

Introduced by Mr P R Crittenden, MP

First print



New South Wales

Warnervale Airport (Restrictions) Bill 1996

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are:

- (a) to provide for restrictions on aircraft movements at Warnervale Airport in the event that the existing runway at Warnervale Airport is extended or a new runway is constructed, and
 - (b) to limit the length of any runway at Warnervale Airport, and
 - (c) to prevent construction of a new runway at Warnervale Airport, except at a site approved by the Minister, and
 - (d) to provide for the review of a proposal to expand operations at Warnervale Airport.
-

Outline of provisions

Part 1 Preliminary

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be proclaimed.

Clause 3 defines certain words and expressions used in the proposed Act. *Warnervale Airport* is any airport situated on certain land at Warnervale (near Wyong) and the *airport operator* is the person who operates Warnervale Airport. *Aircraft* means any machine that can derive support in the atmosphere from the reactions of the air but does not include a glider. An *aircraft operator* is a person who conducts an aircraft operation using aircraft.

Part 2 Restrictions on aircraft movements

Clause 4 provides that Part 2 does not apply to take offs and landings on an existing runway at Warnervale Airport, as long as the runway is not extended.

Clause 5 provides for a curfew on aircraft take offs and landings at Warnervale Airport. The curfew period starts at 10 pm on each day and ends at 6.30 am the next day. If the airport operator causes or permits an aircraft to take off or land in contravention of that curfew, the operator will be guilty of an offence. An aircraft operator who causes or permits aircraft to take off or land in contravention of the curfew will also be guilty of an offence. The curfew will not apply in certain emergency situations (see clause 7). The Minister may vary the curfew period if the Minister approves the length of any runway at Warnervale Airport being extended beyond 1 200 metres (see clause 8).

Clause 6 limits the number of movements of aircraft in and out of Warnervale Airport (that is, take offs and landings) to a total of 88 per day. If the airport operator causes or permits an aircraft to take off or land in contravention of that limit, the operator will be guilty of an offence. Emergency take offs and landings (see clause 7) are not to be counted towards the limit. The Minister may change the maximum number of aircraft movements per day if the Minister approves the length of any runway at Warnervale Airport being extended beyond 1 200 metres (see clause 8).

Clause 7 provides that the curfew, and the limit on the number of daily take offs and landings of aircraft, do not apply to aircraft that take off or land in certain emergency situations (for example, where an aircraft is being used for search and rescue operations or where an aircraft has insufficient fuel to be diverted to another airport).

Part 3 Restrictions on length and site of runway

Clause 8 provides that the maximum length for any runway (existing or proposed) at Warnervale Airport is 1 200 metres. It will be an offence for the airport operator to cause or permit an aircraft to take off or land on a runway that exceeds the maximum length. The maximum length for a runway may be increased to up to 1 800 metres by the Minister. Wyong Council may apply for such an increase. The increase may be granted only after the review and noise study provided for by Part 4 have been carried out.

Clause 9 prevents any person from carrying out work for the construction of a runway at Warnervale Airport unless the site of the runway has been approved by the Minister.

Part 4 Review of proposal to expand operations at Warnervale Airport

Clause 10 makes it clear that the review procedure and noise study provided for by Part 4 are to be carried out only if Wyong Council applies for the grant of an increase in the maximum length for an existing or proposed runway at Warnervale Airport.

Clause 11 requires the Minister to appoint an independent person or persons to conduct a review, with community input, of any studies relating to a proposal to extend the runway at Warnervale Airport or construct a new one.

Clause 12 requires the Minister to make arrangements for the carrying out of a noise study with respect to aircraft noise arising from proposed operations of Warnervale Airport.

Part 5 Miscellaneous

Clause 13 allows the Supreme Court to grant an injunction against a person who has engaged in, or is proposing to engage in, conduct that contravenes the proposed Act that restrains the person from engaging in that conduct or requires the person to do any act or thing.

Warnervale Airport (Restrictions) Bill 1996

Explanatory note

Clause 14 provides that in proceedings against a person for an offence against the proposed Act, or for an injunction (referred to in clause 13), if it is established that an aircraft took off or landed in contravention of the restrictions imposed by the Act, it is to be presumed (in the absence of evidence to the contrary adduced by the person) that the person caused or permitted the aircraft to take off or land.

Clause 15 provides for the summary disposal of proceedings for offences against the proposed Act.

Clause 16 is a general regulation making power.

Clause 17 provides for review of the proposed Act by the Minister.



New South Wales

Warnervale Airport (Restrictions) Bill 1996

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New South Wales

Warnervale Airport (Restrictions) Bill 1996

No , 1996

A Bill for

An Act to provide for restrictions on aircraft movements, and on the length and site of any runway, at Warnervale Airport; and for other purposes.

Clause 1 Warnervale Airport (Restrictions) Bill 1996

Part 1 Preliminary

The Legislature of New South Wales enacts:

Part 1 Preliminary

1 Name of Act

This Act is the *Warnervale Airport (Restrictions) Act 1996*.

2 Commencement

5

This Act commences on a day or days to be appointed by proclamation.

