



Statutory Rules 1997 No. 1

57

**Airports (Control of On-Airport Activities)
Regulations¹**

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Statutory Rules 1997 No. ^K1

57/

Airports (Control of On-Airport Activities) Regulations¹

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Airports Act 1996*.

Dated ^K 1997.

^{19 March/}
^K WILLIAM DEANE/
Governor-General

By His Excellency's Command,

^K
Minister for Transport and Regional Development

JOHN SHARP/

PART 1—INTRODUCTORY

Citation

1.01. These Regulations may be cited as the Airports (Control of On-Airport Activities) Regulations.

[Note: For the application of State law in a Commonwealth place generally, see the *Commonwealth Places (Application of Laws) Act 1970*.]

Commencement

1.02. These Regulations commence on 15 May 1997.

Definitions

1.03. In these Regulations:

“**Act**” means the *Airports Act 1996*;

“**FAC**” means the Federal Airports Corporation.

[Note: Part 11 of the Act deals with control of the following matters at airports to which that Part applies:

- liquor;
- commercial trading;
- vehicle movements;
- gambling; and
- smoking;

at an airport to which the Part applies. Section 169 of the Act, which sets out what that Part applies to, is as follows:

“169 Airports to which this Part applies

“This Part applies to:

- (a) a core regulated airport; or
- (b) an airport specified in the Regulations;

if there is an airport lease for the airport.”

For the meaning of “core regulated airport”, see section 7 of the Act.]

PART 2—CONTROL OF LIQUOR

Division 2.1—Introductory

Definitions for Part

2.11. (1) In this Part:

“**regulated airport**” means an airport to which Part 11 of the Act applies.

(2) For the application to a regulated airport of a State law that relates to the control of liquor trading, the owner of premises on the airport is taken to be the airport-lessee company for the airport.

[Division 2.2—Airports in New South Wales]

Division 2.3—Airports in Victoria

Definitions for Division

2.31. In this Division:

“**Commission**” means the Liquor Licensing Commission established by the LC Act;

“**existing authorisation**” means an authority (however described and however granted, and including an authorisation that is part of the terms of a lease) given by the FAC or the Commonwealth before the commencement of this regulation, and in effect immediately before that commencement, for a person to sell or supply liquor at premises within Melbourne Airport;

“**LC Act**” means the **Liquor Control Act 1987** of Victoria.

Application of LC Act

2.32. The application of the LC Act at a regulated airport in Victoria is modified as set out in Part 2 of Schedule 1.

Transitional—existing authorities to sell liquor

2.33. (1) A person who holds an existing authorisation continues to be authorised to sell or supply liquor within Melbourne Airport.

(2) An existing authorisation that is expressed to end at a specified time, or after a specified period, ceases to have effect for subregulation (1) at that time or at the end of that period.

(3) An existing authorisation to sell or supply duty-free liquor has effect as a packaged liquor licence under section 51 of the LC Act together with an extended hours permit for 24-hour operation under section 53 of that Act.

(4) An existing authorisation, so far as it applies in relation to the use of premises to sell or supply liquor for consumption on the premises, has effect as a general (class 2) licence granted under

subsection 47 (3) of the LC Act, together with an extended hours permit for 24-hour operation under section 53 of that Act.

(5) An existing authorisation, so far as it applies in relation to the use of premises for the sale or supply of liquor for consumption on and off the premises, has effect as a general (class 1) licence granted under subsection 47 (1) of the LC Act, together with an extended hours permit for 24-hour operation under section 53 of that Act.

(6) An existing authorisation, so far as it authorises a club to use premises for the sale or supply of liquor, has effect as a general (class 1) licence granted under subsection 47 (1) of the LC Act, together with an extended hours permit for 24-hour operation under section 53 of that Act.

(7) An existing authorisation, so far as it authorises the use premises (the primary purpose of which is the provision of accommodation) for the sale or supply of liquor, has effect as an unconditional residential licence granted under paragraph 46 (1) (b) of the LC Act, together with an extended hours permit for 24-hour operation under section 53 of that Act.

(8) An existing authorisation that is continued in effect by this regulation continues to be subject to the same conditions as it was immediately before the commencement of this regulation.

Transitional—dealing with existing authorisation

2.34. (1) An existing authorisation may be dealt with under the LC Act as if it were a licence granted under that Act.

(2) To avoid doubt, it is declared that the operation of an existing authorisation as an extended hours permit may be surrendered or cancelled independently of its operation as a licence.

Transitional—dealing with holder of existing authorisation

2.35. The holder of an existing authorisation may be dealt with as if the holder were the holder of a licence granted under the LC Act.

Transitional—holders of existing authorisations to give copies of plans

2.36. (1) Within 6 months after the commencement of this regulation, the holder of an existing authorisation must give the Commission a copy of a plan of the premises to which the authorisation relates showing the boundaries of the premises.

(2) If the holder does not comply with subregulation (1), the Commission may suspend the authorisation until the holder does so.

Transitional—persons under 18 on licensed premises

2.37. An unconditional approval for the presence on the premises of persons under the age of 18 is taken to have been given under paragraph 128 (2) (d) of the LC Act by the Commission for premises to which an existing authorisation applies.

