

Administrative Services Section  
document: F.R.L.I. Secretariat in c  
Ex. Co. 8 1996B00900  
insertion of signatures and date of making, and send to: Legislative Services Section, Office of Legislative Drafting, Attorney-General's Department.



**Statutory Rules 1991 No. <sup>k</sup>1**

428

**Air Navigation (Aircraft Noise) Regulations<sup>2</sup> (Amendment)**

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

Dated 1991.

**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.

[NOTE: These Regulations commence on gazettal: see *Acts Interpretation Act 1901*, s.48]

**2. Regulation 2 (Interpretation)****2.1 Definition of “aircraft”:**

Omit paragraph (b), substitute:

“(b) a hot air balloon; or”.

**2.2 Definition of “authorised officer”:**

Omit the definition.

**2.3 Insert the following definitions:**

“ ‘**Chapter 2 standards**’, in relation to an aircraft, means the standards in respect of aircraft noise set out in paragraphs 2.2, 2.4 and 2.5 of Chapter 2 of the Annex when the level of noise emitted by the aircraft is determined by reference to the test procedures set out in paragraphs 2.2, 2.3 and 2.6 of Chapter 2 of the Annex and Appendix 1 to the Annex;

‘**Chapter 3 standards**’, in relation to an aircraft, means the standards in respect of aircraft noise set out in paragraphs 3.2, 3.4 and 3.5 of Chapter 3 of the Annex when the level of noise emitted by the aircraft is determined by reference to the test procedures set out in paragraphs 3.2, 3.3, 3.6 and 3.7 of Chapter 3 of the Annex and Appendix 2 to the Annex;

‘**registered**’ means registered in the register of Australian aircraft kept under regulation 8 of the Civil Aviation Regulations;

‘**subsonic jet aircraft**’ means an aircraft that:

(a) is propelled by one or more engines of the following kinds:

- (i) turbofan engines;
- (ii) turbojet engines;
- (iii) unducted fan engines;
- (iv) rocket engines; and

(b) is not capable of sustained level flight at a speed equal to or greater than the speed of sound;”.

**2.4 Definition of “the Annex”:**

After “means”, insert “Volume I of”.

**3. Regulation 3 (Application)****3.1 Subregulation 3 (1):**

After paragraph (b), insert:

“(ba) air navigation conducted by a foreign corporation or a trading or financial corporation formed within the limits of the Commonwealth;”.

**3.2 Subregulation 3 (2):**  
Omit the subregulation.

**4. Regulation 4 (Authorised officer)**

**4.1** Omit the regulation, substitute:

**Delegation**

“4. The Secretary may, by signed instrument, delegate his or her powers under these Regulations to an officer of the Department or an officer of the Authority.”.

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

**5.1 Paragraph 5 (1) (a):**  
Omit “or an authorised officer”.

**5.2 Paragraph 5 (1) (a):**  
Omit “in relation to the aircraft”, substitute “for the aircraft”.

**5.3 Subregulation 5 (2):**  
Omit “or the authorised officer” (wherever occurring).

**6. Regulation 6 (Issue of noise certificate for aircraft to which the Annex applies)**

**6.1 Subregulation 6 (1):**  
Omit “or the authorised officer to whom the application is made”.

**6.2 Subregulation 6 (1):**  
Omit “in relation to the aircraft.”, substitute “for the aircraft.”.

**6.3 Subregulation 6 (2):**  
Omit “or an authorised officer”.

**7. Regulation 6A (Issue of noise certificate for aircraft described in the Schedule)**

**7.1 Subregulation 6A (1):**  
Omit “or the authorised officer to whom the application is made”.

**7.2 Subregulation 6A (1):**

Omit “in relation to that aircraft.”, substitute “for the aircraft.”.

**7.3 Subregulation 6A (3):**

Omit “is a of a type”, substitute “is of a type”.

**7.4 Subregulation 6A (4):**

Omit “or an authorised officer”.

**8. Regulation 7 (Contents of noise certificate)****8.1 Subparagraph 7 (1) (a) (ii):**

Omit “conforms”, substitute “complies”.

**9. Regulation 8 (Noise certificate deemed to be issued in certain circumstances)****9.1 Paragraph 8 (1) (a):**

Omit “conforms”, substitute “complies”.

**9.2 Subregulation 8 (1):**

Omit “in relation to that aircraft.”, substitute “for the aircraft.”.

**10. Regulation 9 (Circumstances in which an aircraft may engage in air navigation in Australia)****10.1 Subregulation 9 (1):**

Omit the subregulation, substitute:

“(1) A subsonic jet aircraft must not engage in air navigation unless:

- (a) if it complies with the Chapter 3 standards—a noise certificate is in force for it; or
- (b) if it does not comply with the Chapter 3 standards:
  - (i) a permission is in force under regulation 9A for it; or
  - (ii) a noise certificate is in force for it and it is permitted under regulation 10A to engage in air navigation; or
- (c) it is undergoing testing by an inspector to identify whether it complies with the standards in respect of noise:
  - (i) applicable under regulation 6A; or

- (ii) expressed in the Annex to be applicable to aircraft of the class to which it belongs; or
- (d) it is undergoing testing required by the Civil Aviation Authority, or a person authorised under the Civil Aviation Regulations, to determine whether a certificate of airworthiness should be issued, renewed or validated under those Regulations; or
- (e) it was registered under the ~~Air Navigation~~ <sup>Civil Aviation</sup> Regulations on or before 6 December 1990.”