3 Definitions

In this Act:

aircraft means any machine that can derive support in the atmosphere from the reactions of the air but does not include a glider. 10

aircraft operator, in relation to an aircraft, means a person who conducts an aircraft operation using the aircraft.

airport operator means the person who operates Warnervale Airport. 15

Warnervale Airport means any airport situated on land at Warnervale (being land comprised in Lot 12 in DP 605250, Lot 24 in DP 53936, Lots 1 to 4 in DP 239691, Lots 22 and 23 in DP 773449 and Lot 27 in DP 228750). 20

Part 2 Restrictions on aircraft movements

4 Application of Part

- (1) This Part does not apply to take offs and landings of aircraft at Warnervale Airport on an existing runway.
- (2) An existing runway is a runway that was constructed before the commencement of this section and that is not extended at any time after the commencement of this section. 5

5 Curfew

- (1) There is a curfew period for Warnervale Airport that starts at 10 pm on each day and ends at 6.30 am on the next day. Aircraft must not take off from or land at Warnervale Airport during the curfew period. 10
- (2) An aircraft operator must not cause or permit an aircraft to take off or land in contravention of this section.
Maximum penalty: 100 penalty units. 15
- (3) The airport operator must not cause or permit an aircraft to take off or land in contravention of this section.
Maximum penalty: 100 penalty units.
- (4) This section is not contravened as a result of an aircraft taking off or landing in the circumstances described in section 7 (Emergencies). In proceedings for an offence against this Act under this section, or for an injunction under section 13, the onus is on the defendant to establish that an aircraft took off or landed in those circumstances. 20
- (5) If the maximum length for any runway at Warnervale Airport is increased under section 8, the Minister may, by order published in the Gazette, vary the curfew period for Warnervale Airport. The curfew period as varied has effect in place of the curfew period specified in subsection (1). 25

6 Limit on number of daily take offs and landings 30

- (1) The total number of take offs and landings of aircraft at Warnervale Airport (added together) occurring between the end of the curfew period on a day and the start of the next curfew period on that day must not exceed 88.

- (2) The airport operator must not cause or permit an aircraft to take off or land if the take off or landing would result in a contravention of this section.
- Maximum penalty: 100 penalty units.
- (3) An aircraft taking off or landing in the circumstances described in section 7 (Emergencies) is to be disregarded for the purposes of this section. In proceedings for an offence against this Act under this section, or for an injunction under section 13, the onus is on the airport operator to establish that an aircraft took off or landed in those circumstances. 5
- (4) If the maximum length for any runway at Warnervale Airport is increased under section 8, the Minister may, by order published in the Gazette, change the number 88 referred to in subsection (1) to any other number. The number as changed has effect in place of the number 88 in subsection (1). 10 15

7 Emergencies

The curfew, and the limit on the number of daily take offs and landings of aircraft at Warnervale Airport, do not apply to an aircraft that takes off or lands at Warnervale Airport if:

- (a) the aircraft is being used for or in connection with a search and rescue operation, a medical emergency or a natural disaster, or 20
- (b) the pilot of the aircraft has declared an in-flight emergency, or
- (c) the aircraft has insufficient fuel to be diverted to another airport, or 25
- (d) there is an urgent need for the aircraft to take off or land to ensure the safety or security of the aircraft or any person or to avoid any damage to property.

Part 3 Restrictions on length and site of runway

8 Limit on length of runway

- (1) The maximum length for any runway (existing or proposed) at Warnervale Airport is 1 200 metres.
- (2) The airport operator must not cause or permit an aircraft to take off from or land at a runway at Warnervale Airport if the runway exceeds the maximum length for the runway. 5
- Maximum penalty: 100 penalty units.
- (3) The maximum length for any runway at Warnervale Airport may be increased to up to 1 800 metres by the Minister as provided for by this section. 10
- (4) Wyong Council may apply in writing to the Minister for such an increase.
- (5) The Minister may, after completion of the review and noise study referred to in Part 4, grant the increase or refuse to grant the increase. 15
- (6) The Minister grants an increase by specifying the increased maximum length in an order published in the Gazette. The increased maximum length so specified has effect in place of the maximum length specified in subsection (1) in respect of the runway concerned. 20

9 Site of runway

- (1) A person must not carry out any work for the construction of a runway at Warnervale Airport, unless the site of the runway has been approved in writing by the Minister prior to the commencement of the work. 25
- Maximum penalty: 100 penalty units.
- (2) This section extends to work that was started before the commencement of this section and for that purpose a reference in this section to the commencement of the work is to be read as a reference to the continuation of the work after the commencement of this section. 30

Part 4 Review of proposal to expand operations at Warnervale Airport

10 Application of Part

- (1) This Part applies only if Wyong Council applies in writing to the Minister for the grant of an increase in the maximum length for an existing or proposed runway at Warnervale Airport. 5
- (2) No more than one such application can be made unless the Minister otherwise directs.

11 Independent review of proposal

- (1) The Minister is to appoint an independent person or persons to review any environmental impact study, and any other study, referred to the person or persons by the Minister that relates to a proposal to extend the runway at Warnervale Airport or to construct a new runway at that Airport. 10
- (2) The Minister is to put in place arrangements for community input on the review. 15
- (3) The person or persons appointed to conduct the review are to be appointed by the Minister following consultation with Wyong Council.

