

Air Navigation (Aircraft Noise) Regulations (Amendment) 1996 No. 209

EXPLANATORY STATEMENT

Statutory Rules 1996 No. 209

Issued by Authority of the Minister for Transport and Regional Development

Air Navigation Act 1920

Air Navigation (Aircraft Noise) Regulations (Amendment)

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:

- * 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 [paragraph 26(1)(e)].

The Air Navigation (Aircraft Noise) Regulations (the Regulations) contain detailed provisions which:

- * provide for the certification to noise standards contained in Annex 16 to the Convention on International Civil Aviation (the Chicago Convention) of all aircraft engaged in domestic air navigation and to Australian registered aircraft engaged in international air navigation;
- * prohibit all subsonic jet aircraft added to the Australian register after 1 January 1991 from operating in Australia unless they meet the noise standards contained in Volume 1, Chapter 3 of Annex 16 to the Chicago Convention, and
- * give effect to a resolution of the General Assembly of the International Civil Aviation Organization (ICAO) to phase out all subsonic jet aircraft not meeting the noise standards contained in Volume 1, Chapter 3 of Annex 16 to the Chicago Convention during the period 1 April 1995 to 31 March 2002.

The amendments to the Regulations (the amending Regulations) will empower the Secretary to permit aircraft for which there are no applicable noise standards, to engage in air navigation in Australia subject to conditions.

Details of the amending Regulations are as follows.

Regulation 1 provides that the Regulations are amended as set out in the amending Regulations.

Regulation 2 amends paragraph 9(2)(b) of the Regulations by including a reference to new Regulation 9AB. This amendment is consequential upon the new Regulation 9AB.

Regulation 3 makes two amendments to Regulation 9A. The first amendment substitutes a new paragraph 9A(1)(b) which clarifies that permissions under paragraph 9A are separate from permissions under paragraphs 9AA and 9AB. The second amendment replaces subregulation 9A(3) and (4) with a new subregulation 9A(3) which enables conditions to be attached to all permissions under this regulation.

Regulation 4 inserts a new regulation 9AB.

New Regulation 9AB(1) enables the owner or operator of an aircraft (other than an aircraft to which subregulation 9A (1) or (1A) or regulation 9AA applies) to apply to the Secretary for permission for the aircraft to engage in air navigation.

New Regulation 9A8(2) allows the Secretary, by notice in writing, to grant permission to an applicant to engage in air navigation.

New Regulation 9AB(3) specifies that if the Secretary grants permission, the Secretary must specify the period during which the aircraft may engage in air navigation and any conditions with which the applicant must comply.

New Regulation 9AB(4) provides that aircraft must comply with conditions. A penalty of 5,200 applies to a breach of this provision. .

New Regulation 9A8(5) empowers the Secretary to revoke a permission if the aircraft is operated in contravention of a condition or the aircraft's operations has had, and is likely to continue to have, a significant noise impact on the public.

New Regulation 9AB(6) requires the Secretary to notify the applicant in writing of any refusal or revocation.

Regulation 5 makes a number of amendments subregulation 13(1) which ensure that decisions under new regulation 9A8 are subject to merits review by the Administrative Appeals Tribunal.

The Regulations will commence on the date of gazettal.