

2016

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

Air Services Amendment Bill 2016

No. , 2016

(Mr Bandt)

**A Bill for an Act to amend the law in relation to air
services, and for related purposes**

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A Bill for an Act to amend the law in relation to air services, and for related purposes

The Parliament of Australia enacts:

1 Short title

This Act is the *Air Services Amendment Act 2016*.

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
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
2. Schedule 1, items 1 to 7	The day this Act receives the Royal Assent.	
3. Schedule 1, item 8	A single day to be fixed by Proclamation. A Proclamation cannot be made unless the Minister is satisfied that funds have been appropriated for the purpose of paying the salary and associated costs of the Aircraft Noise Ombudsman.	
4. Schedule 1, item 9	A single day to be fixed by Proclamation. A Proclamation cannot be made unless the Minister is satisfied that funds have been appropriated for the purpose of paying the salary and associated costs of the Community Aviation Advocate.	

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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—Amendments

Air Services Act 1995

1 Paragraph 8(1)(d)

Omit “the environment”, substitute “the human and natural environment, community amenity and residential areas”.

2 Subsection 9(2)

Omit “the environment is”, substitute “the human and natural environment, community amenity and residential areas are”.

3 Section 10

Repeal the section, substitute:

10 AA must consult and cooperate

- (1) In the performance of its functions and the exercise of its powers, AA must, where appropriate, consult with government, commercial, industrial, consumer, aircraft noise, community and other relevant bodies and organisations (including ICAO and bodies representing the aviation industry).
- (2) During consultations, AA must advise other parties of how they can make a complaint about AA’s conduct, if they so wish, including to the Aircraft Noise Ombudsman.
- (3) AA must establish community consultation groups that represent communities affected by aircraft operations, including:
 - (a) communities directly impacted by take-off and landing of aircraft; and
 - (b) communities that are subjected to high intensity air traffic from flyover impact.
- (4) AA must consult relevant community consultation groups about all significant changes proposed to existing flight plan routes and all new flight plan routes.

- (5) If detrimental impacts are identified through consultation with community consultation groups, AA must take such steps as it considers appropriate to minimise those impacts.
- (6) AA must publish on its website:
 - (a) details about when its consultations with community consultation groups are to occur and the nature of the proposed consultations; and
 - (b) details about the results of those consultations, including details about any steps taken by AA.

10A Consulting with communities

Where AA has decided to propose changes in the management of flight paths or airspace which would have, or be likely to have, any impact on the human and natural environment, community amenity or residential areas, AA must:

- (a) arrange for consultations on the proposal under section 10; and
- (b) advise the Minister responsible for the *Environment Protection and Biodiversity Conservation Act 1999* of the consultations; and
- (c) request that Minister to appoint a Community Aviation Advocate to represent the affected parts of the community during the consultations.

10B Melbourne flightpaths

- (1) As soon as practicable after the *Air Services Amendment Act 2016* receives the Royal Assent, AA must:
 - (a) prepare a plan for the management of flight paths and air space within 5 kilometres of central Melbourne; and
 - (b) arrange for consultations on the plan under section 10, and take the steps mentioned in paragraphs 10A(b) and (c) in relation to those consultations; and
 - (c) make any changes to the plan that AA considers appropriate as a result of consultation; and
 - (d) give effect to the resulting plan.
- (2) A plan proposed under subsection (1) must:

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- (a) prohibit helicopters and fixed wing aircraft from flying at less than 2,000 metres above sea level over residential areas; and
 - (b) contain exemptions for the following:
 - (i) emergency services aircraft;
 - (ii) defence aircraft;
 - (iii) aircraft flying to or from a hospital;
 - (iv) other aircraft that it is in the public interest to exempt.

10C Review of flight paths created or changed on or after 1 January 2012

- (1) A person may request AA to review a new flight path route, or a change to an existing flight path route, made on or after 1 January 2012 as a result of AA's management of flight paths if:
 - (a) the person is directly impacted by take-off and landing of aircraft because of the flight path; or
 - (b) the person is subjected to high intensity air traffic from flyover impact because of the flight path.
- (2) If requested to do so under subsection (1), AA must:
 - (a) review the flight path route; and
 - (b) arrange for consultations under section 10 for the purposes of the review, and take the steps mentioned in paragraphs 10A(b) and (c) in relation to those consultations; and
 - (c) take such steps as AA considers appropriate as a result of the review.
- (3) In conducting the review, AA must consider whether the new flight path, or the change to the existing flight path, has had, or is likely to have, any impact on the human and natural environment, community amenity and residential areas.