12 Noise study 20

- (1) The Minister is to make arrangements for the carrying out of a new study of the impact of aircraft noise arising from proposed operations of Warnervale Airport.
- (2) A person appointed to conduct the study must be an expert in the field and must be appointed by the Minister following consultation with Wyong Council. 25
- (3) The arrangements for the conduct of the noise study are to include arrangements for a survey, conducted independently of Wyong Council, of all residents within a 7.5 kilometre radius of any runway or proposed runway at Warnervale Airport. Those arrangements are to include arrangements for those residents to be informed of the noise study and invited to make submissions on the advantages and disadvantages of the proposed operations of Warnervale Airport. 30

Part 5 Miscellaneous

13 Injunction to prevent contravention

- (1) If the Supreme Court is satisfied, on application, that a person has engaged in or is proposing to engage in conduct that constitutes or would constitute a contravention of this Act, the Court may grant an injunction, in such terms as the Court determines to be appropriate, restraining the person from engaging in any conduct and, if in the opinion of the Court it is desirable to do so, requiring that person to do any act or thing. 5
- (2) An application under this section may be brought by any person, whether or not any right of the person has been infringed by or as a consequence of the contravention. 10
- (3) If in the opinion of the Court it is desirable to do so, the Court may grant an interim injunction pending determination of the application. 15
- (4) The Court may rescind or vary an injunction granted under this section.
- (5) The power of the Court to grant an injunction restraining a person from engaging in conduct may be exercised:
 - (a) whether or not it appears to the Court that the person intends to engage again, or continue to engage, in conduct of that kind, and 20
 - (b) whether or not the person has previously engaged in conduct of that kind, and
 - (c) whether or not there is an imminent danger of substantial damage to any person if the first-mentioned person engages in conduct of that kind. 25
- (6) The power of the Court to grant an injunction requiring a person to do an act or thing may be exercised:
 - (a) whether or not it appears to the Court that the person intends to fail again, or to continue to fail, to do an act or thing, and 30

(b) whether or not the person has previously failed to do that act or thing, and

(c) whether or not there is an imminent danger of substantial damage to any person if the first-mentioned person fails to do that act or thing.

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- (7) If the Minister makes an application to the Court for the grant of an injunction under this section, the Court is not to require the Minister or any other person, as a condition of granting an interim injunction, to give any undertakings as to damages.

14 Evidence

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In proceedings against a person for an offence against this Act, or for an injunction under section 13, if it is established that an aircraft took off or landed in contravention of a provision of this Act, it is to be presumed (in the absence of evidence to the contrary adduced by the person) that the person caused or permitted that take off or landing.

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15 Proceedings for offences

Proceedings for an offence against this Act are to be disposed of summarily before a Local Court constituted by a Magistrate sitting alone.

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16 Regulations

The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

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17 Review of Act

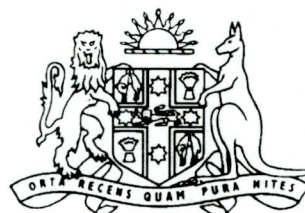
- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.

- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

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Explanatory note

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 - (b) to limit the length of any runway at Warnervale Airport, and
 - (c) to prevent construction of a new runway at Warnervale Airport, except at a site approved by the Minister, and
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Outline of provisions

Part 1 Preliminary

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be proclaimed.

Clause 3 defines certain words and expressions used in the proposed Act. *Warnervale Airport* is any airport situated on certain land at Warnervale (near Wyong) and the *airport operator* is the person who operates Warnervale Airport. *Aircraft* means any machine that can derive support in the atmosphere from the reactions of the air but does not include a glider. An *aircraft operator* is a person who conducts an aircraft operation using aircraft.

Part 2 Restrictions on aircraft movements

Clause 4 provides that Part 2 does not apply to take offs and landings on an existing runway at Warnervale Airport, as long as the runway is not extended.

Clause 5 provides for a curfew on aircraft take offs and landings at Warnervale Airport. The curfew period starts at 10 pm on each day and ends at 6.30 am the next day. If the airport operator causes or permits an aircraft to take off or land in contravention of that curfew, the operator will be guilty of an offence. An aircraft operator who causes or permits aircraft to take off or land in contravention of the curfew will also be guilty of an offence. The curfew will not apply in certain emergency situations (see clause 7). The Minister may vary the curfew period if the Minister approves the length of any runway at Warnervale Airport being extended beyond 1 200 metres (see clause 8).

Clause 6 limits the number of movements of aircraft in and out of Warnervale Airport (that is, take offs and landings) to a total of 88 per day. If the airport operator causes or permits an aircraft to take off or land in contravention of that limit, the operator will be guilty of an offence. Emergency take offs and landings (see clause 7) are not to be counted towards the limit. The Minister may change the maximum number of aircraft movements per day if the Minister approves the length of any runway at Warnervale Airport being extended beyond 1 200 metres (see clause 8).

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Clause 9 prevents any person from carrying out work for the construction of a runway at Warnervale Airport unless the site of the runway has been approved by the Minister.

Part 4 Review of proposal to expand operations at Warnervale Airport

Clause 10 makes it clear that the review procedure and noise study provided for by Part 4 are to be carried out only if Wyong Council applies for the grant of an increase in the maximum length for an existing or proposed runway at Warnervale Airport.

