

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

ALLAN PICKERING,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 15 October, 1964.*

New South Wales



ANNO TERTIO DECIMO

ELIZABETHÆ II REGINÆ

Act No. , 1964.

An Act to prohibit, in certain circumstances, the carriage by aircraft of passengers or goods from one place to another within New South Wales except under the authority of a license granted by the Commissioner for Motor Transport; to amend the State Transport (Co-ordination) Act, 1931-1962, the Air Navigation Act, 1938-1947, and the Transport Act, 1930-1964; and for purposes connected therewith.

BE

Air Transport.

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 :—

1. (1) This Act may be cited as the "Air Transport Act, 1964".

Short title,
construction
and
citation.

(2) This Act shall be read and construed subject to the Commonwealth of Australia Constitution Act and so as not to exceed the legislative power of the State, to the intent that where any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of this Act and the application of the provision to other persons or circumstances shall not be affected.

(3) The State Transport (Co-ordination) Act, 1931, as amended by subsequent Acts and by this Act, may be cited as the State Transport (Co-ordination) Act, 1931-1964.

(4) The Air Navigation Act, 1938, as amended by subsequent Acts and by this Act, may be cited as the Air Navigation Act, 1938-1964.

(5) The Transport Act, 1930, as amended by subsequent Acts and by this Act, may be cited as the Transport Act, 1930-1964.

2. (1) In this Act, unless the context or subject matter otherwise indicates or requires—

Interpreta-
tion.

"Air Navigation Regulations" means the Air Navigation Regulations made and as in force from time to time under the Air Navigation Act 1920-1963, of the Parliament of the Commonwealth of Australia, or any Act amending that Act.

"Appointed day"—

(a) where a day is not appointed pursuant to subsection two of this section, means the twenty-sixth day of October, one thousand nine hundred and sixty-four; or

(b)

Air Transport.

(b) where a day is so appointed, means that day, or where more than one day is so appointed, means the later or latest of those days.

5 "Carry" means carry for reward or for any consideration or in the course of any trade or business and expressions derived therefrom have a corresponding interpretation.

10 "Commissioner" means the Commissioner for Motor Transport constituted under the Transport (Division of Functions) Further Amendment Act, 1952, as amended by the State Transport (Co-ordination) Amendment Act, 1954.

15 "Corporation" has the meaning ascribed thereto in section five of the Companies Act, 1961, as amended by subsequent Acts.

"Goods" includes livestock.

"License" means license issued under this Act and includes a renewal of any such license.

20 "Prescribed" means prescribed by regulations.

"Regulations" means regulations under this Act.

(2) The Governor may, by proclamation published in the Gazette, appoint a day or days for the purposes of paragraph (b) of the definition of "Appointed day" in sub-
25 section one of this section, but any day so appointed shall be not earlier—

(a) than the twenty-sixth day of October, one thousand nine hundred and sixty-four; or

30 (b) where any day has been previously so appointed—
than any such day.

(3) Where two or more days are appointed pursuant to subsection two of this section, the later or latest of those days shall be notified by proclamation published in the Gazette not later than the first or last previous day so
35 appointed, as the case may be.

Air Transport.

3. (1) A person shall not, on or after the appointed day, carry by an aircraft from a place in New South Wales to another place in New South Wales any passengers or goods unless—

Licensing
of persons
and aircraft
for the
carriage
intrastate of
passengers
or goods.

- 5 (a) the aircraft is licensed under this Act;
(b) that person is the holder of the license; and
(c) where the license was granted in respect of a route or routes, the route over which the passengers or goods are so carried is such a route.

10 (2) A person who contravenes any of the provisions of subsection one of this section is guilty of an offence against this Act and is liable for a first offence to a penalty of not less than five hundred pounds nor more than one thousand pounds, for a second offence to a penalty of not less than five
15 thousand pounds nor more than ten thousand pounds, and for a third or subsequent offence to a penalty of not less than ten thousand pounds nor more than twenty thousand pounds.

(3) In respect of an offence against this Act arising under subsection one of this section the following persons
20 shall, in addition to the person by whom the offence was committed, be deemed to have committed the like offence, that is to say :—

(a) the person who is shown, in the register of Australian aircraft kept under the Air Navigation
25 Regulations or in the certificate of registration issued under those regulations, as the owner of the aircraft which was used in the commission of the offence; and

(b) where the person committing the offence is a
30 corporation, any director, member of the governing body, or manager, of the corporation or of any related corporation within the meaning of section six of the Companies Act, 1961, as amended by subsequent Acts.

35 (4) An allegation in any information—

- (a) that a person on a specified date carried by an aircraft from a place in New South Wales to another place in New South Wales any passengers or goods;
or
(b)

Air Transport.

(b) that a person is a person referred to in subsection three of this section, shall be prima facie evidence of the matters so alleged.

(5) Subsection four of this section shall apply to any matter so alleged although—

(a) evidence in support or rebuttal of the matter alleged or of any other matter is given by a witness; or

(b) the matter alleged is a mixed question of law and fact, but in that case the allegation shall be prima facie evidence of the fact only.

(6) Any pecuniary penalty imposed on an individual pursuant to this section may be recovered as a debt due to Her Majesty in any court of competent jurisdiction but nothing in this subsection affects the operation of the provisions of section eighty-two, ninety-two, ninety-three, ninety-four or ninety-five of the Justices Act, 1902, as amended by subsequent Acts, in respect of any such penalty, or any part of any such penalty, not so recovered, and any amount so recovered under this subsection shall for the purposes of those provisions be deemed to have been paid to any person to whom moneys may be paid or may be caused to be paid under any of those provisions.

(7) The provisions of section 556A of the Crimes Act, 1900, as amended by subsequent Acts, do not apply in respect of any offence against this Act arising under subsection one or three of this section.

4. (1) A person (in this section referred to as an "authorised person") authorised in writing to do so by the Commissioner may require any person who appears to that authorised person to be concerned in, or employed in connection with, the conduct of any services for the carriage of passengers or goods by aircraft to answer any question with respect to the use, in connection with those services, of any aircraft for the carriage from one place in New South Wales to another place in New South Wales of any passengers or goods.

Powers of authorised persons.

(2) Any person who fails to comply with a requirement of an authorised person made under subsection one of this

Air Transport.

this section or who answers in a false or misleading manner any question put to him by an authorised person pursuant to that subsection is guilty of an offence against this Act.

(3) A person shall not be guilty of an offence under subsection two of this section by reason of his failure to answer any question if he proves to the satisfaction of the court that he did not know and could not with reasonable diligence have ascertained the answer to the question.

(4) A person shall not be excused from answering any question, if required to do so under subsection one of this section, on the ground that the answer might tend to criminate him or make him liable to a penalty, but the answer given by him shall not be admissible against him in any proceedings civil or criminal, except in proceedings for an offence arising under subsection two of this section.

(5) Where any answer to a question referred to in subsection one of this section, or any information whatsoever, is given to an authorised person by the prescribed officer of a corporation, such answer and information shall, for the purposes of any proceedings against the corporation for an offence arising under the provisions of section three of this Act, be binding upon and admissible in evidence against the corporation, unless it is proved that the answer or information was given in relation to a matter in respect of which the prescribed officer had no authority to bind the corporation.

The provisions of this subsection shall be in addition to and not in derogation from any rule of law relating to the binding effect and admissibility in evidence of statements made by any officer or employee of a corporation.

(6) Any person who communicates any information acquired by him in the course of the administration of this Act except in accordance with the instruction in writing of the Minister or for the purpose of proceedings in any court is guilty of an offence against this Act.

(7) In this section "prescribed officer of a corporation" means the managing director, manager or other governing officer, by whatever name called or any member of the governing body of the corporation and, where any officer or employee of the corporation gives any information to an authorised person, whether in answer to a question or not, relating

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relating to any part of the operations of the corporation over which such officer or employee exercises any superintendence or control, includes that officer or employee.

5. (1) An application for a license shall—
- 5 (a) be made to the Commissioner; Applica-
tions for
licenses.
- (b) be in writing and in a form approved by the Commissioner;
- (c) be accompanied by a fee of ten shillings or, where another amount is prescribed, that other amount;
- 10 (d) specify the route or routes, if any, in respect of which the application is made;
- (e) specify the aircraft in respect of which the application is made;
- 15 (f) specify whether the application is for a license to carry passengers or goods or both passengers and goods over the route or routes so specified; and
- (g) specify such particulars and contain such information as the Commissioner may require.
- (2) An applicant for a license shall furnish to the
- 20 Commissioner such additional particulars and information as the Commissioner may require.
6. (1) The Commissioner may grant or refuse any appli- Considera-
tion by the
Commis-
sioner of
applica-
tions for
licenses.
- cation for a license.
- (2) A license may be granted subject to or not subject
- 25 to conditions, including conditions as to whether the carriage of passengers or goods or of both passengers and goods is authorised by the license.
- (3) In deciding whether to grant or refuse a license and the conditions, if any, subject to which it should be
- 30 granted, the Commissioner shall have regard to such of the following matters as to him seem appropriate and to no other matters :—
- (a) the needs, in relation to air transport services, of the public of New South Wales as a whole and of the public of any area or district to be served by the route or routes, or by any of the routes, specified in the application for the license;
- 35 (b)

Air Transport.

- 5 (b) the extent, if any, to which the needs of the public of New South Wales as a whole or of the public of any area or district to be served by the route or routes, or by any of the routes, specified in the application for the license are already, or are likely to be, served by public air transport services;
- 10 (c) the allocation of routes for public air transport services between persons holding or applying for licenses under this Act so as to foster as far as possible the existence of more than one airline operating in New South Wales capable of providing adequate and reasonable public air transport services within New South Wales and so as to discourage the development of any monopoly of public air transport services within New South Wales;
- 15 (d) where the applicant is an individual, his character and suitability and fitness to hold the license applied for and, where the applicant is a corporation, the character of the persons responsible for the management or conduct of the corporation and the suitability and fitness of the corporation to hold the license applied for;
- 20 (e) the extent to which the area or district to be served by the route or routes, or any of the routes, specified in the application for the license are already, or are likely to be, served by forms of public transport other than public air transport and the effect that the public air transport services proposed to be conducted by the applicant for the license over that route or those routes may have upon those other forms of transport.
- 25
- 30

7. (1) A license shall be in such form as the Commis- Licenses.
 sioner may determine, shall specify the aircraft in respect of
 35 which it is issued and may specify the route or routes in
 respect of which the license is granted.

(2) A license shall expire on the anniversary of the day upon which it was granted or upon such earlier day as may be specified therein.

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8. (1) Where at any time, the Commissioner, having regard to such of the matters specified in paragraphs (a), (b), (c), (d) and (e) of subsection three of section six of this Act as to him seem appropriate and to no other matters, is of opinion that it is desirable to do so, he may by notice in writing served on the holder of a license—

(a) revoke or vary, as on and from a date specified in the notice, or suspend for a period or periods so specified, the license or any of the particulars or conditions thereof; or

(b) attach to the license, as on and from a date so specified, any further or new condition.

(2) A notice under subsection one of this section—

(a) shall have effect according to its tenor; and

(b) may be served, in the case of an individual, personally or by sending it by post to the holder of the license at the address last notified to the Commissioner by the holder of the license or, in the case of a corporation, in the manner mentioned in subsection one of section three hundred and sixty-two of the Companies Act, 1961, as amended by subsequent Acts.

(3) Without limiting the generality of subsection one of this section, the Commissioner may revoke, or suspend for such period as he thinks fit, a license if the holder fails to comply with any of the provisions of this Act or of the regulations or with any of the conditions attached to the license.

(4) The Commissioner may exercise any of the powers conferred on him by subsection one or three of this section notwithstanding that at the time the power is exercised the license is suspended.

9. A person who neglects or fails to comply with any condition attached to a license of which he is the holder is guilty of an offence against this Act.

