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QUEENSLAND

CAIRNS AIRPORT ACT 1981, No. 55

[Reprinted as at 1 October, 1985]

An Act to authorize the Authority to acquire and operate Cairns Airport, and for related purposes

[ASSENTED TO 12 JUNE, 1981]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

1. Short title and commencement. (1) This Act may be cited as the *Cairns Airport Act 1981*.

(2) Part I shall commence on the date on which this Act is assented to for and on behalf of the Crown.

(3) Part II shall commence as provided in section 3 (4).

Part I (ss. 1-3) commenced on date of Assent.

Part II (ss. 4-21) commenced 14 December 1981 (see s. 3 (4) of Act and Notification pubd. Gaz. 12 December 1981, p.1548).

2. Meaning of terms. (1) In this Act, save where a contrary intention appears—

“Authority” means the Cairns Harbour Board constituted under the *Harbours Act 1955-1980*, by that name or any other name assigned to that Board under that Act;

“Cairns Airport” or “the airport” in Part I means the Cairns airport more particularly described in an agreement made under section 3 and in Part II means the land so described together with any additional land acquired by the Authority under this Act for the purposes of the airport but excluding any of the land so described and any such additional land that is disposed of by or acquired from the Authority, and in Parts I and II includes all aircraft hangars, buildings, structures, roads, plant, and equipment constructed on or affixed to that land;

“Commonwealth Minister” means the Minister of the Commonwealth for the time being having responsibility for the administration of the laws of the Commonwealth relating to civil aviation or having power to exercise the powers and functions of the Commonwealth Minister under this Act;

“Minister” means the Minister for Northern Development and Maritime Services or other Minister of the Crown for the

time being charged with the administration of this Act and includes any person who for the time being performs the duties of the Minister.

(2) Save where a contrary intention appears in this Act, any term or expression to which a meaning is assigned by the *Harbours Act 1955-1980* has the meaning so assigned when used in this Act.

3. Transfer of Cairns Airport to the Authority. (1) With the approval of the Minister, the Authority may enter into and carry into effect an agreement with the Commonwealth for the transfer from the Commonwealth to the Authority of the Cairns Airport together with all vehicles, plant, equipment, and other property belonging to the Commonwealth that are provided for use at or in connexion with the airport.

(2) An agreement under this section may contain provisions with respect to—

- (a) the management, operation, and maintenance of the airport by the Authority;
- (b) regulating the manner of performance of the functions and the exercise of the powers of the Authority in relation to the airport;
- (c) the functions and powers of the Commonwealth in relation to—
 - (i) the control of aircraft using, landing, or taking off from the airport;
 - (ii) the provision of flight services for or in respect of any such aircraft; and
 - (iii) the provision of airport fire and rescue services and facilities;
- (d) the granting or reserving to the Commonwealth of an irrevocable licence for the Commonwealth and its officers, employees, contractors, and agents to occupy and use all buildings, structures, and facilities at or used in connexion with the airport which relate to the performance or exercise of the functions and powers referred to in subparagraph (c) and to have free and unrestricted access to and egress from those buildings, structures, and facilities at all times;
- (e) providing for the security of the airport;
- (f) the satisfaction and performance of any outstanding liabilities and obligations of the Commonwealth incurred by the Commonwealth in relation to the airport before the transfer of the airport to the Authority in accordance with the agreement; and
- (g) the transfer to the Authority of persons employed by the Commonwealth for the purposes of or in connexion with the operation of the airport and the preservation of accrued rights of service to which those persons would have been

entitled if they had continued to be employed by the Commonwealth.

(3) Subject to this Act and with the prior approval of the Minister, an agreement under this section may be varied by the parties to the agreement.

(4) When an agreement is entered into under this section, the Minister shall cause to be published in the Gazette a notice specifying the date on which the airport is to be transferred to the Authority in accordance with the agreement, and on and from that date the provisions of Part II shall have effect.

PART II—FUNCTIONS AND POWERS OF AUTHORITY IN RELATION TO AIRPORT

4. Interpretation. In this Part, a reference to “the agreement” is a reference to an agreement entered into under section 3 and, if that agreement is varied under that section, is a reference to the agreement as so varied.

5. General functions and powers of Authority in relation to Airport.

(1) Subject to the provisions of this Part and of the agreement, the Authority shall have and perform the functions of managing, operating, and maintaining the Cairns Airport as an airport for the benefit of the public and it shall be the responsibility of the Authority to ensure that the airport and the vehicles, plant, equipment, and other property provided for use at or in connexion with the airport are kept in good repair and working order.