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Clause 12 requires the Minister to make arrangements for the carrying out of a noise study with respect to aircraft noise arising from proposed operations of Warnervale Airport.

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Clause 13 allows the Supreme Court to grant an injunction against a person who has engaged in, or is proposing to engage in, conduct that contravenes the proposed Act that restrains the person from engaging in that conduct or requires the person to do any act or thing.

Clause 14 provides that in proceedings against a person for an offence against the proposed Act, or for an injunction (referred to in clause 13), if it is established that an aircraft took off or landed in contravention of the restrictions imposed by the Act, it is to be presumed (in the absence of evidence to the contrary adduced by the person) that the person caused or permitted the aircraft to take off or land.

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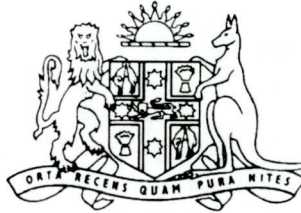
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No , 1996

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Clause 1 Warnervale Airport (Restrictions) Bill 1996

Part 1 Preliminary

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Part 1 Preliminary

1 Name of Act

This Act is the *Warnervale Airport (Restrictions) Act 1996*.

2 Commencement

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This Act commences on a day or days to be appointed by proclamation.

3 Definitions

In this Act:

aircraft means any machine that can derive support in the atmosphere from the reactions of the air but does not include a glider. 10

aircraft operator, in relation to an aircraft, means a person who conducts an aircraft operation using the aircraft.

airport operator means the person who operates Warnervale Airport. 15

Warnervale Airport means any airport situated on land at Warnervale (being land comprised in Lot 12 in DP 605250, Lot 24 in DP 53936, Lots 1 to 4 in DP 239691, Lots 22 and 23 in DP 773449 and Lot 27 in DP 228750). 20

Part 2 Restrictions on aircraft movements

4 Application of Part

- (1) This Part does not apply to take offs and landings of aircraft at Warnervale Airport on an existing runway.
- (2) An existing runway is a runway that was constructed before the commencement of this section and that is not extended at any time after the commencement of this section. 5

5 Curfew

- (1) There is a curfew period for Warnervale Airport that starts at 10 pm on each day and ends at 6.30 am on the next day. Aircraft must not take off from or land at Warnervale Airport during the curfew period. 10
- (2) An aircraft operator must not cause or permit an aircraft to take off or land in contravention of this section.
Maximum penalty: 100 penalty units. 15
- (3) The airport operator must not cause or permit an aircraft to take off or land in contravention of this section.
Maximum penalty: 100 penalty units.
- (4) This section is not contravened as a result of an aircraft taking off or landing in the circumstances described in section 7 (Emergencies). In proceedings for an offence against this Act under this section, or for an injunction under section 13, the onus is on the defendant to establish that an aircraft took off or landed in those circumstances. 20
- (5) If the maximum length for any runway at Warnervale Airport is increased under section 8, the Minister may, by order published in the Gazette, vary the curfew period for Warnervale Airport. The curfew period as varied has effect in place of the curfew period specified in subsection (1). 25

6 Limit on number of daily take offs and landings 30

- (1) The total number of take offs and landings of aircraft at Warnervale Airport (added together) occurring between the end of the curfew period on a day and the start of the next curfew period on that day must not exceed 88.

- (2) The airport operator must not cause or permit an aircraft to take off or land if the take off or landing would result in a contravention of this section.
- Maximum penalty: 100 penalty units.
- (3) An aircraft taking off or landing in the circumstances described in section 7 (Emergencies) is to be disregarded for the purposes of this section. In proceedings for an offence against this Act under this section, or for an injunction under section 13, the onus is on the airport operator to establish that an aircraft took off or landed in those circumstances. 5
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- (4) If the maximum length for any runway at Warnervale Airport is increased under section 8, the Minister may, by order published in the Gazette, change the number 88 referred to in subsection (1) to any other number. The number as changed has effect in place of the number 88 in subsection (1). 15

7 Emergencies

The curfew, and the limit on the number of daily take offs and landings of aircraft at Warnervale Airport, do not apply to an aircraft that takes off or lands at Warnervale Airport if:

- (a) the aircraft is being used for or in connection with a search and rescue operation, a medical emergency or a natural disaster, or 20
- (b) the pilot of the aircraft has declared an in-flight emergency, or
- (c) the aircraft has insufficient fuel to be diverted to another airport, or 25
- (d) there is an urgent need for the aircraft to take off or land to ensure the safety or security of the aircraft or any person or to avoid any damage to property.