Division 2.4—Airports in Queensland

Definitions for Division

2.41. In this Division:

“**chief executive**” has the same meaning as in the Liquor Act;

“**existing authorisation**” means an authority (however described and however granted, and including an authorisation that is part of the terms of a lease) given by the FAC or the Commonwealth before the commencement of this regulation, and in effect immediately before that commencement, for a person to sell or supply liquor at premises within Brisbane Airport;

“**Liquor Act**” means the *Liquor Act 1992* of Queensland.

Application of Liquor Act

2.42. The application of the Liquor Act at a regulated airport in Queensland is modified as set out in Part 3 of Schedule 1.

Transitional—existing authorities to sell liquor

2.43. (1) A person who holds an existing authorisation continues to be authorised to sell liquor within Brisbane Airport.

(2) An existing authorisation that is expressed to end at a specified time, or after a specified period, ceases to have effect for subregulation (1) at that time or at the end of that period.

(3) An existing authorisation has effect as a special facility licence (granted under section 93 of the Liquor Act) that permits 24-hour trading.

(4) An existing authorisation that is continued in effect by this regulation continues to be subject to the same conditions as it was immediately before the commencement of this regulation.

Transitional—dealing with existing authorisation

2.44. An existing authorisation may be dealt with under the Liquor Act as if it were a licence granted under that Act.

Transitional—dealing with holder of existing authorisation

2.45. The holder of an existing authorisation may be dealt with as if the holder were the holder of a licence granted under the Liquor Act.

Transitional—holders of existing authorisations to give copies of plans

2.46. (1) Within 6 months after the commencement of this regulation, the holder of an existing authorisation must give the chief executive 2 copies of a plan of the premises to which the authorisation relates showing the boundaries of those premises.

(2) If the holder does not comply with subregulation (1), the chief executive may suspend the authorisation until the holder does so.

[Division 2.5—Airports in South Australia]

Division 2.6—Airports in Western Australia

Interpretation

2.61. In this Division:

“**licensing authority**” has the same meaning as in the LL Act;

“**existing authorisation**” means an authority (however described, and including an authorisation that is part of the terms of a lease) given by the FAC or the Commonwealth before the commencement of this regulation, and in effect immediately before that commencement, for a person to sell or supply liquor at premises within Perth Airport;

“**LL Act**” means the *Liquor Licensing Act 1988* of Western Australia.

Application of LL Act

2.62. The application of the LL Act at a regulated airport in Western Australia is modified as set out in Part 5 of Schedule 1.

Transitional—existing authorities to sell liquor

2.63. (1) A person who holds an existing authorisation continues to be authorised to sell liquor within Perth Airport.

(2) An existing authorisation that is expressed to end at a specified time, or after a specified period, ceases to have effect for subregulation (1) at that time or at the end of that period.

(3) An existing authorisation has effect as a special facility licence (granted under section 46 of the LL Act) that permits 24-hour trading.

(4) An existing authorisation that is continued in effect by this regulation continues to be subject to the same conditions as it was immediately before the commencement of this regulation.

Transitional—dealings with existing authorisation

2.64. An existing authorisation may be dealt with under the LL Act as if it were a licence granted under that Act.

Transitional—dealing with holder of existing authorisation

2.65. The holder of an existing authorisation may be dealt with as if the holder were the holder of a licence granted under the LL Act.

Transitional—holders of existing authorisations to give copies of plans

2.66. (1) Within 6 months after the commencement of this Division, the holder of an existing authorisation must give the licensing authority 3 copies of a plan of the premises to which the authorisation relates, showing the boundaries of those premises.

(2) If the holder does not comply with subregulation (1), the licensing authority may suspend the authorisation until the holder does so.

[Division 2.7—Airports in Tasmania]

[Division 2.8—Airports in the Australian Capital Territory]

[Division 2.9—Airports in the Northern Territory]

PART 3—COMMERCIAL TRADING

Definitions for Part

3.01. In this Part:

“consumer trading” means the supply of goods or services to an individual who acquires the goods or services as a consumer (within the meaning of section 4B of the *Trade Practices Act 1974*);

“existing authorisation” means an authorisation (however described, and however granted, and including an authorisation given as part of the conditions of a lease) given by the FAC or the Commonwealth before the commencement of this regulation, and in

effect immediately before that commencement, to carry on consumer trading of a particular kind at a regulated airport;

“regulated airport” means an airport to which Part 11 of the Act applies.

Transitional—existing authorisations to carry on consumer trading

3.02. (1) If, under the law of a State, a licence or permission is necessary to carry on consumer trading of a particular kind, a person who holds an existing authorisation to carry on consumer trading of that kind continues to be authorised to carry on trading of that kind.

(2) The existing authorisation continues to be subject to the conditions to which the authorisation was subject immediately before the commencement of this regulation.

(3) The existing authorisation may be dealt with under the State law applicable to a licence or permission of that kind as if it were a licence or permission of that kind.

Consumer trading—airports in Victoria

3.30. For its application to consumer trading at a regulated airport in Victoria, the **Shop Trading Reform Act 1996** of Victoria is modified by the omission of sub-sections 4 (2) and (3), and the substitution of the following sub-section:

“(2) A shop at a regulated airport (within the meaning of the Airports (Control of On-Airport Activities) Regulations of the Commonwealth) is an exempt shop whether or not it is a shop of a kind specified in Schedule 1, and whether or not business of a kind not referred to in subparagraph (1) (b) (i) or (ii) is carried on in it.”.

