

# Air Navigation Act 1938 No 9

[1938-9]



New South Wales

## Status Information

### Currency of version

Current version for 16 January 1989 to date (accessed 16 January 2025 at 0:11)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Responsible Minister

- Minister for Roads
- Minister for Transport
- Minister for Regional Transport and Roads

For full details of Ministerial responsibilities, see the [Administrative Arrangements \(Minns Ministry—Administration of Acts\) Order 2023](#).

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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## Contents

<b>Long title</b> .....	3
Preamble .....	3
1 Name of Act .....	3
2 Commencement .....	3
3 Definitions .....	3
4 Application of Commonwealth Air Navigation Regulations to air navigation within New South Wales .....	4
5 Certain powers and functions vested in Commonwealth authorities .....	4
6 Certificates, licences etc .....	4
7 Fees .....	5
8 (Repealed) .....	5

# Air Navigation Act 1938 No 9



New South Wales

An Act to provide for the application of the Commonwealth *Air Navigation Regulations* to and in relation to air navigation within the State of New South Wales; to amend the *State Transport (Co-ordination) Act 1931* in certain respects; and for purposes connected therewith.

## Preamble

WHEREAS at a conference of representatives of the Governments of the Commonwealth and of the States held in April one thousand nine hundred and thirty-seven it was resolved that there should be uniform rules throughout the Commonwealth applying to air navigation and aircraft, the licensing and competence of pilots, air traffic rules, and the regulation of aerodromes, and it was agreed that legislation should be introduced in the Parliament of each State to make provision for the application of the Commonwealth *Air Navigation Regulations*, as in force from time to time, to air navigation and aircraft within the jurisdiction of the State:

Be it therefore enacted by the King'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:

### 1 Name of Act

This Act may be cited as the *Air Navigation Act 1938*.

### 2 Commencement

This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

### 3 Definitions

In this Act:

**the Commonwealth Act** means the *Air Navigation Act 1920–1936* of the Commonwealth of Australia and, if that Act is amended, includes that Act as amended from time to time.

**the regulations** means the *Air Navigation Regulations* made, and as in force from time to time, under the Commonwealth Act.

**the Territories** means territories under the authority of the Commonwealth and includes

territories governed by the Commonwealth under a mandate.

#### **4 Application of Commonwealth [Air Navigation Regulations](#) to air navigation within New South Wales**

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 New South Wales) apply, mutatis mutandis, to and in relation to air navigation within New South Wales 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:

Provided that where an aircraft is to be used for the conveyance of passengers or cargo in circumstances which will require the aircraft to be licensed under the [Air Transport Act 1964](#), and which will also require the aircraft to be used under the authority of and in accordance with a licence issued under the regulations in their application by virtue of this Act or pursuant to an exemption granted under the regulations as so applied, a licence shall not be issued in respect of that aircraft under the regulations as so applied nor shall any such exemption be granted unless or until a licence has been issued in respect of that aircraft under the [Air Transport Act 1964](#), and the licence when so issued under the regulations as so applied or any renewal thereof or the exemption so granted, as the case may be, shall, without prejudice to any power of suspension or cancellation which is conferred by the regulations as so applied, cease to have effect if the aircraft ceases for any reason to be licensed under the [Air Transport Act 1964](#):

Provided further that where an aircraft is licensed under the [Air Transport Act 1964](#) it shall not be necessary for any person to obtain, under the regulations as so applied, any approval of the tariff of charges for the carriage of persons or cargo on the aircraft or of any variation thereof.

#### **5 Certain powers and functions vested in Commonwealth authorities**

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, 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.

#### **6 Certificates, licences etc**

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 of the Commonwealth,

and any cancellation or suspension of any such certificate, licence or registration, shall in New South Wales 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.

## **7 Fees**

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.

## **8 (Repealed)**