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10. On and from the appointed day, any license or permit in respect of an aircraft and in force under the State Transport (Co-ordination) Act, 1931, as amended by subsequent Acts, shall cease to have any force or effect.

Certain licenses and permits under the State Transport (Co-ordination) Act, 1931, to cease to have effect.

5 11. A certificate purporting to be signed by the officer for the time being in charge of the records kept under this Act stating that a person is or is not, or was or was not on any day or during any period, the holder of a license, or that any particulars or conditions are, or were, on a specified day,
10 particulars or conditions contained in or attached to a license, or that any particulars are not, or were not, on a specified day, contained in a license, shall in all courts and before all persons be prima facie evidence of the matters stated in the certificate without proof of the signature or official character of the
15 person purporting to sign the certificate.

Evidence of license.

12. (1) Except where otherwise provided, a person guilty of an offence against this Act is liable to a penalty not exceeding five hundred pounds, or to imprisonment for a period not exceeding twelve months, or to both such penalty and
20 imprisonment.

Penalties and proceedings for offences against Act or regulations.

(2) All proceedings for offences against this Act or the regulations shall be disposed of summarily before a stipendiary magistrate.

(3) An information for an offence against this
25 Act may be laid at any time within two years after the commission of the offence.

(4) An information for an offence against this Act shall not be laid except with the consent in writing of the Attorney-General.

30 13. (1) The Governor may make regulations not inconsistent with this Act for or with respect to—

Regulations.

- (a) prescribing the fees to accompany applications for licenses;
- 35 (b) generally prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act. (2)

Air Transport.

(2) The regulations may impose a penalty not exceeding one hundred pounds for any breach thereof.

(3) All regulations shall—

- (a) be published in the Gazette ;
- 5 (b) take effect from the date of publication or from a later date to be specified in the regulations ; and
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is then in session, and if not, then within fourteen
- 10 sitting days after the commencement of the next session.

(4) If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before that

15 House disallowing any regulation or part thereof, the regulation or part thereof shall thereupon cease to have effect.

14. (1) The State Transport (Co-ordination) Act, 1931, as amended by subsequent Acts, is amended—

Amendment
of Act No.
32, 1931.

- 20 (a) (i) by omitting from subsection one of section three the definition of "Air Navigation Regulations"; (Interpretation.)
- (ii) by omitting from the definition of "Motor vehicle" in the same subsection the words "and also includes aircraft";
- 25 (b) by omitting from paragraph (d) of subsection two of section fourteen the words ", or in the case of an aircraft, particulars of the certificate of registration and the certificate of airworthiness issued under the Air Navigation Regulations";
- 30 (c) (i) by omitting from subsection one of section fifteen the words "other than an aircraft";
- (ii) by omitting subsection two of the same section;
- (iii) by omitting from subsection three of the same section the words "or subsection two";
- 35 (d) (i) by omitting from subsection one of section sixteen the words "other than an aircraft";
- (ii)

Sec. 3.

(Interpretation.)

Sec. 14.

(Licenses.)

Sec. 15.

(Effect of license.)

Sec. 16.

(Registration of license.)

Air Transport.

- (ii) by omitting from subsection two of the same section the words "other than an aircraft";
- (iii) by omitting subsection three of the same section;
- 5 (e) by omitting from paragraph (g) of subsection three Sec. 17.
of section seventeen the words "Provided that the (Certain
certificate of registration and the certificate of conditions
airworthiness of an aircraft issued under the Air of license.)
Navigation Regulations or a registration of any
10 motor vehicle other than aircraft" and by inserting
in lieu thereof the words "Provided that a registra-
tion of any motor vehicle";
- (f) by omitting from subsection three of section twenty- Sec. 21.
one the words "other than an aircraft". (Cancell-
ation of
license.)
- 15 (2) The amendments made by subsection one of this
section shall commence upon the appointed day.
- 15.** (1) The Air Navigation Act, 1938, as amended by Amendment
subsequent Acts, is amended by omitting from section four of Act No.
the words "State Transport (Co-ordination) Act, 1931-1947," 9, 1938.
18 wherever occurring and by inserting in lieu thereof the words Sec. 4.
"Air Transport Act, 1964,". (Applica-
tion of
Common-
wealth Air
Navigation
Regulations
to air
navigation
within New
South
Wales.)
- (2) The amendment made by subsection one of this
section shall commence upon the appointed day.
- 16.** The Transport Act, 1930, as amended by subsequent Amendment
25 Acts, is amended— of Act No.
18, 1930.
Sec. 202.
(Road
Transport
and Traffic
Fund.)
- (a) by inserting at the end of subsection one of section
two hundred and two the following new
paragraph :—
30 (f) all fees charged under the Air Transport
Act, 1964;
- (b)

Air Transport.

(b) by inserting at the end of subsection two of the same section the following new paragraph : —

(i) all administrative and other expenses of the Commissioner in respect of the Air Transport Act, 1964.

17. Nothing in this Act affects—

(a) the liability of any person for an offence against the State Transport (Co-ordination) Act, 1931, as amended by subsequent Acts, committed by him before the appointed day; or

(b) any prosecution for or penalty in respect of any such offence,

and any such prosecution may be instituted, continued or enforced, and any such penalty may be imposed and enforced, as if the amendments made by this Act to the State Transport (Co-ordination) Act, 1931, as amended by subsequent Acts, had not been made.

Offences under State Transport (Co-ordination) Act, 1931, not affected by this Act.

18. Nothing in this Act relieves a person of any obligation to hold or effect any license or registration which he is otherwise by law required to hold or effect.

Obligations under other laws.

19. On and from a day to be appointed by the Governor for the purposes of this section and notified by proclamation published in the Gazette, this Act is amended—

Repeal of certain provisions of this Act as from future day.

(a) (i) by omitting from subsection two of section three the words “and is liable for a first offence to a penalty of not less than five hundred pounds nor more than one thousand pounds, for a second offence to a penalty of not less than five thousand pounds nor more than ten thousand pounds, and for a third or subsequent offence to a penalty of not less than ten thousand pounds nor more than twenty thousand pounds”;

(ii) by omitting subsections three, four, five, six and seven of the same section;

(b)

Sec. 3. (Licensing of persons and air-craft for the carriage intrastate of passengers or goods.)

Air Transport.

- (b) by omitting from subsection one of section twelve the words "Except where otherwise provided, a" and by inserting in lieu thereof the word "A".

Sec. 12.
(Penalties
and
proceedings
for offences
against Act
or regula-
tions.)

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, SYDNEY, NEW SOUTH WALES—1964
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THE UNIVERSITY OF CHICAGO

1944

No. , 1964.

A BILL

To prohibit, in certain circumstances, the carriage by aircraft of passengers or goods from one place to another within New South Wales except under the authority of a license granted by the Commissioner for Motor Transport; to amend the State Transport (Co-ordination) Act, 1931-1962, the Air Navigation Act, 1938-1947, and the Transport Act, 1930-1964; and for purposes connected therewith.

[Mr. RENSHAW;—13 October, 1964.]

BE

Air Transport.

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 :—

1. (1) This Act may be cited as the "Air Transport Act, 1964".

Short title,
construc-
tion and
citation.

(2) This Act shall be read and construed subject to the Commonwealth of Australia Constitution Act and so as not to exceed the legislative power of the State, to the intent that where any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of this Act and the application of the provision to other persons or circumstances shall not be affected.

(3) The State Transport (Co-ordination) Act, 1931, as amended by subsequent Acts and by this Act, may be cited as the State Transport (Co-ordination) Act, 1931-1964.

(4) The Air Navigation Act, 1938, as amended by subsequent Acts and by this Act, may be cited as the Air Navigation Act, 1938-1964.

(5) The Transport Act, 1930, as amended by subsequent Acts and by this Act, may be cited as the Transport Act, 1930-1964.

2. (1) In this Act, unless the context or subject matter otherwise indicates or requires—

Interpreta-
tion.

"Air Navigation Regulations" means the Air Navigation Regulations made and as in force from time to time under the Air Navigation Act 1920-1963, of the Parliament of the Commonwealth of Australia, or any Act amending that Act.

"Appointed day"—

(a) where a day is not appointed pursuant to subsection two of this section, means the twenty-sixth day of October, one thousand nine hundred and sixty-four; or

(b)

Air Transport.

- (b) where a day is so appointed, means that day, or where more than one day is so appointed, means the later or latest of those days.
- 5 "Carry" means carry for reward or for any consideration or in the course of any trade or business.
- "Commissioner" means the Commissioner for Motor Transport constituted under the Transport (Division of Functions) Further Amendment Act, 1952, as
- 10 amended by the State Transport (Co-ordination) Amendment Act, 1954.
- "Corporation" has the meaning ascribed thereto in section five of the Companies Act, 1961, as amended by subsequent Acts.
- 15 "Goods" includes livestock.
- "License" means license issued under this Act and includes a renewal of any such license.
- "Prescribed" means prescribed by regulations.
- "Regulations" means regulations under this Act.
- 20 (2) The Governor may, by proclamation published in the Gazette, appoint a day or days for the purposes of paragraph (b) of the definition of "Appointed day" in subsection one of this section, but any day so appointed shall be not earlier—
- 25 (a) than the twenty-sixth day of October, one thousand nine hundred and sixty-four; or
- (b) where any day has been previously so appointed—than any such day.
- (3) Where two or more days are appointed pursuant
- 30 to subsection two of this section, the later or latest of those days shall be notified by proclamation published in the Gazette not later than the second or last previous day so appointed, as the case may be.
3. (1) A person shall not, on or after the appointed day,
- 35 carry by an aircraft from a place in New South Wales to another place in New South Wales any passengers or goods unless—
- (a) the aircraft is licensed under this Act;
- (b)

Licensing
of persons
and aircraft
for the
carriage
intrastate of
passengers
or goods.

Air Transport.

- (b) that person is the holder of the license ; and
- (c) where the license was granted in respect of a route or routes, the route over which the passengers or goods are so carried is such a route.

5 (2) A person who contravenes any of the provisions of subsection one of this section is guilty of an offence against this Act and is liable for a first offence to a penalty of not less than five hundred pounds nor more than one thousand pounds, for a second offence to a penalty of not less than five
10 thousand pounds nor more than ten thousand pounds, and for a third or subsequent offence to a penalty of not less than ten thousand pounds nor more than twenty thousand pounds.

(3) In respect of an offence against this Act arising under subsection one of this section the following persons
15 shall, in addition to the person by whom the offence was committed, be deemed to have committed the like offence, that is to say :—

- 20 (a) the person who is shown, in the register of Australian aircraft kept under the Air Navigation Regulations or in the certificate of registration issued under those regulations, as the owner of the aircraft which was used in the commission of the offence ; and
- 25 (b) where the person committing the offence is a corporation, any director, member of the governing body, or manager, of the corporation or of any related corporation within the meaning of section six of the Companies Act, 1961, as amended by subsequent Acts.

30 (4) An allegation in any information—

- (a) that a person on a specified date carried by an aircraft from a place in New South Wales to another place in New South Wales any passengers or goods ; or
- 35 (b) that a person is a person referred to in subsection three of this section,

shall be prima facie evidence of the matters so alleged.

(5)

Air Transport.

(5) Subsection four of this section shall apply to any matter so alleged although—

- (a) evidence in support or rebuttal of the matter alleged or of any other matter is given by a witness; or
- 5 (b) the matter alleged is a mixed question of law and fact, but in that case the allegation shall be prima facie evidence of the fact only.

(6) Any pecuniary penalty imposed on an individual pursuant to paragraph (a) of subsection three of this section
10 may be recovered as a debt due to Her Majesty in any court of competent jurisdiction but nothing in this subsection affects the operation of the provisions of section eighty-two, ninety-two, ninety-three, ninety-four or ninety-five of the Justices Act, 1902, as amended by subsequent Acts, in respect of any
15 such penalty, or any part of any such penalty, not so recovered, and any amount so recovered under this subsection shall for the purposes of those provisions be deemed to have been paid to any person to whom moneys may be paid or may be caused to be paid under any of those provisions.