Part 3 Restrictions on length and site of runway

8 Limit on length of runway

- (1) The maximum length for any runway (existing or proposed) at Warnervale Airport is 1 200 metres.
- (2) The airport operator must not cause or permit an aircraft to take off from or land at a runway at Warnervale Airport if the runway exceeds the maximum length for the runway. 5
Maximum penalty: 100 penalty units.
- (3) The maximum length for any runway at Warnervale Airport may be increased to up to 1 800 metres by the Minister as provided for by this section. 10
- (4) Wyong Council may apply in writing to the Minister for such an increase.
- (5) The Minister may, after completion of the review and noise study referred to in Part 4, grant the increase or refuse to grant the increase. 15
- (6) The Minister grants an increase by specifying the increased maximum length in an order published in the Gazette. The increased maximum length so specified has effect in place of the maximum length specified in subsection (1) in respect of the runway concerned. 20

9 Site of runway

- (1) A person must not carry out any work for the construction of a runway at Warnervale Airport, unless the site of the runway has been approved in writing by the Minister prior to the commencement of the work. 25
Maximum penalty: 100 penalty units.
- (2) This section extends to work that was started before the commencement of this section and for that purpose a reference in this section to the commencement of the work is to be read as a reference to the continuation of the work after the commencement of this section. 30

Part 4 Review of proposal to expand operations at Warnervale Airport

10 Application of Part

- (1) This Part applies only if Wyong Council applies in writing to the Minister for the grant of an increase in the maximum length for an existing or proposed runway at Warnervale Airport. 5
- (2) No more than one such application can be made unless the Minister otherwise directs.

11 Independent review of proposal

- (1) The Minister is to appoint an independent person or persons to review any environmental impact study, and any other study, referred to the person or persons by the Minister that relates to a proposal to extend the runway at Warnervale Airport or to construct a new runway at that Airport. 10
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- (1) The Minister is to make arrangements for the carrying out of a new study of the impact of aircraft noise arising from proposed operations of Warnervale Airport.
- (2) A person appointed to conduct the study must be an expert in the field and must be appointed by the Minister following consultation with Wyong Council. 25
- (3) The arrangements for the conduct of the noise study are to include arrangements for a survey, conducted independently of Wyong Council, of all residents within a 7.5 kilometre radius of any runway or proposed runway at Warnervale Airport. Those arrangements are to include arrangements for those residents to be informed of the noise study and invited to make submissions on the advantages and disadvantages of the proposed operations of Warnervale Airport. 30

Part 5 Miscellaneous

13 Injunction to prevent contravention

- (1) If the Supreme Court is satisfied, on application, that a person has engaged in or is proposing to engage in conduct that constitutes or would constitute a contravention of this Act, the Court may grant an injunction, in such terms as the Court determines to be appropriate, restraining the person from engaging in any conduct and, if in the opinion of the Court it is desirable to do so, requiring that person to do any act or thing. 5
- (2) An application under this section may be brought by any person, whether or not any right of the person has been infringed by or as a consequence of the contravention. 10
- (3) If in the opinion of the Court it is desirable to do so, the Court may grant an interim injunction pending determination of the application. 15
- (4) The Court may rescind or vary an injunction granted under this section.
- (5) The power of the Court to grant an injunction restraining a person from engaging in conduct may be exercised:
 - (a) whether or not it appears to the Court that the person intends to engage again, or continue to engage, in conduct of that kind, and 20
 - (b) whether or not the person has previously engaged in conduct of that kind, and
 - (c) whether or not there is an imminent danger of substantial damage to any person if the first-mentioned person engages in conduct of that kind. 25
- (6) The power of the Court to grant an injunction requiring a person to do an act or thing may be exercised:
 - (a) whether or not it appears to the Court that the person intends to fail again, or to continue to fail, to do an act or thing, and 30

(b) whether or not the person has previously failed to do that act or thing, and

(c) whether or not there is an imminent danger of substantial damage to any person if the first-mentioned person fails to do that act or thing.

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- (7) If the Minister makes an application to the Court for the grant of an injunction under this section, the Court is not to require the Minister or any other person, as a condition of granting an interim injunction, to give any undertakings as to damages.

14 Evidence

10

In proceedings against a person for an offence against this Act, or for an injunction under section 13, if it is established that an aircraft took off or landed in contravention of a provision of this Act, it is to be presumed (in the absence of evidence to the contrary adduced by the person) that the person caused or permitted that take off or landing.

15

15 Proceedings for offences

Proceedings for an offence against this Act are to be disposed of summarily before a Local Court constituted by a Magistrate sitting alone.

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16 Regulations

The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

25

17 Review of Act

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.

- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

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New South Wales

Warnervale Airport (Restrictions) Act 1996 No 57

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New South Wales

Warnervale Airport (Restrictions) Act 1996 No 57

Act No 57, 1996

An Act to provide for restrictions on aircraft movements, and on the length and site of any runway, at Warnervale Airport; and for other purposes.
[Assented to 1 July 1996]

The Legislature of New South Wales enacts:

Part 1 Preliminary

1 Name of Act

This Act is the *Warnervale Airport (Restrictions) Act 1996*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Definitions

In this Act:

aircraft means any machine that can derive support in the atmosphere from the reactions of the air but does not include a glider.

aircraft operator, in relation to an aircraft, means a person who conducts an aircraft operation using the aircraft.

airport operator means the person who operates Warnervale Airport.

Warnervale Airport means any airport situated on land at Warnervale (being land comprised in Lot 12 in DP 605250, Lot 24 in DP 53936, Lots 1 to 4 in DP 239691, Lots 22 and 23 in DP 773449 and Lot 27 in DP 228750).

Part 2 Restrictions on aircraft movements

4 Application of Part

- (1) This Part does not apply to take offs and landings of aircraft at Warnervale Airport on an existing runway.
- (2) An existing runway is a runway that was constructed before the commencement of this section and that is not extended at any time after the commencement of this section.

