

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on / 1990.
2. Statutory Rules 1984 No. 188 as amended by 1985 No. 301; 1986 No. 233; 1988 Nos. 163 and 277.

6 December/

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