

Queensland



AIR NAVIGATION ACT 1937

**Reprinted as in force on 9 November 1995
(includes amendments up to Act No. 48 of 1991)**

Reprint No. 1

**This reprint is prepared by
the Office of the Queensland Parliamentary Counsel
Warning—This reprint is not an authorised copy**

Information about this reprint

This Act is reprinted as at 9 November 1995. The reprint—

- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind (Reprints Act 1992 s 5(d)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have also been made to—

- update citations and references (pt 4, div 2)
- correct spelling and use different spelling consistent with current drafting practice (s 26(2))
- use standard punctuation consistent with current drafting practice (s 27)
- use expressions consistent with current drafting practice (s 29)
- relocate marginal or cite notes (s 34)
- use aspects of format and printing style consistent with current drafting practice (s 35)
- omit provisions that are no longer required (ss 39 and 40)
- omit unnecessary referential words (s 41)
- omit the enacting words (s 42A)
- number and renumber certain provisions and references (s 43)
- correct minor errors (s 44).

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in the reprint, including—**
 - **table of obsolete and redundant provisions**
 - **table of corrected minor errors**
 - **table of renumbered provisions.**

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AIR NAVIGATION ACT 1937

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AIR NAVIGATION ACT 1937

[as amended by all amendments that commenced on or before 9 November 1995]

An Act to provide for the application of the air navigation regulations and civil aviation regulations of the Commonwealth to and in relation to air navigation within the State

Short title

1. This Act may be cited as the *Air Navigation Act 1937*.

Construction of this Act

3A. This Act and every proclamation made under this Act shall be read and construed so as not to exceed the legislative power of the State to the intent that where any enactment hereof or provision of any such proclamation would but for this section have been construed as being in excess of that power it shall nevertheless be a valid enactment or provision to the extent to which it is not in excess of that power.

Definitions

4. In this Act—

“**Commonwealth Act**” means—

- (a) the *Air Navigation Act 1920* (Cwlth); or
- (b) the *Civil Aviation Act 1988* (Cwlth).

“**regulations**” means regulations made under a Commonwealth Act.

Application of regulations to air navigation etc. within State

5. The regulations from time to time in force applicable to and in relation

to air navigation within the Territories shall (except so far as those regulations are by virtue of the Commonwealth Act and the regulations applicable to and in relation to air navigation within Queensland and except so far as those regulations are declared by this Act or any regulation or any provision of any regulation included in those regulations is declared by proclamation made by the Governor in Council under this Act to be not applicable to and in relation to air navigation within Queensland) apply, *mutatis mutandis*, to and in relation to air navigation within Queensland as if those regulations as so applied were incorporated in this Act, and for the purposes of this Act those regulations shall be read and construed and take effect accordingly.

Certain powers and functions vested in Commonwealth authorities

6. Where, by or under the regulations, any power or function is vested in or exercisable by any person or authority for the purpose of the regulations or any part thereof then, so far as the regulations in their application by virtue of this Act extend, the like power or function under the regulations in their application by virtue of this Act shall be vested in or exercisable by that person or authority for the purposes of the regulations in such application.

Certificates, licences etc.

7. Any certificate, licence, or registration granted, issued, recognised, or effected—

- (a) by or under the regulations in their application under the Commonwealth Act; or
- (b) by or under the regulations in their application by virtue of the law of any other State;

and any cancellation or suspension of any such certificate, licence, or registration so far as the regulations in their application by virtue of this Act extend shall in Queensland have the same force and effect as if it had been granted, issued, recognised, or effected in pursuance of the regulations in their application by virtue of this Act.

Fees

8. All fees payable under the regulations in their application by virtue of this Act shall be paid to the Commonwealth to meet the cost of the administration of the regulations in such application.

