

Statutory Rules 1995 No.

Air Services Regulations

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Air Services Regulations

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council and under section 4 of the *Acts Interpretation Act 1901*, make the following Regulations under the *Air Services Act 1995*.

Dated ² 1995.

41 July/

² BILL HAYDEN/

Governor-General

By His Excellency's Command,

²

Minister for Administrative Services
for the Minister for Transport

F. WALKER/

PART 1—PRELIMINARY

Citation

1.01. These Regulations may be cited as the Air Services Regulations.

Commencement

1.02. These Regulations commence on the same day as the *Air Services Act 1995* commences.

Interpretation

1.03. (1) In these Regulations, unless the contrary intention appears:

“Act” means the *Air Services Act 1995*;

“aerodrome” has the same meaning as in the *Civil Aviation Act 1988*;

“Aeronautical Information Publication” or **“AIP”** has the meaning given by regulation 4.12;

“Aeronautical Information Service” or **“AIS”** means AA in its capacity as the provider of an aeronautical information service;

“aeronautical information service” means a service:

- (a) of a kind referred to in subparagraph 8 (1) (b) (ii) of the Act; and
- (b) in accordance with Annex 15 to the Chicago Convention;

“air route” means a specified route between 2 points, the purpose of which is to channel the flow of air traffic to facilitate the provision of air traffic services;

“airspace” means Australian-administered airspace;

“airway” means a control area, or a specified part of a control area, established in the form of a corridor equipped with navigation aids;

“air traffic” means aircraft:

- (a) in flight; or
- (b) operating on the manoeuvring area of an aerodrome;

“Air Traffic Service” or **“ATS”** means AA in its capacity as the provider of air traffic services;

“air traffic services” means services:

- (a) of a kind referred to in subparagraph 8 (1) (b) (i) of the Act; and
- (b) in accordance with Annex 11 to the Chicago Convention;

“apron”, in relation to an aerodrome, means any part that is used for the purpose of:

- (a) enabling passengers to board, or disembark from, aircraft; or

- (b) loading cargo on to, or unloading cargo from, aircraft; or
- (c) refuelling, parking or carrying out maintenance on, aircraft;

“CAA” means the Civil Aviation Authority established under the *Civil Aviation Act 1988*, as in force immediately before the commencement of section 7 of the *Civil Aviation Legislation Amendment Act 1995*;

“class”, in relation to airspace, means a class of airspace referred to in paragraph 2.04 (1) (b);

“control area” means airspace to which a determination under paragraph 2.04 (1) (d) applies;

“controlled aerodrome” means an aerodrome to which a determination under paragraph 2.04 (1) (a) applies;

“control zone” means airspace to which a determination under paragraph 2.04 (1) (e) applies;

“designated air route” means an air route designated under regulation 2.02;

“designated airway” means an airway designated under regulation 2.02;

“Director of Meteorology” means the Director of Meteorology under the *Meteorology Act 1955*;

“facilities”, in relation to an air route or airway, means facilities to facilitate the safe navigation of aircraft within the airspace of the air route or airway, including:

- (a) visual and non-visual aids along the air route or airway;
- (b) visual and non-visual aids to approaching and landing at an aerodrome;
- (c) communications services;
- (d) meteorological services;
- (e) air traffic services;

“flight” has the same meaning as in the *Civil Aviation Act 1988*;

“flight information area” means airspace to which a determination under subparagraph 2.04 (1) (c) (i) applies;

“flight information region” means airspace to which a determination under subparagraph 2.04 (1) (c) (ii) applies;

“IFR flight” has the same meaning as in the *Civil Aviation Regulations*;

“manoeuvring area”, in relation to an aerodrome, means any part that is used for the take-off and landing of aircraft and for the

movement of aircraft in association with take-off and landing, but does not include any apron;

“movement area”, in relation to an aerodrome, means any part that is used for the surface movement of aircraft, including manoeuvring areas and aprons;

“Notice to Airmen” or **“NOTAM”** has the meaning given by regulation 4.12;

“prohibited area”, means an area declared to be a prohibited area under regulation 2.07;

“qualified employee”, in relation to the provision of a service, means an employee who:

- (a) holds the appropriate licence, rating and endorsement, or any other authorisation, required by CASA to be held by a provider of the service; and
- (b) meets the requirements of any standard, set by CASA, to be met by a provider of the service; and
- (c) meets the requirements of any standard set by AA in relation to the provision of the service by AA;

“Rescue and Firefighting Service” means AA in its capacity as the provider of rescue and fire fighting services;

“rescue and fire fighting services” means services:

- (a) referred to in subparagraph 8 (1) (b) (iii) of the Act; and
- (b) in accordance with Annex 14 to the Chicago Convention;

“restricted area” means an area declared to be a restricted area under regulation 2.07;

“Search and Rescue Service” means AA in its capacity as the provider of a search and rescue service;

“search and rescue service” means a service:

- (a) referred to in subparagraph 8 (1) (b) (iv) of the Act; and
- (b) in accordance with Annex 12 to the Chicago Convention;

“State or Territory fire brigade” means a fire brigade established under a law of a State or Territory;

“VFR flight” has the same meaning as in the Civil Aviation Regulations;

“volume”, in relation to airspace, means a volume of airspace defined by reference to specified horizontal and vertical points.

