



Transport Legislation Amendment (Search and Rescue Service) Act 1997

No. 130, 1997

An Act to amend the *Australian Maritime Safety Authority Act 1990*, the *Air Services Act 1995* and the *Civil Aviation Act 1988*, and for related purposes

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An Act to amend the *Australian Maritime Safety Authority Act 1990*, the *Air Services Act 1995* and the *Civil Aviation Act 1988*, and for related purposes

[Assented to 17 September 1997]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Transport Legislation Amendment (Search and Rescue Service) Act 1997*.

2 Commencement

- (1) Subject to subsection (2), this Act commences on a day to be fixed by Proclamation.
- (2) If this Act does not commence under subsection (1) within the period of 6 months beginning on the day on which it receives the Royal Assent, it commences on the first day after the end of that period.

3 Schedule(s)

Subject to section 2, each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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 Australian Maritime Safety Authority Act 1990

1 After paragraph 2A(b)

Insert:

- (ba) to provide for a national search and rescue service; and

2 Subsection 3(1)

Insert:

Chicago Convention means:

- (a) the Convention on International Civil Aviation done at Chicago on 7 December 1944, whose English text is set out in Schedule 1 to the *Air Navigation Act 1920*; and
- (b) the Protocols amending that Convention, being the Protocols referred to in subsection 3A(2) of that Act, whose English text is set out in Schedules to that Act; and
- (c) the Annexes to that Convention relating to international standards and recommended practices, being Annexes adopted in accordance with that Convention.

3 Subsection 3(1)

Insert:

the Safety Convention has the same meaning as in the *Navigation Act 1912*.

4 At the end of section 6

Add:

- (5) The provision of a search and rescue service must be in a manner that is consistent with Australia's obligations under:
 - (a) the Chicago Convention; and
 - (b) the Safety Convention; and

- (c) the International Convention on Maritime Search and Rescue 1979 done at Hamburg on 27 April 1979.

5 Paragraph 13(1)(d)

Repeal the paragraph, substitute:

- (d) if the Minister specifies in writing an office in the Department for the purposes of this subsection—the person for the time being occupying that office; and

6 Paragraph 13(1)(e)

Omit “3”, substitute “4”.

Schedule 2—Amendment of the Air Services Act 1995

1 Subparagraph 8(1)(b)(iv)

Repeal the subparagraph.

2 Subparagraph 77(2)(b)(ii)

Omit “search and rescue operations, or”

3 Subparagraph 77(2)(b)(iii)

Omit “, water craft or land vehicles for search and rescue operations”.

4 Paragraph 77(2)(c)

Repeal the paragraph, substitute:

(c) for compensating persons for loss sustained in respect of the requisitioning of an aircraft; and

5 Subsection 77(3) (definition of *search and rescue operations*)

Repeal the definition.

Schedule 3—Amendment of the Civil Aviation Act 1988

1 Subsection 3(1) (at the end of subparagraph (e)(ii) of the definition of *aviation safety standards*)

Add:

and (iii) services of the kind referred to in paragraph 6(1)(b) of the *Australian Maritime Safety Authority Act 1990* to the extent that those services use aircraft;

2 At the end of subparagraph 98(3)(s)(ii)

Add:

and (iii) services of the kind referred to in paragraph 6(1)(b) of the *Australian Maritime Safety Authority Act 1990* to the extent that those services use aircraft;

Schedule 4—Transitional

1 Interpretation

In this Schedule, unless the contrary intention appears:

AA means Airservices Australia established by the Air Services Act.

Air Services Act means the *Air Services Act 1995*.

AMSA means the Australian Maritime Safety Authority established by the *Australian Maritime Safety Authority Act 1990*.

assets means any legal or equitable estates or interests in real or personal property, whether actual, contingent or prospective, and includes all rights, powers, privileges and immunities, whether actual, contingent or prospective.

authorised person means the Minister, or an officer of the Department authorised by the Minister for the purposes of this Schedule.

commencing time means the time when this Schedule commences.

instrument includes a document and an oral agreement.

2 Transfer of certain AA assets to AMSA

- (1) If an asset of AA is identified in a written determination that:
 - (a) is made by an authorised person for the purposes of this clause; and
 - (b) takes effect at the commencing time;the asset becomes an asset of AMSA at the commencing time.
- (2) If an asset of AA is identified in a written determination that:
 - (a) is made, after the commencing time, by an authorised person for the purposes of this clause; and

- (b) states that the asset is to become an asset of AMSA on the day specified in the determination;

the asset becomes an asset of AMSA on that day.
- (3) A transfer effected by this clause of an asset is not a disposal of that asset for the purposes of Part IIIA of the *Income Tax Assessment Act 1936*.

3 References in certain instruments

- (1) If an instrument of AA is identified in a written determination that:
 - (a) is made by an authorised person for the purposes of this clause; and
 - (b) takes effect at the commencing time;

the instrument continues to have effect, on and after the commencing time, as if a reference in the instrument to AA were a reference to AMSA.
- (2) If an instrument of AA is identified in a written determination that:
 - (a) is made by an authorised person for the purposes of this clause; and
 - (b) states that the instrument is to have effect, on and after the day specified in the determination, as if a reference in the instrument to AA were a reference to AMSA;

the instrument continues to have effect, on and after that day, as if a reference in the instrument to AA were a reference to AMSA.

4 Value of assets transferred from AA to AMSA

- (1) The Minister must make a written determination specifying the value, at the commencing time, of any asset transferred from AA to AMSA under subclause 2(1).
- (2) The Minister may make a written determination specifying the value, at the time of transfer, of any asset transferred from AA to AMSA under subclause 2(2).

- (3) On the transfer of an asset in respect of which a determination has been made under this clause, AA and AMSA must make all necessary adjustments to their capital accounts based on the value of the asset as specified in the determination.

5 Legal proceedings by AA

Despite the amendment of the Air Services Act by Schedule 2, AA may institute or continue any legal proceedings that relate to the performance before the commencement of that Schedule of its function of providing a search and rescue service under paragraph 8(1)(b) of that Act.

6 Regulations

- (1) The Governor-General may make regulations prescribing matters necessary or convenient to be prescribed for carrying out or giving effect to this Schedule.
- (2) In particular, regulations may be made in relation to transitional matters arising out of the transfer of the search and rescue function from AA to AMSA, or otherwise arising out of the enactment of this Schedule.
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*[Minister's second reading speech made in—
House of Representatives on 25 June 1997
Senate on 28 August 1997]*

(113/97)