20 (7) The provisions of section 556A of the Crimes Act, 1900, as amended by subsequent Acts, do not apply in respect of any offence against this Act arising under subsection one or three of this section.

4. (1) A person (in this section referred to as an
25 "authorised person") authorised in writing to do so by the Commissioner may require any person who appears to that authorised person to be concerned in, or employed in connection with, the conduct of any services for the carriage of passengers or goods by aircraft to answer any question with
30 respect to the use, in connection with those services, of any aircraft for the carriage from one place in New South Wales to another place in New South Wales of any passengers or goods.

Powers of authorised persons.

(2) Any person who fails to comply with a requirement of an authorised person made under subsection one of this section or who answers in a false or misleading manner any question put to him by an authorised person pursuant to that subsection is guilty of an offence against this Act.

(3)

Air Transport.

(3) A person shall not be guilty of an offence under subsection two of this section by reason of his failure to answer any question if he proves to the satisfaction of the court that he did not know and could not with reasonable
5 diligence have ascertained the answer to the question.

(4) A person shall not be excused from answering any question, if required to do so under subsection one of this section, on the ground that the answer might tend to criminate him or make him liable to a penalty, but the answer given by
10 him shall not be admissible against him in any proceedings civil or criminal, except in proceedings for an offence arising under subsection two of this section.

(5) Where any answer to a question referred to in subsection one of this section, or any information whatsoever,
15 is given to an authorised person by the prescribed officer of a corporation, such answer and information shall, for the purposes of any proceedings against the corporation for an offence arising under the provisions of section three of this Act, be binding upon and admissible in evidence against the
20 corporation, unless it is proved that the answer or information was given in relation to a matter in respect of which the prescribed officer had no authority to bind the corporation.

The provisions of this subsection shall be in addition to and not in derogation from any rule of law relating to the
25 binding effect and admissibility in evidence of statements made by any officer or employee of a corporation.

(6) Any person who communicates any information acquired by him in the course of the administration of this Act except in accordance with the instruction in writing of
30 the Minister or for the purpose of proceedings in any court is guilty of an offence against this Act.

(7) In this section "prescribed officer of a corporation" means the managing director, manager or other governing officer, by whatever name called or any member of the
35 governing body of the corporation and, where any officer or employee of the corporation gives any information to an authorised person, whether in answer to a question or not,
relating

Air Transport.

relating to any part of the operations of the corporation over which such officer or employee exercises any superintendence or control, includes that officer or employee.

5. (1) An application for a license shall—
- 5 (a) be made to the Commissioner;
- (b) be in writing and in a form approved by the Commissioner;
- (c) be accompanied by a fee of ten shillings or, where another amount is prescribed, that other amount;
- 10 (d) specify the route or routes, if any, in respect of which the application is made;
- (e) specify the aircraft in respect of which the application is made;
- 15 (f) specify whether the application is for a license to carry passengers or goods or both passengers and goods over the route or routes so specified; and
- (g) specify such particulars and contain such information as the Commissioner may require.
- (2) An applicant for a license shall furnish to the
- 20 Commissioner such additional particulars and information as the Commissioner may require.
6. (1) The Commissioner may grant or refuse any application for a license.
- (2) A license may be granted subject to or not subject
- 25 to conditions, including conditions as to whether the carriage of passengers or goods or of both passengers and goods is authorised by the license.
- (3) In deciding whether to grant or refuse a license and the conditions, if any, subject to which it should be
- 30 granted, the Commissioner shall have regard to such of the following matters as to him seem appropriate and to no other matters :—
- (a) the needs, in relation to air transport services, of the public of New South Wales as a whole and of the public of any area or district to be served by the route or routes, or by any of the routes, specified in the application for the license;
- 35 (b)

Applications for licenses.

Consideration by the Commissioner of applications for licenses.

Air Transport.

- 5 (b) the extent, if any, to which the needs of the public of New South Wales as a whole or of the public of any area or district to be served by the route or routes, or by any of the routes, specified in the application for the license are already, or are likely to be, served by public air transport services;
- 10 (c) the allocation of routes for public air transport services between persons holding or applying for licenses under this Act so as to foster as far as possible the existence of more than one airline operating in New South Wales capable of providing adequate and reasonable public air transport services within New South Wales and so as to discourage the development of any monopoly of public air transport services within New South Wales;
- 15 (d) where the applicant is an individual, his character and suitability and fitness to hold the license applied for and, where the applicant is a corporation, the character of the persons responsible for the management or conduct of the corporation and the suitability and fitness of the corporation to hold the license applied for;
- 20 (e) the extent to which the area or district to be served by the route or routes, or any of the routes, specified in the application for the license are already, or are likely to be, served by forms of public transport other than public air transport and the effect that the public air transport services proposed to be conducted by the applicant for the license over that route or those routes may have upon those other forms of transport.
- 25
- 30
7. (1) A license shall be in such form as the Commis- Licenses.
sioner may determine, shall specify the aircraft in respect of
35 which it is issued and may specify the route or routes in respect of which the license is granted.
- (2) A license shall expire on the anniversary of the day upon which it was granted or upon such earlier day as may be specified therein.

Air Transport.

8. (1) Where at any time, the Commissioner, having regard to such of the matters specified in paragraph (a), (b), (c), (d) or (e) of subsection three of section six of this Act as to him seem appropriate and to no other matters, is of opinion that it is desirable to do so, he may by notice in writing served on the holder of a license—

Revocation,
suspension
and varia-
tion of
licenses.

- (a) revoke or vary, as on and from a date specified in the notice, or suspend for a period or periods so specified, the license or any of the particulars or conditions thereof; or
- (b) attach to the license, as on and from a date so specified, any further or new condition.

(2) A notice under subsection one of this section—

- (a) shall have effect according to its tenor; and
- (b) may be served, in the case of an individual, personally or by sending it by post to the holder of the license at the address last notified to the Commissioner by the holder of the license or, in the case of a corporation, in the manner mentioned in subsection one of section three hundred and sixty-two of the Companies Act, 1961, as amended by subsequent Acts.

(3) Without limiting the generality of subsection one of this section, the Commissioner may revoke, or suspend for such period as he thinks fit, a license if the holder fails to comply with any of the provisions of this Act or of the regulations or with any of the conditions attached to the license.

(4) The Commissioner may exercise any of the powers conferred on him by subsection one or three of this section notwithstanding that at the time the power is exercised the license is suspended.

9. A person who neglects or fails to comply with any condition attached to a license of which he is the holder is guilty of an offence against this Act.

Non-
compliance
with
conditions.

Air Transport.

10. On and from the appointed day, any license or permit in respect of an aircraft and in force under the State Transport (Co-ordination) Act, 1931, as amended by subsequent Acts, shall cease to have any force or effect.

Certain licenses and permits under the State Transport (Co-ordination) Act, 1931, to cease to have effect.

5 11. A certificate purporting to be signed by the officer for the time being in charge of the records kept under this Act stating that a person is or is not, or was or was not on any day or during any period, the holder of a license, or that
10 particulars or conditions are, or were, on a specified day, or that any particulars are not, or were not, on a specified day, contained in a license, shall in all courts and before all persons be prima facie evidence of the matters stated in the certificate
15 person purporting to sign the certificate.

Evidence of license.

12. (1) Except where otherwise provided, a person guilty of an offence against this Act is liable to a penalty not exceeding five hundred pounds, or to imprisonment for a period not exceeding twelve months, or to both such penalty and
20 imprisonment.

Penalties and proceedings for offences against Act or regulations.

(2) All proceedings for offences against this Act or the regulations shall be disposed of summarily before a stipendiary magistrate.

(3) An information for an offence against this
25 Act may be laid at any time within two years after the commission of the offence.

13. (1) The Governor may make regulations not inconsistent with this Act for or with respect to—

Regulations.

- 30 (a) prescribing the fees to accompany applications for licenses;
- (b) generally prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2)

Air Transport.

(2) The regulations may impose a penalty not exceeding one hundred pounds for any breach thereof.

(3) All regulations shall—

- (a) be published in the Gazette;
- 5 (b) take effect from the date of publication or from a later date to be specified in the regulations; and
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of the next session.

(4) If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before that House disallowing any regulation or part thereof, the regulation or part thereof shall thereupon cease to have effect.

14. (1) The State Transport (Co-ordination) Act, 1931, as amended by subsequent Acts, is amended—

- (a) (i) by omitting from subsection one of section three the definition of "Air Navigation Regulations";
- 20 (ii) by omitting from the definition of "Motor vehicle" in the same subsection the words "and also includes aircraft";
- (b) by omitting from paragraph (d) of subsection two of section fourteen the words ", or in the case of an aircraft, particulars of the certificate of registration and the certificate of airworthiness issued under the Air Navigation Regulations";
- 25 (c) (i) by omitting from subsection one of section fifteen the words "other than an aircraft";
- 30 (ii) by omitting subsection two of the same section;
- (iii) by omitting from subsection three of the same section the words "or subsection two";
- (d) (i) by omitting from subsection one of section sixteen the words "other than an aircraft";
- 35 (ii)

Amendment
of Act No.
32, 1931.

Sec. 3.
(Interpreta-
tion.)

Sec. 14.
(Licenses.)

Sec. 15.
(Effect of
license.)

Sec. 16.
(Registra-
tion of
license.)

Air Transport.

- (ii) by omitting from subsection two of the same section the words "other than an aircraft";
- (iii) by omitting subsection three of the same section;
- 5 (e) by omitting from paragraph (g) of subsection three Sec. 17.
of section seventeen the words "Provided that the (Certain
certificate of registration and the certificate of conditions
airworthiness of an aircraft issued under the Air of license.)
Navigation Regulations or a registration of any
10 motor vehicle other than aircraft" and by inserting
in lieu thereof the words "Provided that a registra-
tion of any motor vehicle";
- (f) by omitting from subsection three of section twenty- Sec. 21.
one the words "other than an aircraft". (Cancell-
ation of
license.)
- 15 (2) The amendments made by subsection one of this
section shall commence upon the appointed day.
15. (1) The Air Navigation Act, 1938, as amended by Amendment
subsequent Acts, is amended by omitting from section four of Act No.
the words "State Transport (Co-ordination) Act, 1931-1947," 9, 1938.
20 wherever occurring and by inserting in lieu thereof the words Sec. 4.
"Air Transport Act, 1964,". (Applica-
tion of
Common-
wealth Air
Navigation
Regulations
to air
navigation
within New
South
Wales.)
- (2) The amendment made by subsection one of this
section shall commence upon the appointed day.
16. The Transport Act, 1930, as amended by subsequent Amendment
25 Acts, is amended— of Act No.
18, 1930.
Sec. 202.
(Road
Transport
and Traffic
Fund.)
- (a) by inserting at the end of subsection one of section
two hundred and two the following new
paragraph :—
- (f) all fees charged under the Air Transport
30 Act, 1964;
- (b)

Air Transport.

(b) by inserting at the end of subsection two of the same section the following new paragraph :—

(i) all administrative and other expenses of the Commissioner in respect of the Air Transport Act, 1964.

5

17. Nothing in this Act affects—

(a) the liability of any person for an offence against the State Transport (Co-ordination) Act, 1931, as amended by subsequent Acts, committed by him before the appointed day; or

10

Offences under State Transport (Co-ordination) Act, 1931, not affected by this Act.

(b) any prosecution for or penalty in respect of any such offence,

and any such prosecution may be instituted, continued or enforced, and any such penalty may be imposed and enforced,

15 as if the amendments made by this Act to the State Transport (Co-ordination) Act, 1931, as amended by subsequent Acts, had not been made.

18. Nothing in this Act relieves a person of any obligation to hold or effect any license or registration which he is otherwise by law required to hold or effect.

