

**AIR TRANSPORT (AMENDMENT) ACT, 1980,
No. 148**

New South Wales



ANNO VICESIMO NONO

ELIZABETHÆ II REGINÆ

Act No. 148, 1980.

An Act to amend the Air Transport Act, 1964, to provide for the issue of licenses under that Act by the Minister, to establish the New South Wales Air Licensing Advisory Committee, to extend the matters that may be considered when licenses are issued under that Act, and for other purposes. [Assented to, 10th December, 1980.]

Air Transport (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Short
title.

1. This Act may be cited as the "Air Transport (Amendment) Act, 1980".

Commence-
ment.

2. (1) This section and section 1 shall commence on the date of assent to this Act.

(2) Except as provided in subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Principal
Act.

3. The Air Transport Act, 1964, is referred to in this Act as the Principal Act.

Schedules.

4. This Act contains the following Schedules :—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT.

SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT BY
WAY OF STATUTE LAW REVISION.

SCHEDULE 3.—SAVINGS AND TRANSITIONAL PROVISIONS.

Amendment
of Act
No. 36,
1964.

5. The Principal Act is amended in the manner set forth in Schedules 1 and 2.

Air Transport (Amendment).

6. Schedule 3 has effect.

Savings
and
transi-
tional
provisions.

SCHEDULE 1.

Sec. 5.

AMENDMENTS TO THE PRINCIPAL ACT.

(1) Long title—

Omit “Commissioner for Motor Transport”, insert instead “Minister”.

(2) (a) Section 2 (1), definition of “Advisory Committee”—

Before the definition of “Air Navigation Regulations”, insert :—

“Advisory Committee” means the New South Wales Air Licensing Advisory Committee established by section 2A.

(b) Section 2 (1), definition of “Commissioner”—

Omit the definition.

(c) Section 2 (1), definition of “Function”—

Before the definition of “Goods”, insert :—

“Function” includes power, authority and duty.

(d) Section 2 (4)—

At the end of section 2, insert :—

(4) A reference in this Act to the exercise of a function includes, where the function is a duty, a reference to the discharge of that duty.

Air Transport (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(3) Section 2A—

After section 2, insert :—

**Advisory
Committee.**

2A. (1) A New South Wales Air Licensing Advisory Committee is hereby established.

(2) The Advisory Committee shall consist of—

- (a) the Commissioner for Motor Transport who shall be the chairman of the Advisory Committee;
- (b) a person appointed by the Minister on the nomination of the Minister for Decentralisation;
- (c) a person appointed by the Minister on the nomination of the Minister for Tourism; and
- (d) a person appointed by the Minister.

(3) The function of the Advisory Committee shall be to advise the Minister on the following matters :—

- (a) any application for a license that is referred to the Advisory Committee by the Minister;
- (b) any proposal to revoke, vary or suspend a license or to attach further or new conditions to a license, being a proposal that is referred to the Advisory Committee by the Minister;
- (c) such other matters relating to air transport services as the Advisory Committee thinks fit or as may be referred to the Advisory Committee by the Minister.

(4) Schedule 1 applies in relation to the Advisory Committee.

Air Transport (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(4) (a) Section 3 (1) (c)—

Omit the paragraph, insert instead :—

- (c) where the aircraft is engaged in a regular air transport service, the route over which the passengers or goods are so carried is a route in respect of which the license was granted.

(b) Section 3 (1A), (1B)—

After section 3 (1), insert :—

(1A) For the purposes of subsection (1) (c), an aircraft is engaged in a regular air transport service while carrying passengers or goods over a particular route if that aircraft, together with any other aircraft operated by the same person, are engaged in a service conducted—

- (a) in accordance with fixed schedules over that route; or
- (b) unless otherwise authorised by the Minister, on 5 or more occasions within any period of 28 days over that route.

(1B) In exercising his powers under subsection (1A) (b), the Minister shall have regard to such of the matters specified in section 6 (3) (a)–(g) as to him seems appropriate and to no other matters.

(c) Section 3 (2)–(7)—

Omit the subsections, insert instead :—

(2) A person who contravenes subsection (1) is guilty of an offence against this Act.

(5) Section 4 (1)—

Omit “Commissioner”, insert instead “Minister”.

