



Airspace Act 2007

No. 38, 2007

An Act relating to airspace administration and regulation, and for related purposes

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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No. 38, 2007

An Act relating to airspace administration and regulation, and for related purposes

[Assented to 30 March 2007]

The Parliament of Australia enacts:

Part 1—Preliminary

1 Short title

This Act may be cited as the *Airspace Act 2007*.

Section 2

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 and 2 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	30 March 2007
2. Sections 3 to 15	A single day to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of 6 months beginning on the day on which this Act receives the Royal Assent, they commence on the first day after the end of that period.	

Note: This table relates only to the provisions of this Act as originally passed by both Houses of the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

3 Object of this Act

The object of this Act is to ensure that Australian-administered airspace is administered and used safely, taking into account the following matters:

- (a) protection of the environment;
- (b) efficient use of that airspace;
- (c) equitable access to that airspace for all users of that airspace;
- (d) national security.

4 Definitions

In this Act:

Airservices Australia means the body established by subsection 7(1) of the *Air Services Act 1995*.

Australian-administered airspace has the meaning given by paragraphs (a) and (b) of the definition of *Australian-administered airspace* in subsection 3(1) of the *Air Services Act 1995*.

Australian Airspace Policy Statement means the statement made under subsection 8(1).

CASA means the Civil Aviation Safety Authority established by the *Civil Aviation Act 1988*.

Chicago Convention has the same meaning as in the *Civil Aviation Act 1988*.

5 Act binds the Crown

This Act binds the Crown in each of its capacities.

6 External Territories

This Act extends to all the external Territories.

7 Extraterritorial application

This Act extends to acts, omissions, matters and things outside Australia.

Part 2—Australian Airspace Policy Statement

8 Minister must make Australian Airspace Policy Statement

- (1) The Minister must make a statement (the *Australian Airspace Policy Statement*).

Note: Generally, CASA must exercise its powers and perform its functions in a manner consistent with the statement: see section 11A of the *Civil Aviation Act 1988*.

Contents of statement

- (2) The statement must:
- (a) specify and describe the classifications to be used to administer Australian-administered airspace; and
 - (b) specify and describe the designations to be used for the purposes of restricting access to, or warning about access to, particular volumes of Australian-administered airspace; and
 - (c) describe the processes to be followed for changing the classifications or designations of particular volumes of Australian-administered airspace; and
 - (d) outline the Commonwealth Government's policy objectives for the administration and use of Australian-administered airspace; and
 - (e) include a strategy for the administration and use of Australian-administered airspace in the future.
- (3) The statement may also include any other matter the Minister thinks appropriate.

Consistency with Chicago Convention

- (4) The statement must be consistent with the Chicago Convention. However, if Australia has notified differences under Article 38 of that Convention, the statement must be consistent with those differences.

Legislative Instruments Act

- (5) A statement made under subsection (1) is a legislative instrument, but neither section 42 nor Part 6 of the *Legislative Instruments Act 2003* applies to the statement.

9 Consultation before making Statement

- (1) Before making the Australian Airspace Policy Statement, the Minister must consult:
- (a) CASA; and
 - (b) Airservices Australia.
- (2) The Minister may also consult any other person or body the Minister thinks appropriate.

10 Statement must be reviewed every 3 years

The Minister must cause the Australian Airspace Policy Statement to be reviewed at least once in each of the following periods:

- (a) the period of 3 years after it is made;
- (b) the period of 3 years after the completion of the last review.