20

Obligations under other laws.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, SYDNEY, NEW SOUTH WALES—1964

[1s. 4d.]

the law

(b) by inserting at the end of the section two of the same section the following new paragraph:

(c) All administrative and other expenses of the Commission in respect of the Air Transport Act, 1921.

17. Nothing in this Act shall

(a) the liability of an agent for an offence against the State Transport Commission Act, 1921, as amended by subsequent Acts, committed by him before the appointed day, or

(b) any prosecution for an offence in respect of any such offence.

and any such prosecution may be instituted, commenced or enforced and any such penalty may be imposed and enforced as if the amendments made in this Act by the Transport Commission Act, 1921, as amended by subsequent Acts had not been made.

18. Nothing in this Act shall affect the power of any officer to hold or effect any licence or certificate which he is otherwise by law required to hold or effect.

AIR TRANSPORT BILL, 1964.

EXPLANATORY NOTE.

THE objects of this Bill are—

- (a) to prohibit, as on and from an appointed day, the carriage by aircraft of passengers or goods for reward or for any consideration or in the course of any trade or business from one place to another in New South Wales except under the authority of a license granted by the Commissioner for Motor Transport ;
- (b) to make machinery provisions relating to the issue of any such license, including provisions specifying the matters that the Commissioner for Motor Transport may have regard to in considering an application for any such license and authorising him to attach conditions to any such license ;
- (c) to empower the Commissioner for Motor Transport to revoke, suspend or vary any such license or condition thereof ;
- (d) to provide for the cessation, as on and from the day referred to in paragraph (a) hereof, of licenses in respect of aircraft issued under the State Transport (Co-ordination) Act, 1931, as amended by subsequent Acts ;
- (e) to make other provisions of a machinery or ancillary character.

THE TOWN OF ST. JOHN

1880-1881

By J. H. B. B. B.

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PROOF

No. , 1964.

A BILL

To prohibit, in certain circumstances, the carriage by aircraft of passengers or goods from one place to another within New South Wales except under the authority of a license granted by the Commissioner for Motor Transport; to amend the State Transport (Co-ordination) Act, 1931-1962, the Air Navigation Act, 1938-1947, and the Transport Act, 1930-1964; and for purposes connected therewith.

[MR. RENSHAW;—13 *October*, 1964.]

BE

Air Transport.

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 :—

1. (1) This Act may be cited as the "Air Transport Act, 1964".

Short title,
construc-
tion and
citation.

(2) This Act shall be read and construed subject to the Commonwealth of Australia Constitution Act and so as not to exceed the legislative power of the State, to the intent that where any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of this Act and the application of the provision to other persons or circumstances shall not be affected.

(3) The State Transport (Co-ordination) Act, 1931, as amended by subsequent Acts and by this Act, may be cited as the State Transport (Co-ordination) Act, 1931-1964.

(4) The Air Navigation Act, 1938, as amended by subsequent Acts and by this Act, may be cited as the Air Navigation Act, 1938-1964.

(5) The Transport Act, 1930, as amended by subsequent Acts and by this Act, may be cited as the Transport Act, 1930-1964.

2. (1) In this Act, unless the context or subject matter otherwise indicates or requires—

Interpreta-
tion.

"Air Navigation Regulations" means the Air Navigation Regulations made and as in force from time to time under the Air Navigation Act 1920-1963, of the Parliament of the Commonwealth of Australia, or any Act amending that Act.

"Appointed day"—

(a) where a day is not appointed pursuant to subsection two of this section, means the twenty-sixth day of October, one thousand nine hundred and sixty-four; or

(b)

Air Transport.

(b) where a day is so appointed, means that day, or where more than one day is so appointed, means the later or latest of those days.

5 "Carry" means carry for reward or for any consideration or in the course of any trade or business.

"Commissioner" means the Commissioner for Motor Transport constituted under the Transport (Division of Functions) Further Amendment Act, 1952, as
10 amended by the State Transport (Co-ordination) Amendment Act, 1954.

"Corporation" has the meaning ascribed thereto in section five of the Companies Act, 1961, as amended by subsequent Acts.

15 "Goods" includes livestock.

"License" means license issued under this Act and includes a renewal of any such license.

"Prescribed" means prescribed by regulations.

"Regulations" means regulations under this Act.

20 (2) The Governor may, by proclamation published in the Gazette, appoint a day or days for the purposes of paragraph (b) of the definition of "Appointed day" in subsection one of this section, but any day so appointed shall be not earlier—

25 (a) than the twenty-sixth day of October, one thousand nine hundred and sixty-four; or

(b) where any day has been previously so appointed—
than any such day.

(3) Where two or more days are appointed pursuant
30 to subsection two of this section, the later or latest of those days shall be notified by proclamation published in the Gazette not later than the second or last previous day so appointed, as the case may be.

3. (1) A person shall not, on or after the appointed day,
35 carry by an aircraft from a place in New South Wales to another place in New South Wales any passengers or goods unless—

(a) the aircraft is licensed under this Act;

(b) Licensing of persons and aircraft for the carriage intrastate of passengers or goods.

Air Transport.

- (b) that person is the holder of the license ; and
- (c) where the license was granted in respect of a route or routes, the route over which the passengers or goods are so carried is such a route.

5 (2) A person who contravenes any of the provisions of subsection one of this section is guilty of an offence against this Act and is liable for a first offence to a penalty of not less than five hundred pounds nor more than one thousand pounds, for a second offence to a penalty of not less than five
10 thousand pounds nor more than ten thousand pounds, and for a third or subsequent offence to a penalty of not less than ten thousand pounds nor more than twenty thousand pounds.

(3) In respect of an offence against this Act arising under subsection one of this section the following persons
15 shall, in addition to the person by whom the offence was committed, be deemed to have committed the like offence, that is to say : —

- 20 (a) the person who is shown, in the register of Australian aircraft kept under the Air Navigation Regulations or in the certificate of registration issued under those regulations, as the owner of the aircraft which was used in the commission of the offence ; and
- 25 (b) where the person committing the offence is a corporation, any director, member of the governing body, or manager, of the corporation or of any related corporation within the meaning of section six of the Companies Act, 1961, as amended by subsequent Acts.

30 (4) An allegation in any information—

- (a) that a person on a specified date carried by an aircraft from a place in New South Wales to another place in New South Wales any passengers or goods ; or
- 35 (b) that a person is a person referred to in subsection three of this section,

shall be prima facie evidence of the matters so alleged.

(5)

Air Transport.

(5) Subsection four of this section shall apply to any matter so alleged although—

- (a) evidence in support or rebuttal of the matter alleged or of any other matter is given by a witness; or
- 5 (b) the matter alleged is a mixed question of law and fact, but in that case the allegation shall be prima facie evidence of the fact only.

(6) Any pecuniary penalty imposed on an individual pursuant to paragraph (a) of subsection three of this section
 10 may be recovered as a debt due to Her Majesty in any court of competent jurisdiction but nothing in this subsection affects the operation of the provisions of section eighty-two, ninety-two, ninety-three, ninety-four or ninety-five of the Justices Act, 1902, as amended by subsequent Acts, in respect of any
 15 such penalty, or any part of any such penalty, not so recovered, and any amount so recovered under this subsection shall for the purposes of those provisions be deemed to have been paid to any person to whom moneys may be paid or may be caused to be paid under any of those provisions.

20 (7) The provisions of section 556A of the Crimes Act, 1900, as amended by subsequent Acts, do not apply in respect of any offence against this Act arising under subsection one or three of this section.

4. (1) A person (in this section referred to as an
 25 "authorised person") authorised in writing to do so by the Commissioner may require any person who appears to that authorised person to be concerned in, or employed in connection with, the conduct of any services for the carriage of passengers or goods by aircraft to answer any question with
 30 respect to the use, in connection with those services, of any aircraft for the carriage from one place in New South Wales to another place in New South Wales of any passengers or goods.

Powers of authorised persons.

(2) Any person who fails to comply with a requirement of an authorised person made under subsection one of this section or who answers in a false or misleading manner any question put to him by an authorised person pursuant to that subsection is guilty of an offence against this Act.

(3)

Air Transport.

(3) A person shall not be guilty of an offence under subsection two of this section by reason of his failure to answer any question if he proves to the satisfaction of the court that he did not know and could not with reasonable
5 diligence have ascertained the answer to the question.

(4) A person shall not be excused from answering any question, if required to do so under subsection one of this section, on the ground that the answer might tend to criminate him or make him liable to a penalty, but the answer given by
10 him shall not be admissible against him in any proceedings civil or criminal, except in proceedings for an offence arising under subsection two of this section.

(5) Where any answer to a question referred to in subsection one of this section, or any information whatsoever,
15 is given to an authorised person by the prescribed officer of a body corporate, such answer and information shall, for the purposes of any proceedings against the body corporate for an offence arising under the provisions of section three of this Act, be binding upon and admissible in evidence against the
20 body corporate, unless it is proved that the answer or information was given in relation to a matter in respect of which the prescribed officer had no authority to bind the body corporate.

The provisions of this subsection shall be in addition to and not in derogation from any rule of law relating to the
25 binding effect and admissibility in evidence of statements made by any officer or employee of a corporation.

(6) Any person who communicates any information acquired by him in the course of the administration of this Act except in accordance with the instruction in writing of
30 the Minister or for the purpose of proceedings in any court is guilty of an offence against this Act.

(7) In this section "prescribed officer of a corporation" means the managing director, manager or other governing officer, by whatever name called or any member of the
35 governing body of the corporation and, where any officer or employee of the corporation gives any information to an authorised person, whether in answer to a question or not,
relating

Air Transport.

relating to any part of the operations of the corporation over which such officer or employee exercises any superintendence or control, includes that officer or employee.

5. (1) An application for a license shall—

- 5 (a) be made to the Commissioner;
(b) be in writing and in a form approved by the Commissioner;
(c) be accompanied by a fee of ten shillings or, where another amount is prescribed, that other amount;
10 (d) specify the route or routes, if any, in respect of which the application is made;
(e) specify the aircraft in respect of which the application is made;
(f) specify whether the application is for a license to
15 carry passengers or goods or both passengers and goods over the route or routes so specified; and
(g) specify such particulars and contain such information as the Commissioner may require.

Applica-
tions for
licenses.

(2) An applicant for a license shall furnish to the
20 Commissioner such additional particulars and information as the Commissioner may require.

6. (1) The Commissioner may grant or refuse any appli-
cation for a license.

- (2) A license may be granted subject to or not subject
25 to conditions, including conditions as to whether the carriage of passengers or goods or of both passengers and goods is authorised by the license.

Considera-
tion by the
Commis-
sioner of
applica-
tions for
licenses.

(3) In deciding whether to grant or refuse a license and the conditions, if any, subject to which it should be
30 granted, the Commissioner shall have regard to such of the following matters as to him seem appropriate and to no other matters:—

- (a) the needs, in relation to air transport services, of
35 the public of New South Wales as a whole and of the public of any area or district to be served by the route or routes, or by any of the routes, specified in the application for the license;

(b)

Air Transport.

- 5 (b) the extent, if any, to which the needs of the public of New South Wales as a whole or of the public of any area or district to be served by the route or routes, or by any of the routes, specified in the application for the license are already, or are likely to be, served by public air transport services;
- 10 (c) the allocation of routes for public air transport services between persons holding or applying for licenses under this Act so as to foster as far as possible the existence of more than one airline operating in New South Wales capable of providing adequate and reasonable public air transport services within New South Wales and so as to discourage the development of any monopoly of public air transport services within New South Wales;
- 15 (d) where the applicant is an individual, his character and suitability and fitness to hold the license applied for and, where the applicant is a corporation, the character of the persons responsible for the management or conduct of the corporation and the suitability and fitness of the corporation to hold the license applied for;
- 20 (e) the extent to which the area or district to be served by the route or routes, or any of the routes, specified in the application for the license are already, or are likely to be, served by forms of public transport other than public air transport and the effect that the public air transport services proposed to be conducted by the applicant for the license over that route or those routes may have upon those other forms of transport.
- 25
- 30

7. (1) A license shall be in such form as the Commis- Licenses.
sioner may determine, shall specify the aircraft in respect of
35 which it is issued and may specify the route or routes in respect of which the license is granted.