Consumer trading—airports in Queensland

3.40. The *Trading (Allowable Hours) Act 1990* of Queensland does not apply to consumer trading at a regulated airport in Queensland.

Consumer trading—airports in Western Australia

3.60. The *Retail Trading Hours Act 1987* of Western Australia does not apply to consumer trading at a regulated airport in Western Australia.

PART 4—VEHICLES

Division 4.1—Introductory

Definitions for Part

4.01. In this Part:

“**regulated airport**” means Melbourne Airport, Brisbane Airport or Perth Airport;

“**vehicle**” has the same meaning as in section 172 of the Act.

Authorised persons

4.02. (1) The Secretary may appoint as an authorised person for a provision or provisions of Division 4.2:

- (a) an officer of the Department; or
- (b) an officer of the Australian Protective Service; or
- (c) an employee of an airport operator company, or of a contractor to an airport-operator company; or
- (d) a person authorised under the law of a State to prosecute offences related to the parking of vehicles.

(2) The Secretary must not appoint a person mentioned in paragraph (1) (c) as an authorised person for the purposes of regulation 4.09.

Division 4.2—Vehicle parking

Interpretation

4.03. In this Division:

“**authorised person**” means an authorised person for this Division;

“designated limited no-parking area” means a limited no-parking area that is identified by a sign, or in some other appropriate way, as a limited no-parking area;

“designated limited no-standing area” means a limited no-standing area that is identified by a sign, or in some other appropriate way, as a limited no-standing area;

“designated no-parking area” means a no-parking area that is identified by a sign, or in some other appropriate way, as a no-parking area;

“designated no-standing area” means a no-standing area that is identified by a sign, or in some other appropriate way, as a no-standing area;

“limited no-parking area” means a no-parking area:

- (a) only during a period or periods, or only on some days; or
- (b) except for a particular purpose, or unless a particular condition applies;

“limited no-standing area” means a no-standing area:

- (a) only during a period or periods, or only on some days; or
- (b) except for a particular purpose, or unless a particular condition applies.

No-parking areas

4.04. (1) The airport-operator company for a regulated airport may decide that an area at the airport is to be a no-parking area.

(2) The airport-operator company for a regulated airport may decide that an area at the airport is to be a limited no-parking area.

(3) The airport-operator company must ensure that a no-parking area is prominently and clearly marked as a no-parking area (by a sign, by lines, or in some other way).

(4) The sign or marking of the area must clearly indicate:

- (a) whether a vehicle may be parked in the area; or
- (b) if the area is a limited no-parking area—at what times, or for what purposes, a vehicle may be parked in the area.

No-standing areas

4.05. (1) The airport-operator company for a regulated airport may decide that an area at the airport is to be a no-standing area.

(2) The airport-operator company for a regulated airport may decide that an area at the airport is to be a limited no-standing area.

(3) The airport-operator company must ensure that a no-standing area is prominently and clearly marked as a no-standing area (by a sign, by lines, or in some other way).

- (4)** The sign or marking of the area must clearly indicate:
- (a) whether a vehicle may be stopped in the area; or
 - (b) if the area is a limited no-standing area—at what times, or for what purposes, a vehicle may be stopped in the area.

Offence—parking in a designated no-parking area

4.06. (1) A person must not park a vehicle in a designated no-parking area unless:

- (a) the person is the driver of:
 - (i) a police vehicle; or
 - (ii) an ambulance vehicle; or
 - (iii) a fire service vehicle; or
 - (iv) an Australian Protective Service vehicle;and is attending an emergency; or
- (b) the person is directed to park the vehicle in the area by an authorised person.

Penalty: 3 penalty units.

(2) A person must not park a vehicle in a designated limited no-parking area unless:

- (a) the person is the driver of:
 - (i) a police vehicle; or
 - (ii) an ambulance vehicle; or
 - (iii) a fire service vehicle; or
 - (iv) an Australian Protective Service vehicle;

- and is attending an emergency; or
- (b) the person is directed to park the vehicle in the area by an authorised person; or
- (c) the person does so in accordance with the conditions that apply to the area, and those conditions are displayed on a sign, or in some other appropriate way.

Penalty: 3 penalty units.

(3) A person who is directed to park a vehicle in a designated no-parking area or designated limited no-parking area by an authorised person must do so in accordance with the direction.

Penalty: 3 penalty units.

(4) Contravention of subregulation (1), (2) or (3) is an infringement notice offence.

[Note: For infringement notice offences, see Part 7.]

Offence—stopping in a designated no-standing area

4.07. (1) A person must not stop a vehicle in a designated no-standing area unless:

- (a) the person is the driver of:
 - (i) a police vehicle; or
 - (ii) an ambulance vehicle; or
 - (iii) a fire service vehicle; or
 - (iv) an Australian Protective Service vehicle;and is attending an emergency; or
- (b) the person is directed to stop the vehicle in the area by an authorised person.

Penalty: 3 penalty units.

(2) A person must not stop a vehicle in a designated limited no-standing area unless:

- (a) the person is the driver of:
 - (i) a police vehicle; or
 - (ii) an ambulance vehicle; or
 - (iii) a fire service vehicle; or
 - (iv) an Australian Protective Service vehicle;and is attending an emergency; or

- (b) the person is directed to stop the vehicle in the area by an authorised person; or
- (c) the person does so in accordance with the conditions that apply to the area, and those conditions are displayed on a sign, or in some other appropriate way.

