

EXPLANATORY STATEMENT

Select Legislative Instrument 2009 No. 69

Issued under the authority of the Minister for Infrastructure, Transport, Regional Development and Local Government.

Sydney Airport Demand Management Act 1997

Sydney Airport Demand Management Amendment Regulations 2009 (No. 1)

Section 74 of the *Sydney Airport Demand Management Act 1997* (the Act) provides that the Governor-General may make regulations, prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The Act establishes the framework to implement a limit of 80 movements per hour at Sydney Airport and allows the Slot Manager to facilitate an orderly and equitable allocation of arrival and departure slots at Sydney Airport.

In particular, section 65 of the Act provides that the regulations may make provision for matters relating to one body corporate ceasing to be the Slot Manager and another body corporate becoming the Slot Manager, including:

- (a) the continued effect of things done by the previous Slot Manager; and
- (b) the substitution of parties to legal proceedings by or against the previous Slot Manager; and
- (c) the transfer of rights and liabilities to the new Slot Manager.

Paragraph 60(2)(b) of the Act permits the regulations to confer functions on the Slot Manager.

The purpose of the Regulations is to update the provisions of the *Sydney Airport Demand Management Regulations 1998* (the Principal Regulations) including:

- to make them consistent with the Act as amended in 2008;
- provide the Commonwealth with appropriate access to the records of the Slot Manager;
- provide for the transfer of records to a new Slot Manager or the Department;
- facilitate the gathering of movement data at Sydney Airport;
- require the Slot Manager to report to the Department on slot allocations and actual slot use; and
- confer additional functions on the Slot Manager to collect information about gate movements, monitor gate movements against slot allocations and provide compliance information.

Details of the amendments are set out in the Attachment.

Consultations were held with the National Archives of Australia, the Sydney Airport Slot Manager, the Sydney Airport Slot Coordinator, the Compliance Committee and a Working Group comprising representatives from Airservices Australia, Sydney

Airport Corporation Limited, Qantas Airways, Virgin Blue, Regional Express, the Regional Aviation Association of Australia and the Board of Airline Representatives of Australia. The Regulations were drafted in consultation with the Commonwealth Attorney-General's Department. The first package of proposed Regulations was released in draft form to the industry representatives listed above for confidential consultation during their development. All issues raised during consultation have been addressed.

The Act specifies no conditions that needed to be satisfied before the power to make the Regulations may be exercised.

The Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Regulations commence on the day after registration on the Federal Register of Legislative Instruments.

Authority: Section 74 of the *Sydney Airport Demand Management Act 1997*

Details of the Sydney Airport Demand Management Amendment Regulations 2009 (No. 1)

Regulation 1 – Name of Regulations

This regulation provides that the title of the Regulations is the *Sydney Airport Demand Management Amendment Regulations 2009 (No. 1)*.

Regulation 2 – Commencement

This regulation provides that the Regulations commence on the day after registration.

Regulation 3 – Amendment of Sydney Airport Demand Management Regulations 1998

This regulation provides that the *Sydney Airport Demand Management Regulations 1998* (the Principal Regulations) are amended as set out in Schedule 1.

Schedule 1 – Amendments

Item [1] – regulation 3

Regulation 3 of the Principal Regulations has a definition for ‘Demand Management Act’. This item omits ‘Demand Management Act’ and inserts definitions for ‘Act’, ‘Secretary’, and ‘Slot Manager record’.

Item [2] – regulation 5, heading

Section 5 of the Principal Regulations provides for the membership of the Compliance Committee. This item replaces the heading ‘Committee Membership (Demand Management Act, s67)’ with ‘Committee membership (Act, s67)’ to remain consistent with the definitions in regulation 3.

Items [3] – subregulation 5(7)

Item [3] is consequential to the amendments to the *Sydney Airport Demand Management Act 1997* (the Act) that applies a new definition of a ‘gate movement’ to slots. This item removes the term ‘aircraft’ in subregulation 5(7) of the Principal Regulations and replaces it with ‘gate’ to bring the terminology in line with the Act.

Item [4] – After Part 2

This amendment inserts new Parts 3, 4 and 5 into the Principal Regulations.

Part 3 Functions of the Slot Manager

The new Part 3 sets out the regulations to provide the Commonwealth with appropriate access to, and protection of, the records of the Slot Manager.

Regulation 16 - Slot Manager records

Subregulation 16(1) describes the records of the Slot Manager to which this Part applies. This regulation requires the Slot Manager to keep records for 7 years.

Regulation 17 - Disposal of Slot Manager records

Regulation 17 sets out the requirements for the Slot Manager to seek approval of the Secretary prior to disposing any records it has kept for 7 years or more. Subregulation 17(3) specifies that the Slot Manager must not dispose of a record until the Secretary has consented to the disposal of the record in writing.

Part 4 Requirements in relation to Slot Manger records

The new Part 4 inserts regulations requiring the Slot Manager to report to the Department on slot allocations and actual slot use. It also sets out the process to facilitate obtaining information from all operators that use Sydney Airport, except those that are exempted under the Act. This item also confers additional functions on the Slot Manager to collect information about gate movements, monitor gate movements against slot allocations and provide compliance information to the Compliance Committee.

Regulation 18 - Requirement to make Slot Manager records available to the Secretary

Regulation 18 sets out the procedure for making records of the Slot Manager available to the Secretary.

Regulation 19 - Requirement to report

The requirement for the Slot Manager to report to the Secretary on a scheduling season or other agreed period is set out in regulation 19. The Slot Manager must give the Secretary a report on any or all of the items specified in subregulation 19(2) no later than 14 days after the end of the scheduling season or other period to which the report relates.

Regulation 20 - Requirement for operators to give reasons for specified gate movements

Regulation 20 requires operators to provide a time for which a specified gate movement occurred and reasons as to why a specified gate movement occurred when it did, if requested. This information is required to administer the compliance scheme.

Regulation 21 - Requirement for Airservices Australia to give information about gate movement times

Regulation 21 requires Airservices Australia to provide the Slot Manager gate movement times for each allocated slot and gate movement times for gate movements that occur without a slot and without an exemption granted under the Act, if requested. This information is required to administer the compliance scheme.

Regulation 22 - Requirement for Slot Manager to give information about specified gate movements

Regulation 22 requires the Slot Manager to provide the Compliance Committee with information about specified gate movements, if requested. This information is required to administer the compliance scheme.

Part 5 Transfer of Slot Manager records

Part 5 provides for the transfer of records to a new Slot Manager, or to the Department in the event a new Slot Manager has not been appointed.

Regulation 23 - Transfer of Slot Manager records to new Slot Manager

Regulation 23 requires that if a body corporate ceases to be the Slot Manager, it must transfer the Slot Manager records held by it to a new Slot Manager as soon as practicable after ceasing to be the Slot Manager.

Regulation 24 - Transfer of Slot Manager records to Department

Regulation 24 requires that if a body corporate ceases to be the Slot Manager and no other body corporate has been appointed as Slot Manager, it must transfer the Slot Manager records held by it to the Department as soon as practicable after ceasing to be the Slot Manager. This regulation also provides that the Department must hold the records until a new Slot Manager is appointed and transfer them to the new Slot Manager no later than 14 days after they are appointed.