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Airports (Control of On-Airport Activities) Amendment Regulations 1999 (No. 3)

Statutory Rules 1999 No. 3

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I, WILLIAM PATRICK DEANE, 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 25 NOV 1999 1999.

WILLIAM DEANE

Governor-General

By His Excellency's Command,

JOHN ANDERSON

Minister for Transport and Regional Services



Airports (Control of On-Airport Activities) Amendment Regulations 1999 (No. 3)¹

Statutory Rules 1999 No. 3²

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made under the

Airports Act 1996

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1 Name of Regulations

These Regulations are the *Airports (Control of On-Airport Activities) Amendment Regulations 1999 (No. 4)*.

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2 Commencement

These Regulations commence on gazettal.

3 Amendment of *Airports (Control of On-Airport Activities) Regulations 1997*

Schedule 1 amends the *Airports (Control of On-Airport Activities) Regulations 1997*.

2	<i>Airports (Control of On-Airport Activities) Amendment Regulations 1999 (No. 4)</i>	1999, 4	291
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Schedule 1 Amendment

(regulation 3)

[1] Part 5

substitute

Part 5 Gambling

Division 1 Preliminary

136 Definitions for Part 5

In this Part:

continued gambling authority means an old gambling authority that is continued in effect by subregulation 138A (1) or 139 (1).

gambling activity has the same meaning as in section 173 of the Act.

gambling permission means a permission granted by the Secretary under Division 4.

licensing law means a law of a State or Territory that requires a person to obtain a licence or permission for gambling.

old gambling authority means an authority (however described, and however conferred, and including an authority that is part of the terms of a lease or licence) given, before the commencement of the airport lease for a Part 11 airport, by the FAC or the Commonwealth to a person to engage in a gambling activity at the airport.

regulated airport means a Part 11 airport other than the following airports:

- (a) Bankstown Airport;
- (b) Camden Airport;
- (c) Hoxton Park Airport;
- (d) Mount Isa Airport;
- (e) Sydney (Kingsford-Smith) Airport;
- (f) Tennant Creek Airport.

reporting law means a law of a State or Territory that requires a person to make a report or return about gambling.

Division 2 Gambling at regulated airports generally

137 Prohibition of gambling at regulated airports

Except in accordance with a continued gambling authority or a gambling permission, a person must not engage in a gambling activity on a regulated airport.

Penalty: 10 penalty units.

138 Application of certain State and Territory laws at regulated airports

- (1) A law of a State or Territory permitting gambling (whether or not subject to the obtaining of a licence or permission, or under other conditions) does not apply at, or in relation to a gambling activity at, a regulated airport.
- (2) However, a person engaged in a gambling activity at a regulated airport under a continued gambling authority 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 (so far as the law is not inconsistent with the authority).

Division 3 Transitional arrangements

138A **Transitional — gambling at Part 11 airports in New South Wales**

- (1) An old gambling authority for a gambling activity at a Part 11 airport in New South Wales continues to have effect according to its terms.
- (2) Subregulation (1) does not authorise the holder of such an authority to engage in:
 - (a) any gambling activity not authorised by the authority; or
 - (b) the gambling activity in a way, at a time, or under conditions, other than those set out in the authority.
- (3) An authority that is continued in effect by subregulation (1) ends when it would have ended if this regulation had not been made, and may be treated in any way under a law of New South Wales as if it were a licence or permission granted under that law.

139 **Transitional — gambling at certain other Part 11 airports**

- (1) An old gambling authority for a gambling activity at a regulated airport continues to have effect according to its terms.
- (2) Subregulation (1) does not authorise the holder of such an authority to engage in:
 - (a) any gambling activity not authorised by the authority; or
 - (b) the gambling activity in a way, at a time, or under conditions, other than those set out in the authority.

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- (3) In particular, subregulation (2) does not authorise Fun Trading Pty Ltd to operate at Parafield Airport any more gaming machines, or machines of a different type, than the type and number that it was authorised to operate at that airport immediately before the commencement of the airport lease for that airport.
 - (4) An authority that is continued in effect by subregulation (1) ends when it would have ended if these Regulations had not been made.

Division 4 Permissions to carry on gambling activities

139A Secretary may give certain permissions

- (1) The Secretary may give permission to a person to engage in a gambling activity at a regulated airport that is not in New South Wales.
- (2) The person must:
 - (a) hold a continued gambling authority to engage in a gambling activity at the airport; or
 - (b) hold a gambling permission to engage in a gambling activity at the airport; or
 - (c) be a purchaser, for value and in good faith, of the whole of the business to which such an authority or permission applies; or
 - (d) be the executor of the estate, or the trustee in bankruptcy, of an individual who is a person mentioned in paragraph (a), (b) or (c); or
 - (e) be the liquidator of a corporation that is a person mentioned in any of those paragraphs.

139B Application for permission

- (1) An application for a gambling permission must be in writing and must set out the facts or circumstances that, under regulation 139A, entitle the applicant to the permission.
- (2) If the Secretary reasonably needs more information to allow him or her to consider an application, he or she may ask the applicant in writing to provide the information within a reasonable time stated in the request.
- (3) The Secretary may ask the applicant in writing to verify any statement in the application by statutory declaration.

139C Time for the Secretary's decision

- (1) If the Secretary does not decide on an application within 30 days of receiving it, the Secretary is taken to have refused the application.
- (2) If the Secretary asks for more information, or a statutory declaration, about an application, the time between when the Secretary makes the request and when the applicant provides the information or statutory declaration does not count towards the 30 days.

