



Airspace Act 2007

No. 38, 2007

Compilation No. 1

Compilation date:	5 March 2016
Includes amendments up to:	Act No. 126, 2015
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Prepared by the Office of Parliamentary Counsel, Canberra

About this compilation

This compilation

This is a compilation of the *Airspace Act 2007* that shows the text of the law as amended and in force on 5 March 2016 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

Contents

Part 1—Preliminary	1
1 Short title.....	1
2 Commencement.....	1
3 Object of this Act.....	2
4 Definitions.....	2
5 Act binds the Crown.....	2
6 External Territories.....	3
7 Extraterritorial application.....	3
Part 2—Australian Airspace Policy Statement	4
8 Minister must make Australian Airspace Policy Statement.....	4
9 Consultation before making Statement.....	5
10 Statement must be reviewed every 3 years.....	5
Part 3—Airspace regulation	6
11 CASA to administer and regulate Australian-administered airspace.....	6
12 Matters affecting CASA’s administration and regulation of Australian-administered airspace.....	8
13 Regular reviews.....	8
Part 4—CASA advice on Australian Airspace Policy Statement or airspace regulation	10
14 CASA advice on Australian Airspace Policy Statement or airspace regulation.....	10
Part 5—Other matters	11
15 Regulations.....	11
Endnotes	12
Endnote 1—About the endnotes	12
Endnote 2—Abbreviation key	14
Endnote 3—Legislation history	15
Endnote 4—Amendment history	16

An Act relating to airspace administration and regulation, and for related purposes

Part 1—Preliminary

1 Short title

This Act may be cited as the *Airspace Act 2007*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 and 2 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	30 March 2007
2. Sections 3 to 15	A single day to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of 6 months beginning on the day on which this Act receives the Royal Assent, they commence on the first day after the end of that period.	1 July 2007 (see F2007L01854)

Note: This table relates only to the provisions of this Act as originally passed by both Houses of the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

Section 3

- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

3 Object of this Act

The object of this Act is to ensure that Australian-administered airspace is administered and used safely, taking into account the following matters:

- (a) protection of the environment;
- (b) efficient use of that airspace;
- (c) equitable access to that airspace for all users of that airspace;
- (d) national security.

4 Definitions

In this Act:

Airservices Australia means the body established by subsection 7(1) of the *Air Services Act 1995*.

Australian-administered airspace has the meaning given by paragraphs (a) and (b) of the definition of ***Australian-administered airspace*** in subsection 3(1) of the *Air Services Act 1995*.

Australian Airspace Policy Statement means the statement made under subsection 8(1).

CASA means the Civil Aviation Safety Authority established by the *Civil Aviation Act 1988*.

Chicago Convention has the same meaning as in the *Civil Aviation Act 1988*.

5 Act binds the Crown

This Act binds the Crown in each of its capacities.

6 External Territories

This Act extends to all the external Territories.

7 Extraterritorial application

This Act extends to acts, omissions, matters and things outside Australia.

Part 2—Australian Airspace Policy Statement

8 Minister must make Australian Airspace Policy Statement

- (1) The Minister must make a statement (the *Australian Airspace Policy Statement*).

Note: Generally, CASA must exercise its powers and perform its functions in a manner consistent with the statement: see section 11A of the *Civil Aviation Act 1988*.

Contents of statement

- (2) The statement must:
- (a) specify and describe the classifications to be used to administer Australian-administered airspace; and
 - (b) specify and describe the designations to be used for the purposes of restricting access to, or warning about access to, particular volumes of Australian-administered airspace; and
 - (c) describe the processes to be followed for changing the classifications or designations of particular volumes of Australian-administered airspace; and
 - (d) outline the Commonwealth Government's policy objectives for the administration and use of Australian-administered airspace; and
 - (e) include a strategy for the administration and use of Australian-administered airspace in the future.
- (3) The statement may also include any other matter the Minister thinks appropriate.

Consistency with Chicago Convention

- (4) The statement must be consistent with the Chicago Convention. However, if Australia has notified differences under Article 38 of that Convention, the statement must be consistent with those differences.

Legislation Act 2003

- (5) A statement made under subsection (1) is a legislative instrument, but section 42 (disallowance) of the *Legislation Act 2003* does not apply to the statement.

Note: Part 4 of Chapter 3 (sunsetting) of the *Legislation Act 2003* does not apply to the statement: see regulations made for the purposes of paragraph 54(2)(b) of that Act.

9 Consultation before making Statement

- (1) Before making the Australian Airspace Policy Statement, the Minister must consult:
- (a) CASA; and
 - (b) Airservices Australia.
- (2) The Minister may also consult any other person or body the Minister thinks appropriate.

10 Statement must be reviewed every 3 years

The Minister must cause the Australian Airspace Policy Statement to be reviewed at least once in each of the following periods:

- (a) the period of 3 years after it is made;
- (b) the period of 3 years after the completion of the last review.