5 Curfew

- (1) There is a curfew period for Warnervale Airport that starts at 10 pm on each day and ends at 6.30 am on the next day. Aircraft must not take off from or land at Warnervale Airport during the curfew period.
- (2) An aircraft operator must not cause or permit an aircraft to take off or land in contravention of this section.
Maximum penalty: 100 penalty units.
- (3) The airport operator must not cause or permit an aircraft to take off or land in contravention of this section.
Maximum penalty: 100 penalty units.
- (4) This section is not contravened as a result of an aircraft taking off or landing in the circumstances described in section 7 (Emergencies). In proceedings for an offence against this Act under this section, or for an injunction under section 13, the onus is on the defendant to establish that an aircraft took off or landed in those circumstances.
- (5) If the maximum length for any runway at Warnervale Airport is increased under section 8, the Minister may, by order published in the Gazette, vary the curfew period for Warnervale Airport. The curfew period as varied has effect in place of the curfew period specified in subsection (1).

6 Limit on number of daily take offs and landings

- (1) The total number of take offs and landings of aircraft at Warnervale Airport (added together) occurring between the end of the curfew period on a day and the start of the next curfew period on that day must not exceed 88.

- (2) The airport operator must not cause or permit an aircraft to take off or land if the take off or landing would result in a contravention of this section.

Maximum penalty: 100 penalty units.

- (3) An aircraft taking off or landing in the circumstances described in section 7 (Emergencies) is to be disregarded for the purposes of this section. In proceedings for an offence against this Act under this section, or for an injunction under section 13, the onus is on the airport operator to establish that an aircraft took off or landed in those circumstances.
- (4) If the maximum length for any runway at Warnervale Airport is increased under section 8, the Minister may, by order published in the Gazette, change the number 88 referred to in subsection (1) to any other number. The number as changed has effect in place of the number 88 in subsection (1).

7 Emergencies

The curfew, and the limit on the number of daily take offs and landings of aircraft at Warnervale Airport, do not apply to an aircraft that takes off or lands at Warnervale Airport if:

- (a) the aircraft is being used for or in connection with a search and rescue operation, a medical emergency or a natural disaster, or
- (b) the pilot of the aircraft has declared an in-flight emergency, or
- (c) the aircraft has insufficient fuel to be diverted to another airport, or
- (d) there is an urgent need for the aircraft to take off or land to ensure the safety or security of the aircraft or any person or to avoid any damage to property.

Part 3 Restrictions on length and site of runway

8 Limit on length of runway

- (1) The maximum length for any runway (existing or proposed) at Warnervale Airport is 1 200 metres.
- (2) The airport operator must not cause or permit an aircraft to take off from or land at a runway at Warnervale Airport if the runway exceeds the maximum length for the runway.

Maximum penalty: 100 penalty units.

- (3) The maximum length for any runway at Warnervale Airport may be increased to up to 1 800 metres by the Minister as provided for by this section.
- (4) Wyong Council may apply in writing to the Minister for such an increase.
- (5) The Minister may, after completion of the review and noise study referred to in Part 4, grant the increase or refuse to grant the increase.
- (6) The Minister grants an increase by specifying the increased maximum length in an order published in the Gazette. The increased maximum length so specified has effect in place of the maximum length specified in subsection (1) in respect of the runway concerned.

9 Site of runway

- (1) A person must not carry out any work for the construction of a runway at Warnervale Airport, unless the site of the runway has been approved in writing by the Minister prior to the commencement of the work.

Maximum penalty: 100 penalty units.

- (2) This section extends to work that was started before the commencement of this section and for that purpose a reference in this section to the commencement of the work is to be read as a reference to the continuation of the work after the commencement of this section.

Part 4 Review of proposal to expand operations at Warnervale Airport

10 Application of Part

- (1) This Part applies only if Wyong Council applies in writing to the Minister for the grant of an increase in the maximum length for an existing or proposed runway at Warnervale Airport.
- (2) No more than one such application can be made unless the Minister otherwise directs.

11 Independent review of proposal

- (1) The Minister is to appoint an independent person or persons to review any environmental impact study, and any other study, referred to the person or persons by the Minister that relates to a proposal to extend the runway at Warnervale Airport or to construct a new runway at that Airport.
- (2) The Minister is to put in place arrangements for community input on the review.
- (3) The person or persons appointed to conduct the review are to be appointed by the Minister following consultation with Wyong Council.

12 Noise study

- (1) The Minister is to make arrangements for the carrying out of a new study of the impact of aircraft noise arising from proposed operations of Warnervale Airport.
- (2) A person appointed to conduct the study must be an expert in the field and must be appointed by the Minister following consultation with Wyong Council.
- (3) The arrangements for the conduct of the noise study are to include arrangements for a survey, conducted independently of Wyong Council, of all residents within a 7.5 kilometre radius of any runway or proposed runway at Warnervale Airport. Those arrangements are to include arrangements for those residents to be informed of the noise study and invited to make submissions on the advantages and disadvantages of the proposed operations of Warnervale Airport.

