



Airports Legislation Amendment Regulations 2009 (No. 2)¹

Select Legislative Instrument 2009 No. 231

I, QUENTIN BRYCE, 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 7 September 2009

QUENTIN BRYCE
Governor-General

By Her Excellency's Command

ANTHONY ALBANESE
Minister for Infrastructure, Transport, Regional Development
and Local Government

1 Name of Regulations

These Regulations are the *Airports Legislation Amendment Regulations 2009 (No. 2)*.

2 Commencement

These Regulations commence on the day after they are registered.

3 Amendment of *Airports Regulations 1997*

Schedule 1 amends the *Airports Regulations 1997*.

4 Amendment of *Airports (Building Control) Regulations 1996*

Schedule 2 amends the *Airports (Building Control) Regulations 1996*.

5 Application

The amendment made by Schedule 1 applies in relation to an application for building approval under regulation 2.02 of the *Airports (Building Control) Regulations 1996* that:

- (a) is made on or after the commencement of these Regulations; or
- (b) was made, but not finally determined, before the commencement of these Regulations.

Note 1 The effect of the amendments made by Schedule 1 is that on and after the commencement of these Regulations, a development that is covered by new regulation 5.02A will be a major airport development and must not be carried out except in accordance with a major development plan that is approved or taken to have been approved by the Minister under section 94 of the *Airports Act 1996*.

Note 2 If an application under regulation 2.02 of the *Airports (Building Control) Regulations 1996* for building approval for the development was made, but not finally determined, before the commencement of these Regulations, a draft major development plan for the development will need to be prepared and approved under Part 5 of the *Airports Act 1996* before the application can be approved under those Regulations.

Schedule 1 Amendment of *Airports Regulations 1997*

(regulation 3)

[1] After regulation 5.02

insert

5.02A Meaning of *major airport development*

- (1) This regulation specifies developments for the purposes of paragraph 89 (1) (o) of the Act.
- (2) A development that consists of constructing any of the following facilities at an airport is specified:
 - (a) a residential dwelling (except accommodation for students studying at an aviation educational facility at the airport);
 - (b) a community care facility;
 - (c) a pre-school;
 - (d) a primary, secondary or tertiary educational institution (except an aviation educational facility);
 - (e) a hospital (except a facility the primary purpose of which is to provide emergency medical treatment to persons at the airport and which does not have in-patient facilities);
 - (f) a child care facility (except a facility that caters principally for the children of persons working at the airport).
- (3) A development that consists of extending a facility specified in subregulation (2) is specified if the extension increases the capacity of the facility.

- (4) Subregulation (3) applies to an extension of a facility built after the commencement of this regulation and to an extension of a facility built at the time this regulation commences.
- (5) In this regulation:
- aged care** has the meaning given by Schedule 1 to the *Aged Care Act 1997*.
- aged care facility** means a facility that provides aged care.
- aviation educational facility** means any of the following:
- (a) a flying training school;
 - (b) an aircraft maintenance training school;
 - (c) a facility that provides training in relation to air traffic control;
 - (d) a facility that provides training for cabin crew;
 - (e) any other facility the primary purpose of which is to provide training in relation to aviation related activities.
- community care facility** includes the following:
- (a) an aged care facility;
 - (b) a nursing home;
 - (c) a retirement village;
 - (d) a respite care facility.
- nursing home** has the meaning given by section 4 of the *National Health Act 1953*.
- respite care** has the meaning given by Schedule 1 to the *Aged Care Act 1997*.
- respite care facility** means a facility that provides respite care.
- retirement village** has the meaning given by section 12 of the *Social Security Act 1991*.

**Schedule 2 Amendment of *Airports*
(Building Control) Regulations
1996**

(regulation 4)

[1] Subregulation 2.16 (2)

substitute

- (2) However, the airport building controller must not approve an application under subregulation (1) to vary a building approval if:
- (a) the variation would significantly alter the character, size or impact of the building activity, or the resulting development; or
 - (b) the variation relates to a major airport development and there is no major development plan approved for the development.

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.