

Air Navigation (Aircraft Engine Emissions) Regulations (Amendment) 1997 No. 80

EXPLANATORY STATEMENT

STATUTORY RULES 1997 No. 80

Issued by the authority of the Minister for Transport and Regional Development

Air Navigation Act 1920

Air Navigation (Aircraft Engine Emissions) Regulations (Amendment)

The Air Navigation (Aircraft Engine Emissions) Regulations (the Emission Regulations) provide a regime for regulating the emission of pollutants from aircraft engines. Aircraft are not permitted to engage in air navigation in Australia unless their engines comply with certain internationally-agreed standards for fuel venting and smoke and gaseous emissions. These standards appear at Annex 16 to the Convention on International Civil Aviation 1944 (the Chicago Convention), to which Australia is a signatory.

Subsection 26(1) of the *Air Navigation Act 1920* provides that the Governor-General may make regulations, *inter alia*, prescribing all matters which are necessary or convenient to be prescribed for carrying out or giving effect to the Act, and for the purpose of carrying out and giving effect to the Chicago Convention.

Aircraft which do not comply with the Annex 16 standards are still allowed to engage in air navigation in Australia if the Secretary of the Department of Transport and Regional Development grants permission under regulation 6 of the Emission Regulations. Such permits may be granted subject to conditions, subregulation 6(3), and must specify the permitted air navigation and the duration (not exceeding one month) during which the permit is in force, subregulation 6(4).

Subregulation 9(1) of the Emission Regulations provides that decisions not to grant permits and decisions to revoke permits are reviewable by the Administrative Appeals Tribunal (AAT).

The Air Navigation (Aircraft Engine Emissions) Regulations (Amendment) (the Regulations) amend subregulation 9(1) of the Emission Regulations by expanding the scope of AAT review of the decisions of the Secretary to include the imposition of conditions under subregulation 6(3) and the specification of permitted air navigation and duration of the permit under subregulation 6(4).

Details of the Regulations appear in the Attachment. The proposed Regulations commence on gazettal.

Attachment

Clause 1 -Amendment

Clause 1 of the Regulations provides that the Air Navigation (Aircraft Engine Emissions) Regulations are amended as set out in these Regulations.

Clause 2 - Regulation 9 (Review by Administrative Appeals Tribunal)

Clause 2 of the Regulations repeals subregulation 9(1) of the Air Navigation (Aircraft Engine Emissions) Regulations and substitutes it with a new subregulation 9(1). The effect of the substitution is to broaden the scope of review of the Secretary's decisions by the Administrative Appeals Tribunal (AAT). The AAT is empowered not only to review decisions to refuse to grant permits and to revoke permits, but to review conditions attached to permits, the air navigation permitted under permits, and the duration of permits. The exclusion of review of decisions in relation to permit conditions, permitted air navigation, and permit duration from the substituted subregulation 9(1) was an oversight.