(2) In these regulations, a reference to the provision of a service is taken to include a reference to the giving of a direction, instruction or authorisation in connection with the service.

[Note: Words and expressions used in the Act have the same meaning in these Regulations. Some of those words and expressions, and their meanings, are:
AA means the body called Airservices Australia established by the Act;
CASA means the Civil Aviation Safety Authority established by the *Civil Aviation Act 1988*.

Other words and expressions defined in the Act are:

aircraft	ICAO
Australian-administered airspace	late payment penalty
Australian aircraft	payable
Australian territory	Register
authorised employee	Registrar
Commonwealth jurisdiction aircraft	service charge
Chicago Convention	statutory lien]

PART 2—AIRSPACE MANAGEMENT

Purpose of Part 2

2.01. The provisions of this Part are for the purpose of enabling AA to carry out the functions set out in Part 3.

Designation of air routes and airways

2.02. (1) For the purpose of assisting the safe navigation of aircraft, AA may designate air routes and airways in Australian-administered airspace.

(2) AA may determine the conditions of use of a designated air route or airway.

(3) A designation or determination does not take effect until published by AA in the AIP or a NOTAM.

Directions relating to air routes, airways and facilities

2.03. (1) AA may give directions, relating to the safety of aircraft, in connection with the use or operation of:

- (a) a designated air route or airway; or
- (b) air route or airway facilities.

(2) A direction does not take effect until published by AA in the AIP or a NOTAM.

Determination of controlled aerodromes and airspace etc.

2.04. (1) AA may make the following determinations:

- (a) that an aerodrome is a controlled aerodrome;
- (b) that a volume of airspace is of a class specified, in accordance with Annex 11 to the Chicago Convention, as Class A, B, C, D, E, F or G;
- (c) that a volume of airspace is:
 - (i) a flight information area; or
 - (ii) a flight information region;
- (d) that a volume of airspace extending upwards from a specified altitude is a control area;
- (e) that a volume of airspace extending upwards from ground or water to a specified altitude is a control zone.

(2) A determination under paragraph (1) (b) may provide that airspace of a specified class ceases to be airspace of that class and becomes airspace of another specified class, in accordance with specified conditions.

(3) Subject to subregulations (4) and (5), a determination has effect:

- (a) for a specified period; or
- (b) until a specified event happens; or
- (c) for the duration of specified circumstances;

as the case may be, unless earlier revoked.

(4) A determination does not take effect until published by AA in the AIP or a NOTAM.

(5) A determination in respect of:

- (a) a controlled aerodrome; or

- (b) airspace of any class; or
- (c) a flight information area or a flight information region;
or
- (d) a control area or a control zone;

is taken to have no effect during any period in which relevant air traffic services are not provided.

Particulars of air traffic services

2.05. (1) AA must publish, in the AIP or a NOTAM, details of the air traffic services that are to be provided, in accordance with Annex 11 to the Chicago Convention, for:

- (a) a controlled aerodrome; or
- (b) airspace of any class; or
- (c) a flight information area or a flight information region;
or
- (d) a control area or a control zone.

including details of the manner in which the services are to be provided.

(2) If an area of Australian territory has been declared under regulation 2.07 to be a restricted area or a danger area, AA may provide, in accordance with Annex 11 to the Chicago Convention, air traffic services for the airspace above that area that are at variance with air traffic services that would otherwise be provided, in accordance with the Annex, for that airspace.

(3) If air traffic services are to be provided under subregulation (2) for any airspace referred to in that subregulation, AA must publish, in the AIP or a NOTAM, details of those air traffic services.

Notice of unavailability of air traffic services

2.06. If AA is aware of any period during which air traffic services are not to be provided for:

- (a) a controlled aerodrome; or
- (b) airspace of any class; or
- (c) a flight information area or a flight information region;
- (d) a control area or a control zone;

AA must publish, in the AIP or a NOTAM, a notice giving details of the unavailability of the services, if it is practicable to do so.

Declaration of prohibited, restricted or danger areas

2.07. (1) By notice in writing, AA may declare an area of Australian territory to be a prohibited area, a restricted area or a danger area.

(2) AA must not declare an area to be a prohibited area unless, in the opinion of AA, it is necessary for reasons of military necessity to prohibit the flight of aircraft over the area.

