

THE NORTHERN TERRITORY OF AUSTRALIA

AVIATION ACT  
No. 39 of 1980  
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# THE NORTHERN TERRITORY OF AUSTRALIA

No. 39 of 1980

## AN ACT

Relating to aviation

[Assented to 27 May 1980]

**B**E it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. This Act may be cited as the Aviation Act 1979. Short title
2. This Act shall come into operation on a date to be fixed by the Administrator by notice in the Gazette. Commencement
3. A licence granted under the Air Navigation Act 1920 of the Commonwealth and in force immediately before the commencement of this Act continues in force as a licence under this Act, changing what needs to be changed, until it expires and may be the subject of an application for renewal, variation or transfer under this Act. Savings
4. In this Act, unless the contrary intention appears - Definitions
  - "aerial work operations" means air service operations in which an aircraft is used for -
    - (a) aerial survey;
    - (b) aerial spotting where remuneration is received by the pilot or the owner of the aircraft or by a person or organization on whose behalf the spotting is conducted;
    - (c) agricultural operations other than agricultural operations on land occupied by the owner of the aircraft;
    - (d) aerial photography where remuneration is received by the pilot or the owner of the aircraft or by a person or organization on whose behalf the photography is conducted;

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- (e) advertising;
- (f) flying training;
- (g) ambulance functions;
- (h) carriage, for purposes of trade, of goods being the property of the pilot, the owner or the hirer of the aircraft (not being a carriage of goods in accordance with fixed schedules to and from fixed terminals);
- (j) police or customs functions or the service of a government department;
- (k) other operations of a character substantially similar to any of those specified;

"aircraft" means a machine that can derive support in the atmosphere from the reactions of the air, but does not include a hovercraft;

"charter operations" means air service operations in which aircraft are used -

- (a) for the carriage of passengers or cargo for hire or reward to or from any place, but which are not conducted in accordance with fixed schedules to and from fixed terminals; or
- (b) for the carriage, in accordance with fixed schedules to and from fixed terminals, of passengers or cargo or passengers and cargo in circumstances in which the accommodation in the aircraft is not available for use by members of the public;

"Director" means the person who is holding office as Director of Transport under section 5, and includes an Acting Director;

"employee" means an employee within the meaning of the Public Service Act;

"inspector" means a person who is appointed to be an inspector under section 6;

"licensee" means a person who holds a licence under this Act;

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"owner" includes a person who has the possession or control of an aircraft under an agreement other than a contract of employment or a contract for services, but does not include a party to an agreement, other than such a contract, who does not have the possession or control of the aircraft;

"regular public transport operations" means air service operations in which aircraft are available for the transport of members of the public, or for use by members of the public for the transport of cargo, for hire or reward and which are conducted in accordance with fixed schedules to and from fixed terminals over specific routes with or without intermediate stopping places between terminals.

5.(1) The Minister may, by notice in the Gazette, appoint an employee to be the Director of Transport for the purposes of this Act.

Director of  
Transport

(2) Where the Director of Transport is, or is expected to be, absent or unable to carry out the duties of his office, the Minister may appoint an employee to be the Acting Director of Transport.

6.(1) The Minister may, by instrument in writing, appoint a person to be an inspector for the purposes of this Act.

Inspectors

(2) An instrument appointing a person to be an inspector may include provisions for or in relation to limiting the powers that that person may exercise as an inspector or the circumstances or manner in which he may exercise those powers and, where it does so, that person's powers are limited accordingly.

(3) The Director shall issue to each inspector an identity card containing -

- (a) a passport-type photograph and the signature of the inspector, verified by the signature of the Director; and
- (b) if the instrument of appointment of the inspector contains a provision in pursuance of sub-section (2), a copy of that provision.

7. A person shall not, in carrying on -

Requirement  
for licence

- (a) aerial work operations;

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- (b) charter operations; or
- (c) regular public transport operations,

provide an air service solely within or relating to the Northern Territory except under and in accordance with a licence under this Act.

Penalty: \$10,000 or imprisonment for 12 months.

Application  
for licence

8.(1) A person may apply in writing to the Director for, or for the renewal, variation or transfer of, a licence to carry on specified -

- (a) aerial work operations;
- (b) charter operations; or
- (c) regular public transport operations,

with an aircraft.