(2) The Authority may—

- (a) provide and maintain services, facilities, and conveniences for the use or benefit of persons making use of, or resorting to, the airport;
- (b) sell or let on hire to, or otherwise provide for the use of, those persons, goods, and other articles and things;
- (c) carry out works for the improvement or alteration of the airport or any part of it, or of any services, facilities, or conveniences provided at the airport or in connexion with the operation of it; and
- (d) purchase or otherwise acquire vehicles, plant, equipment, and other property for use in connexion with the airport,

and may make arrangements with any other person for the doing of any of the things referred to in this subsection.

(3) In respect of the airport, the Authority—

- (a) subject to this Act, shall have the powers, authorities, functions, duties and obligations of a Harbour Board conferred, imposed or provided for by the *Harbours Act 1955-1980* or by any other Act, (save such as are conferred, imposed or provided for, on or in respect of a particular

Harbour Board) as a Harbour Board has in respect of land or harbour works the property of a Harbour Board;

(b) shall have the powers, authorities, functions, duties and obligations conferred, imposed, or provided for by this Act.

(4) The Authority may appoint and engage as an independent contractor, on such terms and conditions as may be arranged, any person or group of persons considered by the Authority to be capable of providing services required by the Authority in connexion with the performance of its functions and the exercise of its powers under this Part.

(5) (i) The Authority may appoint and employ such persons as it considers necessary to enable it to perform its functions and exercise its powers under this Part and carry into effect the provisions of the agreement.

(ii) Subject to any other Act, and to any award or industrial agreement, whether under the *Industrial Conciliation and Arbitration Act 1961-1980* or the Commonwealth Conciliation and Arbitration Act 1904, as amended, governing the terms and conditions of employment of persons appointed under paragraph (i) and subject to the agreement insofar as it relates to persons referred to in section 3 (2) (g), persons so appointed may be employed on such terms and conditions as the Authority may determine in respect of them from time to time.

(6) The Authority may do and cause to be done all such acts and things as are incidental to or necessary for the proper exercise or discharge of its powers, authorities, functions, duties and obligations.

(7) The generality of subsection (6) shall not be taken to be limited by any other provisions of this Part conferring powers on the Authority, but any powers to which that subsection relates shall be exercised subject to the agreement.

6. Application and construction of Harbours Act and other statutory provisions. Subject to this Act, the provisions of the *Harbours Act 1955-1980* or of any other Act that confer or impose powers, authorities, functions, duties or obligations on Harbour Boards generally in respect of land or harbour works the property of a Harbour Board shall apply with necessary modifications so as to confer the same on the Authority in respect of the airport.

7. Acquisition of additional Land. (1) The Authority may acquire or take land for the purpose of the airport or for road access thereto or to facilitate or render safer or more convenient the use of the airport for the landing or taking off of aircraft.

(2) Section 62 of the *Harbours Act 1955-1980* applies in respect of land to be acquired or taken by the Authority under this section.

8. Section 62A of the Harbours Act not to apply. Section 62A of the *Harbours Act 1955-1980* does not apply to land transferred to or acquired or taken by the Authority under this Act.

9. Power to grant leases etc. (1) Section 64 of the *Harbours Act 1955-1980* applies in respect of the granting of leases, licences, or permits of land forming part of the airport in the same way as it applies to the granting of leases, licences or permits of harbour lands within the meaning of that Act.

(2) Section 65 of the *Harbours Act 1955-1980* applies in respect of the granting of leases or licences for the use or occupation of buildings, works, machines, conveniences and appliances belonging to or provided by the Authority on the land comprising the airport, in the same way as it applies to the granting of leases or licences of same under that section.

10. Disposal of Airport land. Subject to Section 66 of the *Harbours Act 1955-1980* and with the prior consent in writing of the Commonwealth Minister, but not otherwise, the Authority may sell, exchange, transfer, grant an easement over, or otherwise dispose of, land forming part of the airport.

11. By-laws. (1) The Authority may make by-laws for the safe and efficient management and operation of the airport and for the more effective performance and exercise of its functions and powers in relation to the airport.