Part 3—Airspace regulation

11 CASA to administer and regulate Australian-administered airspace

- (1) The regulations may make provision for and in relation to conferring functions and powers on CASA that are in connection with the administration and regulation of Australian-administered airspace.
- (2) Regulations made for the purposes of subsection (1) may make provision for and in relation to any one or more of the following:
 - (a) the classification of volumes of Australian-administered airspace;
 - (b) the timing of reviews referred to in section 13 and the manner in which such reviews are to be conducted;
 - (c) the determination of the services and facilities to be provided by the providers of air navigation services in relation to particular volumes of Australian-administered airspace;
 - (d) the designation of volumes of Australian-administered airspace for the purposes of restricting access to, or warning about access to, that airspace;
 - (e) the designation of air routes and airways in Australian-administered airspace and the conditions of use of a designated air route or airway;
 - (f) the giving of directions in connection with the use or operation of a designated air route or airway or of air route or airway facilities;
 - (g) the determination of aerodromes as controlled aerodromes;
 - (h) the determination of volumes of Australian-administered airspace as flight information areas or flight information regions;
 - (i) the determination of volumes of Australian-administered airspace as control areas or control zones;

- (j) the regulation of the provision of aeronautical information services;
 - (k) the obtaining of information from the operators of aerodromes, the owners or operators of aircraft or the providers of air navigation services.
- (3) Subsection (2) does not limit subsection (1).

Penalties

- (4) Regulations made for the purposes of subsection (1) may prescribe penalties for offences against the regulations. A penalty must not be more than 50 penalty units.

Note: Regulations under the *Civil Aviation Act 1988* also contain some offences in relation to the matters mentioned in subsection (2).

Charges

- (5) Regulations made for the purposes of subsection (1) may make provision for and in relation to prescribing charges in respect of the performance of a function, or the exercise of a power, by CASA.
- (6) A charge may be set either by fixing the amount or by setting a method of calculation.
- (7) A charge must not be such as to amount to taxation.

Sub-delegation

- (8) Regulations made for the purposes of subsection (1) may make provision for and in relation to CASA delegating functions or powers to another person.

Definitions

- (9) In this section:

aerodrome has the meaning prescribed by the regulations.

aircraft has the same meaning as in the *Civil Aviation Act 1988*.

Section 12

air route has the meaning prescribed by the regulations.

air route or airway facilities has the meaning prescribed by the regulations.

airway has the meaning prescribed by the regulations.

12 Matters affecting CASA's administration and regulation of Australian-administered airspace

- (1) In performing its functions and in exercising its powers conferred under the regulations, CASA must:
 - (a) foster efficient use of Australian-administered airspace; and
 - (b) foster equitable access to that airspace for all users of that airspace.
- (2) In performing its functions and in exercising its powers conferred under the regulations, CASA must take into account:
 - (a) the capacity of Australian-administered airspace to accommodate changes in its use; and
 - (b) national security.
- (3) Subsection (2) does not limit the matters that may be taken into account.
- (4) This section is subject to sections 9A to 11A of the *Civil Aviation Act 1988*.

Note: Those sections set out other matters that affect CASA performing its functions and exercising its powers. Those sections relate to safety, protection of the environment, international agreements and the Australian Airspace Policy Statement.

13 Regular reviews

Classifications of volumes of Australian-administered airspace

- (1) CASA has the function of conducting regular reviews of the existing classifications of volumes of Australian-administered

airspace in order to determine whether those classifications are appropriate.

Services and facilities

- (2) CASA has the function of conducting regular reviews of the existing services and facilities provided by the providers of air navigation services in relation to particular volumes of Australian-administered airspace in order to determine whether those services and facilities are appropriate.

General

- (3) CASA has the function of conducting regular reviews of Australian-administered airspace generally in order to identify risk factors and to determine whether there is safe and efficient use of that airspace and equitable access to that airspace for all users of that airspace.

Section 14

**Part 4—CASA advice on Australian Airspace
Policy Statement or airspace regulation**

**14 CASA advice on Australian Airspace Policy Statement or
airspace regulation**

- (1) The Minister may, by written notice, request advice from CASA on a matter related to:
 - (a) the Australian Airspace Policy Statement; or
 - (b) CASA's functions or powers under the regulations.
- (2) CASA must provide written advice to the Minister on that matter in accordance with the notice.
- (3) The Minister may, by writing, delegate the Minister's power under subsection (1) to the Secretary of the Department.

Part 5—Other matters

15 Regulations

The Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Endnotes

Endnote 1—About the endnotes

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can

Endnote 1—About the endnotes

be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnotes

Endnote 2—Abbreviation key

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnote 3—Legislation history

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Airspace Act 2007	38, 2007	30 Mar 2007	s 3–15: 1 July 2007 (s 2(1) item 2) Remainder: 30 Mar 2007 (s 2(1) item 1)	
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 16): 5 Mar 2016 (s 2(1) item 2)	—

Endnotes

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Part 2	
s 8	am No 126, 2015