Air Transport (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(6) (a) Section 5 (1) (a)—

Omit the paragraph, insert instead :—

- (a) be made to the Minister and lodged at any office of the Commissioner for Motor Transport;

(b) Section 5 (1) (b), (1) (g), (2)—

Omit “Commissioner” wherever occurring, insert instead “Minister”.

(7) (a) Section 6 (1), (3)—

Omit “Commissioner” wherever occurring, insert instead “Minister”.

(b) Section 6 (3) (e)—

Omit “of transport.”, insert instead “of transport;”.

(c) Section 6 (3) (f), (g)—

After section 6 (3) (e), insert :—

- (f) the effect, if any, on the maintenance and orderly development of adequate and reasonable public air transport services within New South Wales, of the operation of the aircraft specified in the application for the license and, in particular, its operation over the route or routes, or over any of the routes, specified in that application;
- (g) the effect, if any, on the economic development of, or on the environment in, any area within New South Wales, of the operation of the aircraft specified in the application for the license and, in particular, its operation over the route or routes, or over any of the routes, specified in that application.

Air Transport (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(8) Section 7 (1)—

Omit “Commissioner”, insert instead “Minister”.

(9) (a) Section 8—

Omit “Commissioner” wherever occurring, insert instead “Minister”.

(b) Section 8 (1)—

Omit “paragraphs (a), (b), (c), (d) and (e) of subsection three of section six of this Act”, insert instead “section 6 (3) (a)–(g)”.

(10) Section 11A—

After section 11, insert :—

11A. (1) The Minister may, by instrument in writing, delegate to the Commissioner for Motor Transport the exercise of such of the functions (other than this power of delegation) conferred or imposed on the Minister by or under this Act as may be specified in the instrument of delegation and may, by such an instrument, revoke wholly or in part any such delegation. Delegation.

(2) A function, the exercise of which has been delegated under this section, may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation by the Commissioner for Motor Transport.

(3) A delegation under this section may be made subject to such conditions or limitations as to the exercise of any function delegated, or as to time or circumstance, as may be specified in the instrument of delegation.

Air Transport (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(4) Notwithstanding any delegation under this section, the Minister may continue to exercise all or any of the functions delegated.

(5) Any act or thing done or suffered by the Commissioner for Motor Transport while acting in the exercise of a delegation under this section shall have the same force and effect as if the act or thing had been done or suffered by the Minister.

(6) An instrument purporting to be signed by the Commissioner for Motor Transport in his capacity as the delegate of the Minister under this section shall in all courts and before all persons acting judicially be received in evidence as if it were an instrument executed by the Minister and, until the contrary is proved, shall be deemed to be an instrument signed by the Commissioner for Motor Transport in that capacity.

(11) Section 12 (1)—

Omit the subsection, insert instead :—

(1) A person who is guilty of an offence against this Act is liable to a penalty not exceeding \$5,000 or to imprisonment for a period not exceeding 12 months or to both that penalty and imprisonment.

(12) Section 13 (1) (a1)—

After section 13 (1) (a), insert :—

(a1) prescribing the procedure for the calling of, or for the conduct of business at, meetings of the Advisory Committee; and

Air Transport (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(13) Section 19—

Omit the section.

(14) Schedule 1—

At the end of the Act, insert :—

SCHEDULE 1.

Sec. 2A (4).

PROVISIONS RELATING TO ADVISORY COMMITTEE.

1. In this Schedule—

“appointed member” means a member other than the chairman;
“chairman” means chairman of the Advisory Committee;
“member” means a member of the Advisory Committee.

Interpre-
tation:
Sch. 1.

2. An appointed member shall, subject to section 30 of the Terms of Interpretation Act, 1897, hold office for the term specified in the office. instrument of his appointment and is, if otherwise qualified, eligible for re-appointment.

3. Where, by or under any Act, provision is made requiring the holder of an office specified therein to devote the whole of his time to the duties of his office or not to engage in any paid employment outside the duties of his office, that provision shall not operate to disqualify him from holding that office and also the office of an appointed member. Full-time office holders not disqualified.

4. (1) Each member may, from time to time, appoint a person to be his deputy, and the member or the Minister may revoke any such appointment. Deputy members.

(2) In the absence of a member, the member's deputy—

(a) shall, if available, act in the place of the member; and

(b) while so acting, shall be deemed to be a member and shall have and may exercise the functions of a member.

Air Transport (Amendment).

