



STATUTORY RULES.

1949. No. .

REGULATIONS UNDER THE AIR NAVIGATION ACT 1920-1947.*

I, THE GOVERNOR-GENERAL in and over the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Regulations under the *Air Navigation Act 1920-1947*.

Dated this TWENTY - SEVENTH

day of JANUARY, 1949.

W. J. McKELL

Governor-General.

By His Excellency's Command,

ARTHUR S. DRAKEFORD

Minister of State for Civil Aviation.

AMENDMENTS OF THE AIR NAVIGATION REGULATIONS.†

1. Regulation 8 of the Air Navigation Regulations is amended by adding at the end thereof the following sub-regulation:—

Air Navigation Orders.

“(2.) Expressions used in Air Navigation Orders shall, unless the contrary intention appears, have the same meanings as in these Regulations.”.

2. Regulation 85 of the Air Navigation Regulations is repealed and the following regulation inserted in its stead:—

“85. Subject to these Regulations, the Director-General may, by specific or general description, authorize the use of any place as an aerodrome for the purposes of the landing and taking-off of such types of aircraft, engaged in such classes of operations and subject to such conditions as the Director-General specifies in the instrument of authorization.”.

Authorization of places for use as aerodromes.

3. Regulation 191 of the Air Navigation Regulations is amended by omitting paragraph (c) and inserting in its stead the following paragraph:—

Classification of operations.

“(c) Charter operations, being all air service operations in which aircraft are used for the carriage of passengers or cargo for hire or reward to or from any place, but which are not conducted in accordance with fixed schedules to and from fixed terminals; and”.

* Notified in the *Commonwealth Gazette* on 1949.
† Statutory Rules 1947, No. 112, as amended by Statutory Rules 1947, No. 162; and 1948, No. 69.

4. Regulation 197 of the Air Navigation Regulations is amended by Charter licence. adding at the end thereof the following sub-regulation:—

“(2.) A charter licence shall not be authority for the holder of such a licence to engage in charter operations on two or more occasions within any period of four weeks over a route or section of a route on which a regular public transport service is operating, but the Director-General may specially authorize the holder of such a licence to engage in such operations and that authority may be given subject to such of the conditions applicable in relation to the regular public transport service as the Director-General considers necessary.”.

5. Regulation 204 of the Air Navigation Regulations is repealed and the following regulation inserted in its stead:—

“204.—(1.) A person (other than the holder of an airline licence or the recipient of an exemption and approval under the last preceding regulation) shall not give public notice, by a newspaper advertisement, broadcast statement or any other means of public announcement, to the effect that that person is willing to carry passengers or cargo by air for hire or reward to and from fixed terminals and in accordance with fixed schedules. Advertising of certain services.

“(2.) A person (other than the holder of an airline licence, the recipient of an exemption and approval under the last preceding regulation or the recipient of a special authority under sub-regulation (2.) of regulation 197 of these Regulations) shall not give public notice, by newspaper advertisement, broadcast statement or any other means of public announcement, to the effect that that person is willing to carry passengers or cargo by air for hire or reward on two or more occasions within any period of four weeks over a route, or portion of a route, on which a regular public transport service is operating.”.

6. Regulation 235 of the Air Navigation Regulations is amended by omitting the words “so as to ensure that they” and inserting in their Testing of flight controls. stead the words “and make such other tests as are necessary to ensure that those controls”.

7. Regulation 264 of the Air Navigation Regulations is amended by omitting sub-regulations (7.), (8.) and (9.) and inserting in their Suspension or cancellation of licences and certificates by Director-General. stead the following sub-regulations:—

“(7.) Within fourteen days after the receipt of the notice of suspension or cancellation, the holder of the licence or certificate may—

(a) request the Director-General to revoke or vary the suspension or cancellation and submit a statement in writing setting forth the grounds upon which his request is based; or

(b) apply in the prescribed manner to have the question of the suspension or cancellation referred for consideration by an Appeal Board constituted in accordance with the next succeeding regulation.