(2) For the purposes of this section Part V of the *Harbours Act 1955-1980* (other than section 101) applies with necessary modifications to and in respect of the operations of the airport in the same way as that Part applies to and in respect of the harbour operations of a Harbour Board and without limiting the generality of the foregoing, any by-laws made pursuant to this section may contain provisions—

- (a) regulating traffic, whether pedestrian or vehicular, and the provision and use of parking places at the airport;
- (b) providing for the security of the airport and, in particular, prescribing the times, terms and conditions upon which the public may enter or be in or on the airport;
- (c) prescribing the charges that may be made by the Authority for the use of the airport or any part of it or any service, facility, or convenience provided at the airport (including charges for parking of vehicles and aircraft);
- (d) prescribing the charges that may be made by the Authority for goods discharged from or loaded onto an aircraft at the airport;
- (e) providing for the manner of levying or charging and collecting the prescribed charges and by whom and in what manner and within what period the same shall be paid to the Authority or person authorized by the Authority or prescribed in that behalf; and
- (f) providing for exemptions from all or any classes of charges leviable or chargeable and payable in relation to the airport of any aircraft, persons or goods or classes thereof, or as

otherwise so prescribed, and all or any of such exemptions may be so prescribed so as to apply generally or so as to apply only in the circumstances prescribed or as prescribed.

12. Recovery of charges. Any charge payable under by-laws made under section 11 if not paid before the expiration of the period prescribed, may be recovered from the person liable to pay the charge in a court of competent jurisdiction as a debt due to the Authority.

13. Finances. (1) Part VI of the *Harbours Act 1955-1980* applies with the necessary modifications (if any), to and in respect of the operations of the airport in the same way as that Part applies to and in respect of the harbour operations of a Harbour Board.

(2) The revenue received by the Authority under this Act shall be applied for the purposes of this Act and shall not be treated as part of the revenues of the Authority for the purposes of the *Harbours Act 1955-1980* and the revenues received under that Act shall not be applied or expended for the purposes of this Act.

14. Funds. The Authority shall establish and at all times maintain in accordance with this Act the following funds:—

- (i) An Airport Operations Fund; and
- (ii) An Airport Loan Fund.

The funds shall be kept separate and distinct and a separate bank account shall be kept for each fund.

15. Airport Operations Fund. (1) The Authority shall pay or cause to be paid into the Airport Operations Fund all moneys arising from—

- (i) charges prescribed by by-law under this Act;
- (ii) lease rentals and licence or permit fees;
- (iii) any source when such moneys are not required by this Act to be paid into any other fund.

(2) Moneys from time to time forming the Airport Operations Fund shall be applied to—

- (a) expenditure necessarily incurred by the Authority in the exercise, performance and discharge of its powers, authorities, functions, duties and obligations under this Act in respect of the airport save where this Act expressly provides that such expenditure should be charged to any other fund kept by the Authority;
- (b) payment in accordance with the regulations of moneys to a prescribed fund kept pursuant to section 17.

16. Airport Loan Fund. (1) The Authority shall pay or cause to be paid into the Airport Loan Fund all moneys received by the Authority by way of loan, subsidy or grant in respect of the works or purposes pertaining to the Airport for which the loan has been authorized or for which the subsidy or grant has been paid.

(2) The Airport Loan Fund shall be applied to expenditure necessarily incurred by the Authority in carrying out the works or purposes for which it was authorized to borrow the money or for which the subsidy or grant was paid to it and not otherwise.

17. Other Prescribed Funds. The Governor in Council may, by regulation made under this Act, prescribe one or more other funds to be established and kept by the Authority and the purposes for which such funds are to be applied.

The Authority shall establish and maintain all such funds as are so prescribed and shall cause the moneys for the time being forming such a fund to be applied to the purpose prescribed in respect of that fund.

The funds shall be separate and distinct and the manner of banking thereof shall be as prescribed.

18. Regulations. (1) The Governor in Council may by regulations prescribe—

- (a) with respect to all matters for which he is empowered to so prescribe by the *Harbours Act 1955-1980*;
- (b) with respect to all matters required or permitted by this Act to be prescribed and for which no other mode of prescription is provided; and
- (c) with respect to all matters which, in his opinion, are necessary or convenient for the proper administration of this Act or the proper exercise or performance by the Authority of its powers, authorities, functions, duties and obligations or to achieve the objects and purposes of this Act.

(2) Until a regulation is made under this Act with respect to any matter a regulation made under the *Harbours Act 1955-1980* with respect to that matter, having application in relation to harbours generally or to Harbour Boards generally and subsisting at the commencement of this Part shall apply with necessary modifications in relation to the airport in the same way as they apply to and in respect of harbour works the property of a Harbour Board or to the Authority in respect of those works and shall be deemed to have been made under this Act.

