



Air Navigation (Aircraft Noise) Amendment Regulations 2010 (No. 1)¹

Select Legislative Instrument 2010 No. 39

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 *Air Navigation Act 1920*.

Dated 10 March 2010

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 *Air Navigation (Aircraft Noise) Amendment Regulations 2010 (No. 1)*.

2 Commencement

These Regulations commence on the day after they are registered.

3 Amendment of *Air Navigation (Aircraft Noise) Regulations 1984*

Schedule 1 amends the *Air Navigation (Aircraft Noise) Regulations 1984*.

4 Transitional

(1) In this regulation:

commencement time means the time when these Regulations commence.

existing noise certificate means a noise certificate that was in force immediately before the commencement time.

new regulation 7 means regulation 7 of the *Air Navigation (Aircraft Noise) Regulations 1984*, as amended by Schedule 1.

(2) A permission to engage in air navigation that:

(a) was given under subregulation 9A (2) of the *Air Navigation (Aircraft Noise) Regulations 1984*, as in force before the commencement time; and

(b) was in force immediately before the commencement time;

continues in force until:

(c) if the permission was subject to an expiry date — the expiry date; or

- (d) in any other case — the start of the day that is the first day after the commencement time that is an anniversary of the permission being given.
- (3) An existing noise certificate continues in force after the commencement time even if it is not in the form, or does not contain all of the information, required by new regulation 7.
- (4) If an existing noise certificate is not in the form, or does not contain all of the information, required by new regulation 7, the owner or operator of an aircraft for which the certificate was issued may apply, in writing, to the Secretary for a replacement noise certificate.
- (5) The Secretary must issue a replacement noise certificate if:
 - (a) an application is made under subregulation (4); and
 - (b) the Secretary is satisfied that the aircraft does not emit a greater amount of noise than it did when the existing noise certificate was issued.

Schedule 1 Amendments

(regulation 3)

[1] Regulation 2

omit

In these Regulations, unless

insert

- (1) In these Regulations, unless

[2] Regulation 2, before definition of *aircraft*

insert

adventure flight means a flight involving elements of aerobatics, mock combat or low level or high speed flight where passengers are carried for the purpose of experiencing the flight rather than for the purpose of transportation.

agricultural operations means the broadcasting of chemicals, seeds, fertilizers and other substances from aircraft for agricultural purposes, including purposes of pest and disease control.

[3] Regulation 2, definition of *aircraft*, subparagraph (c) (iii)

omit

purposes.

insert

operations; or

[4] Regulation 2, definition of *aircraft*, after subparagraph (c) (iii)

insert

(iv) environmental operations.

[5] Regulation 2, after definition of *aircraft*

insert

air display means flying activities, including exhibitions involving unusual manoeuvres or demonstrations of skill in the manipulation of aircraft, together with flights for the purpose of demonstrating aircraft, performed before a public gathering.

Annex means Volume I of Annex 16 to the Chicago Convention, being that Annex as amended and in force on 20 November 2008.

[6] Regulation 2, definitions of *certificate of airworthiness*, Chapter 2 standards, Chapter 3 standards and Commonwealth aircraft

substitute

certificate of airworthiness means:

- (a) a certificate of airworthiness that was issued under regulation 24 of the *Civil Aviation Regulations 1988*; or

-
- (b) a certificate of airworthiness issued under regulation 21.176 of the *Civil Aviation Safety Regulations 1998*; or
- (c) a certificate of the airworthiness of an aircraft issued by, or on behalf of, a Contracting State.

Chapter 3 standards, for an aircraft, means the standards for aircraft noise set out in Chapter 3 of the Annex when the level of noise emitted by the aircraft is determined in the way set out in Chapter 3 of the Annex and Appendix 2 to the Annex.

Chapter 4 standards, for an aircraft, means the standards for aircraft noise set out in Chapter 4 of the Annex when the level of noise emitted by the aircraft is determined in the way set out in Chapter 4 of the Annex and Appendix 2 to the Annex.

Commonwealth aircraft has the same meaning as in the *Air Navigation Regulations 1947*.

[7] Regulation 2, after definition of *engage in conduct*

insert

environmental operations means the aerial application of substances for the purposes of pollution clean-up and control.

[8] Regulation 2, definition of *foreign aircraft*

substitute

foreign aircraft has the same meaning as in the *Air Navigation Regulations 1947*.

[9] Regulation 2, definition of *maintenance*

substitute

maximum take-off weight, of an aircraft, has the same meaning as in the *Civil Aviation Regulations 1988*.

[10] Regulation 2, definition of *registered*

substitute

registered means registered under Part 47 of the *Civil Aviation Safety Regulations 1998*.

[11] Regulation 2, definition of *the Annex*

substitute

type certificate has the same meaning as in the *Civil Aviation Safety Regulations 1998*.

[12] Regulation 2

insert

- (2) Unless the contrary intention appears, words and expressions used in these Regulations and in the Annex have the same meaning in these Regulations as in the Annex.