Part 5 Miscellaneous

13 Injunction to prevent contravention

- (1) If the Supreme Court is satisfied, on application, that a person has engaged in or is proposing to engage in conduct that constitutes or would constitute a contravention of this Act, the Court may grant an injunction, in such terms as the Court determines to be appropriate, restraining the person from engaging in any conduct and, if in the opinion of the Court it is desirable to do so, requiring that person to do any act or thing.
- (2) An application under this section may be brought by any person, whether or not any right of the person has been infringed by or as a consequence of the contravention.
- (3) If in the opinion of the Court it is desirable to do so, the Court may grant an interim injunction pending determination of the application.
- (4) The Court may rescind or vary an injunction granted under this section.
- (5) The power of the Court to grant an injunction restraining a person from engaging in conduct may be exercised:
 - (a) whether or not it appears to the Court that the person intends to engage again, or continue to engage, in conduct of that kind, and
 - (b) whether or not the person has previously engaged in conduct of that kind, and
 - (c) whether or not there is an imminent danger of substantial damage to any person if the first-mentioned person engages in conduct of that kind.
- (6) The power of the Court to grant an injunction requiring a person to do an act or thing may be exercised:
 - (a) whether or not it appears to the Court that the person intends to fail again, or to continue to fail, to do an act or thing, and

- (b) whether or not the person has previously failed to do that act or thing, and
 - (c) whether or not there is an imminent danger of substantial damage to any person if the first-mentioned person fails to do that act or thing.
- (7) If the Minister makes an application to the Court for the grant of an injunction under this section, the Court is not to require the Minister or any other person, as a condition of granting an interim injunction, to give any undertakings as to damages.

14 Evidence

In proceedings against a person for an offence against this Act, or for an injunction under section 13, if it is established that an aircraft took off or landed in contravention of a provision of this Act, it is to be presumed (in the absence of evidence to the contrary adduced by the person) that the person caused or permitted that take off or landing.

15 Proceedings for offences

Proceedings for an offence against this Act are to be disposed of summarily before a Local Court constituted by a Magistrate sitting alone.

16 Regulations

The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

17 Review of Act

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.

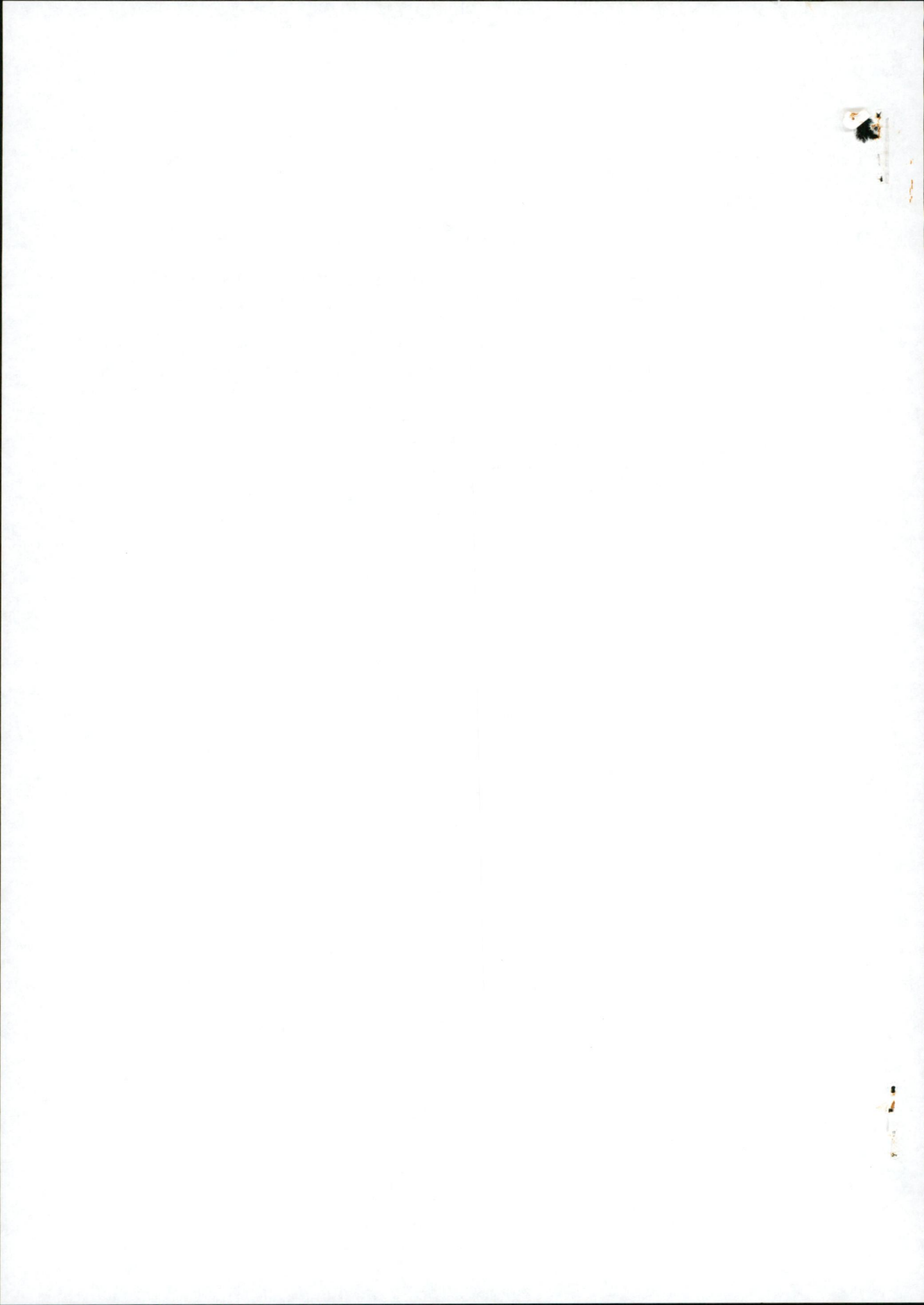
- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