(3) AA must not declare an area to be a restricted area unless, in the opinion of AA, it is necessary in the interests of public safety or the protection of the environment to restrict the flight of aircraft over the area to aircraft flown in accordance with specified conditions.

(4) AA must not declare an area to be a danger area unless, in the opinion of AA, there exists within or over the area an activity that is a potential danger to aircraft flying over the area.

(5) A declaration must specify an area by reference to its boundaries.

(6) Subject to subregulation (7), a declaration has effect:

- (a)** for a specified period; or
- (b)** until a specified event happens; or
- (c)** for the duration of specified circumstances;

as the case may be, unless earlier revoked.

(7) A declaration does not take effect until it is published by AA in accordance with regulation 2.08.

Publication of a declaration

2.08. (1) AA must publish a declaration of a prohibited area, a restricted area or a danger area:

- (a)** if the declaration is to have effect for a period of 3 months or longer—in the AIP; or
- (b)** in any other case—in a NOTAM.

(2) Publication of a declaration of a restricted area must set out the conditions in accordance with which the flight of aircraft over the area is permitted.

(3) Publication of a declaration of a danger area must contain sufficient information about the nature of the danger to enable the pilot in command of an aircraft to take adequate precautions.

(4) If a declaration of a prohibited area or restricted area is to have effect for a period of 3 months or longer, AA must as soon as practicable notify ICAO and its member States of:

- (a) the declaration of the area; and
- (b) the location and boundaries of the area.

Designation of flying training areas

2.09. (1) For the purposes of flying training, AA, by notice in writing, may designate an area as a flying training area.

(2) A designation must specify an area by reference to its boundaries.

(3) Subject to subregulation (4), a designation of a flying training area has effect:

- (a) for a specified period; or
- (b) until a specified event happens; or
- (c) for the duration of specified circumstances;

as the case may be, unless earlier revoked.

(4) A designation does not take effect until it is published by AA in the AIP or a NOTAM.

PART 3—AIR TRAFFIC SERVICES

Purpose of Part 3

3.01. The purpose of this Part is to set out:

- (a) the functions of AA in relation to the provision of air traffic services; and

- (b) the powers that are exercisable in connection with those services.

Functions of the Air Traffic Service

3.02. The functions of the Air Traffic Service are:

- (a) to facilitate the safe and efficient conduct of aircraft flights; and
- (b) to facilitate the safe movement of aircraft on the manoeuvring areas of aerodromes; and
- (c) to facilitate and maintain a safe, orderly and expeditious flow of air traffic; and
- (d) to provide advice and information that is necessary for the safe and efficient conduct of flights; and
- (e) to notify appropriate organisations about aircraft known to be, or believed to be, in need of search and rescue aid, and to appropriately assist those organisations.

Air traffic services—directions and instructions

3.03. (1) For the purposes of regulation 3.02, a qualified employee may give air traffic instructions and air traffic clearances to an aircraft:

- (a) at a controlled aerodrome; or
- (b) in airspace to which a determination under paragraph 2.04 (1) (b) applies.

(2) An air traffic clearance given in conjunction with air traffic instructions forms part of those air traffic instructions.

(3) For the purposes of regulation 3.02, AA may give instructions to:

- (a) aircraft engaged in IFR flights; and
- (b) aircraft engaged in VFR flights.

about the use of:

- (c) a controlled aerodrome; or
- (d) airspace to which a determination under paragraph 2.04 (1) (b) applies.

(4) If:

- (a) an area of Australian territory has been declared under regulation 2.07 to be a restricted area or a danger area; and
- (b) airspace above that area is airspace to which a determination under paragraph 2.04 (1) (b) applies;

AA may give instructions about the use of that airspace that are at variance with instructions given under subregulation (3) about the use of that airspace.

(5) An instruction given under subregulation (4) is taken to prevail over any inconsistent instruction given under subregulation (3).

(6) An instruction given under subregulation (3) or (4) does not take effect until published by AA in the AIP or a NOTAM.

(7) In this regulation:

“air traffic instruction” includes a direction to an aircraft to conduct its flight in the manner specified in the direction;

“air traffic clearance” means an authorisation for an aircraft to proceed in accordance with conditions specified in the authorisation.

Removal of safety hazards

3.04. (1) If, in the opinion of AA, it is necessary, in the interests of safety or to facilitate and maintain an orderly flow of air traffic, to:

- (a) remove an aircraft, vehicle, animal or other thing from any part of an aerodrome; or
- (b) move an aircraft, vehicle, animal or other thing from one part of an aerodrome to another;

AA may authorise a person, with any assistance that is reasonable and necessary, to remove or move the aircraft, vehicle, animal or thing accordingly.

(2) If AA authorises a person under subregulation (1) to remove or move an aircraft, vehicle, animal or thing, AA, or an employee or agent of AA acting in the course of the person's employment or agency, is not liable for any damage caused, directly or indirectly, to the aircraft, vehicle, animal or thing, by reason of it being removed or moved under the authorisation.

