

Air Navigation (Aircraft Engine Emissions) Regulations 1995 No. 277

EXPLANATORY STATEMENT

STATUTORY RULES 1995 No. 277

Issued by the authority of the Minister for Transport

Air Navigation Act 1920

Air Navigation (Aircraft Engine Emissions) Regulations

Subsection 26(1) of the Air Navigation Act 1920 (the Act) provides that the Governor-General may make regulations for the purposes of the Act and, in particular, regulations in relation to:

- carrying out and giving effect to any annex to the Chicago Convention relating to international standards and recommended practices (being any Annex adopted in accordance with the Convention) [paragraph 26(1)(b)];
- air navigation within a Territory or to or from a Territory [paragraph 26(1)(c)];
- air navigation, being regulations with respect to trade and commerce with other countries and among the States [paragraph 26(1)(d)]; and
- air navigation, being regulations with respect to any other matter with respect to which the Parliament has power to make laws.

In addition, paragraph 26(2)(k) provides that regulations under the Act may impose penalties not exceeding a fine of \$5,000 for a contravention of, or a failure to comply with, a provision of the Regulations.

At present there are no formal standards in Australia in relation to fuel venting by aircraft or smoke emission and gaseous emissions by aircraft engines. Intentional fuel venting is the intentional discharge into the atmosphere of fuel from an aircraft's fuel nozzle manifolds resulting from the process of engine shutdown following normal flight or ground operations. Gaseous emissions from aircraft engines include unburnt hydrocarbons, carbon monoxide and oxides of nitrogen - substances which contribute to the problem of the 'greenhouse effect'.

The Council of the International Civil Aviation Organization (ICAO) has approved Annex 16 to the Chicago Convention on International Civil Aviation (the Convention). Annex 16 specifies certification standards for aircraft in relation to fuel venting and certification standards for aircraft engines in relation to smoke emission and gaseous emissions. As a Contracting State to the Convention and a member of ICAO, Australia has always sought to implement ICAO standards for operational and environmental matters whenever practicable.

The proposed Regulations apply to all jet powered aircraft (except a foreign registered or state aircraft) that come within Commonwealth legislative power, effectively all jet powered aircraft engaged in air navigation except aircraft operated intrastate by individuals or non trading or financial corporations. The proposed Regulations also apply to Australian registered aircraft engaged in international air navigation.

The Regulations:

- prohibit an aircraft fitted with a turbine engine manufactured after 18 February 1982 from flying in Australia unless the engine complies with the fuel venting requirements stipulated in Annex 16;

- prohibit an aircraft fitted with an engine from flying in Australia unless the engine is of a type which complies with the smoke emission requirements stipulated in Annex 16;
- prohibit an aircraft fitted with an engine from flying in Australia unless the engine is of a type which complies with the gaseous emission requirements stipulated in Annex 16;
- prescribe a penalty of 50 penalty units (ie \$5000) for flying in contravention of the Regulations (by application of the Crimes Act 1924, a corporation can be fined up to five times the maximum amount for an individual); and
- empower the Secretary, or an authorised officer, to grant a permit to allow an aircraft to fly in certain specified circumstances, even though the aircraft does not comply with Annex 16 requirements relating to fuel venting, smoke emission or gaseous emission standards. A decision by the Secretary or an authorised officer not to grant a permit is reviewable by the Administrative Appeals Tribunal.

The Regulations commence on gazettal.