“(8.) Within fourteen days after receipt of a request under paragraph (a) of the last preceding sub-regulation, the Director-General shall consider the request and statement and any other evidence which he considers relevant to the matter, and shall confirm, revoke or vary the suspension or cancellation.

“(9.) The Director-General shall forthwith forward to the holder of the licence or certificate notice in writing of the decision given by the Director-General in pursuance of the last preceding sub-regulation.

“(10.) If the holder of the licence or certificate is aggrieved by the decision of the Director-General, he may, within fourteen days after his receipt of the notice, apply in the prescribed manner to have the question of the suspension or cancellation referred for consideration by an Appeal Board constituted in accordance with the next succeeding regulation.”.

8. Regulation 265 of the Air Navigation Regulations is repealed and the following regulation inserted in its stead:—

“265.—(1.) For the purpose of the consideration of an application made in pursuance of paragraph (b) of sub-regulation (7.), or in pursuance of sub-regulation (10.), of the last preceding regulation, the Minister shall appoint an Appeal Board consisting of a Chairman and two other members. Appeal Board.

“(2.) The Chairman shall be an officer of the Attorney-General's Department, nominated by the Solicitor-General, who is qualified to practice as a barrister or solicitor of the High Court or the Supreme Court of a State.

“(3.) The members other than the Chairman shall be persons, nominated by the Director-General, who possess aeronautical or engineering knowledge or experience or other special knowledge or experience of air navigation.

“(4.) One of the persons nominated by the Director-General in pursuance of the last preceding sub-regulation shall be a person who is not in the employment either of the Department or of a corporation which is an authority of the Commonwealth or in which the Commonwealth has a controlling interest.

“(5.) A member of the Board other than the Chairman who is not in the employment of the Department shall for every day, or portion of a day, during which he acts as such a member be paid Five pounds five shillings or such greater sum as the Minister, upon evidence of expense incurred by the member, considers reasonable.”.

9. Regulation 266 of the Air Navigation Regulations is amended by omitting the words “under the last preceding regulation” and inserting in their stead the words “to an Appeal Board”. Manner of making application for reference to Appeal Board.

10. Regulation 267 of the Air Navigation Regulations is amended—
(a) by omitting sub-regulation (1.) and inserting in its stead the following sub-regulation:— Proceedings before the Appeal Board.

“(1.) Within seven days after the appointment of an Appeal Board, the Chairman of the Board shall fix a time and place for consideration of the question of the suspension or cancellation of the licence or certificate and shall give notice thereof to the applicant, who may appear before the Board and submit evidence in support of his application or may submit a statement in writing for consideration by the Board.”;

- (b) by inserting, after sub-regulation (4.), the following sub-regulation:—

“(4A.) A summons under this regulation shall be in writing under the hand of the Chairman of the Board and may be served either personally on the person to be served or by prepaid registered letter addressed to the person at his last known place of abode or business or by leaving it at his last known place of abode or business with some other person apparently an inmate thereof and apparently not less than sixteen years of age.”;

- (c) by omitting from sub-regulation (8.) the word “reverse” and inserting in its stead the word “annul”;
- (d) by omitting from sub-regulation (11.) the words “does not confirm the decision of the Director-General” and inserting in their stead the words “annuls the decision of the Director-General or varies the decision by imposing a shorter period of suspension”; and
- (e) by inserting in sub-regulation (12.), after the word “Director-General”, the words “or varies the decision by imposing a longer period of suspension”.

11. Regulation 268 of the Air Navigation Regulations is repealed and the following regulation inserted in its stead:—

“268. When a licence or certificate has been suspended (other than in the case of suspension pending further investigation) or cancelled, and the suspension or cancellation has not been revoked or annulled in accordance with these Regulations, an appropriate entry shall be made in any register in which particulars relating to the licence or certificate are entered, and a note of the suspension or cancellation, stating the grounds, shall be endorsed on the licence or certificate.”.

Entries and endorsements relating to suspension or cancellation.