Penalty: 3 penalty units.

(3) A person who is directed to stop a vehicle in a designated no-standing area or designated limited no-standing area by an authorised person must do so in accordance with the direction.
Penalty: 3 penalty units.

(4) Contravention of subregulation (1), (2) or (3) is an infringement notice offence.

[Note: For infringement notice offences, see Part 7.]

Authorised person may direct that a vehicle may be moved

4.08. (1) An authorised person may direct the driver of a vehicle that is parked in a designated no-parking area, or stopped in a designated no-standing area, to move the vehicle.

(2) The driver of a vehicle must comply with a direction under subregulation (1).

Penalty: 3 penalty units.

(3) Contravention of subregulation (2) is an infringement notice offence.

[Note: For infringement notice offences, see Part 7.]

(4) In this regulation:
“**driver**” of a vehicle includes any adult individual who appears to be the driver of the vehicle, whether or not the person is sitting in the driver’s seat of the vehicle.

Authorised person may move vehicle

4.09. (1) This regulation applies to a vehicle if it is parked in a designated no-parking area, or is stopped in a designated no-standing area, and either:

- (a) its driver cannot be found within a reasonable time after such inquiries as are reasonable in the circumstances; or
- (b) its driver refuses to comply with a direction under subregulation 4.08 (1).

(2) If an authorised person considers that a vehicle to which this regulation applies is causing interference with the normal flow of traffic, or with the operation of the airport, the authorised person (with whatever assistance is reasonably necessary) may move the vehicle to a place within the airport approved for the purpose by the airport-operator company.

(3) If the driver of a vehicle to which this regulation applies cannot be found, and an authorised person moves the vehicle under subregulation (2), the authorised person must do whatever is reasonable to find the driver or owner of the vehicle and tell the driver or owner that the vehicle has been moved, and where it can be recovered.

(4) If the driver or owner of the vehicle is not found, or, if found, has not recovered the vehicle, within 7 days after the day on which the vehicle was moved, the authorised person must send a written notice to the person registered as the owner of the vehicle, telling the owner that the vehicle has been moved and where it may be recovered.

(5) If an authorised person moves a vehicle under this regulation, neither the authorised person, nor any person who assists him or her to do so, nor the airport-operator company, is liable for any loss of, or damage to, the vehicle that occurs:

- (a) while it is being moved; or
- (b) after it is moved and before it is recovered by its owner or driver.

Owner of vehicle must pay costs of storage, etc.

4.10. (1) If a vehicle is moved under regulation 4.09, the owner of the vehicle must pay the airport-operator company the amount reasonably spent by the company in moving and storing the vehicle.

(2) An amount payable to an airport-operator company is a debt due to the company recoverable in a court of competent jurisdiction.

(3) An airport-operator company is not required to return a vehicle to a person claiming it unless the person pays the amount due to the company under this regulation.

Division 4.4—Airside vehicle operation**Definitions for Division**

4.41. In this Division:

“**airside**”, for a regulated airport, has the same meaning as in the Vehicle Control Handbook for the airport;

“**ADA**” means an Authority to Drive Airside issued under regulation 4.43;

“**AUA**” means an Authority for Use Airside issued under regulation 4.44;

“**owner**”, of a vehicle, includes any person who has the right to use the vehicle, whether or not the person actually owns the vehicle;

“**Vehicle Control Handbook**”:

- (a) for Melbourne Airport—means the Rules for Drivers Operating Airside for that airport, published by the FAC, as in existence immediately before the commencement of this Division; and
- (b) for Brisbane Airport—means the Drivers Airside Handbook for that airport, published by the FAC, as in existence immediately before the commencement of this Division; and
- (c) for Perth Airport, means the Airside Vehicle Control Handbook for that airport, published by the FAC, as in

existence immediately before the commencement of this Division.

Vehicles not to be taken onto airside

4.42. A person must not take a vehicle onto the airside of a regulated airport unless:

- (a) the person holds an ADA; and
- (b) the vehicle:
 - (i) is the subject of an AUA; or
 - (ii) is escorted by an employee of the airport-operator company for the airport.

Penalty: 5 penalty units.

Authority to Drive Airside

4.43. (1) A person must apply to an airport-operator company for an Authority to Drive Airside in relation to an airport in the way set out in the Vehicle Control Handbook for the airport.

(2) The criteria to be applied by the airport-operator company in deciding whether or not to grant the ADA are the criteria set out for that purpose in the Handbook.

(3) An airport-operator company must issue a card or other suitable evidence of an ADA.

(4) It is a condition of an ADA that the holder must operate a vehicle on the airside of the airport only in accordance with:

- (a) the rules set out in the Vehicle Control Handbook for the airport, including, in particular, any rules regarding the use of radio communications equipment or other signalling equipment; and
- (b) any other conditions of the ADA; and
- (c) if the vehicle is the subject of an AUA—any conditions of the AUA; and
- (d) any directions of an employee of the airport-operator company.

(5) It is also a condition of an ADA that the holder shows the ADA to an employee of the airport-operator company on demand.

(6) An ADA may be issued subject to any other conditions that the airport-operator company thinks necessary.