Purpose of this Act

9. The purpose of this Act is to make in Queensland such provision for and in relation to, and to so regulate and control, air navigation, aircraft, their operation whether in the air or on the ground, the carriage on aircraft of persons or goods, aerodromes, and all other matters and things connected with air navigation, aircraft, their operation whether in the air or on the ground, the carriage on aircraft of persons or goods, and aerodromes, as may be necessary or expedient to secure and maintain at all times the safety of aircraft and of persons or goods carried on aircraft, and in particular, for the purpose of securing and maintaining safety as aforesaid, to apply to and in relation to air navigation within Queensland by virtue of this Act, the regulations to the extent but only to the extent to which the regulations provide for, prescribe, regulate and control—

- (a) conditions of flight of aircraft;
- (b) the registration and marking of aircraft;
- (c) certificates of airworthiness for aircraft, including aircraft engines, airscrews or other components of any aircraft, which certificates may be provided for, prescribed, regulated and controlled for different types of aircraft according to the respective types thereof;
- (d) the manning of aircraft and the qualifications and competence of members of the crew thereof according to the respective capacities in which they act, including certificates of competency and licences in respect of pilots, navigators, radio operators and other members of aircraft crews, which certificates and licences may be provided for, prescribed, regulated and controlled differently as respects aircraft used for different purposes;
- (e) the safety of services for the carriage by air of persons, or goods, or both for hire or reward;
- (f) the log books to be kept and carried on aircraft, including separate such books relating to the aircraft, its journey, its engines or any

of them, its airscrews or any of them, its wireless apparatus, any other component thereof, signals and the pilot, the particulars and information to be entered in any such log book, and the persons by whom and the times when any such entries are to be made therein;

- (g) the installation on aircraft of wireless telegraph apparatus and the operation and use of such apparatus;
- (h) the investigation of accidents and forced landings of aircraft;
- (i) the use of aerodromes;
- (j) the suspension or cancellation of certificates or licences issued under the regulations.

Construction of the regulations in their application by virtue of this Act

10.(1) The regulations shall in their application in Queensland by virtue of this Act be read and construed so as not to exceed the purpose of this Act and in particular so as not to authorise the Governor-General, any Minister of State for the Commonwealth, or any person or authority acting for or on behalf of the Commonwealth or any such Minister to do or omit to do anything exceeding the purpose of this Act to the intent that where any provision of the regulations or any such act or omission exceeds the purpose of this Act such provision, act or omission shall to the extent to such excess be deemed to be not lawfully made, done or, as the case may be, omitted to be done and to be invalid accordingly and not applicable by virtue of this Act to or in relation to air navigation within Queensland.

(2) The following matters shall in particular, but without limit to the generality of subsection (1), be deemed to exceed the purpose of this Act, that is to say—

- (a) the enabling of the Commonwealth itself or any person or body authorised or established by the Commonwealth to take part in intrastate trade and commerce by air within Queensland;
- (b) the enabling of the Commonwealth itself or any person or body authorised or established by the Commonwealth to require any person licensed under the *State Transport Facilities Act 1946*, to provide and carry on any service for the carriage by air within

Queensland of passengers, or goods, or both to obtain any approval of the tariff or charges for such carriage or any variation thereof;

- (c) the prohibiting, preventing, hindering or otherwise limiting in any manner whatsoever the Crown in right of this State, any person or body authorised or established by the Crown in right of this State, or any other person whomsoever or body whatsoever from taking part in intrastate trade and commerce by air within Queensland excepting any such prohibition, prevention, hindrance or limitation which is necessary or expedient to carry out or give effect to, or incidental to the carrying out or giving effect to, the purpose of this Act.

Power of Governor in Council to declare that provision of the regulations shall not apply in Queensland by virtue of this Act

11.(1) Without limiting the provisions of sections 9 and 10, the Governor in Council may, by proclamation, declare that any regulation or any provision of any regulation included in the regulations shall not apply by virtue of this Act to and in relation to air navigation within Queensland.

(1A) Any regulation or any provision of any regulation included in the regulations which is so proclaimed shall, on and from the date of the publication in the gazette of such proclamation or, if a later date is specified in such proclamation, then on and from such later date, cease to have any application whatsoever in Queensland by virtue of this Act.