12. Regulation 279 of the Air Navigation Regulations is amended by adding at the end thereof the following sub-regulation:—

“(3.) A summons under this regulation may be served either personally on the person to be served or by prepaid registered letter addressed to the person at his last known place of abode or business or by leaving it at his last known place of abode or business with some other person apparently an inmate thereof and apparently not less than sixteen years of age.”.

Powers of investigator.

13. Regulation 297 of the Air Navigation Regulations is amended by omitting the word “Governor-General” and inserting in its stead the word “Minister”.

Re-opening of inquiry.

14. Regulation 312 of the Air Navigation Regulations is amended by inserting in sub-regulation (2.), after the word “owner”, the words “, the operator”.

Offences.

15. Regulation 316 of the Air Navigation Regulations is amended by adding at the end of sub-regulation (1.) the words “Penalty: Twenty pounds.”.

Prohibition of entry or remaining on aerodrome in certain circumstances.

16. Regulation 320 of the Air Navigation Regulations is repealed and the following regulation inserted in its stead:—

“320.—(1.) In any prosecution or proceedings for recovery of moneys payable under these Regulations in any Court, a certificate, licence, notice, order or other document purporting to have been issued under these Regulations and bearing the written, stamped or printed signature of the Director-General shall, until the contrary is proved, be deemed to have been duly issued and to have been duly signed by the person by whom it purports to have been signed. Evidentiary provisions.

(2.) For the purpose of any proceedings under these Regulations, the Director-General may certify as to—

- (i) the registration or non-registration of an aircraft;
 - (ii) the issue or non-issue and the conditions of the certificate of airworthiness of an aircraft;
 - (iii) the licensing or non-licensing of a person under these Regulations;
 - (iv) the licensing or non-licensing of an aerodrome or the authorization of the use of a place as an aerodrome;
 - (v) the issue or non-issue of any permit, permission, notice, order or authority required by these Regulations; or
 - (vi) the suspension, cancellation, amendment or endorsement of any licence or certificate issued under these Regulations,
- and any such certificate bearing the written signature of the Director-General shall in any Court be *prima facie* evidence of the facts stated in the certificate.

(3.) For the purpose of any proceedings under these Regulations, the Director-General may certify that—

- (i) a notification of an accident or a written report in accordance with regulation 271 of these Regulations has not been received by the Director-General or other representative of the Department;
- (ii) a notification of an incident in accordance with regulation 274 of these Regulations has not been received by the Director-General or other representative of the Department; or
- (iii) a document required to be surrendered to the Director-General in accordance with regulation 323 of these Regulations has not been so surrendered,

and any such certificate bearing the written signature of the Director-General shall in any Court be *prima facie* evidence of the facts stated in the certificate.

(4.) For the purpose of any proceedings under these Regulations, a certificate bearing the written signature of the Director-General certifying that a document annexed to the certificate is a true copy of an Air Navigation Order, NOTAM, permit, direction, authority or other document, posted to the defendant on a specified date, shall in any Court be *prima facie* evidence of the matters certified and that the document of which the document annexed to the certificate purports to be a copy was received by the defendant on or about the time at which it would have been delivered in the ordinary course of post, if it had been posted on the date specified.

(5.) All Courts shall take judicial notice of the signature of the Director-General and of the fact that the person whose signature it purports to be holds or has held the office of Director-General.”.

17. Regulation 321 of the Air Navigation Regulations is amended by adding at the end thereof the words “and by notification of the applicant’s place of abode, his place of business and the address to which any communication to him under these Regulations may be sent ”. Application for licences, &c.

18. After regulation 321 of the Air Navigation Regulations the following regulation is inserted:—

“ 321A. Where the holder of a licence, certificate, permit or authority under these Regulations changes his place of abode or business or the address notified in accordance with the last preceding regulation, he shall forthwith furnish to the Director-General notice in writing of the change.”. Change of address.

19. Regulation 330 of the Air Navigation Regulations is amended by omitting from paragraph (b) the word “ may ”. Powers of pilot in command.

By Authority: L. F. JOHNSTON, Commonwealth Government Printer, Canberra.