(2) An application for, or for a variation of, an aircraft licence shall be in writing, setting out such particulars as may be prescribed.

Consideration  
of application

9.(1) The Director shall consider an application made under section 8 and may, in his discretion, but subject to this Act -

- (a) refuse it;
- (b) grant it; or
- (c) allow the applicant to amend it, and grant it as amended.

(2) For the purposes of sub-section (1), the Director may require the applicant to furnish him with such further information as he thinks fit.

(3) Before granting, or refusing, an application, the Director shall take into consideration, as he thinks appropriate -

- (a) the necessity for the service proposed to be provided and the convenience that would be afforded to the public by the provision of the proposed service;
- (b) the existing service for the conveyance of passengers or goods upon the routes, or within the area, proposed to be served, in relation to -

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- (i) its present adequacy and potentiality for improvement to meet all reasonable public demands; and
- (ii) the effect upon the existing service of the service proposed to be provided; and
- (c) the character, qualifications and financial situation of the applicant,

and may take into consideration such other matters as he thinks fit.

10.(1) Where the Director grants, renews, varies or transfers a licence, he may do so subject to such conditions as he thinks fit.

Conditions  
of licence

(2) It is an implied condition of a licence that -

- (a) the provisions of any regulation relating to the keeping of records or the furnishing of information applicable to the aircraft and its operation be complied with;
- (b) the provisions of any law, including a law of the Commonwealth, applicable to the aircraft and its operation be complied with;
- (c) the provisions and requirements of any industrial award or agreement applying to persons engaged in the operation or servicing of the aircraft be complied with; and
- (d) subject to paragraph (b), any direction of the Director relating to the use of airports or landing grounds be complied with.

(3) Without limiting the generality of sub-section (1), a licence may be granted, renewed, varied or transferred subject to conditions that -

- (a) the aircraft be operated only upon specified routes or in a specified area;
- (b) specified or agreed timetables be observed; and
- (c) specified or agreed fares and freight rates be charged.

11. A licence to carry on charter operations does not, unless it contains a specific provision to do so and subject to the conditions to which that provision is subject, authorize the licensee to carry on charter operations over a regular public transport route or a section of such a route.

Restrictions  
on charter  
operators

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Continuance  
of licence

12.(1) Where the Director -

(a) refuses to renew a licence; or

(b) upon renewal, varies, otherwise than by agreement, a condition of the licence,

the licence continues in force without variation, other than variations that have been agreed, but subject to sections 14 and 17, for 3 months after the date on which it expired or was renewed.

(2) Sub-section (1) does not affect the term of a licence that is renewed.

Term of  
licence

13. Subject to this Act, a licence remains in force -

(a) until the expiration of such period, not exceeding 5 years, as is specified in the licence; or

(b) if no period is so specified, until the expiration of the period of one year after it is granted or renewed.

Minister  
may vary

14. The Minister may, at any time, of his own motion, where he considers that there is sufficient reason for immediate action, by notice in writing served on the licensee, vary, or add to, vary or cancel the conditions of, an aircraft licence.

Inspection

15.(1) Subject to section 6(2), where an inspector or a member of the Police Force has reasonable cause to believe that an aircraft is being used in the commission of an offence against this Act, he may require a person who is apparently the owner or pilot or a passenger of that aircraft -

(a) to produce to him such books, records and other documents relating to the licensing or operation of that aircraft as are within that person's possession or control;

(b) to give his name and address; and

(c) to permit him to inspect the aircraft and its load.

(2) A person shall comply with and shall not contravene a requirement made under sub-section (1).

Penalty: \$2,000 or imprisonment for 6 months.

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(3) Before an inspector makes a requirement of a person under sub-section (1), he shall produce his identity card to that person.

16.(1) Where an inspector or a member of the Police Force has reasonable cause to believe that an aircraft is being used in the commission of an offence against this Act and he is unable to ascertain the name and address of the owner of the aircraft, he may seize the aircraft and hold it until it is claimed by the owner.