(3) A reference in this regulation to an aerodrome includes a reference to an aerodrome:

- (a) that is under the control of the Defence Force; and
- (b) in respect of which an arrangement under section 20 of the *Civil Aviation Act 1988* is in force.

PART 4—OTHER SERVICES

Division 1—Preliminary

Purpose of Part 4

4.01. The purpose of this Part is to set out:

- (a) the functions of AA in relation to:
 - (i) rescue and firefighting services; and
 - (ii) a search and rescue service; and
 - (iii) an aeronautical information service; and
- (b) the powers that are exercisable in connection with those services.

Division 2—Rescue and fire fighting services

Functions of the Rescue and Firefighting Service

4.02. (1) The functions of the Rescue and Firefighting Service are:

- (a) to conduct operations to rescue persons and property from an aircraft that, as the result of an incident at, or in the vicinity of, an aerodrome, has crashed or caught fire; and
- (b) to conduct operations to control and extinguish, and to protect persons and property threatened by:

- (i) a fire at an aerodrome, whether in an aircraft or elsewhere; or
- (ii) a fire in the vicinity of an aerodrome that is in, or that started in, an aircraft.

(2) In carrying out its functions under subregulation (1), AA must give priority to operations that are conducted:

- (a) at an aerodrome; or
- (b) within 1000 metres of any boundary of an aerodrome.

Designation of officers in charge

4.03. The AA may designate a qualified employee to be the officer in charge of operations under this Division for:

- (a) a specified aerodrome; or
- (b) a specified location in the vicinity of a specified aerodrome.

Duties and powers of officer in charge

4.04. (1) For the purpose of conducting an operation under this Division, the officer in charge may:

- (a) give directions, that the officer thinks proper, to fire fighters and volunteers under the control of the officer; and
- (b) take measures that the officer thinks proper.

(2) Without limiting the generality of paragraph (1) (b), the officer in charge may do the following things for the purpose of an operation:

- (a) enter (by force, if necessary), take possession of and deal with in any appropriate way, premises, an aircraft or other property;
- (b) close a road or other thoroughfare to traffic;
- (c) without payment, use a convenient water supply (including shutting off water supply from a main or pipe to obtain greater pressure or supply);
- (d) disconnect electricity supply to premises;
- (e) remove flammable, explosive or other dangerous material from premises, an aircraft or other property;

- (f) order a person to leave premises, an aircraft or other property;
- (g) remove from the vicinity of the operation, a person or thing the presence of whom, or which, in the officer's opinion, is likely to significantly interfere with the operation;
- (h) take a fire engine or other fire appliance onto land or premises;
- (j) shore up or destroy a wall or building that, in the officer's opinion, is insecure or may be dangerous to persons or property;
- (k) direct or authorise a fire fighter or a volunteer to do an act or thing that, under this regulation, the officer is empowered to do.

(3) In relation to an operation, a fire fighter may do an act or thing set out in paragraph (2) (a), (b), (c), (d), (e), (f) or (h) without authorisation under paragraph (2) (k), if the fire fighter is of the opinion that, for the purpose of conducting the operation:

- (a) it is necessary or desirable to do that act or thing; and
- (b) it is not practicable for the fire fighter to obtain authorisation.

(4) In this regulation:

“fire fighter”, in relation to an operation, means:

- (a) a qualified employee; or
- (b) a member of a fire brigade, or of a rescue or fire fighting service, who is taking part in the operation in accordance with an arrangement under regulation 4.05;

“officer in charge”, in relation to an operation, means:

- (a) the employee designated under regulation 4.03 for the operation; or
- (b) if, in accordance with an arrangement under regulation 4.05, the person in control of an operation is a member of a fire brigade, or of a rescue or fire fighting service—that person;

“volunteer”, in relation to an operation, means a person who has volunteered to assist in the operation under the direction of the officer in charge.

Arrangements with State or Territory fire brigades etc.

4.05. For the purposes of an operation under this Division, AA may make an arrangement with:

- (a) a State or a Territory, or an authority of a State or a Territory—in relation to the use of a State or Territory fire brigade; or
- (b) the Defence Force—in relation to the use of a fire fighting service provided by the Defence Force; or
- (c) any person or organisation—in relation to use of a rescue or fire fighting service provided by that person or organisation.

Action not to lie against AA etc.

4.06. No action lies against AA, or an employee or agent of AA acting in the course of the person’s employment or agency, for injury or damage caused, directly or indirectly, to a person or the property of a person, by the exercise of a power under regulation 4.04.

Division 3—Search and rescue services

Functions of the Search and Rescue Service

4.07. The function of the Search and Rescue Service is to conduct and coordinate operations:

- (a) to search for aircraft that go missing in the course of a flight, and for passengers or crew of a missing aircraft; and
- (b) to assist aircraft, crew or passengers that may be in need of rescue aid.