 SCHEDULE 1—*continued.*

 AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(3) If there is a vacancy in the office of an appointed member, the member shall, for the purposes of subclause (2), be deemed to be absent.

**Determina-
tion of
questions.**

5. Questions arising at a meeting of the Advisory Committee shall be determined by a majority of the votes of the members present and voting.

**Presiding
member.**

6. The chairman or, in the absence of the chairman, his deputy or, in the absence of both, a member chosen by the members present at the meeting to act as chairman may preside at any meeting of the Advisory Committee.

Quorum.

7. Three members shall form a quorum at any meeting of the Advisory Committee and any duly convened meeting of the Advisory Committee at which a quorum is present shall be competent to transact any business of the Advisory Committee.

Votes.

8. The person presiding at a meeting of the Advisory Committee has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

**General
procedure.**

9. (1) The procedure for the calling of, and for the conduct of business at, meetings of the Advisory Committee shall, subject to any procedure that is specified in this Act or the regulations, be as determined by the Advisory Committee.

(2) The first meeting of the Advisory Committee shall be called in such manner as the Minister directs.

Air Transport (Amendment).

SCHEDULE 2.

Sec. 5.

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF
STATUTE LAW REVISION.

- (1) Long title—
 - (a) Omit “-1962”.
 - (b) Omit “-1947”.
 - (c) Omit “-1964”.

- (2) Section 1 (3)–(5)—

Omit the subsections.

- (3) (a) Section 2 (1), definition of “Air Navigation Regulations”—

Omit “-1963,”.
- (b) Section 2 (1), definition of “Appointed day”—

Omit the definition.
- (c) Section 2 (1), definition of “Carry”—

Omit “and expressions derived therefrom have a corresponding interpretation”.
- (d) Section 2 (1), definition of “Corporation”—

Omit the definition.
- (e) Section 2 (1), definition of “Prescribed”—

Omit the definition.
- (f) Section 2 (2), (3)—

Omit the subsections.

Air Transport (Amendment).

SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF
STATUTE LAW REVISION—*continued.*

(4) Section 3 (1)—

Omit “, on or after the appointed day,”.

(5) (a) Section 4 (2), (4), (5)—

Omit “subsection one of this section” wherever occurring, insert instead “subsection (1)”.

(b) Section 4 (3), (4)—

Omit “subsection two of this section” wherever occurring, insert instead “subsection (2)”.

(c) Section 4 (5)—

Omit “section three of this Act”, insert instead “section 3”.

(6) (a) Section 8 (2), (3)—

Omit “subsection one of this section” wherever occurring, insert instead “subsection (1)”.

(b) Section 8 (2) (b)—

Omit “subsection one of section three hundred and sixty-two of the Companies Act, 1961, as amended by subsequent Acts”, insert instead “section 362 (1) of the Companies Act, 1961”.

(c) Section 8 (4)—

Omit “subsection one or three of this section”. insert instead “subsection (1) or (3)”.

Air Transport (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF
STATUTE LAW REVISION—*continued.*

(7) Section 10—

Omit the section.

(8) Section 13 (3), (4)—

Omit the subsections, insert instead :—

(3) Section 41 of the Interpretation Act, 1897, applies in respect of a regulation as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

(9) Sections 14 (2), 15 (2)—

Omit “subsection one of this section shall commence upon the appointed day” wherever occurring, insert instead “subsection (1) shall commence on 26th October, 1964”.

(10) Section 17—

Omit the section.

SCHEDULE 3.

Sec. 6.

SAVINGS AND TRANSITIONAL PROVISIONS.

1. In this Schedule, “appointed day” means the day appointed and notified under section 2 (2). **Appointed day.**

Air Transport (Amendment).

SCHEDULE 3—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

Applica-
tions for
licenses.

2. An application for a license under the Principal Act that was duly made before the appointed day and that was not dealt with before the appointed day shall—

- (a) be deemed to have been duly made under the Principal Act, as amended by this Act; and
- (b) be dealt with in accordance with the Principal Act, as amended by this Act.

Licenses.

3. (1) A license under the Principal Act that was in force immediately before the appointed day shall be deemed to have been issued under the Principal Act, as amended by this Act.

(2) Any notice served on the holder of a license referred to in sub-clause (1) before the appointed day pursuant to section 8 of the Principal Act shall be deemed, on and after the appointed day, to have been served pursuant to section 8 of the Principal Act, as amended by this Act.
