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Statutory Rules 1995 No. *L*<sup>1</sup>

*277/*

## Air Navigation (Aircraft Engine Emissions) Regulations

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Air Navigation Act 1920*.

Dated *L* 1995.

*19 September*

*L* *BILL HAYDEN*  
Governor-General

By His Excellency's Command,

*L*  
Minister for Transport

*LAURIE BRERETON*

### PART 1—PRELIMINARY

#### Citation

1. These Regulations may be cited as the Air Navigation (Aircraft Engine Emissions) Regulations.

[NOTE: These Regulations commence on gazettal: see *Acts Interpretation Act 1901*, s. 48.]

## Interpretation

2. In these Regulations, unless the contrary intention appears:

“**Annex 16**” means Annex 16 to the Chicago Convention, as in force at the commencement of these Regulations;

“**authorised officer**” means an authorised officer appointed under regulation 7;

“**Authority**” means the Civil Aviation Authority established under the *Civil Aviation Act 1988*;

“**Commonwealth aircraft**” has the same meaning as it has in the Air Navigation Regulations;

“**foreign aircraft**” has the same meaning as it has in the Air Navigation Regulations;

“**operator**”, in relation to an aircraft, means a person:

- (a) who flies or operates the aircraft; or
- (b) on whose behalf the aircraft is flown or operated;

for a purpose mentioned in subregulation 2 (7) of the Civil Aviation Regulations.

## Application

3. (1) Subject to subregulation (2), these Regulations apply to an aircraft engaged in:

- (a) international air navigation; or
- (b) air navigation in relation to trade and commerce with other countries and among the States; or
- (c) air navigation conducted by a foreign corporation or a trading or financial corporation formed within the limits of the Commonwealth; or
- (d) air navigation within a Territory; or
- (e) air navigation to or from a Territory; or
- (f) any other air navigation that includes landing at, or taking off from, any place owned or acquired by the Commonwealth for public purposes; or
- (g) if the aircraft is a Commonwealth aircraft—any air navigation.

(2) These Regulations do not apply to a state aircraft or, to the extent that it is engaged solely in international air navigation, a foreign aircraft.

**PART 2—AIRCRAFT TO COMPLY WITH ANNEX 16**

**Aircraft not to fly unless it complies with Annex 16**

4. (1) Subject to regulations 5 and 6, an aircraft must not be flown if:

- (a) in the case of an aircraft the manufacture of which was completed after 18 February 1982:
  - (i) it does not comply with the fuel venting requirement specified in Part II of Volume II of Annex 16; and
  - (ii) it is fitted with an aircraft turbine engine; or
- (b) it is fitted with a turbo-jet or turbofan engine intended for aircraft propulsion at supersonic speeds:
  - (i) that does not comply with the requirements, relating to smoke emissions and gaseous emissions, specified in Part III of Volume II of Annex 16 to apply to that type of engine; and
  - (ii) the manufacture of which was completed on or after 18 February 1982; or
- (c) it is fitted with a turbo-jet or turbofan engine intended for aircraft propulsion only at subsonic speeds:
  - (i) that:
    - (A) in relation to smoke emissions—does not comply with the requirements specified in Part III of Volume II of Annex 16 to apply to that type of engine; and
    - (B) the manufacture of which was completed on or after 1 January 1983; or
  - (ii) that:
    - (A) in relation to gaseous emissions—does not comply with the requirements specified in Part III of Volume II of Annex 16 to apply to that type of engine; and
    - (B) has a rated output greater than 26.7 kilonewtons; and
    - (C) the manufacture of which was completed on or after 1 January 1986.

(2) If an aircraft is flown in contravention of this regulation, the operator of the aircraft is guilty of an offence.

Penalty: 50 penalty units.

[Note: For the value of a penalty unit, see s. 4AA of the *Crimes Act 1914*. At the date of commencement of these Regulations, the value of 1 unit is \$100.]

### **Transitional arrangements**

**5.** Regulation 4 does not apply to an aircraft:

(a) of the kind described in paragraph 4 (1) (a)—if the aircraft:

(i) was registered under the Civil Aviation Regulations immediately before the commencement of these Regulations; and

(ii) continues to be so registered;

unless, if the aircraft was so designed and constructed as to prevent intentional fuel venting, a modification of the aircraft that occurs after the commencement of the Regulations allows intentional fuel venting; or

(b) in relation to an engine of the kind described in paragraph 4 (1) (b) or (c):

(i) if:

(A) the engine is of a type that was in the possession of the aircraft operator immediately before the commencement of these Regulations; and

(B) engines of that type have remained in the possession of the operator since the commencement of these Regulations and been in use for a purpose relating to the operation of the aircraft; or

(ii) if:

(A) the engine is of a type acquired by the operator after the commencement of these Regulations under a contract entered into by the operator before the commencement of these Regulations; and

- (B) engines of that type have remained in the possession of the operator since that acquisition and been in use for a purpose relating to the operation of the aircraft.

**Exempt aircraft**

6. (1) Application may be made to the Secretary for a permit to fly an aircraft referred to in regulation 4 although the aircraft does not comply with Annex 16.

(2) The Secretary or an authorised officer may grant the requested permit, in writing, if he or she is satisfied that:

- (a) the historical significance of the aircraft justifies the permission; or
- (b) the proposed air navigation will serve solely a public interest.

(3) A permission may be given subject to conditions to be met by the operator of the aircraft that the Secretary or authorised officer thinks appropriate for the purposes of these Regulations.

(4) If a permission is granted under paragraph (2) (b), it must specify the permitted air navigation and the period, not exceeding one month, during which the aircraft may be engaged in the permitted air navigation.

(5) If an aircraft in respect of which a permit is in force is flown in contravention of a condition of the permit, the permit is taken to be revoked and regulation 4 applies as if the permit had not been granted.

(6) If the Secretary or authorised officer decides not to grant a permit, or decides to revoke a permit, he or she must give written notice of the decision to the applicant within 28 days of receiving the application.

### PART 3—GENERAL

#### Authorised officers

7. The Secretary may appoint, in writing, an officer of the Department or of the Authority to be an authorised officer for the purposes of these Regulations.

#### Service of Notices

8. A notice referred to in these Regulations must be served on the operator of the aircraft to which it relates.

#### Review by Administrative Appeals Tribunal

9. (1) Subject to the *Administrative Appeals Tribunal Act 1975*, application may be made to the Administrative Appeals Tribunal for review of a decision by the Secretary or an authorised officer refusing to give a permit under subregulation 6 (2), or revoking, a permit.

(2) A notice referred to in subregulation 6 (6) must include a statement to the effect that, except where subsection 28 (4) of that Act applies, application may be made for a statement under section 28 of the Act.

(3) Any failure to comply with subregulation (2) in relation to a decision does not affect the validity of the decision.

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#### NOTE

1. Notified in the *Commonwealth of Australia Gazette* on

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1995. 26 September