Requisitioning transport for search and rescue operations

4.08. (1) For the purposes of an operation under this Division a qualified employee may, if he or she considers that it is necessary to do so:

- (a) requisition any aircraft, water craft or land vehicle; and
- (b) engage persons to operate any requisitioned craft or vehicle.

(2) A requisition must be in writing and must include the following information:

- (a) the name of the person making the requisition;
- (b) the person's authority to make the requisition;
- (c) the nature of the craft or vehicle to be requisitioned;
- (d) the period for which the craft or vehicle is to be requisitioned.

Compensation for loss caused by requisitioning

4.09. (1) Subject to regulation 4.10, the owner of a requisitioned aircraft, water craft or land vehicle is entitled to recover from AA compensation for any loss sustained by the owner in consequence of the requisitioning of the craft or vehicle.

(2) Subject to regulation 4.10, a person engaged by the AA to operate any requisitioned aircraft, water craft or land vehicle is entitled to recover from AA compensation for any loss sustained as a result of that engagement.

(3) A claim for compensation under subregulation (1) must be made within 2 years after the relevant requisition is ended.

(4) In this regulation, a reference to a loss sustained by a person includes:

- (a) an expense incurred by the person; and
- (b) wages or other remuneration, or other income, foregone by the person.

Claims for compensation for requisition loss

4.10. (1) As soon as practicable after receiving a claim in accordance with regulation 4.09, AA must consider the claim and:

- (a) if AA decides that the claim is justified, wholly or in part, pay compensation to the claimant accordingly; or
- (b) refuse to pay compensation and notify the claimant of the refusal and of the reasons for it.

(2) In considering a claim for compensation AA must have regard to:

- (a) in respect of the craft or vehicle requisitioned:
 - (i) charter rates applicable to a craft or vehicle of that type; and
 - (ii) the connection between any expense claimed and the use, during the period of the requisition, of the craft or vehicle; and
 - (iii) the likely cost of repairing any damage to the craft or vehicle that occurred as a result of its use during the period of the requisition, in order to restore the vehicle to its former condition; and
- (b) in respect of any expense incurred by a person, or wages or other remuneration, or other income, forgone by a person—the substantiation provided by the claimant for the loss sustained; and
- (c) in respect of any injury sustained by a person—the cost of that injury determined in accordance with the *Safety Rehabilitation and Compensation Act 1988*.

(4) In subparagraph (3) (a) (iii), “**former condition**”, in relation to a craft or vehicle referred to in that subparagraph, means the condition of that craft or vehicle immediately before it was requisitioned.

Division 4—Aeronautical information service**Function of the Aeronautical Information Service**

4.11. (1) The function of the Aeronautical Information Service is to provide an aeronautical information service in accordance with this Division.

(2) The aeronautical information service comprises the collection and dissemination of aeronautical information relating to the safety, regularity and efficiency of air navigation.

(3) Aeronautical information is to be disseminated in connection with the following matters, services and facilities:

- (a) aerodromes;
- (b) air traffic services and facilities;
- (c) communication and air navigation services and facilities;
- (d) meteorological services;
- (e) search and rescue services and facilities;
- (f) procedures and regulatory requirements connected with air navigation;
- (g) notification of hazards to air navigation.

Aeronautical Information Publication and Notices to Airmen

4.12. (1) AIS must publish, from time to time:

- (a) a publication to be known as the Aeronautical Information Publication (AIP); and
- (b) notices to be known as Notices to Airmen (NOTAMS).

(2) The AIP is to include:

- (a) aeronautical information required to be published in the AIP by:
 - (i) these Regulations; or
 - (ii) the *Civil Aviation Act 1988* or the Civil Aviation Regulations; or
 - (iii) any other Commonwealth law; and
- (b) other aeronautical information that is essential to safe air navigation and is of lasting relevance; and
- (c) instructions on the procedure to be followed, and the particulars to be supplied, by applicants for a permission referred to:
 - (i) in Part III of the *Civil Aviation Act 1988*; or
 - (ii) in subsection 14 (2) or 17 (1), of the *Air Navigation Act 1920*; and
- (d) any matter of lasting relevance relating to the facilitation of air traffic.

- (3) NOTAMS are to include:
 - (a) aeronautical information required to be published in a NOTAM by:
 - (i) these Regulations; or
 - (ii) the *Civil Aviation Act 1988* or the Civil Aviation Regulations; or
 - (iii) any other Commonwealth law; and
 - (b) other aeronautical information, of importance to safe air navigation, that:
 - (i) requires early publication and can be published more quickly in NOTAMS than in the AIP; or
 - (ii) is of temporary relevance.
- (4) AIS must publish information of a kind referred to in subregulation (2) or (3) that is received for publication:
 - (a) within the Aeronautical Information Regulation and Control Cycle next following the receipt of the information, as set out in Annex 15 to the Chicago Convention; or
 - (b) if another period is agreed to between AIS and the person submitting the information for publication—within that period.
- (5) AIS must forward to ICAO a copy of:
 - (a) the AIP and any amendment of the AIP; and
 - (b) each NOTAM.