(7) Without limiting the generality of subregulation (6), the conditions may include a condition:

- (a) that the person, or the person's employer, indemnify the airport-operator company; or
- (b) limiting the person's right to drive in particular places, at particular times, or in particular circumstances.

Authority for Use Airside

4.44. (1) A person must apply to the airport-operator company for a regulated airport for an Authority for Use Airside in relation to an airport in the way set out in the Vehicle Control Handbook for the airport.

(2) The criteria to be applied by the airport-operator company in deciding whether or not to grant the AUA are the criteria set out for that purpose in the Handbook.

(3) It is a condition of an AUA that the vehicle must be operated on the airside of the airport only in accordance with:

- (a) the rules set out in the Vehicle Control Handbook for the airport, including, in particular, any rules regarding the use of radio communications equipment or other signalling equipment; and
- (b) any other conditions of the AUA; and
- (c) any directions of an employee of the airport-operator company.

(4) An AUA may be issued subject to any other conditions that the airport-operator company thinks necessary.

(5) Without limiting the generality of subregulation (4), the conditions may include a condition:

- (a) that the owner of the vehicle indemnify the airport-operator company; or

- (b) limiting the operation of the vehicle to particular places, times or circumstances.

Vehicle being driven dangerously etc may be removed

4.45. (1) If an authorised person considers that a vehicle is being driven, or is stopped or parked, on the airside of an airport in a manner that is likely to be a danger to a person or to property (including other vehicles and aircraft), or that is likely to interfere with the operation of the airport, the authorised person may direct the driver of the vehicle to remove it from the airside.

(2) The driver of the vehicle must comply with a direction under subregulation (1).

Penalty: 5 penalty units.

(3) A contravention of subregulation (2) is an infringement notice offence.

(4) If the driver of the vehicle cannot be found, or refuses to comply with the direction, the authorised person (with whatever assistance is reasonably necessary) may move the vehicle to a place within the airport approved for the purpose by the airport-operator company.

Authorised person

4.46 The Secretary may appoint as an authorised person for subregulation 4.45 (1):

- (a) an officer of the Department; or
- (b) an officer of the Australian Protective Service; or
- (c) an employee of the airport-operator company for the airport.

Withdrawal of Authority to Drive Airside

4.47. (1) The airport-operator company for a regulated airport may withdraw a person's ADA on the airport if the person operates a vehicle on the airside of the airport:

- (a) otherwise than in accordance with:
 - (i) his or her ADA; or

- (ii) the vehicle's AUA (if any); or
 - (iii) the Vehicle Control Handbook for the airport; or
 - (iv) a direction of an employee of the airport-operator company; or
- (b) in a manner likely to cause injury to a person, or damage to property (including an aircraft or another vehicle).

(2) If the airport-operator company considers that there may be reasons why an ADA should be withdrawn, it must invite the holder of the ADA, in writing, to show cause why the ADA should not be withdrawn.

(3) The criteria to be applied by the airport-operator company in deciding whether or not to withdraw an ADA are the criteria (if any) set out for that purpose in the Handbook.

(4) If an airport-operator company withdraws a person's ADA, it must tell the person of the withdrawal, in writing, as soon as practicable.

Withdrawal of Authority for Use Airside

4.48. (1) The airport-operator company for a regulated airport may withdraw an AUA if the vehicle to which it applies has been operated on the airside of the airport:

- (a) otherwise than in accordance with:
 - (i) the driver's ADA; or
 - (ii) the vehicle's AUA (if any); or
 - (iii) the Vehicle Control Handbook for the airport; or
 - (iv) a direction of an employee of the airport-operator company; or
- (b) in a manner likely to cause injury to a person, or damage to property (including an aircraft or another vehicle).

(2) If the airport-operator company considers that there may be reasons why an AUA should be withdrawn, it must invite the holder of the ADA, in writing, to show cause why the AUA should not be withdrawn.

(3) The criteria to be applied by the airport-operator company in deciding whether or not to withdraw an AUA are the criteria (if any) set out for that purpose in the Handbook.

(4) If an airport-operator company withdraws an AUA, it must tell the owner of the vehicle of the withdrawal, in writing, as soon as practicable.

Review of decisions

4.49. Application may be made to the Administrative Appeals Tribunal for review of a decision of an airport-operator company under regulation 4.43, 4.44, 4.47, or 4.48.

Transitional—existing authorisations

4.50. (1) A person who held, immediately before the commencement of this regulation, an authority (however described) issued by the FAC to drive a vehicle on the airside of a regulated airport is taken to hold an ADA.

(2) An authority (however described) issued by the FAC for the use of a vehicle on the airside of a regulated airport and in effect immediately before the commencement of this regulation continues to have effect as an AUA.

(3) An ADA that a person is taken to hold under subregulation (1):

- (a) is subject to the same conditions as the authority held by the person before the commencement of this regulation; and
- (b) may be withdrawn as if it had been issued under this Division.

(4) An AUA that continues to have effect under subregulation (2):

- (a) is subject to the same conditions as the authority granted by the FAC for the vehicle; and
- (b) may be withdrawn as if it had been issued under this Division.

PART 5—GAMBLING**Definition of “gambling activity”**

5.01. In this Part:

“**gambling activity**” has the same meaning as in section 173 of the Act;

“**regulated airport**” means Melbourne Airport, Brisbane Airport or Perth Airport.