Part 3—Airspace regulation

11 CASA to administer and regulate Australian-administered airspace

- (1) The regulations may make provision for and in relation to conferring functions and powers on CASA that are in connection with the administration and regulation of Australian-administered airspace.
- (2) Regulations made for the purposes of subsection (1) may make provision for and in relation to any one or more of the following:
 - (a) the classification of volumes of Australian-administered airspace;
 - (b) the timing of reviews referred to in section 13 and the manner in which such reviews are to be conducted;
 - (c) the determination of the services and facilities to be provided by the providers of air navigation services in relation to particular volumes of Australian-administered airspace;
 - (d) the designation of volumes of Australian-administered airspace for the purposes of restricting access to, or warning about access to, that airspace;
 - (e) the designation of air routes and airways in Australian-administered airspace and the conditions of use of a designated air route or airway;
 - (f) the giving of directions in connection with the use or operation of a designated air route or airway or of air route or airway facilities;
 - (g) the determination of aerodromes as controlled aerodromes;
 - (h) the determination of volumes of Australian-administered airspace as flight information areas or flight information regions;
 - (i) the determination of volumes of Australian-administered airspace as control areas or control zones;
 - (j) the regulation of the provision of aeronautical information services;

- (k) the obtaining of information from the operators of aerodromes, the owners or operators of aircraft or the providers of air navigation services.
- (3) Subsection (2) does not limit subsection (1).

Penalties

- (4) Regulations made for the purposes of subsection (1) may prescribe penalties for offences against the regulations. A penalty must not be more than 50 penalty units.

Note: Regulations under the *Civil Aviation Act 1988* also contain some offences in relation to the matters mentioned in subsection (2).

Charges

- (5) Regulations made for the purposes of subsection (1) may make provision for and in relation to prescribing charges in respect of the performance of a function, or the exercise of a power, by CASA.
- (6) A charge may be set either by fixing the amount or by setting a method of calculation.
- (7) A charge must not be such as to amount to taxation.

Sub-delegation

- (8) Regulations made for the purposes of subsection (1) may make provision for and in relation to CASA delegating functions or powers to another person.

Definitions

- (9) In this section:

aerodrome has the meaning prescribed by the regulations.

aircraft has the same meaning as in the *Civil Aviation Act 1988*.

air route has the meaning prescribed by the regulations.

air route or airway facilities has the meaning prescribed by the regulations.

Section 12

airway has the meaning prescribed by the regulations.

12 Matters affecting CASA's administration and regulation of Australian-administered airspace

- (1) In performing its functions and in exercising its powers conferred under the regulations, CASA must:
 - (a) foster efficient use of Australian-administered airspace; and
 - (b) foster equitable access to that airspace for all users of that airspace.
- (2) In performing its functions and in exercising its powers conferred under the regulations, CASA must take into account:
 - (a) the capacity of Australian-administered airspace to accommodate changes in its use; and
 - (b) national security.
- (3) Subsection (2) does not limit the matters that may be taken into account.
- (4) This section is subject to sections 9A to 11A of the *Civil Aviation Act 1988*.

Note: Those sections set out other matters that affect CASA performing its functions and exercising its powers. Those sections relate to safety, protection of the environment, international agreements and the Australian Airspace Policy Statement.

13 Regular reviews

Classifications of volumes of Australian-administered airspace

- (1) CASA has the function of conducting regular reviews of the existing classifications of volumes of Australian-administered airspace in order to determine whether those classifications are appropriate.

Services and facilities

- (2) CASA has the function of conducting regular reviews of the existing services and facilities provided by the providers of air navigation services in relation to particular volumes of

Australian-administered airspace in order to determine whether those services and facilities are appropriate.

General

- (3) CASA has the function of conducting regular reviews of Australian-administered airspace generally in order to identify risk factors and to determine whether there is safe and efficient use of that airspace and equitable access to that airspace for all users of that airspace.

Part 4—CASA advice on Australian Airspace Policy Statement or airspace regulation

14 CASA advice on Australian Airspace Policy Statement or airspace regulation

- (1) The Minister may, by written notice, request advice from CASA on a matter related to:
 - (a) the Australian Airspace Policy Statement; or
 - (b) CASA's functions or powers under the regulations.
- (2) CASA must provide written advice to the Minister on that matter in accordance with the notice.
- (3) The Minister may, by writing, delegate the Minister's power under subsection (1) to the Secretary of the Department.

Part 5—Other matters

15 Regulations

The Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
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*[Minister's second reading speech made in—
House of Representatives on 29 November 2006
Senate on 6 February 2007]*

(173/06)