PART 5—ADDITIONAL FUNCTIONS OF AA

Division 1—Preliminary

Purpose of Part 5

5.01. The purpose of this Part is to set out additional AA functions relating to:

- (a) the payment of compensation for damage to property by wake vortices caused by the operation of Commonwealth jurisdiction aircraft; and

- (b) the provision of meteorological information.

Division 2—Compensation for wake vortices damage

Meaning of damage to property

5.02. In this Division a reference to damage to property does not include damage to an aircraft in flight.

Application for compensation for wake vortices damage

5.03. An owner of property that has been damaged by wake vortices produced by a Commonwealth jurisdiction aircraft may apply in writing to AA for compensation in respect of that damage.

Investigation and consideration of applications

5.04. (1) As soon as practicable after an application for compensation for wake vortices damage is received, AA must make an investigation to establish whether the damage is compensatable damage.

(2) On completing an investigation, AA:

- (a) subject to subregulation (3)—may decide to pay compensation to the applicant; or
- (b) may refuse to pay compensation.

(3) AA must not pay compensation unless it is satisfied that the damage is compensatable damage.

(4) In making a decision under subregulation (2), AA must have regard to:

- (a) the nature of the damage that may generally be expected to be caused by wake vortices; and
- (b) the areas that are likely to be affected by wake vortices; and
- (c) whether, at the relevant time, the nature of aircraft operations in the area where the damage occurred, having regard to the weather in the area at that time, was

likely to generate wake vortices of sufficient force to cause the damage; and

- (d) the likely cost of repairing the damage in order to restore the property to its former condition.

(5) In paragraph (4) (d), “**former condition**”, in relation to property referred to in that paragraph, means the condition of the property immediately before the damage occurred.

(6) AA must notify an applicant of its decision under subregulation (2) as soon as practicable and, as the case requires:

- (b) pay the compensation; or
- (b) give reasons for its refusal to pay compensation.

(7) If AA decides to pay an amount of compensation that is less than the amount applied for, it must give the applicant its reasons for paying a lesser amount.

No right to compensation conferred by this Division

5.05. Nothing in this Division is taken to confer a right on any person to receive compensation for damage caused by wake vortices produced by the operation of Commonwealth jurisdiction aircraft.

Division 3—Other functions

Provision of meteorological information

5.06. (1) AA may make arrangements with the Director of Meteorology for the provision of meteorological information:

- (a) in any form and manner; and
- (b) at any place;

that AA considers necessary for the safe, regular or efficient operation of aircraft, in accordance with the Chicago Convention.

(2) If there is any information of a kind referred to in subregulation (1) that cannot be provided under arrangements made under that subregulation, AA may make any other arrangements that are necessary for the provision of that information.

PART 6—STATUTORY LIENS**Purpose of Part 6**

6.01. The purpose of this Part is to supplement the provisions of Division 4 of Part 5 of the Act, which deal with statutory liens on aircraft for payment of unpaid service charges.

Register entries on imposition of statutory lien

6.02. For the purposes of subsection 58 (1) of the Act, an entry in the Register must include, in relation to an aircraft to which that subsection applies:

- (a) the registration mark of the aircraft; and
- (b) a description of the aircraft; and
- (c) the name and address of the person by whom the service charge in respect of the aircraft is payable; and
- (d) the identifying number given to the lien by the Registrar; and
- (e) the time and date when the entry is made.

Who may request a certificate of statutory lien?

6.03. For the purposes of subsection 60 (1) of the Act, the following persons are prescribed persons in relation to an aircraft:

- (a) the holder of the certificate of registration of the aircraft;
- (b) the owner, or the agent of the owner, of the aircraft;
- (c) if an authorised employee is satisfied that a person has a security interest in the aircraft—that person;
- (d) a person authorised in writing by a person referred to in paragraph (a), (b) or (c).

Register entry on cessation of statutory lien

6.04. For the purposes of subsection 61 (2) of the Act, the Registrar must enter in the Register notice that the statutory lien has ceased to have effect, and the date of cessation.

Notices relating to statutory lien

6.05. (1) For the purposes of subsection 62 (1) of the Act, a notice of an entry made in the Register under section 58 of the Act in respect of an aircraft must contain:

- (a) the identifying number of the lien; and
- (b) the date and time when the entry was made; and
- (c) the description and registration mark of the aircraft; and
- (d) the name and address of the person by whom the service charge to which the lien relates is payable.