[Member's second reading speech made in—

Legislative Assembly on 20 June 1996

Minister's second reading speech made in—

Legislative Council on 25 June 1996]





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Warnervale Airport (Restrictions) Act 1996 No 57

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New South Wales

Warnervale Airport (Restrictions) Act 1996 No 57

Act No 57, 1996

An Act to provide for restrictions on aircraft movements, and on the length and site of any runway, at Warnervale Airport; and for other purposes.
[Assented to 1 July 1996]

The Legislature of New South Wales enacts:

Part 1 Preliminary

1 Name of Act

This Act is the *Warnervale Airport (Restrictions) Act 1996*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Definitions

In this Act:

aircraft means any machine that can derive support in the atmosphere from the reactions of the air but does not include a glider.

aircraft operator, in relation to an aircraft, means a person who conducts an aircraft operation using the aircraft.

airport operator means the person who operates Warnervale Airport.

Warnervale Airport means any airport situated on land at Warnervale (being land comprised in Lot 12 in DP 605250, Lot 24 in DP 53936, Lots 1 to 4 in DP 239691, Lots 22 and 23 in DP 773449 and Lot 27 in DP 228750).

Part 2 Restrictions on aircraft movements

4 Application of Part

- (1) This Part does not apply to take offs and landings of aircraft at Warnervale Airport on an existing runway.
- (2) An existing runway is a runway that was constructed before the commencement of this section and that is not extended at any time after the commencement of this section.

5 Curfew

- (1) There is a curfew period for Warnervale Airport that starts at 10 pm on each day and ends at 6.30 am on the next day. Aircraft must not take off from or land at Warnervale Airport during the curfew period.
- (2) An aircraft operator must not cause or permit an aircraft to take off or land in contravention of this section.
Maximum penalty: 100 penalty units.
- (3) The airport operator must not cause or permit an aircraft to take off or land in contravention of this section.
Maximum penalty: 100 penalty units.
- (4) This section is not contravened as a result of an aircraft taking off or landing in the circumstances described in section 7 (Emergencies). In proceedings for an offence against this Act under this section, or for an injunction under section 13, the onus is on the defendant to establish that an aircraft took off or landed in those circumstances.
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6 Limit on number of daily take offs and landings

- (1) The total number of take offs and landings of aircraft at Warnervale Airport (added together) occurring between the end of the curfew period on a day and the start of the next curfew period on that day must not exceed 88.

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Part 3 Restrictions on length and site of runway

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- (1) A person must not carry out any work for the construction of a runway at Warnervale Airport, unless the site of the runway has been approved in writing by the Minister prior to the commencement of the work.

Maximum penalty: 100 penalty units.

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Part 4 Review of proposal to expand operations at Warnervale Airport

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- (1) If the Supreme Court is satisfied, on application, that a person has engaged in or is proposing to engage in conduct that constitutes or would constitute a contravention of this Act, the Court may grant an injunction, in such terms as the Court determines to be appropriate, restraining the person from engaging in any conduct and, if in the opinion of the Court it is desirable to do so, requiring that person to do any act or thing.
- (2) An application under this section may be brought by any person, whether or not any right of the person has been infringed by or as a consequence of the contravention.
- (3) If in the opinion of the Court it is desirable to do so, the Court may grant an interim injunction pending determination of the application.
- (4) The Court may rescind or vary an injunction granted under this section.
- (5) The power of the Court to grant an injunction restraining a person from engaging in conduct may be exercised:
 - (a) whether or not it appears to the Court that the person intends to engage again, or continue to engage, in conduct of that kind, and
 - (b) whether or not the person has previously engaged in conduct of that kind, and
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 - (c) whether or not there is an imminent danger of substantial damage to any person if the first-mentioned person fails to do that act or thing.
- (7) If the Minister makes an application to the Court for the grant of an injunction under this section, the Court is not to require the Minister or any other person, as a condition of granting an interim injunction, to give any undertakings as to damages.

14 Evidence

In proceedings against a person for an offence against this Act, or for an injunction under section 13, if it is established that an aircraft took off or landed in contravention of a provision of this Act, it is to be presumed (in the absence of evidence to the contrary adduced by the person) that the person caused or permitted that take off or landing.

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Proceedings for an offence against this Act are to be disposed of summarily before a Local Court constituted by a Magistrate sitting alone.

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The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

17 Review of Act

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.

- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

[Member's second reading speech made in—

Legislative Assembly on 20 June 1996

Minister's second reading speech made in—

Legislative Council on 25 June 1996]