[13] Subregulation 6A (5)

omit

[14] Regulation 7

substitute

7 Form and content of noise certificate

A noise certificate must:

- (a) be in a form approved by the Secretary; and
- (b) certify:
 - (i) for an aircraft of a type specified in column 2 of an item in Schedule 1 — that the aircraft complies with standards for aircraft noise specified in the Annex; or
 - (ii) in any other case — that the aircraft complies with standards for aircraft noise expressed in the Annex to be applicable to aircraft of the class to which the aircraft belongs; and
- (c) contain the information required by the Annex to be included in noise certification documents.

7A Noise certificate to be carried on board aircraft

The operator of an aircraft for which a noise certificate is in force must ensure that the noise certificate (whether consisting of a separate document or not) is carried on board the aircraft at all times.

[15] Paragraph 9 (1) (a)

after

Chapter 3 standards

insert

or the Chapter 4 standards

[16] Paragraph 9 (1) (b)

substitute

- (b) if it does not comply with the Chapter 3 standards or the Chapter 4 standards — a permission is in force under regulation 9A for it; or

[17] Paragraph 9 (1) (d)

substitute

- (d) it is undergoing testing required by the Civil Aviation Safety Authority, or an authorised person appointed under the *Civil Aviation Safety Regulations 1998*, to determine whether a certificate of airworthiness should be issued, renewed or validated under those Regulations; or

[18] Paragraph 9 (2) (d)

substitute

- (d) it is undergoing testing required by the Civil Aviation Safety Authority, or an authorised person appointed under the *Civil Aviation Safety Regulations 1998*, to determine whether a certificate of airworthiness should be issued, renewed or validated under those Regulations; or

[19] Paragraph 9 (4) (a)

omit

Chapter 3 standards

insert

the Chapter 3 standards or the Chapter 4 standards

[20] Paragraph 9 (4) (b)

substitute

(b) for paragraph (1) (b) — to the physical element that an aircraft does not comply with the Chapter 3 standards or the Chapter 4 standards and the physical element that a permission is in force under regulation 9A; and

[21] Subregulation 9A (1A)

omit

[22] Subregulation 9A (2)

substitute

- (2) If an application is made under subregulation (1), the Secretary may give permission in writing for the aircraft to engage in air navigation if:
- (a) the aircraft is not a subsonic jet aircraft and the extent to which the aircraft exceeds the standards is not significant; or
 - (b) the historical significance of the aircraft justifies giving the permission; or
 - (c) the aircraft is to be used solely for a purpose that is in the public interest; or
 - (d) the aircraft is to be used for either or both of the following purposes and for no other purpose:
 - (i) an air display approved by the Civil Aviation Safety Authority;

- (ii) an adventure flight.

Note See regulation 9AAA for public consultation requirements for adventure flights.

[23] After regulation 9A

insert

9AAA Public consultation about adventure flights

- (1) This regulation applies in relation to an application for permission under regulation 9A for an aircraft that is to be used for an adventure flight.

Note An application may relate to more than 1 flight (*Acts Interpretation Act 1901*, paragraph 23 (b)).

- (2) Before making the application, the owner or operator of the aircraft must consult:
- (a) the operator of the aerodrome from which the adventure flight is proposed to be flown; and
 - (b) if the local governing body for the locality in which the aerodrome is located is not the operator of the aerodrome — the local governing body.
- (3) The Secretary must not give the permission unless the Secretary is satisfied that the consultation mentioned in subregulation (2) has occurred.
- (4) Nothing in this regulation requires the Secretary to give the permission even if the Secretary is satisfied that the consultation mentioned in subregulation (2) has occurred.
- (5) In this regulation:
- local governing body***, for a locality, means:
- (a) if there is a local council for the locality — the local council; or
 - (b) in any other case — any other body responsible for local government matters in the locality.

[24] Subregulation 9AB (1)

omit

or (1A)

[25] After subregulation 10 (3)

insert

- (3A) If the operator of an aircraft for which a noise certificate is in force fails to comply with regulation 7A, the Secretary may, by notice in writing given to the operator, revoke the noise certificate.

[26] Subregulation 10 (5)

omit

(1) or (2),

insert

(1), (2) or (3A),

[27] Regulations 10A, 10B, 10BA, 10C and 10D

omit

[28] Paragraph 13 (b)

omit

9AA (2), 9AB (2) or 10BA (3); or

insert

9AA (2) or 9AB (2); or

[29] Paragraph 13 (c)

omit

9AA (3) (a), 9AB (3) (a) or 10BA (4) (a); or

insert

9AA (3) (a) or 9AB (3) (a); or

[30] Paragraph 13 (d)

omit

9AA (3) (b), 9AB (3) (b) or 10BA (4) (b); or

insert

9AA (3) (b) or 9AB (3) (b); or

[31] Paragraph 13 (e)

omit

9AA (4), 9AB (5) or 10BA (6); or

insert

9AA (4) or 9AB (5); or

[32] Paragraph 13 (f)

omit

10 (2); or

insert

10 (2) or (3A).