Prohibition of gambling

5.02. (1) A person must not engage in a gambling activity at a regulated airport.

Penalty: 10 penalty units.

(2) However, an authority (however described, and however conferred, including an authority given as part of the terms of a lease) given by the FAC or the Commonwealth, before the commencement of this regulation, to a person to engage in a gambling activity at a regulated airport continues to have effect according to its terms.

Application of State laws

5.03. (1) A law of a State permitting gambling activity (whether or not subject to the obtaining of a licence or permission, or under other conditions) does not apply within a regulated airport.

(2) However, a person engaged in a gambling activity under an authority continued in effect by subregulation 5.02 (2) must comply with any law of a State or Territory (other than a licensing law or a reporting law) that would, except for subregulation (1), apply to the activity.

(3) In subregulation (2):

“**licensing law**” means a law of a State or Territory that requires a person to obtain a licence or permission for gambling;

“**reporting law**” means a law of a State or Territory that requires a person to make a report or return.

PART 6—SMOKING

Definition—“regulated airport”

6.01. In this Part:

“**regulated airport**” means Melbourne Airport, Brisbane Airport or Perth Airport.

No-smoking areas

6.02. (1) The airport-operator company for a regulated airport may decide that an area at the airport is to be a no-smoking area.

(2) The airport-operator company must put up a prominent sign bearing the words “No Smoking” in a no-smoking area.

Smoking prohibited

6.03. (1) A person must not smoke in a no-smoking area if the area is an area for which there is a sign of the kind required by subregulation 6.02 (1).

Penalty: 5 penalty units.

(2) A contravention of subregulation (1) is an infringement notice offence.

[Note: For infringement notice offences, see Part 7.]

Authorised persons

6.04. The Secretary may appoint as an authorised person for subregulation 6.03 (1):

- (a) an officer of the Department; or
- (b) an officer of the Australian Protective Service; or
- (c) an employee of an airport operator company, or of a contractor to an airport-operator company.

PART 7—INFRINGEMENT NOTICES**Definitions for Part**

7.01. In this Part:

“**authorised person**”, for an infringement notice offence, means a person appointed by the Secretary as an authorised person for the provision of these Regulations that creates the offence;

“**infringement notice offence**” means an offence that is declared to be an infringement notice offence by a provision of these Regulations.

When an infringement notice can be issued

7.02. If an authorised person has reason to believe that a person has committed an infringement notice offence, he or she may issue an infringement notice to the person in accordance with this Part.

Service of infringement notices

7.03. (1) An infringement notice must be served on the person to whom it is issued.

- (2)** An infringement notice may be served on an individual:
 - (a) by giving it to the individual; or
 - (b) by leaving it at, or by sending it by post to, the address of the place of residence or business of the individual that is last known to the authorised person; or
 - (c) by giving it, at the place of residence or business of the individual that is last known to the authorised person, to another person who is, or is reasonably believed by the authorised person to be, above the age of 16 years and apparently an occupant of, or employed at, the place.
- (3)** An infringement notice may be served on a corporation:
 - (a) by sending it by post to the head office, registered office, principal office or other postal address of the corporation; or

- (b) by giving it to a person who is, or is reasonably believed by the authorised person to be:
 - (i) an officer of, or in the service of, the corporation; and
 - (ii) above the age of 16 years;at the head office, registered office, principal office or other place of business of the corporation.

Notice penalty

7.04. The notice penalty is for an infringement notice offence is an amount equal to one-fifth of the maximum penalty under these Regulations for the offence.

Allowed period

- 7.05. (1)** The allowed period for an infringement notice is:
- (a) the period that ends at the end of the 28th day after the service of the notice; or
 - (b) if an authorised person or the Secretary has extended the allowed period—the allowed period as so extended.
- (2)** The Secretary or an authorised person may extend the allowed period for an infringement notice.
- (3)** An extension must not be for more than 28 days.
- (4)** Only 1 extension may be granted for an infringement notice.
- (5)** An extension may be given before or after the end of the allowed period for the notice concerned.

What must be included in an infringement notice

- 7.06. (1)** An infringement notice must:
- (a) set out the name, and the title (if any), of the authorised person by whom, or on whose behalf, the notice is served; and
 - (b) set out the infringement notice offence that is alleged to have been committed; and

- (c) set out when and where the offence is alleged to have been committed; and
 - (d) set out the notice penalty for the offence; and
 - (e) tell the person to whom it is issued that, if the person does not wish the matter to be dealt with by a court, the person may pay the notice penalty within the allowed period; and
 - (f) set out the allowed period; and
 - (g) set out where and how the penalty may be paid.
- (2) An infringement notice may contain any other matters that the Secretary considers necessary.
- (3) Nothing in this regulation prevents different forms of infringement notice being used for different infringement notice offences.

Whether infringement notice can be withdrawn

7.07. (1) The Secretary or an authorised person may withdraw an infringement notice served on a person (in this regulation called “**the recipient**”) within the allowed period for the notice.

- (2) Without limiting subregulation (1), the Secretary or authorised person may withdraw the infringement notice after taking into account:
- (a) whether the recipient has previously been convicted of an infringement notice offence of the same kind as the offence alleged in the notice; or
 - (b) the circumstances in which the offence alleged in the notice is alleged to have been committed; or
 - (c) whether an infringement notice has previously been served on the recipient for an infringement notice offence, and whether the recipient paid the notice penalty for that offence; or
 - (d) any other relevant matter.