(2) A license shall expire on the anniversary of the day upon which it was granted or upon such earlier day as may be specified therein.

Air Transport.

8. (1) Where at any time, the Commissioner, having regard to such of the matters specified in paragraph (a), (b), (c), (d) or (e) of subsection three of section six of this Act as to him seem appropriate and to no other matters, is of opinion that it is desirable to do so, he may by notice in writing served on the holder of a license—

Revocation,
suspension
and varia-
tion of
licenses.

(a) revoke or vary, as on and from a date specified in the notice, or suspend for a period or periods so specified, the license or any of the particulars or conditions thereof; or

(b) attach to the license, as on and from a date so specified, any further or new condition.

(2) A notice under subsection one of this section—

(a) shall have effect according to its tenor; and

(b) may be served, in the case of an individual, personally or by sending it by post to the holder of the license at the address last notified to the Commissioner by the holder of the license or, in the case of a corporation, in the manner mentioned in subsection one of section three hundred and sixty-two of the Companies Act, 1961, as amended by subsequent Acts.

(3) Without limiting the generality of subsection one of this section, the Commissioner may revoke, or suspend for such period as he thinks fit, a license if the holder fails to comply with any of the provisions of this Act or of the regulations or with any of the conditions attached to the license.

(4) The Commissioner may exercise any of the powers conferred on him by subsection one or three of this section notwithstanding that at the time the power is exercised the license is suspended.

9. A person who neglects or fails to comply with any condition attached to a license of which he is the holder is guilty of an offence against this Act.

Non-
compliance
with
conditions.

Air Transport.

10. On and from the appointed day, any license or permit in respect of an aircraft and in force under the State Transport (Co-ordination) Act, 1931, as amended by subsequent Acts, shall cease to have any force or effect.

Certain licenses and permits under the State Transport (Co-ordination) Act, 1931, to cease to have effect.

5 11. A certificate purporting to be signed by the officer for the time being in charge of the records kept under this Act stating that a person is or is not, or was or was not on any day or during any period, the holder of a license, or that
10 particulars or conditions contained in or attached to a license, or that any particulars are not, or were not, on a specified day, contained in a license, shall in all courts and before all persons be prima facie evidence of the matters stated in the certificate
15 without proof of the signature or official character of the person purporting to sign the certificate.

Evidence of license.

12. (1) Except where otherwise provided, a person guilty of an offence against this Act is liable to a penalty not exceeding five hundred pounds, or to imprisonment for a period not exceeding twelve months, or to both such penalty and
20 imprisonment.

Penalties and proceedings for offences against Act or regulations.

(2) All proceedings for offences against this Act or the regulations shall be disposed of summarily before a stipendiary magistrate.

(3) An information for an offence against this
25 Act may be laid at any time within two years after the commission of the offence.

13. (1) The Governor may make regulations not inconsistent with this Act for or with respect to—

Regulations.

- 30 (a) prescribing the fees to accompany applications for licenses;
- (b) generally prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2)

Air Transport.

(2) The regulations may impose a penalty not exceeding one hundred pounds for any breach thereof.

(3) All regulations shall—

- (a) be published in the Gazette;
- 5 (b) take effect from the date of publication or from a later date to be specified in the regulations; and
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is then in session, and if not, then within fourteen
- 10 sitting days after the commencement of the next session.

(4) If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before that

15 House disallowing any regulation or part thereof, the regulation or part thereof shall thereupon cease to have effect.

14. (1) The State Transport (Co-ordination) Act, 1931, as amended by subsequent Acts, is amended—

Amendment
of Act No.
32, 1931.

- 20 (a) (i) by omitting from subsection one of section three the definition of "Air Navigation Regulations";
- (ii) by omitting from the definition of "Motor vehicle" in the same subsection the words "and also includes aircraft";
- 25 (b) by omitting from paragraph (d) of subsection two of section fourteen the words ", or in the case of an aircraft, particulars of the certificate of registration and the certificate of airworthiness issued under the Air Navigation Regulations";
- 30 (c) (i) by omitting from subsection one of section fifteen the words "other than an aircraft";
- (ii) by omitting subsection two of the same section;
- (iii) by omitting from subsection three of the same section the words "or subsection two";
- 35 (d) (i) by omitting from subsection one of section sixteen the words "other than an aircraft";
- (ii)

Sec. 3.
(Interpretation.)

Sec. 14.
(Licenses.)

Sec. 15.
(Effect of license.)

Sec. 16.
(Registration of license.)

Air Transport.

- (ii) by omitting from subsection two of the same section the words "other than an aircraft";
- (iii) by omitting subsection three of the same section;
- 5 (e) by omitting from paragraph (g) of subsection three Sec. 17.
of section seventeen the words "Provided that the (Certain
certificate of registration and the certificate of conditions
of license.)
airworthiness of an aircraft issued under the Air
Navigation Regulations or a registration of any
10 motor vehicle other than aircraft" and by inserting
in lieu thereof the words "Provided that a registra-
tion of any motor vehicle";
- (f) by omitting from subsection three of section twenty- Sec. 21.
one the words "other than an aircraft". (Cancell-
ation of
license.)
- 15 (2) The amendments made by subsection one of this
section shall commence upon the appointed day.
- 15.** (1) The Air Navigation Act, 1938, as amended by Amendment
subsequent Acts, is amended by omitting from section four of Act No.
the words "State Transport (Co-ordination) Act, 1931-1947," 9, 1938.
20 wherever occurring and by inserting in lieu thereof the words Sec. 4.
"Air Transport Act, 1964,". (Applica-
tion of
Common-
wealth Air
Navigation
Regulations
to air
navigation
within New
South
Wales.)
- (2) The amendment made by subsection one of this
section shall commence upon the appointed day.
- 16.** The Transport Act, 1930, as amended by subsequent Amendment
25 Acts, is amended— of Act No.
18, 1930. 08
- (a) by inserting at the end of subsection one of section Sec. 202.
two hundred and two the following new (Road
Transport
and Traffic
Fund.)
paragraph :—
- (f) all fees charged under the Air Transport
30 Act, 1964;
- (b)

Air Transport.

(b) by inserting at the end of subsection two of the same section the following new paragraph :—

5 (i) all administrative and other expenses of the Commissioner in respect of the Air Transport Act, 1964.

17. Nothing in this Act affects—

10 (a) the liability of any person for an offence against the State Transport (Co-ordination) Act, 1931, as amended by subsequent Acts, committed by him before the appointed day; or

Offences under State Transport (Co-ordination) Act, 1931, not affected by this Act.

(b) any prosecution for or penalty in respect of any such offence,

15 and any such prosecution may be instituted, continued or enforced, and any such penalty may be imposed and enforced, as if the amendments made by this Act to the State Transport (Co-ordination) Act, 1931, as amended by subsequent Acts, had not been made.

18. Nothing in this Act relieves a person of any obligation to hold or effect any license or registration which he is otherwise by law required to hold or effect.

Obligations under other laws.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, SYDNEY, NEW SOUTH WALES—1964

1. The first part of the report is a general introduction to the subject of the study. It discusses the importance of the study and the objectives of the research.

2. The second part of the report is a detailed description of the methodology used in the study. It includes information about the sample, the data collection methods, and the statistical analysis.

3. The third part of the report is a discussion of the results of the study. It compares the findings with the previous research and discusses the implications of the results.

4. The fourth part of the report is a conclusion and a list of references.

5. The fifth part of the report is a list of appendices, which include additional data and information that support the findings of the study.

6. The sixth part of the report is a list of footnotes, which provide additional information about the sources used in the study.



New South Wales



ANNO TERTIO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 36, 1964.

An Act to prohibit, in certain circumstances, the carriage by aircraft of passengers or goods from one place to another within New South Wales except under the authority of a license granted by the Commissioner for Motor Transport; to amend the State Transport (Co-ordination) Act, 1931-1962, the Air Navigation Act, 1938-1947, and the Transport Act, 1930-1964; and for purposes connected therewith. [Assented to, 16th October, 1964.]

BE

Air Transport.

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,
construc-
tion and
citation.

1. (1) This Act may be cited as the "Air Transport Act, 1964".

(2) This Act shall be read and construed subject to the Commonwealth of Australia Constitution Act and so as not to exceed the legislative power of the State, to the intent that where any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of this Act and the application of the provision to other persons or circumstances shall not be affected.

(3) The State Transport (Co-ordination) Act, 1931, as amended by subsequent Acts and by this Act, may be cited as the State Transport (Co-ordination) Act, 1931-1964.

(4) The Air Navigation Act, 1938, as amended by subsequent Acts and by this Act, may be cited as the Air Navigation Act, 1938-1964.

(5) The Transport Act, 1930, as amended by subsequent Acts and by this Act, may be cited as the Transport Act, 1930-1964.

Interpreta-
tion.

2. (1) In this Act, unless the context or subject matter otherwise indicates or requires—

"Air Navigation Regulations" means the Air Navigation Regulations made and as in force from time to time under the Air Navigation Act 1920-1963, of the Parliament of the Commonwealth of Australia, or any Act amending that Act.

"Appointed day"—

(a) where a day is not appointed pursuant to subsection two of this section, means the twenty-sixth day of October, one thousand nine hundred and sixty-four; or

(b)

Air Transport.

(b) where a day is so appointed, means that day, or where more than one day is so appointed, means the later or latest of those days.

“Carry” means carry for reward or for any consideration or in the course of any trade or business and expressions derived therefrom have a corresponding interpretation.

“Commissioner” means the Commissioner for Motor Transport constituted under the Transport (Division of Functions) Further Amendment Act, 1952, as amended by the State Transport (Co-ordination) Amendment Act, 1954.

“Corporation” has the meaning ascribed thereto in section five of the Companies Act, 1961, as amended by subsequent Acts.

“Goods” includes livestock.

“License” means license issued under this Act and includes a renewal of any such license.

“Prescribed” means prescribed by regulations.

“Regulations” means regulations under this Act.

(2) The Governor may, by proclamation published in the Gazette, appoint a day or days for the purposes of paragraph (b) of the definition of “Appointed day” in subsection one of this section, but any day so appointed shall be not earlier—

(a) than the twenty-sixth day of October, one thousand nine hundred and sixty-four; or

(b) where any day has been previously so appointed—than any such day.

(3) Where two or more days are appointed pursuant to subsection two of this section, the later or latest of those days shall be notified by proclamation published in the Gazette not later than the first or last previous day so appointed, as the case may be.

Air Transport.

Licensing
of persons
and aircraft
for the
carriage
intrastate of
passengers
or goods.

3. (1) A person shall not, on or after the appointed day, carry by an aircraft from a place in New South Wales to another place in New South Wales any passengers or goods unless—

- (a) the aircraft is licensed under this Act;
- (b) that person is the holder of the license; and
- (c) where the license was granted in respect of a route or routes, the route over which the passengers or goods are so carried is such a route.

(2) A person who contravenes any of the provisions of subsection one of this section is guilty of an offence against this Act and is liable for a first offence to a penalty of not less than five hundred pounds nor more than one thousand pounds, for a second offence to a penalty of not less than five thousand pounds nor more than ten thousand pounds, and for a third or subsequent offence to a penalty of not less than ten thousand pounds nor more than twenty thousand pounds.