(2) For the purposes of subsection 62 (1) of the Act, a notice of an entry made in the Register under section 61 of the Act that a statutory lien has ceased to have effect must contain:

- (a) the identifying number of the lien; and
- (b) the description and registration mark of the aircraft; and
- (c) the date on which the lien ceased to have effect.

(3) For the purposes of subsection 62 (1) of the Act, the following persons are prescribed persons in relation to the service of a notice:

- (a) each person who is the owner, operator, lessee, hirer, charterer or pilot in command, of the aircraft;
- (b) if the person by whom the relevant service charge is payable is not a person referred to in paragraph (a)—that person;
- (c) if an authorised employee is satisfied that a person has a security interest in the aircraft—that person.

How the Register of Statutory Liens is to be maintained

6.06. (1) For the purposes of subsection 63 (2) of the Act, the Registrar must:

- (a) maintain the Register in the central office of AA; and
- (b) hold up-to-date copies of the Register in the other offices of AA.

(2) Each copy of the Register must be open for public inspection at the office of AA where it is held, from 9.30 a.m. until 4.30 p.m. every day (except weekends and public holidays).

Who has the benefit of insurance of seized aircraft?

6.07. For the purposes of subsection 65 (2) of the Act, the insurance of an aircraft is for the benefit of the following persons:

- (a) AA;
- (b) the owner of the aircraft;
- (c) if an authorised employee is satisfied that a person has a security interest in the aircraft—that person.

Sale of aircraft

6.08. (1) For the purposes of paragraph 66 (2) (a) of the Act, in order to effect the sale of an aircraft AA must:

- (a) ascertain the aircraft's value by means of a survey of the aircraft; and
- (b) publish a notice, stating AA's intention to sell the aircraft and setting out the proposed method of sale:
 - (i) in a newspaper circulating in each State and Territory; and
 - (ii) in another newspaper circulating in the State or Territory in which it is intended to sell the aircraft; and
- (c) if satisfactory terms and conditions of sale can be agreed between AA and a purchaser—sell the aircraft in accordance with the proposed method of sale.

(2) For the purposes of subsection 66 (3) of the Act, at least 14 days before the date on which it is intended to sell an aircraft, AA must publish a notice of the proposed sale:

- (a) in each newspaper in which a notice was published under paragraph (1) (b); and
- (b) if AA considers it necessary, for the purpose of bringing the proposed sale to the notice of the persons referred to in regulation 6.03, to publish a notice of the proposed sale in another newspaper—in that newspaper.

Proceeds of sale—claims by creditors

6.09. (1) For the purposes of section 67 of the Act, as soon as practicable after the sale of an aircraft, AA must publish a notice:

- (a) inviting persons claiming a security interest in the aircraft that was created before the date of sale of the

- aircraft, to make a claim in respect of that interest in accordance with this regulation; and
- (b) stating that the claim must be made before the end of the period specified in the notice, being a period of at least 21 days after the date of the notice.
- (2) The notice must be published:
- (a) in a newspaper circulating in each State and Territory; and
 - (b) if an authorised employee so determines for the purposes of subregulation (1)—in another newspaper.
- (3) A claim must:
- (a) be in writing signed by, or on behalf of, the claimant; and
 - (b) set out particulars of the security interest, including:
 - (i) when the interest was created; and
 - (ii) when the debt secured by the interest was incurred; and
 - (c) be given to AA, together with written evidence substantiating the nature and extent of the interest claimed, before the end of the period specified in the notice.
- (4) An authorised employee must:
- (a) consider each claim made in accordance with this regulation; and
 - (b) not later than 14 days after AA receives the claim:
 - (i) approve the claim wholly or partly, as appropriate; or
 - (ii) reject the claim.
- (5) If the authorised employee rejects a claim, or approves it wholly or in part, he or she must inform the claimant in writing of the decision and the grounds for it, within 28 days.

Distribution of proceeds of sale

- 6.10. (1)** For the purposes of section 67 of the Act, AA must:
- (a) pay the proceeds of sale of a seized aircraft into a trust account approved by the Minister for Finance for the purposes of this subregulation; and
 - (b) hold the proceeds in that trust account until they are dealt with in accordance with this regulation.
- (2)** AA must distribute the proceeds in the following order:
- (a) first, in payment of expenses incurred by AA in relation to the performance of any functions, or the exercise of any powers, under section 64 or 66 of the Act;
 - (b) second, in payment of a debt incurred before the registration of the statutory lien, to the extent that the debt is secured by an approved security interest (other than a floating charge) created before the registration;
 - (c) third, in payment of an outstanding amount secured by the statutory lien;
 - (d) fourth, in payment of a debt that is not secured, or to the extent that it is not secured, by an approved security interest of a kind mentioned in paragraph (b).
- (3)** After the proceeds are distributed, AA must:
- (a) cause the remainder (if any) of the proceeds to be paid to the person who was the owner of the aircraft immediately before the sale, or to the agent of that person; and
 - (b) give a written statement, containing particulars of the distribution, to that person, or to the agent of the person.
- (4)** No action lies against AA, or against an employee or agent of AA acting in the course of the person's employment or agency, for recovery of a debt that is not secured by an approved security interest.
- (5)** In this regulation "**approved security interest**" means a security interest that is approved, or approved in part, under subregulation 6.09 (4).