(3) The Secretary must refund to the recipient an amount equal to the amount paid if:

- (a) the recipient pays the notice penalty within the allowed period for the notice; and
- (b) the notice is withdrawn after the recipient pays the penalty.

(4) If an infringement notice is withdrawn, written notice of the withdrawal must be served on the person to whom the notice was issued, and may be served on the person in any way that the infringement notice could have been served on the person.

What happens if the notice penalty is paid

7.08. If:

- (a) an infringement notice is issued to a person; and
- (b) the person pays the notice penalty within the allowed period for the notice; and
- (c) the notice is not withdrawn;

then:

- (d) any liability of the person in respect of the offence alleged in the notice is taken to be discharged; and
- (e) further proceedings cannot be taken against the person for the offence; and
- (f) the person is not regarded as having been convicted of the offence.

Evidentiary matters

7.09. (1) At the hearing of a prosecution for an offence for which an infringement notice has been issued, a certificate signed by an authorised person that states:

- (a) that the authorised person did not allow further time under paragraph 7.05 (b) for payment of the notice penalty; and
- (b) that the penalty has not been paid in accordance with the notice within 28 days after the date of service of the notice;

is evidence of those matters.

(2) At the hearing of a prosecution for an offence for which an infringement notice has been issued, a certificate signed by an authorised person and stating:

- (a) that the authorised person allowed, under paragraph 7.05 (b), the further time specified in the certificate for payment of the notice penalty; and
- (b) that the penalty has not been paid in accordance with the notice or within the further time allowed;

is evidence of those matters.

(3) At the hearing of a prosecution for an offence for which an infringement notice has been issued, a certificate signed by an authorised person and stating that the notice was withdrawn on a day specified in the certificate is evidence of that fact.

(4) A certificate that purports to have been signed by an authorised person is taken to have been signed by that person unless the contrary is proved.

Whether more than 1 infringement notice can be issued for the same offence

7.10. This Part does not prevent the service of more than 1 infringement notice on a person for the same offence, but regulation 7.08 applies to the person if the person pays the notice penalty in accordance with 1 of the infringement notices.

What if payment is made by cheque

7.11. If a cheque is offered as payment of all or part of the amount of a notice penalty, payment is taken not to have been made unless the cheque is honoured upon presentation.

This Part does not prevent a matter being prosecuted in a court nor that an infringement notice must be issued in all cases

7.12. Nothing in this Part:

- (a) requires an infringement notice to be issued to a person for an infringement notice offence; or

- (b) affects the liability of a person to be prosecuted for an infringement notice offence if the person does not comply with an infringement notice; or
- (c) affects the liability of a person to be prosecuted for an infringement notice offence if an infringement notice is not issued to the person for the offence; or
- (d) limits the amount of the fine that may be imposed by a court on a person convicted of an infringement notice offence.

SCHEDULE 1

Regulations 2.32,
2.42 and 2.62

MODIFICATIONS OF STATE LIQUOR LEGISLATION

PART 2—LIQUOR CONTROL ACT 1987 OF VICTORIA

1. Section 53 (Extended hours permit)

1.1 Sub-section 53 (2):

Omit the subsection.

2. New section 62A

2.1 Before section 63, insert in Division 5 of Part 3:

Interpretation

“**62A.** In this Division:

‘**commencing day**’ means the day on which Division 2.2 of Part 2 of the Airports (Control of On-Airport Activities) Regulations of the Commonwealth commenced;

‘**established club**’ means a club that was, on the commencing day, the holder of an existing authority (within the meaning of Part 2 of the Airports (Control of On-Airport Activities) Regulations of the Commonwealth) at Melbourne Airport.”.

SCHEDULE 1—continued**3. Section 63 (Application for grant of licence or BYO permit)**

3.1 Paragraph 63 (5) (b):

Omit the paragraph.

4. Section 64 (Application for grant of extended hours permit)

4.1 Sub-section 64 (5):

Omit “council of the municipality”, substitute “airport-operator company”.

4.2 Sub-section 64 (6):

Omit the sub-section, substitute:

“(6) In considering an application under this section, the Commission must have regard to any relevant matter raised by the airport-operator company.”.

5. Section 65 (Application for variation)

5.1 Paragraph 65 (2) (f):

Omit the paragraph, substitute:

“(f) if the applicant is either the licensee or permittee—be accompanied by evidence that the airport-operator company has consented to the variation; and”.

6. Section 70 (Copy of application to be given to police and to municipality)

6.1 Sub-section 70 (1):

Omit “must give a copy to—” and paragraphs 70 (1) (d) and (c), substitute:

“must give a copy to the Chief Commissioner of Police.”.

6.2 Add at the end:

“(3) This section does not apply to an application for a club licence or an extended hours permit made by an established club within 6 months after the commencing day.”.

SCHEDULE 1—continued

7. Section 71 (Objection by police)

7.1 Add at the end:

“(2) This section does not apply to an application for a club licence or an extended hours permit made by an established club within 6 months after the commencing day.”.

8. Section 72 (Advertisement of application)

8.1 Omit the section, substitute:

Applicant to notify Chief Commissioner, etc.