(3) In respect of an offence against this Act arising under subsection one of this section the following persons shall, in addition to the person by whom the offence was committed, be deemed to have committed the like offence, that is to say :—

- (a) the person who is shown, in the register of Australian aircraft kept under the Air Navigation Regulations or in the certificate of registration issued under those regulations, as the owner of the aircraft which was used in the commission of the offence; and
- (b) where the person committing the offence is a corporation, any director, member of the governing body, or manager, of the corporation or of any related corporation within the meaning of section six of the Companies Act, 1961, as amended by subsequent Acts.

(4) An allegation in any information—

- (a) that a person on a specified date carried by an aircraft from a place in New South Wales to another place in New South Wales any passengers or goods; or
- (b)

Air Transport.

(b) that a person is a person referred to in subsection three of this section,
shall be prima facie evidence of the matters so alleged.

(5) Subsection four of this section shall apply to any matter so alleged although—

- (a) evidence in support or rebuttal of the matter alleged or of any other matter is given by a witness; or
- (b) the matter alleged is a mixed question of law and fact, but in that case the allegation shall be prima facie evidence of the fact only.

(6) Any pecuniary penalty imposed on an individual pursuant to this section may be recovered as a debt due to Her Majesty in any court of competent jurisdiction but nothing in this subsection affects the operation of the provisions of section eighty-two, ninety-two, ninety-three, ninety-four or ninety-five of the Justices Act, 1902, as amended by subsequent Acts, in respect of any such penalty, or any part of any such penalty, not so recovered, and any amount so recovered under this subsection shall for the purposes of those provisions be deemed to have been paid to any person to whom moneys may be paid or may be caused to be paid under any of those provisions.

(7) The provisions of section 556A of the Crimes Act, 1900, as amended by subsequent Acts, do not apply in respect of any offence against this Act arising under subsection one or three of this section.

4. (1) A person (in this section referred to as an "authorised person") authorised in writing to do so by the Commissioner may require any person who appears to that authorised person to be concerned in, or employed in connection with, the conduct of any services for the carriage of passengers or goods by aircraft to answer any question with respect to the use, in connection with those services, of any aircraft for the carriage from one place in New South Wales to another place in New South Wales of any passengers or goods.

Powers of
authorised
persons.

(2) Any person who fails to comply with a requirement of an authorised person made under subsection one of this

Air Transport.

this section or who answers in a false or misleading manner any question put to him by an authorised person pursuant to that subsection is guilty of an offence against this Act.

(3) A person shall not be guilty of an offence under subsection two of this section by reason of his failure to answer any question if he proves to the satisfaction of the court that he did not know and could not with reasonable diligence have ascertained the answer to the question.

(4) A person shall not be excused from answering any question, if required to do so under subsection one of this section, on the ground that the answer might tend to criminate him or make him liable to a penalty, but the answer given by him shall not be admissible against him in any proceedings civil or criminal, except in proceedings for an offence arising under subsection two of this section.

(5) Where any answer to a question referred to in subsection one of this section, or any information whatsoever, is given to an authorised person by the prescribed officer of a corporation, such answer and information shall, for the purposes of any proceedings against the corporation for an offence arising under the provisions of section three of this Act, be binding upon and admissible in evidence against the corporation, unless it is proved that the answer or information was given in relation to a matter in respect of which the prescribed officer had no authority to bind the corporation.

The provisions of this subsection shall be in addition to and not in derogation from any rule of law relating to the binding effect and admissibility in evidence of statements made by any officer or employee of a corporation.

(6) Any person who communicates any information acquired by him in the course of the administration of this Act except in accordance with the instruction in writing of the Minister or for the purpose of proceedings in any court is guilty of an offence against this Act.

(7) In this section "prescribed officer of a corporation" means the managing director, manager or other governing officer, by whatever name called or any member of the governing body of the corporation and, where any officer or employee of the corporation gives any information to an authorised person, whether in answer to a question or not, relating

Air Transport.

relating to any part of the operations of the corporation over which such officer or employee exercises any superintendence or control, includes that officer or employee.

5. (1) An application for a license shall—

Applica-
tions for
licenses.

- (a) be made to the Commissioner;
- (b) be in writing and in a form approved by the Commissioner;
- (c) be accompanied by a fee of ten shillings or, where another amount is prescribed, that other amount;
- (d) specify the route or routes, if any, in respect of which the application is made;
- (e) specify the aircraft in respect of which the application is made;
- (f) specify whether the application is for a license to carry passengers or goods or both passengers and goods over the route or routes so specified; and
- (g) specify such particulars and contain such information as the Commissioner may require.

(2) An applicant for a license shall furnish to the Commissioner such additional particulars and information as the Commissioner may require.

6. (1) The Commissioner may grant or refuse any application for a license.

Considera-
tion by the
Commis-
sioner of
applica-
tions for
licenses.

(2) A license may be granted subject to or not subject to conditions, including conditions as to whether the carriage of passengers or goods or of both passengers and goods is authorised by the license.

(3) In deciding whether to grant or refuse a license and the conditions, if any, subject to which it should be granted, the Commissioner shall have regard to such of the following matters as to him seem appropriate and to no other matters :—

- (a) the needs, in relation to air transport services, of the public of New South Wales as a whole and of the public of any area or district to be served by the route or routes, or by any of the routes, specified in the application for the license;

(b)

Air Transport.

- (b) the extent, if any, to which the needs of the public of New South Wales as a whole or of the public of any area or district to be served by the route or routes, or by any of the routes, specified in the application for the license are already, or are likely to be, served by public air transport services;
- (c) the allocation of routes for public air transport services between persons holding or applying for licenses under this Act so as to foster as far as possible the existence of more than one airline operating in New South Wales capable of providing adequate and reasonable public air transport services within New South Wales and so as to discourage the development of any monopoly of public air transport services within New South Wales;
- (d) where the applicant is an individual, his character and suitability and fitness to hold the license applied for and, where the applicant is a corporation, the character of the persons responsible for the management or conduct of the corporation and the suitability and fitness of the corporation to hold the license applied for;
- (e) the extent to which the area or district to be served by the route or routes, or any of the routes, specified in the application for the license are already, or are likely to be, served by forms of public transport other than public air transport and the effect that the public air transport services proposed to be conducted by the applicant for the license over that route or those routes may have upon those other forms of transport.

Licenses.

7. (1) A license shall be in such form as the Commissioner may determine, shall specify the aircraft in respect of which it is issued and may specify the route or routes in respect of which the license is granted.

(2) A license shall expire on the anniversary of the day upon which it was granted or upon such earlier day as may be specified therein.

Air Transport.

8. (1) Where at any time, the Commissioner, having regard to such of the matters specified in paragraphs (a), (b), (c), (d) and (e) of subsection three of section six of this Act as to him seem appropriate and to no other matters, is of opinion that it is desirable to do so, he may by notice in writing served on the holder of a license—

Revocation,
suspension
and varia-
tion of
licenses.

(a) revoke or vary, as on and from a date specified in the notice, or suspend for a period or periods so specified, the license or any of the particulars or conditions thereof; or

(b) attach to the license, as on and from a date so specified, any further or new condition.

(2) A notice under subsection one of this section—

(a) shall have effect according to its tenor; and

(b) may be served, in the case of an individual, personally or by sending it by post to the holder of the license at the address last notified to the Commissioner by the holder of the license or, in the case of a corporation, in the manner mentioned in subsection one of section three hundred and sixty-two of the Companies Act, 1961, as amended by subsequent Acts.

(3) Without limiting the generality of subsection one of this section, the Commissioner may revoke, or suspend for such period as he thinks fit, a license if the holder fails to comply with any of the provisions of this Act or of the regulations or with any of the conditions attached to the license.

(4) The Commissioner may exercise any of the powers conferred on him by subsection one or three of this section notwithstanding that at the time the power is exercised the license is suspended.

9. A person who neglects or fails to comply with any condition attached to a license of which he is the holder is guilty of an offence against this Act.

Non-
compliance
with
conditions.

Air Transport.

Certain
licenses
and permits
under the
State Trans-
port (Co-
ordination)
Act, 1931,
to cease to
have effect.

10. On and from the appointed day, any license or permit in respect of an aircraft and in force under the State Transport (Co-ordination) Act, 1931, as amended by subsequent Acts, shall cease to have any force or effect.

Evidence
of license.

11. A certificate purporting to be signed by the officer for the time being in charge of the records kept under this Act stating that a person is or is not, or was or was not on any day or during any period, the holder of a license, or that any particulars or conditions are, or were, on a specified day, particulars or conditions contained in or attached to a license, or that any particulars are not, or were not, on a specified day, contained in a license, shall in all courts and before all persons be prima facie evidence of the matters stated in the certificate without proof of the signature or official character of the person purporting to sign the certificate.

Penalties
and
proceedings
for offences
against
Act or
regulations.

12. (1) Except where otherwise provided, a person guilty of an offence against this Act is liable to a penalty not exceeding five hundred pounds, or to imprisonment for a period not exceeding twelve months, or to both such penalty and imprisonment.

(2) All proceedings for offences against this Act or the regulations shall be disposed of summarily before a stipendiary magistrate.

(3) An information for an offence against this Act may be laid at any time within two years after the commission of the offence.

(4) An information for an offence against this Act shall not be laid except with the consent in writing of the Attorney-General.

Regulations.

13. (1) The Governor may make regulations not inconsistent with this Act for or with respect to—

- (a) prescribing the fees to accompany applications for licenses;
- (b) generally prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act. (2)

Air Transport.

(2) The regulations may impose a penalty not exceeding one hundred pounds for any breach thereof.

(3) All regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified in the regulations; and
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of the next session.

(4) If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before that House disallowing any regulation or part thereof, the regulation or part thereof shall thereupon cease to have effect.

14. (1) The State Transport (Co-ordination) Act, 1931, as amended by subsequent Acts, is amended—

Amendment
of Act No.
32, 1931.

- (a) (i) by omitting from subsection one of section three the definition of “Air Navigation Regulations”;
(ii) by omitting from the definition of “Motor vehicle” in the same subsection the words “and also includes aircraft”;
Sec. 3.
(Interpretation.)
- (b) by omitting from paragraph (d) of subsection two of section fourteen the words “, or in the case of an aircraft, particulars of the certificate of registration and the certificate of airworthiness issued under the Air Navigation Regulations”;
Sec. 14.
(Licenses.)
- (c) (i) by omitting from subsection one of section fifteen the words “other than an aircraft”;
(ii) by omitting subsection two of the same section;
(iii) by omitting from subsection three of the same section the words “or subsection two”;
Sec. 15.
(Effect of license.)
- (d) (i) by omitting from subsection one of section sixteen the words “other than an aircraft”;
(ii) license.
Sec. 16.
(Registration of license.)

Air Transport.

- (ii) by omitting from subsection two of the same section the words "other than an aircraft";
- (iii) by omitting subsection three of the same section;
- Sec. 17. (Certain conditions of license.) (e) by omitting from paragraph (g) of subsection three of section seventeen the words "Provided that the certificate of registration and the certificate of airworthiness of an aircraft issued under the Air Navigation Regulations or a registration of any motor vehicle other than aircraft" and by inserting in lieu thereof the words "Provided that a registration of any motor vehicle";
- Sec. 21. (Cancellation of license.) (f) by omitting from subsection three of section twenty-one the words "other than an aircraft".
- (2) The amendments made by subsection one of this section shall commence upon the appointed day.

Amendment of Act No. 9, 1938. Sec. 4. (Application of Commonwealth Air Navigation Regulations to air navigation within New South Wales.)

15. (1) The Air Navigation Act, 1938, as amended by subsequent Acts, is amended by omitting from section four the words "State Transport (Co-ordination) Act, 1931-1947," wherever occurring and by inserting in lieu thereof the words "Air Transport Act, 1964,".

(2) The amendment made by subsection one of this section shall commence upon the appointed day.

Amendment of Act No. 18, 1930. Sec. 202. (Road Transport and Traffic Fund.)

16. The Transport Act, 1930, as amended by subsequent Acts, is amended—

- (a) by inserting at the end of subsection one of section two hundred and two the following new paragraph :—
- (f) all fees charged under the Air Transport Act, 1964;

(b)

Air Transport.