139D Terms and conditions of gambling permission

- (1) A gambling permission must not be for longer than 5 years.
- (2) A gambling permission granted to the holder of a continued gambling authority or gambling permission must not commence before the authority or permission ceases to be in effect.

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- (3) A gambling permission granted to a person:
- (a) must specify, as the airport at which the gambling activity may be carried on, the airport at which the gambling authority or permission held by the person (or, in the case of a permission granted to an executor, trustee in bankruptcy or liquidator of a person — by that person) authorised the relevant gambling activity to be carried on; and
 - (b) must specify, as the gambling activity that may be carried on, the gambling activity authorised by that gambling authority or permission; and
 - (c) is subject to the conditions in relation to the activity to which the authority or permission was subject.
- (4) Also, the Secretary may impose a condition on a gambling permission that:
- (a) limits or specifies the times or days on which the permitted gambling activity may be carried on; or
 - (b) limits the amount of gambling that may be carried on (for example, by limiting the number or type of gaming machines that the holder may operate); or
 - (c) requires the holder of the permission not to allow particular kinds of people (in particular children) to take part in the gambling activity.
- (5) Nothing in this regulation permits the Secretary to specify the premises from which the gambling activity must be carried on, or requires the gambling activity to be carried on from particular premises.
- (6) A permission is not transferable.

139E Notice of permission

The Secretary must give written notice of a gambling permission to the person to whom or which it is granted, setting out:

- (a) when the permission commences; and
- (b) when it ceases; and

- (c) the gambling activity that may be carried on; and
- (d) the airport at which it may be carried on; and
- (e) any conditions that apply to the carrying on of the activity.

139F What permissions authorise

- (1) A gambling permission authorises the person to whom or which it is given to engage in a gambling activity, at the airport specified in it, according to its terms despite any law of a State or Territory.
- (2) However, the permission holder must comply with any law of a State or Territory (except a licensing law or a reporting law) that would, except for this Part, apply to the gambling activity, so far as the law is not inconsistent with the permission.

139G Review of decisions

Application may be made to the Administrative Appeals Tribunal for review of a decision of the Secretary under this Division.

Division 5 Cancellation and suspension of authorities and permissions

139H Suspension and cancellation — show cause notice

- (1) The Secretary may give the holder of a continued gambling authority or a gambling permission a show cause notice if there are reasonable grounds for believing that there are facts or circumstances that would justify the cancellation of the authority or permission under regulation 139I.

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- (2) A show cause notice must:
 - (a) tell the holder of the facts and circumstances that, in the Secretary's opinion, would justify the cancellation of the authority or permission under regulation 139F; and
 - (b) invite the holder to show in writing, within a reasonable period stated in the notice, why the authority or permission should not be cancelled.
 - (3) A show cause notice may state that the authority or permission is suspended if the Secretary reasonably considers that the holder of the authority or permission has committed a breach of the terms of the authority or permission, or of an applicable State or Territory law, that is sufficiently serious to justify suspending the authority or permission.
 - (4) If a show cause notice states that the authority or permission is suspended, the authority or permission is suspended from when the notice is given to the holder.
 - (5) The Secretary may at any time revoke the suspension.
 - (6) If the authority or permission is suspended and the Secretary has not dealt with it under regulation 139I within 90 days after the day it is suspended, the suspension lapses at the end of that period.

139I Cancellation of authority or permission

- (1) The Secretary may cancel a continued gambling authority or gambling permission by written notice to its holder if:
 - (a) the Secretary has given the holder a show cause notice under regulation 139H in relation to it; and
 - (b) the Secretary has taken into account any representations made, within the period stated in the notice, by or on behalf of the holder; and

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- (c) there are reasonable grounds for believing that the holder:
- (i) has engaged in a gambling activity not authorised by the authority or permission; or
 - (ii) has engaged in a gambling activity in a way not authorised by the authority or permission; or
 - (iii) has otherwise breached a condition of the authority or permission; or
 - (iv) has breached an applicable State or Territory law in a way that would, under that law, justify cancelling the authority or permission.

(2) In subparagraph (1) (c) (iii):

condition of an authority includes any stipulation, of the instrument by which the authority was conferred, that relates to:

- (a) the kinds of gambling activity that the holder may carry on; or
- (b) how the holder may carry on that gambling activity; or
- (c) prizes or returns to the players; or
- (d) any other thing that the holder must do in relation to the gambling activity.

(3) If the Secretary has given a show cause notice under regulation 139H to the holder of an authority or permission, and he or she decides not to cancel the authority or permission, he or she must:

- (a) tell the holder in writing of that decision; and
- (b) if the authority or permission is suspended under that regulation — revoke the suspension.

139J Cancellation at request of holder

- (1) Despite anything else in this Part, the Secretary must cancel a continued gambling authority or gambling permission if asked, in writing, by its holder to do so.
- (2) The cancellation takes effect when the request is given to the Secretary, or if a later day is stated in the request, on the later day.

139K Review of decisions

Application may be made to the Administrative Appeals Tribunal for review of a decision of the Secretary under this Division.

Notes

1. These Regulations amend Statutory Rules 1997 No. 57, as amended by 1997 Nos. 105 and 178; 1998 Nos. 98, 118 and 207; 1999 No. 77.
2. Made by the Governor-General on *the Commonwealth of Australia Gazette* on *1999*, and notified in *1999*.

s and 290
25 November
2 December