4 After paragraph 13(a)

Insert:

- (ab) the need to minimise the impact of aircraft operations on the human and natural environment, community amenity and residential areas;

5 Paragraph 22(1)(d)

Repeal the paragraph, substitute:

(d) between 6 and 8 other members.

6 After subsection 22(5)

Insert:

- (6) The Board must include an expert in environmental management and a representative of an aircraft noise or related community group.

7 After section 74

Insert:

74A Complaints reporting

- (1) In its annual report, AA must provide detailed commentary on complaints made in relation to its conduct.
- (2) The commentary must cover the efficiency and effectiveness of AA's handling of complaints.
- (3) The commentary must cover the transfer of information and complaints between AA and the Aircraft Noise Ombudsman.

8 After section 74A

Insert:

74B Aircraft Noise Ombudsman

- (1) The regulations must prescribe a scheme for the establishment of an Aircraft Noise Ombudsman.
- (2) The functions of the Aircraft Noise Ombudsman under the scheme must include the following:
 - (a) reviewing the handling of complaints or enquiries made to AA, CASA or the Department of Defence about aircraft noise, whether on application by a complainant, at the Ombudsman's own initiative or at the request of AA, the Department of Defence or the Minister;
 - (b) reporting to AA, CASA or the Department of Defence (as the case requires), and the Minister (as the Ombudsman considers appropriate), about reviews undertaken as mentioned in paragraph (a);

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- (c) monitoring and reporting on the effectiveness of community consultation processes about aircraft noise that are undertaken by AA, CASA or the Department of Defence;
 - (d) monitoring and reporting on the effectiveness of the presentation and distribution of information about aircraft noise;
 - (e) reviewing other matters relating to the management of aircraft noise by AA or the Department of Defence, on request by AA or the Department of Defence (as the case requires);
 - (f) making recommendations to the Minister, AA, CASA and the Department of Defence for improvements in the management of aircraft noise;
 - (g) any other functions the Minister considers appropriate.
- (3) The scheme must provide for the following:
- (a) the circumstances in which the Ombudsman may refuse to review or investigate a complaint or any other matter;
 - (b) the circumstances in which the Ombudsman may transfer a complaint to another person or body;
 - (c) the powers of the Ombudsman to obtain information and documents from AA, CASA or the Department of Defence for the purpose of performing the Ombudsman's functions;
 - (d) the circumstances in which information or documents given to the Ombudsman may be disclosed;
 - (e) the appointment of the Ombudsman by the Minister;
 - (f) the remuneration, and other terms and conditions of appointment, of the Ombudsman;
 - (g) the appointment of a person to act as the Aircraft Noise Ombudsman in particular circumstances;
 - (h) the Ombudsman's resignation and the termination of the Ombudsman's appointment by the Minister for reasons specified in the scheme;
 - (i) immunity of the Ombudsman from civil proceedings;
 - (j) the Ombudsman to be assisted by staff or other persons;
 - (k) any other matter the Minister considers appropriate.

***Environment Protection and Biodiversity Conservation Act
1999***

9 After section 160

Insert:

160A Community Aviation Advocate

- (1) Where the Minister receives advice under section 10A of the *Air Services Act 1995* that Airservices Australia is proposing changes in the management of aircraft noise or airspace which would have, or would be likely to have, a significant impact on the human or natural environment, community amenity or residential areas, or forms this opinion through other means, the Minister must appoint a Community Aviation Advocate in relation to these changes.
- (2) The role of the Community Aviation Advocate is to assist, inform and advocate on behalf of the parts of the community likely to be affected by the proposed changes in subsection (1).
- (3) The Community Aviation Advocate must be independent of aviation interests.
- (4) The duties, duration and basis of appointment, and remuneration of the Community Aviation Advocate must be commensurate with the work required in fulfilling the Advocate's role.