[33] Paragraphs 13 (g), (h) and (i)

omit

[34] Schedule

substitute

Schedule 1 Noise standards and testing procedures for certain aircraft

(regulation 6A)

Item	Type of aircraft	Provisions of Annex for noise standards	Provisions of Annex for test procedure
1	Subsonic jet aircraft for which an application for a type certificate was submitted on or after 6 October 1977 and before 1 January 2006	3.2, 3.4, 3.5	3.2, 3.3, 3.6, 3.7 Appendix 2 <i>or</i> 4.2, 4.3, 4.5, 4.6 Appendix 2
2	Propeller-driven aeroplanes with a maximum take-off weight exceeding 5700 kg and less than 8618 kg for which an application for a type certificate was submitted on or after 1 January 1985 and before 17 November 1988	3.2, 3.4, 3.5 <i>or</i> 6.2, 6.3	3.2, 3.3, 3.6, 3.7 Appendix 2 <i>or</i> 6.2, 6.4, 6.5 Appendix 3
3	Propeller-driven aeroplanes with a maximum take-off weight exceeding 8618 kg for which an application for a type certificate was submitted on or after 17 November 1988 and before 1 January 2006	3.2, 3.4, 3.5 <i>or</i> 4.2, 4.3, 4.4	3.2, 3.3, 3.6, 3.7 Appendix 2 <i>or</i> 4.2, 4.3, 4.5, 4.6 Appendix 2
4	Subsonic jet aircraft for which an application for a type certificate was submitted on or after 1 January 2006	4.2, 4.3, 4.4	4.2, 4.3, 4.5, 4.6 Appendix 2
5	Propeller-driven aeroplanes with a maximum take-off weight exceeding 8618 kg for which an application for a type certificate was submitted on or after 1 January 2006	4.2, 4.3, 4.4	4.2, 4.3, 4.5, 4.6 Appendix 2
6	Propeller-driven aeroplanes of a maximum take-off weight exceeding 5700 kg for which an application for a type certificate was submitted before 1 January 1985	5.2, 5.4, 5.5	5.6, 5.7 Appendix 2
7	Propeller-driven aeroplanes of a maximum take-off weight not exceeding 8618 kg for which an application for a type certificate was submitted before 17 November 1988	6.2, 6.3	6.2, 6.4, 6.5 Appendix 3

Item	Type of aircraft	Provisions of Annex for noise standards	Provisions of Annex for test procedure
8	Propeller-driven STOL (short take-off and landing) aeroplanes	Guidelines set out in Attachment B of the Annex may be used for noise certification of propeller-driven STOL aeroplanes for which a certificate of airworthiness for the individual aeroplane was first issued on or after 1 January 1976	
9	Helicopters (to which Chapter 8 of the Annex applies: refer 8.1 of the Annex)	8.2, 8.4, 8.5	8.2, 8.3, 8.6, 8.7 Appendix 2
10	Installed auxiliary power units (APU) and associated aircraft systems during ground operations	<p>Guidelines set out in Attachment C of the Annex may be used for noise certification of installed auxiliary power units (APU) and associated aircraft systems in:</p> <ul style="list-style-type: none"> <li data-bbox="900 958 1257 1272">(a) all aircraft for which an application for a type certificate was submitted, or another equivalent procedure permissible under the Annex was carried out by the certifying authority, on or after 6 October 1977; and <li data-bbox="900 1285 1270 1630">(b) aircraft of existing type design for which the application for a change of type design involving the basic APU installation was submitted, or another equivalent procedure permissible under the Annex was carried out by the certifying authority, on or after 6 October 1977 	

Item	Type of aircraft	Provisions of Annex for noise standards	Provisions of Annex for test procedure
11	Propeller driven aircraft of a maximum take-off weight not exceeding 8618 kg for which an application for a type certificate for the type of aircraft or a derived version was submitted before 17 November 1988	10.4	10.2, 10.3, 10.5, 10.6 Appendix 6
12	Helicopters with a maximum take-off weight not exceeding 3175 kg	11.3, 11.4	11.4, 11.5, 11.6 Appendix 4
13	Tilt-rotor aircraft	Guidelines set out in Attachment F of the Annex may be used for noise certification of tilt-rotor aircraft for which the application for a type certificate was submitted, or another equivalent procedure permissible under the Annex was carried out by the certifying authority, on or after 13 May 1998 and to provide data for land-use planning purposes	

[35] Further amendments — Schedule

The following provisions are amended by omitting ‘the Schedule’ and inserting ‘Schedule 1’:

- regulation 6A, heading
- paragraph 6A (1) (a)
- subregulation 6A (2)
- subregulation 6A (3)
- paragraph 9A (1) (a)
- paragraph 10 (1) (a)
- subparagraph 10 (2) (a) (i)
- paragraph 11 (3) (c).

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>.