(2) Any such proclamation may be rescinded by the Governor in Council by a later proclamation and, on and from the date of the publication in the gazette of such later proclamation, any regulation or provision of a regulation included in the regulations which was declared in the rescinded proclamation shall, if still in force under the Commonwealth Act, again apply by virtue of this Act to and in relation to air navigation in Queensland.

(3) Every proclamation made under this section shall be published in the gazette and shall upon such publication be judicially noticed.

(4) Every such proclamation shall be laid before Parliament if then sitting for the dispatch of business, and if not then so sitting, within 14 days after Parliament next sits for the dispatch of business.

(5) If Parliament, within the next 14 sitting days after any such proclamation has been so laid before it, resolves that such proclamation ought to be annulled, the same shall after the date of such resolution be of no effect, but without prejudice to the validity of anything done in the meantime under such proclamation or to the making of any new proclamation under this section.

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 9 November 1995. Future amendments of the Air Navigation Act 1937 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
om	=	omitted	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered
prev	=	previous			

4 List of legislation

Air Navigation Act 1937 1 Geo 6 No. 8

date of assent 23 September 1937

commenced 5 May 1938 (proc pubd gaz 7 May 1938 p 1590)

as amended by—

Air Navigation Act Amendment Act 1947 12 Geo 6 No. 5

date of assent 15 December 1947

commenced on date of assent

Air Navigation Act Amendment Act 1991 No. 48

date of assent 10 September 1991

commenced on date of assent

5 List of annotations

Long title

amd 1991 No. 48 s 3

Commencement of Act

s 2 om R1 (see RA s 39)

Repeal of the Act 12 Geo 5 No. 30

s 3 om R1 (see RA s 40)

Construction of this Act

s 3A ins 1947 12 Geo 6 No. 5 s 2

Definitions

s 4 sub 1991 No. 48 s 4

Application of regulations to air navigation etc. within States 5 hdg amd 1991 No. 48 s 5
amd 1947 12 Geo 6 No. 5 s 3**Certain powers and functions vested in Commonwealth authorities**

s 6 amd 1947 12 Geo 6 No. 5 s 4

Certificates, licences etc.

s 7 amd 1947 12 Geo 6 No. 5 s 5

Purpose of this Act

s 9 ins 1947 12 Geo 6 No. 5 s 6

Construction of the regulations in their application by virtue of this Act

s 10 ins 1947 12 Geo 6 No. 5 s 6

Power of Governor in Council to declare that provision of the regulations shall not apply in Queensland by virtue of this Act

s 11 ins 1947 12 Geo 6 No. 5 s 6

6 Table of obsolete and redundant provisionsTABLE OF OBSOLETE AND REDUNDANT PROVISIONS
under the Reprints Act 1992 s 39

Omitted provision	Provision making omitted provision obsolete/redundant
def "sitting day"	Acts Interpretation Act 1954 s 36
references to Queensland implied	Acts Interpretation Act 1954 s 35
references to a State	Acts Interpretation Act 1954 s 36 def "State"

7 Table of corrected minor errorsTABLE OF CORRECTED MINOR ERRORS
under the Reprints Act 1992 s 44

Provision	Description
9(d)	om 'licenses' ins 'licences' where twice occurring
9(j)	om 'license' ins 'licence'

8 Table of renumbered provisionsTABLE OF RENUMBERED PROVISIONS
under the Reprints Act 1992 s 43

Previous	Renumbered as
9(i)	9(a)
9(ii)	9(b)
9(iii)	9(c)
9(iv)	9(d)
9(v)	9(e)
9(vi)	9(f)
9(vii)	9(g)
9(viii)	9(h)
9(ix)	9(i)
9(x)	9(j)
10, 1st sentence	10(1)
10, 2nd sentence	10(2)
11(1), 2nd sentence	11(1A)
11(3), 2nd sentence	11(4)
11(3), 3rd sentence	11(5)