**10.2 Subregulation 9 (2):**

Omit the subregulation, substitute:

“(2) An aircraft other than a subsonic jet aircraft must not engage in air navigation unless:

- (a) a noise certificate is in force for it; or
- (b) a permission is in force under regulation 9A for it to engage in air navigation; or
- (c) it is undergoing testing by an inspector to identify whether it complies with the standards in respect of noise:
  - (i) applicable under regulation 6A; or
  - (ii) expressed in the Annex to be applicable to aircraft of the class to which it belongs; or
- (d) it is undergoing testing required by the Civil Aviation Authority, or a person authorised under the Civil Aviation Regulations, to determine whether a certificate of airworthiness should be issued, renewed or validated under those Regulations; or
- (e) it was registered under the ~~Air Navigation~~ <sup>Civil Aviation</sup> Regulations on or before 6 December 1990.”

**10.3 Subregulation 9 (3):**

Omit “and the pilot in command”.

**10.4 Subregulation 9 (3):**

Omit “\$1,000 or by imprisonment for a term not exceeding 6 months or both such fine and imprisonment.”, substitute “\$2,000.”.

**11. Regulation 9A (Aircraft that are permitted to engage in air navigation without a noise certificate)**

**11.1 Subregulation 9A (1):**

Omit “or an authorised officer”.

**11.2 Subregulation 9A (2):**

Omit “or the authorised officer to whom the application is made”.

**11.3 Paragraph 9A (2) (a):**

Omit the paragraph, substitute:

“(a) if the aircraft is not a subsonic jet aircraft—the extent to which it exceeds the standards is not significant; or”.

**11.4 Subregulation 9A (3):**

Omit “or an authorised officer”.

**11.5 Add at the end:**

“(4) If the Secretary gives permission on the ground of the historical significance of the aircraft, he or she may, by notice given to the operator, set out conditions with which the aircraft must comply.

“(5) If the Secretary sets out conditions, the aircraft may only be used for air navigation in accordance with the conditions.”.

“(6) The Secretary may revoke the permission if:

- (a) in relation to an aircraft of a kind referred to in paragraph (2) (a)—the aircraft significantly exceeds the relevant standards; or
- (b) in any other case—the aircraft is not used for the purpose for which the permission was given.

“(7) If the Secretary refuses to give permission, or revokes permission, he or she must give notice in writing of the decision to the applicant.”.

**12. Regulation 10 (Revocation of noise certificate)****12.1 Subregulation 10 (1):**

Omit “in relation to which”, substitute “for which”.

**12.2 Subregulation 10 (1):**

Omit “or an authorised officer”.

**12.3 Subregulation 10 (1):**

Omit “or the authorised officer”.

12.4 Paragraph 10 (2) (a):

Omit “in relation to which”, substitute “for which”.

12.5 Paragraph 10 (2) (b):

Omit “in respect of which”, substitute “for which”.

12.6 Subregulation 10 (2):

Omit “or an authorised officer”.

12.7 Subregulation 10 (3):

Omit “in relation to the aircraft.”, substitute “for the aircraft”.

12.8 Subregulation 10 (3):

Omit “or an authorised officer”.

12.9 Subregulation 10 (4):

Omit “or an authorised officer” (wherever occurring).

**13. New regulations 10A, 10B, 10C and 10D**

13.1 After regulation 10, insert:

**Permission to engage in air navigation for a subsonic jet aircraft that does not comply with the Chapter 3 standards**

“10A. (1) This regulation applies to a subsonic jet aircraft that complies with the Chapter 2 standards but does not comply with the Chapter 3 standards.

“(2) The aircraft is permitted to engage in air navigation if it is a foreign aircraft engaged in international air navigation.

“(3) A registered aircraft is permitted to engage in air navigation if it was on the register of Australian aircraft on 1 January 1991.

“(4) The aircraft is permitted to engage in air navigation if it is fitted with an engine or engines with a by-pass ratio of 2 or more.

“(5) The aircraft is permitted to engage in air navigation if:

- (a) it was obtained by the operator to replace a registered aircraft:
  - (i) that did not comply with the Chapter 3 standards; and
  - (ii) that was destroyed by accident; and

- (b) the operator was, at the time that the aircraft was obtained, unable to replace the destroyed aircraft with an aircraft of a type that complies with the Chapter 3 standards; and
- (c) it was registered within 1 year after the day on which the previous aircraft was destroyed.