Seizure

(2) Where a person seizes an aircraft under sub-section (1) -

- (a) he may take or cause to be taken such steps as he considers are reasonably necessary to secure and immobilize the aircraft;
- (b) for the purposes of paragraph (a), he may require a person who is apparently the pilot or otherwise in control of the aircraft to take an action to assist him; and
- (c) upon conviction of the owner for an offence against this Act, the court may, in addition to imposing a penalty, order the owner to pay to the Director the reasonable costs of any action taken under this section.

17.(1) Where a licensee is convicted of an offence against this Act, the court, in addition to imposing a penalty, may, on and in accordance with the application of the Director, if it considers that such action is warranted, vary, suspend or cancel the licence or add to, vary or cancel the conditions of the licence.

Cancellation,  
suspension,  
&c.

(2) Where a licensee has been charged with an offence against this Act, the Director may vary or suspend the licence, or add to, vary or cancel the conditions of the licence, for such period as the Director thinks fit or until the determination or withdrawal of the charge.

(3) Where the Director has reasonable cause to believe that a licensee has committed an offence against this Act, but the licensee has not been charged, the Director may vary or suspend the licence, or add to, vary or cancel the conditions of the licence, for a period not exceeding one month.



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Review

18.(1) A licensee may request the Minister to review -

- (a) an action of the Minister taken under section 14;
- (b) an action of the Director taken under section 17; or
- (c) an action of the Director referred to in section 12(1)(a) or (b).

(2) A request shall be made under sub-section (1) by lodging with the Director, within 14 days after service on the licensee of notice of the action the subject of the request, or within such further time as the Minister for sufficient reason allows, a written notice of the request containing particulars of the grounds on which the Minister is asked to review the action.

(3) Subject to sub-section (2), the Minister shall consider a request made under sub-section (1) and may, in his discretion, take such action, if any, as he thinks fit to review the action the subject of the request.

Service of notices

19. A notice may be served on a licensee under this Act personally or by post addressed to the licensee at his last-known place of residence or business.

Evidentiary

20. The certificate of the Director -

- (a) that a person was or was not a licensee on a certain day;
- (b) that on a certain day a licence under this Act contained a certain provision, was under suspension or was subject to a certain condition; or
- (c) that on a certain day the Minister or the Director took an action in relation to a licence held under this Act,

is evidence of the facts stated in the certificate, and judicial notice shall be taken of the signature of the Director on such a certificate.

Confidentiality

21.(1) Subject to this section, a person who is a member of the Police Force of the Northern Territory or an inspector shall not, either directly or indirectly, except in the performance of his duty as a policeman

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or inspector, and either while he is or after he ceases to be a policeman or inspector, make a record of or divulge or communicate to any person any information respecting the affairs of any other person disclosed or obtained under a provision of this Act.

Penalty: \$4,000 or imprisonment for 2 years.

(2) For the purposes of sub-section (1), the Director shall -

- (a) hold all records and papers that could be the subject of an offence against sub-section (1) in his custody; and
- (b) ensure that no inspector or other person sees them or learns of their contents unless it is necessary or desirable that he do so for the purposes of the administration of this Act or of prosecuting a person for an offence against this Act.

(3) Without limiting the generality of sub-section (2), the Director shall not allow a person to see a record or paper or learn of its contents by reason only that that person is -

- (a) a minister or other public official; or
- (b) constituting a court or tribunal or exercising a judicial or administrative power or function.

22.(1) The Administrator may make regulations, not inconsistent with this Act, prescribing all matters required or permitted to be prescribed, or necessary or convenient to be prescribed, for carrying out or giving effect to this Act.

Regulations

(2) Without limiting the generality of sub-section (1), the regulations may make provision for or in respect of -

- (a) the application for or for a variation of and the conditions that shall be implied in a licence;
- (b) fees, or methods of determining fees, and exemptions from payment of fees, for licences or for renewals, variations and transfers of licences;
- (c) the holding of a licence by a body corporate, including provision for or in relation to the cancellation or variation of a licence where

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- there is a change in the ownership, management or control of the body corporate;
- (d) the records to be kept by licensees;
  - (e) the furnishing by licensees of statistical or other information; and
  - (f) the payment to inspectors of allowances and expenses.
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