“72. (1) An applicant for the grant, variation, transfer or removal of a licence or extended hours permit must give written notice of the application to:

- (a) the Chief Commissioner of Police; and
- (b) the Secretary to the Department of Infrastructure.

“(2) This section does not apply to an application for a club licence or an extended hours permit made by an established club within 6 months after the commencing day.”.

9. Section 74 (Representations as to community interest)

9.1 Omit the section, substitute:

Representations as to community interest

“74. (1) This section applies to:

- (a) the Chief Executive Officer; and
- (b) a licensing inspector; and
- (c) the Chief Commissioner of Police; and
- (d) the Secretary to the Department of Infrastructure.

“(2) If a person to whom this section applies considers that the grant, variation, transfer, or removal of a licence or extended hours permit in accordance with an application would not be in the interest of the community in the neighbourhood where the premises

SCHEDULE 1—continued

to which the application relates are situated, he or she may, within 14 days after the notice referred to in section 72 is given, inform the Commission that he or she considers that the grant, variation, transfer or removal of the licence or extended hours permit would not be in that interest, and of the reasons why he or she holds that opinion.

“(3) If the Commission determines that the grant, variation, transfer, or removal of the licence or extended hours permit would not be in the interest of the community, the Commission must refuse the application.

“(4) This section does not apply to an application for a club licence or an extended hours permit made by an established club within 6 months after the commencing day.”.

10. Section 75 (Objection to grant or transfer of licence)

10.1 Sub-section 75 (1A):

Omit the sub-section.

10.2 Sub-section 75 (2):

Omit the sub-section.

10.3 Add at the end:

“(7) This section does not apply to an application for a club licence or an extended hours permit made by an established club within 6 months after the commencing day.”.

11. Section 76 (Recommendation as to community interest)

11.1 Omit the section.

12. Section 77 (Grant of application where no objection)

12.1 Paragraph 77 (b):

Omit the paragraph.

SCHEDULE 1—continued

13. New section 77A

13.1 After section 77, insert:

Special provision for certain clubs

“**77A.** If an established club applies, within 6 months after the commencing day, for the grant of a club licence or an extended hours permit, and gives the Commission the things mentioned in subsection (2), the Commission must grant the application.

“(2) The things are:

- (a) a copy of the plans of the premises to which the licence will apply, showing the boundaries of the premises; and
- (b) unless the Commission grants an authorisation under paragraph 58 (1) (a)—evidence that the rules of the club comply with Schedule 1.”.

14. Section 78 (Procedure where objection made)

14.1 Paragraph 78 (b):

Omit the paragraph, substitute:

“(b) an objection is made under section 66, 71 or 75 to the grant of the application; or”.

PART 3—LIQUOR ACT 1992 OF QUEENSLAND

1. Section 105 (Requirements for application)

1.1 After paragraph 105 (c), insert:

“(ca) be accompanied by evidence that the airport-operator company consents to the application; and”.

SCHEDULE 1—continued**2. Section 110 (Application for grant of extended hours permit not on regular basis)**

2.1 Subsection 110 (4):

Omit the subsection, substitute:

“(4) In considering an application under this section, the chief executive must have regard to any objection or comment made to the chief executive by a police officer under subsection (3).”.

3. Section 116 (Public need relevant to applications)

3.1 Omit the section.

4. Section 117 (Advice about application etc.)

4.1 Section 117:

Omit the section, substitute:

“**117. (1)** As soon as practicable after the chief executive receives an application for a club licence, if the application is for an extended hours permit, the chief executive must tell the Assistant Commissioner in charge of the Police Service for the locality.

“(2) The Assistant Commissioner may comment on the reasonable requirements of the public in the locality.”.

5. Section 118 (Advertisement of applications)

5.1 Omit the section.

6. Section 118A (Submissions on public need)

6.1 Omit the section.

7. Section 119 (Objection to grant of applications)

7.1 Omit the section.

8. Section 120 (Requirements of objection by petition)

8.1 Omit the section.

SCHEDULE 1—continued

9. Section 121 (Conference of concerned persons and decision by chief executive)

9.1 Omit the section.

10. Section 121A (Renewal of permits for extension of hours beyond 3 a.m.)

10.1 Omit the section.

11. Section 122 (Procedure on receipt of objections)

11.1 Omit the section.

PART 5—LIQUOR LICENSING ACT 1988 OF WESTERN AUSTRALIA

1. Section 67 (Advertisement of applications)

1.1 Omit the section.

2. Section 69 (Disposal of applications, and interventions generally)

2.1 Subsections 69 (2) and (3);

Omit the subsections, substitute:

“(2) The Director shall cause the date of lodgement to be endorsed on each notice of application.”.

2.2 Paragraph 69 (4) (b):

Omit the paragraph.

2.3 Subsections 69 (7) and (8):

Omit the subsections.

2.4 Subsection 69 (12):

Omit the subsection.

SCHEDULE 1—continued

3. Section 97 (Permitted hours of trading)

3.1 Omit the section, substitute:

Permitted hours of trading

“97. Subject to this Act and to any condition imposed by the licensing authority, a licensee is authorised to sell liquor at any time during the day or night, and on any day in the year.”.

4. Section 98 (Obligatory hours of trading)

4.1 Omit the section.

NOTE

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

K 1997.20 March