PART 7—MISCELLANEOUS**Purpose of Part 7**

7.01. The purpose of this Part is to make further provision relating to matters set out in these Regulations.

Review of decisions

- 7.02. (1)** A person affected by a decision made under:
- (a) regulation 4.10 (compensation in respect of requisitioned craft etc.); or
 - (b) regulation 5.04 (compensation for wake vortices damage); or
 - (c) regulation 6.09 (proceeds of sale of an aircraft);
- may make a written application to AA to reconsider the decision.
- (2)** The application must be made:
- (a) within 28 days after the day on which the decision first comes to the notice of the applicant; or
 - (b) within such further period as AA allows, either before or after the end of that 28 day period.
- (3)** The application must set out the grounds on which the applicant is requesting reconsideration of the decision.
- (4)** Within 28 days after receiving the application, AA must reconsider the decision and affirm or revoke the decision, or vary the decision, as AA thinks fit.
- (5)** If AA affirms, revokes or varies a decision, AA must inform the applicant in writing of the result of the reconsideration of the decision, and give its reasons.
- (6)** Application may be made under the *Administrative Appeals Tribunal Act 1975* to the Administrative Appeals Tribunal for review of a decision that has been affirmed or varied by AA under subregulation (4).

Evidence of a flight

7.03. (1) For the purpose of establishing liability to any service charge or late payment penalty, a flight by an aircraft may be identified by documentation that includes:

- (a) a flight strip summary, being a document known by that description issued by AA for the purpose of enabling employees to compile records of aircraft movements in relation to aerodromes; or
- (b) a message extracted from the message switching system known as the Aeronautical Fixed Telecommunication Network and referred to in Annex 10 to the Chicago Convention; or
- (c) a flight plan submitted to ATS by the pilot in command of the aircraft; or
- (d) an invoice, being an invoice containing a printout of computerised records of each flight to which the invoice relates.

(2) A document of a kind referred to in paragraph (1) (a), (b), (c) or (d) is *prima facie* evidence of the matters stated in it.

Evidence—general

7.04. (1) AA may certify, in writing, that:

- (a) a document annexed to the certificate is a true copy of an extract from the AIP, or of a NOTAM, determination, declaration, direction, instruction, authority, notice or other document made, given or issued under these Regulations; and
- (b) the document of which the document annexed to the certificate is certified to be a true copy, was, on a specified date or between specified dates, posted to a specified person in connection with any proceedings.

(2) AA, or the employee having custody of the appropriate records of AA, may certify, in writing, that, during a specified period or on a specified date:

- (a) any airspace was, or was not, a designated air route or a designated airway; or
- (b) any facility was, or was not, established in relation to an air route or an airway; or

- (c) an aerodrome was, or was not, a controlled aerodrome; or
- (d) a determination under regulation 2.04 applied, or did not apply, to any specified airspace.

(3) In any proceedings, a certificate purporting to have been given under this regulation:

- (a) is taken to be a certificate given by AA or by a person empowered under this regulation to give the certificate, unless the contrary is proved; and
- (b) is evidence:
 - (i) of the facts stated in the certificate; and
 - (ii) if the certificate certifies as to a matter referred to in paragraph (1) (b)—that the document to which the certificate relates was received by the specified person on or about the time at which it would have been received in the ordinary course of post.

(5) In this regulation, “proceedings” means:

- (a) proceedings in any court; or
- (b) any other proceedings under the Act or these Regulations; or
- (c) proceedings to which this regulation is stated, by any other Commonwealth law, to apply.

Exercise of powers etc. in relation to existing instruments

7.05. (1) AA may:

- (a) carry out any function under Part 3; or
- (b) exercise any power under Part 2 or Part 3, or under regulation 7.04;

in relation to:

- (c) an instrument:
 - (i) made under regulation 87, 99, 99AA, 140 or 141 of the Civil Aviation Regulations; and
 - (ii) continued in effect by section 10 of the *Civil Aviation Legislation Amendment Act 1995*; or
- (d) any aerodrome or airspace to which that instrument applies;

as if that instrument had been made under the corresponding provision in Part 2.

(2) The powers referred to in paragraph (1) (b) include, in the case of an instrument to which paragraph 10 (1) (b) of the *Civil Aviation Legislation Amendment Act 1995* applies, power to vary or revoke the instrument.

NOTE

1. Notified in the *Commonwealth of Australia Gazette* on

1995.

L 6 July