“(6) Subject to subregulation 10B (5), the aircraft is permitted to engage in air navigation if:

- (a) it was obtained by the operator to replace a registered aircraft:
  - (i) that complied with the Chapter 3 standards; and
  - (ii) that was destroyed by accident; and
- (b) the operator was, at the time that the aircraft was obtained, unable to replace the destroyed aircraft with an aircraft of a type that complies with the Chapter 3 standards; and
- (c) it was registered within 1 year after the day on which the previous aircraft was destroyed.”.

**Termination of permission for a subsonic jet aircraft that does not comply with the Chapter 3 standards to engage in air navigation**

“10B. (1) This regulation applies to a subsonic jet aircraft that does not comply with the Chapter 3 standards.

“(2) An aircraft that is fitted with an engine or engines with a bypass ratio of less than 2 is permitted to engage in air navigation until:

- (a) if more than 25 years have passed since the day on which a certificate of airworthiness for the aircraft was first issued—1 April 1995; or
- (b) in any other case:
  - (i) the end of the 25th year after the day on which a certificate of airworthiness for the aircraft was first issued; or
  - (ii) 31 March 2002;
 whichever occurs first.

“(3) An aircraft that is fitted with an engine or engines with a bypass ratio of 2 or more and complies with the Chapter 2 standards is permitted to engage in air navigation until 31 March 2002.



“(4) If the Secretary permits the aircraft to engage in air navigation because it is to be used solely for a purpose that is in the public interest, it is permitted to engage in air navigation while the permission is in force.

“(5) An aircraft that is permitted to engage in air navigation under subregulation 10A (6) is permitted to engage in air navigation until the end of 1 year after the day on which it is registered.”.

**Extension of permission to engage in air navigation because of financial hardship**

“10C. (1) The Minister may publish a notice in the *Gazette* of the countries to which this regulation applies.

“(2) The operator of an aircraft may apply to the Minister to have the country in which the operator’s principal business office is located included in the notice.

“(3) The operator must:

- (a) state in the application the reasons for making it; and
- (b) if the Minister, in writing, asks the operator to give the Minister information in relation to the application—give the information to the Minister.

“(4) The Minister must consider the application and may approve or refuse it.

“(5) The operator of an aircraft that is permitted under regulation 10A to engage in air navigation until a day before 31 March 2002 may apply to the Secretary to set a day, later than that day, on which the permission ends if:

- (a) on 1 January 1991, the aircraft is on the register of aircraft of a country that is included in the notice; and
- (b) the principal business office of the operator of the aircraft is located in the country; and
- (c) the operator would experience financial hardship if the aircraft does not engage in air navigation after the day on which the permission ends.

“(6) If the operator applies, the Secretary may set a day, after which the aircraft must not engage in air navigation:

- (a) later than the day on which the permission ends; and
- (b) not later than 31 March 2002.

“(7) The Secretary must give notice in writing to the applicant of a decision under this regulation.”.

#### **Provision of information**

“10D. (1) The Secretary may, in writing, ask the operator of an aircraft to advise the Secretary of the day on which a certificate of airworthiness for the aircraft was first issued.

“(2) If the operator does not advise the Secretary of the day:

- (a) the operator is guilty of an offence punishable, on conviction, by a fine not exceeding \$2,000; and
- (b) the Secretary may, by notice given to the operator, suspend permission for the aircraft to engage in air navigation until the day on which the operator advises the Secretary of the day on which the certificate was first issued.

#### **14. Regulation 11 (Inspectors)**

14.1 Subregulation 11 (1):

Omit “or an authorised officer”.

14.2 Subregulation 11 (2):

Omit “or the authorised officer who appoints a person as an inspector must issue to the person”, substitute “must issue to an inspector”.

14.3 Subregulation 11 (4):

Omit “conforms”, substitute “complies”.

#### **15. Regulation 12 (Giving of notices)**

15.1 Omit the regulation.

**16. Regulation 13 (Review by Administrative Appeals Tribunal)**

**16.1 Subregulation 13 (1):**

Omit the subregulation, substitute:

“(1) An application may be made to the Administrative Appeals Tribunal for the review of a decision:

- (a) refusing to issue a noise certificate; or
- (b) refusing to give permission under subregulation 9A (2); or
- (c) setting a period under subregulation 9A (3); or
- (d) imposing conditions under subregulation 9A (4)
- (e) revoking a permission under subregulation 9A (6); or
- (f) revoking a noise certificate; or
- (g) refusing under subregulation 10C (4) to include a country in a notice; or
- (h) setting, or refusing to set, a day under subregulation 10C (6); or
- (i) suspending, under paragraph 10D (2) (b), permission for an aircraft to engage in air navigation.”

**16.2 Subregulation 13 (2):**

Omit “sub-regulation 6 (2) or 10 (2)”, substitute “subregulation 6 (2), 6A (4), 9A (4), 9A (7), 10 (2) or 10C (7) or paragraph 10D (2) (b)”.

---

**NOTES**

1. Notified in the *Commonwealth of Australia Gazette* on 1991. 19 December
2. Statutory Rules 1984 No. 188 as amended by 1985 No. 301; 1986 No. 233; 1988 Nos. 163 and 277; 1990 No. 397.