(b) by inserting at the end of subsection two of the same section the following new paragraph :—

(i) all administrative and other expenses of the Commissioner in respect of the Air Transport Act, 1964.

17. Nothing in this Act affects—

- (a) the liability of any person for an offence against the State Transport (Co-ordination) Act, 1931, as amended by subsequent Acts, committed by him before the appointed day; or
- (b) any prosecution for or penalty in respect of any such offence,

Offences under State Transport (Co-ordination) Act, 1931, not affected by this Act.

and any such prosecution may be instituted, continued or enforced, and any such penalty may be imposed and enforced, as if the amendments made by this Act to the State Transport (Co-ordination) Act, 1931, as amended by subsequent Acts, had not been made.

18. Nothing in this Act relieves a person of any obligation to hold or effect any license or registration which he is otherwise by law required to hold or effect.

Obligations under other laws.

19. On and from a day to be appointed by the Governor for the purposes of this section and notified by proclamation published in the Gazette, this Act is amended—

Repeal of certain provisions of this Act as from future day.

- (a) (i) by omitting from subsection two of section three the words “and is liable for a first offence to a penalty of not less than five hundred pounds nor more than one thousand pounds, for a second offence to a penalty of not less than five thousand pounds nor more than ten thousand pounds, and for a third or subsequent offence to a penalty of not less than ten thousand pounds nor more than twenty thousand pounds”;

Sec. 3. (Licensing of persons and aircraft for the carriage intrastate of passengers or goods.)

- (ii) by omitting subsections three, four, five, six and seven of the same section;

(b)

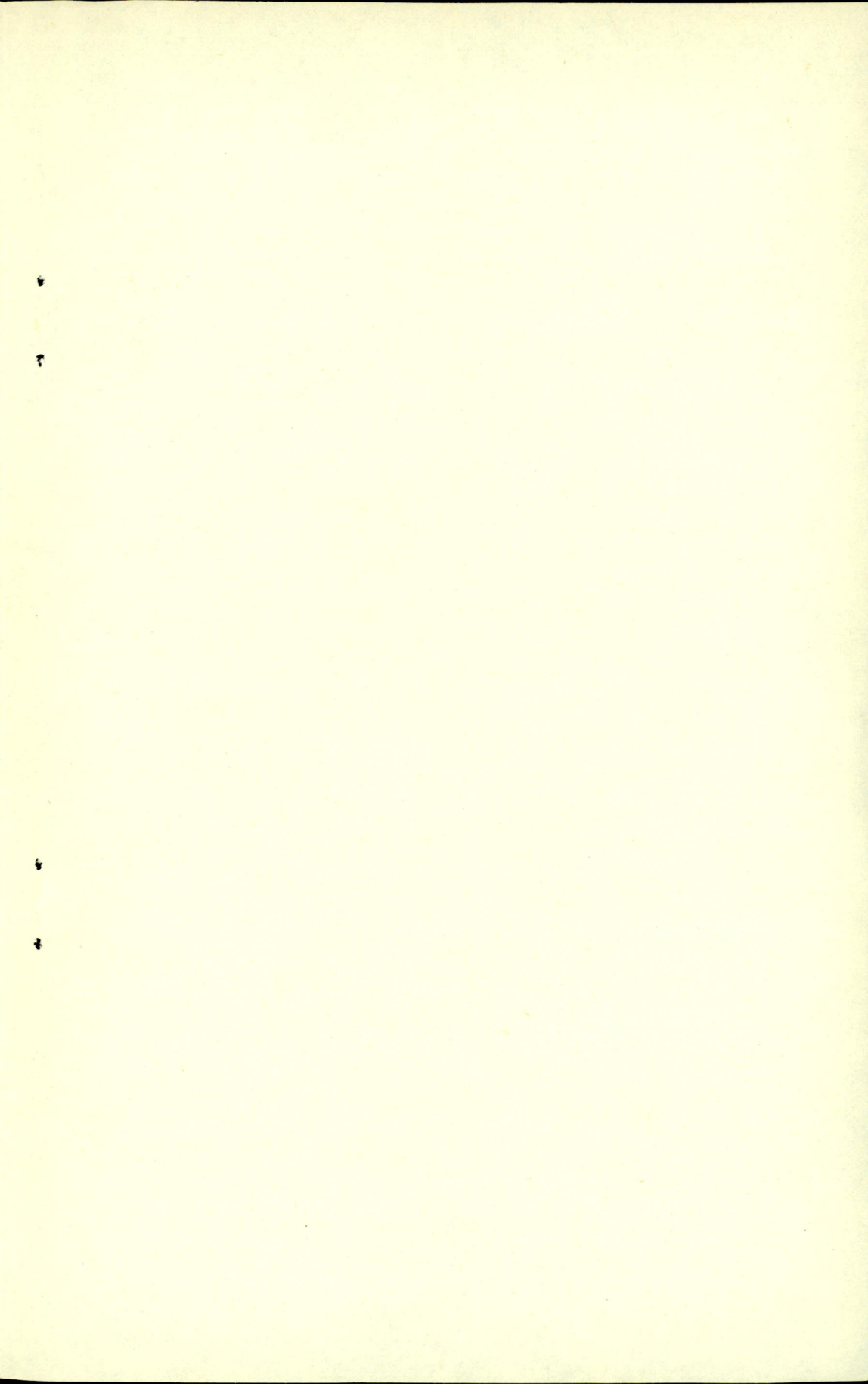
Air Transport.

Sec. 12.
(Penalties
and
proceedings
for offences
against Act
or regula-
tions.)

- (b) by omitting from subsection one of section twelve the words "Except where otherwise provided, a" and by inserting in lieu thereof the word "A".

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, SYDNEY, NEW SOUTH WALES—1964



I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

ALLAN PICKERING,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 15 October, 1964.*

New South Wales



ANNO TERTIO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 36, 1964.

An Act to prohibit, in certain circumstances, the carriage by aircraft of passengers or goods from one place to another within New South Wales except under the authority of a license granted by the Commissioner for Motor Transport; to amend the State Transport (Co-ordination) Act, 1931-1962, the Air Navigation Act, 1938-1947, and the Transport Act, 1930-1964; and for purposes connected therewith. [Assented to, 16th October, 1964.]

BE

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

HOWARD T. FOWLES,
Chairman of Committees of the Legislative Assembly.

Air Transport.

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,
construc-
tion and
citation.

1. (1) This Act may be cited as the "Air Transport Act, 1964".

(2) This Act shall be read and construed subject to the Commonwealth of Australia Constitution Act and so as not to exceed the legislative power of the State, to the intent that where any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of this Act and the application of the provision to other persons or circumstances shall not be affected.

(3) The State Transport (Co-ordination) Act, 1931, as amended by subsequent Acts and by this Act, may be cited as the State Transport (Co-ordination) Act, 1931-1964.

(4) The Air Navigation Act, 1938, as amended by subsequent Acts and by this Act, may be cited as the Air Navigation Act, 1938-1964.

(5) The Transport Act, 1930, as amended by subsequent Acts and by this Act, may be cited as the Transport Act, 1930-1964.

Interpreta-
tion.

2. (1) In this Act, unless the context or subject matter otherwise indicates or requires—

"Air Navigation Regulations" means the Air Navigation Regulations made and as in force from time to time under the Air Navigation Act 1920-1963, of the Parliament of the Commonwealth of Australia, or any Act amending that Act.

"Appointed day"—

(a) where a day is not appointed pursuant to subsection two of this section, means the twenty-sixth day of October, one thousand nine hundred and sixty-four; or

(b)

Air Transport.

(b) where a day is so appointed, means that day, or where more than one day is so appointed, means the later or latest of those days.

“Carry” means carry for reward or for any consideration or in the course of any trade or business and expressions derived therefrom have a corresponding interpretation.

“Commissioner” means the Commissioner for Motor Transport constituted under the Transport (Division of Functions) Further Amendment Act, 1952, as amended by the State Transport (Co-ordination) Amendment Act, 1954.

“Corporation” has the meaning ascribed thereto in section five of the Companies Act, 1961, as amended by subsequent Acts.

“Goods” includes livestock.

“License” means license issued under this Act and includes a renewal of any such license.

“Prescribed” means prescribed by regulations.

“Regulations” means regulations under this Act.

(2) The Governor may, by proclamation published in the Gazette, appoint a day or days for the purposes of paragraph (b) of the definition of “Appointed day” in subsection one of this section, but any day so appointed shall be not earlier—

(a) than the twenty-sixth day of October, one thousand nine hundred and sixty-four; or

(b) where any day has been previously so appointed—
than any such day.

(3) Where two or more days are appointed pursuant to subsection two of this section, the later or latest of those days shall be notified by proclamation published in the Gazette not later than the first or last previous day so appointed, as the case may be.

Air Transport.

Licensing
of persons
and aircraft
for the
carriage
intrastate of
passengers
or goods.

3. (1) A person shall not, on or after the appointed day, carry by an aircraft from a place in New South Wales to another place in New South Wales any passengers or goods unless—

- (a) the aircraft is licensed under this Act;
- (b) that person is the holder of the license; and
- (c) where the license was granted in respect of a route or routes, the route over which the passengers or goods are so carried is such a route.

(2) A person who contravenes any of the provisions of subsection one of this section is guilty of an offence against this Act and is liable for a first offence to a penalty of not less than five hundred pounds nor more than one thousand pounds, for a second offence to a penalty of not less than five thousand pounds nor more than ten thousand pounds, and for a third or subsequent offence to a penalty of not less than ten thousand pounds nor more than twenty thousand pounds.

(3) In respect of an offence against this Act arising under subsection one of this section the following persons shall, in addition to the person by whom the offence was committed, be deemed to have committed the like offence, that is to say :—

- (a) the person who is shown, in the register of Australian aircraft kept under the Air Navigation Regulations or in the certificate of registration issued under those regulations, as the owner of the aircraft which was used in the commission of the offence; and
- (b) where the person committing the offence is a corporation, any director, member of the governing body, or manager, of the corporation or of any related corporation within the meaning of section six of the Companies Act, 1961, as amended by subsequent Acts.

(4) An allegation in any information—

- (a) that a person on a specified date carried by an aircraft from a place in New South Wales to another place in New South Wales any passengers or goods; or
- (b)

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(b) that a person is a person referred to in subsection three of this section,
shall be prima facie evidence of the matters so alleged.

(5) Subsection four of this section shall apply to any matter so alleged although—

(a) evidence in support or rebuttal of the matter alleged or of any other matter is given by a witness; or

(b) the matter alleged is a mixed question of law and fact, but in that case the allegation shall be prima facie evidence of the fact only.

(6) Any pecuniary penalty imposed on an individual pursuant to this section may be recovered as a debt due to Her Majesty in any court of competent jurisdiction but nothing in this subsection affects the operation of the provisions of section eighty-two, ninety-two, ninety-three, ninety-four or ninety-five of the Justices Act, 1902, as amended by subsequent Acts, in respect of any such penalty, or any part of any such penalty, not so recovered, and any amount so recovered under this subsection shall for the purposes of those provisions be deemed to have been paid to any person to whom moneys may be paid or may be caused to be paid under any of those provisions.

(7) The provisions of section 556A of the Crimes Act, 1900, as amended by subsequent Acts, do not apply in respect of any offence against this Act arising under subsection one or three of this section.

4. (1) A person (in this section referred to as an "authorised person") authorised in writing to do so by the Commissioner may require any person who appears to that authorised person to be concerned in, or employed in connection with, the conduct of any services for the carriage of passengers or goods by aircraft to answer any question with respect to the use, in connection with those services, of any aircraft for the carriage from one place in New South Wales to another place in New South Wales of any passengers or goods.

Powers of
authorised
persons.