19. Protection of Authority and persons acting in pursuance of Act. Anything done by the Authority or any person in or as an incident in performance of a duty imposed by this Act or exercise of a power conferred by this Act and done in good faith and without negligence shall not render the Authority or persons concerned liable in respect thereof.

20. Saving as to Commonwealth powers. Nothing in this Act affects the powers of the Commonwealth in respect of the matter of air transport referred to the Parliament of the Commonwealth by the Commonwealth Powers (Air Transport) Act 1952, as amended, and, without limiting

the generality of the foregoing, nothing in this Act or the agreement shall be construed as authorizing the Authority to—

- (a) operate an air transport business or an air service for the carriage of passengers or cargo;
- (b) own, lease, or operate aircraft; or
- (c) control the taking off, landing, or flight of aircraft.

21. Evidentiary provisions. In a proceeding for the purposes of this Act—

- (a) a document purporting to be signed by the secretary of the Authority stating that any prescribed charge is payable by a person to the Authority and has not been paid shall, upon its production in that proceeding, be evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained in the document;
- (b) a document purporting to be signed by the secretary of the Authority stating that on a particular date an aircraft landed at or took off from the airport shall, upon its production in that proceeding, be evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained in the document.

By Authority: S. R. HAMPSON, Government Printer, Queensland

INDEX
TO THE
CAIRNS AIRPORT ACT 1981

	Page
A	
Act—	
commencement of	1
evidentiary provisions <i>re</i> proceedings for the purposes of	8
powers of Commonwealth not affected by	7
short title of	1
Agreement—	
meaning of term for Part II	3
notice to be published in Gazette	3
powers and functions of Authority subject to	3
variation of	3
with authority and Commonwealth <i>re</i> transfer of Cairns Airport	2
Airport—	
disposal of land forming part of	5
functions and powers of Authority <i>re</i>	3
Airport Loan Fund—	
Authority to establish	6
moneys to be paid into	6
Airport Operations Fund—	
Authority to establish	6
moneys to be paid into	6
Authority—	
disposal of airport land by	5
exercise of powers by	3
finances of	6
general functions and powers of	3
may acquire land	4
may appoint contractor and employees	3
may make by-laws	5
may recover charges	6
meaning of term	1
power to grant leases	5
protection of	7
provisions of Harbours Act to apply	4
section 62A of Harbours Act not to apply	4
transfer of Cairns Airport to	2
B	
By-laws—	
Authority may make	5
recovery of charges payable under	6
C	
Cairns Airport. <i>See also</i> Airport.	
meaning of term	1
transfer of, to Authority	2
Charges—	
recovery of	6
to be prescribed by by-laws	5
Commencement of Act	1
Commonwealth—	
agreement between Authority and, to transfer Cairns Airport	2
savings of power of	7
Commonwealth Minister—	
meaning of term	1
to consent in writing to disposal of airport land	5

		Page
E		
Evidentiary provisions for the purposes of proceedings under this Act	s. 21	8
F		
Funds. <i>See also</i> Airport Loan Fund and Airport Operations Fund. . .		
Authority to establish	14	6
other prescribed	17	7
G		
Governor in Council—		
may make regulations	18	7
H		
Harbours Act—		
application and construction of	6	4
Part VI of, to apply to finances of Authority	13	6
provisions of, to apply to Authority—		
<i>re</i> by-laws	11	5
<i>re</i> disposal of land	10	5
<i>re</i> granting of leases	9	5
section 62A of, not to apply to Authority	8	4
section 62 of, to apply to Authority	7 (2)	4
Harbours Board—		
Authority to have same powers and functions as	5 (3)	3
L		
Land—		
Authority may acquire	7 (1)	4
disposal of	10	5
Leases—		
power of Authority to grant	9	5
M		
Meaning of terms—		
agreement, for the purposes of Part II	4	3
Authority	2 (1)	1
Cairns Airport	2 (1)	1
Commonwealth Minister	2 (1)	1
Minister	2 (1)	1
used in <i>Harbours Act 1955-1980</i> have the same meaning when used in this Act	2 (2)	2
Minister—		
may approve of agreement to transfer airport to Authority	3	2
meaning of term	2 (1)	1
R		
Regulations—		
Governor in Council may make	18	7
S		
Short title of Act	1 (1)	1

INDEX

11

	Page
T	
Transfer of Cairns Airport s. 3	2

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