(2) Any person who fails to comply with a requirement of an authorised person made under subsection one of this

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this section or who answers in a false or misleading manner any question put to him by an authorised person pursuant to that subsection is guilty of an offence against this Act.

(3) A person shall not be guilty of an offence under subsection two of this section by reason of his failure to answer any question if he proves to the satisfaction of the court that he did not know and could not with reasonable diligence have ascertained the answer to the question.

(4) A person shall not be excused from answering any question, if required to do so under subsection one of this section, on the ground that the answer might tend to criminate him or make him liable to a penalty, but the answer given by him shall not be admissible against him in any proceedings civil or criminal, except in proceedings for an offence arising under subsection two of this section.

(5) Where any answer to a question referred to in subsection one of this section, or any information whatsoever, is given to an authorised person by the prescribed officer of a corporation, such answer and information shall, for the purposes of any proceedings against the corporation for an offence arising under the provisions of section three of this Act, be binding upon and admissible in evidence against the corporation, unless it is proved that the answer or information was given in relation to a matter in respect of which the prescribed officer had no authority to bind the corporation.

The provisions of this subsection shall be in addition to and not in derogation from any rule of law relating to the binding effect and admissibility in evidence of statements made by any officer or employee of a corporation.

(6) Any person who communicates any information acquired by him in the course of the administration of this Act except in accordance with the instruction in writing of the Minister or for the purpose of proceedings in any court is guilty of an offence against this Act.

(7) In this section "prescribed officer of a corporation" means the managing director, manager or other governing officer, by whatever name called or any member of the governing body of the corporation and, where any officer or employee of the corporation gives any information to an authorised person, whether in answer to a question or not, relating

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relating to any part of the operations of the corporation over which such officer or employee exercises any superintendence or control, includes that officer or employee.

5. (1) An application for a license shall—
- (a) be made to the Commissioner;
 - (b) be in writing and in a form approved by the Commissioner;
 - (c) be accompanied by a fee of ten shillings or, where another amount is prescribed, that other amount;
 - (d) specify the route or routes, if any, in respect of which the application is made;
 - (e) specify the aircraft in respect of which the application is made;
 - (f) specify whether the application is for a license to carry passengers or goods or both passengers and goods over the route or routes so specified; and
 - (g) specify such particulars and contain such information as the Commissioner may require.

Applica-
tions for
licenses.

(2) An applicant for a license shall furnish to the Commissioner such additional particulars and information as the Commissioner may require.

6. (1) The Commissioner may grant or refuse any application for a license.

Considera-
tion by the
Commis-
sioner of
applica-
tions for
licenses.

(2) A license may be granted subject to or not subject to conditions, including conditions as to whether the carriage of passengers or goods or of both passengers and goods is authorised by the license.

(3) In deciding whether to grant or refuse a license and the conditions, if any, subject to which it should be granted, the Commissioner shall have regard to such of the following matters as to him seem appropriate and to no other matters :—

- (a) the needs, in relation to air transport services, of the public of New South Wales as a whole and of the public of any area or district to be served by the route or routes, or by any of the routes, specified in the application for the license;

(b)

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- (b) the extent, if any, to which the needs of the public of New South Wales as a whole or of the public of any area or district to be served by the route or routes, or by any of the routes, specified in the application for the license are already, or are likely to be, served by public air transport services;
- (c) the allocation of routes for public air transport services between persons holding or applying for licenses under this Act so as to foster as far as possible the existence of more than one airline operating in New South Wales capable of providing adequate and reasonable public air transport services within New South Wales and so as to discourage the development of any monopoly of public air transport services within New South Wales;
- (d) where the applicant is an individual, his character and suitability and fitness to hold the license applied for and, where the applicant is a corporation, the character of the persons responsible for the management or conduct of the corporation and the suitability and fitness of the corporation to hold the license applied for;
- (e) the extent to which the area or district to be served by the route or routes, or any of the routes, specified in the application for the license are already, or are likely to be, served by forms of public transport other than public air transport and the effect that the public air transport services proposed to be conducted by the applicant for the license over that route or those routes may have upon those other forms of transport.

Licenses.

7. (1) A license shall be in such form as the Commissioner may determine, shall specify the aircraft in respect of which it is issued and may specify the route or routes in respect of which the license is granted.

(2) A license shall expire on the anniversary of the day upon which it was granted or upon such earlier day as may be specified therein.

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8. (1) Where at any time, the Commissioner, having regard to such of the matters specified in paragraphs (a), (b), (c), (d) and (e) of subsection three of section six of this Act as to him seem appropriate and to no other matters, is of opinion that it is desirable to do so, he may by notice in writing served on the holder of a license—

Revocation,
suspension
and varia-
tion of
licenses.

(a) revoke or vary, as on and from a date specified in the notice, or suspend for a period or periods so specified, the license or any of the particulars or conditions thereof; or

(b) attach to the license, as on and from a date so specified, any further or new condition.

(2) A notice under subsection one of this section—

(a) shall have effect according to its tenor; and

(b) may be served, in the case of an individual, personally or by sending it by post to the holder of the license at the address last notified to the Commissioner by the holder of the license or, in the case of a corporation, in the manner mentioned in subsection one of section three hundred and sixty-two of the Companies Act, 1961, as amended by subsequent Acts.

(3) Without limiting the generality of subsection one of this section, the Commissioner may revoke, or suspend for such period as he thinks fit, a license if the holder fails to comply with any of the provisions of this Act or of the regulations or with any of the conditions attached to the license.

(4) The Commissioner may exercise any of the powers conferred on him by subsection one or three of this section notwithstanding that at the time the power is exercised the license is suspended.

9. A person who neglects or fails to comply with any condition attached to a license of which he is the holder is guilty of an offence against this Act.

Non-
compliance
with
conditions.

Air Transport.

Certain
licenses
and permits
under the
State Trans-
port (Co-
ordination)
Act, 1931,
to cease to
have effect.

10. On and from the appointed day, any license or permit in respect of an aircraft and in force under the State Transport (Co-ordination) Act, 1931, as amended by subsequent Acts, shall cease to have any force or effect.

Evidence
of license.

11. A certificate purporting to be signed by the officer for the time being in charge of the records kept under this Act stating that a person is or is not, or was or was not on any day or during any period, the holder of a license, or that any particulars or conditions are, or were, on a specified day, particulars or conditions contained in or attached to a license, or that any particulars are not, or were not, on a specified day, contained in a license, shall in all courts and before all persons be prima facie evidence of the matters stated in the certificate without proof of the signature or official character of the person purporting to sign the certificate.

Penalties
and
proceedings
for offences
against
Act or
regulations.

12. (1) Except where otherwise provided, a person guilty of an offence against this Act is liable to a penalty not exceeding five hundred pounds, or to imprisonment for a period not exceeding twelve months, or to both such penalty and imprisonment.

(2) All proceedings for offences against this Act or the regulations shall be disposed of summarily before a stipendiary magistrate.

(3) An information for an offence against this Act may be laid at any time within two years after the commission of the offence.

(4) An information for an offence against this Act shall not be laid except with the consent in writing of the Attorney-General.

Regulations.

13. (1) The Governor may make regulations not inconsistent with this Act for or with respect to—

- (a) prescribing the fees to accompany applications for licenses;
- (b) generally prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act. (2)

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(2) The regulations may impose a penalty not exceeding one hundred pounds for any breach thereof.

(3) All regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified in the regulations; and
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is then in session, and if not, then within fourteen sitting days after the commencement of the next session.

(4) If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before that House disallowing any regulation or part thereof, the regulation or part thereof shall thereupon cease to have effect.

14. (1) The State Transport (Co-ordination) Act, 1931, as amended by subsequent Acts, is amended—

Amendment
of Act No.
32, 1931.

- (a) (i) by omitting from subsection one of section three the definition of "Air Navigation Regulations"; Sec. 3.
(Interpretation.)
- (ii) by omitting from the definition of "Motor vehicle" in the same subsection the words "and also includes aircraft";
- (b) by omitting from paragraph (d) of subsection two of section fourteen the words "; or in the case of an aircraft, particulars of the certificate of registration and the certificate of airworthiness issued under the Air Navigation Regulations"; Sec. 14.
(Licenses.)
- (c) (i) by omitting from subsection one of section fifteen the words "other than an aircraft"; Sec. 15.
(Effect of license.)
- (ii) by omitting subsection two of the same section;
- (iii) by omitting from subsection three of the same section the words "or subsection two";
- (d) (i) by omitting from subsection one of section sixteen the words "other than an aircraft"; Sec. 16.
(Registration of license.)
- (ii)

Air Transport.

- (ii) by omitting from subsection two of the same section the words "other than an aircraft";
- (iii) by omitting subsection three of the same section;
- Sec. 17.
(Certain conditions of license.) (e) by omitting from paragraph (g) of subsection three of section seventeen the words "Provided that the certificate of registration and the certificate of airworthiness of an aircraft issued under the Air Navigation Regulations or a registration of any motor vehicle other than aircraft" and by inserting in lieu thereof the words "Provided that a registration of any motor vehicle";
- Sec. 21.
(Cancellation of license.) (f) by omitting from subsection three of section twenty-one the words "other than an aircraft".
- (2) The amendments made by subsection one of this section shall commence upon the appointed day.
- Amendment of Act No. 9, 1938.
Sec. 4.
(Application of Commonwealth Air Navigation Regulations to air navigation within New South Wales.) **15.** (1) The Air Navigation Act, 1938, as amended by subsequent Acts, is amended by omitting from section four the words "State Transport (Co-ordination) Act, 1931-1947," wherever occurring and by inserting in lieu thereof the words "Air Transport Act, 1964,".
- (2) The amendment made by subsection one of this section shall commence upon the appointed day.
- Amendment of Act No. 18, 1930.
Sec. 202.
(Road Transport and Traffic Fund.) **16.** The Transport Act, 1930, as amended by subsequent Acts, is amended—
- (a) by inserting at the end of subsection one of section two hundred and two the following new paragraph :—
- (f) all fees charged under the Air Transport Act, 1964;
- (b)

Air Transport.

(b) by inserting at the end of subsection two of the same section the following new paragraph :—

(i) all administrative and other expenses of the Commissioner in respect of the Air Transport Act, 1964.

17. Nothing in this Act affects—

(a) the liability of any person for an offence against the State Transport (Co-ordination) Act, 1931, as amended by subsequent Acts, committed by him before the appointed day; or

Offences under State Transport (Co-ordination) Act, 1931, not affected by this Act.

(b) any prosecution for or penalty in respect of any such offence,

and any such prosecution may be instituted, continued or enforced, and any such penalty may be imposed and enforced, as if the amendments made by this Act to the State Transport (Co-ordination) Act, 1931, as amended by subsequent Acts, had not been made.

18. Nothing in this Act relieves a person of any obligation to hold or effect any license or registration which he is otherwise by law required to hold or effect.

Obligations under other laws.

19. On and from a day to be appointed by the Governor for the purposes of this section and notified by proclamation published in the Gazette, this Act is amended—

Repeal of certain provisions of this Act as from future day.

(a) (i) by omitting from subsection two of section three the words “and is liable for a first offence to a penalty of not less than five hundred pounds nor more than one thousand pounds, for a second offence to a penalty of not less than five thousand pounds nor more than ten thousand pounds, and for a third or subsequent offence to a penalty of not less than ten thousand pounds nor more than twenty thousand pounds”;

Sec. 3. (Licensing of persons and air-craft for the carriage intrastate of passengers or goods.)

(ii) by omitting subsections three, four, five, six and seven of the same section;

(b)

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Sec. 12.
(Penalties
and
proceedings
for offences
against Act
or regula-
tions.)

- (b) by omitting from subsection one of section twelve the words "Except where otherwise provided, a" and by inserting in lieu thereof the word "A".

*In the name and on behalf of Her Majesty I assent to
this Act.*

E. W. WOODWARD,

Governor.

Government House,

Sydney, 16th October, 1964.

