

EXPLANATORY STATEMENT

Select Legislative Instrument 2010 No. 118

Subject - *Air Navigation Act 1920*

Air Navigation (Aircraft Noise) Amendment Regulations 2010 (No. 2)

Section 26 of the *Air Navigation Act* (the Act) provides for the Governor-General to make regulations for the purpose of:

- carrying out and giving effect to the Chicago Convention, and in regard to any Annex to the Convention relating to international standards and recommended practices; and
- in relation to air navigation, being regulations with respect to any other matter with respect to which the Parliament has power to make laws.

The Air Navigation (Aircraft Noise) Regulations 1984 (the Regulations) implement aircraft noise standards established by the International Civil Aviation Organization (ICAO). The Regulations require all aircraft operating in Australian airspace to meet the appropriate noise standards set out in Volume I of ICAO Annex 16 (the Annex).

The purpose of the Amendment Regulations is to introduce a regulatory framework to restrict the operations of large, marginally noise compliant aircraft. The intention is that the framework will assist in the mitigation of noise arising from the operation of these aircraft. The noise mitigation measures within this framework are based on methodologies outlined in the ICAO document *Guidance on the Balanced Approach to Aircraft Noise Management* (2nd Edition - 2008) and will be implemented on an airport-by-airport basis.

The noise emitted by large, marginally noise compliant aircraft has, for some time, been a source of concern to communities surrounding airports where they operate. This issue is aggravated further by the fact that these aircraft are mainly used for freight purposes and often operate during noise-sensitive night time periods.

Failure to adequately manage aircraft noise regularly results in increased community calls for curfews on airports which have economic implications for these important national assets. Limiting the operation of older noisy aircraft types – particularly during noise sensitive times - will assist in addressing adverse noise impact on communities surrounding major airports.

The new regulations:

- introduce new definitions relating to large marginally noise compliant aircraft;
- specify that, for noise mitigation purposes, the Minister may by a notice in writing, restrict or prohibit the operation of large marginally noise compliant aircraft at an airport; and

- include provision for special permission to be given to operate an aircraft at a restricted airport for a purpose that is in the public interest, for a period of no more than one month.

Consultation with the aviation industry and community on the issues giving rise to these amendments was conducted in 2000 and 2005 via two discussion papers. The Government again raised this issue in the 2008 Aviation Green Paper, and subsequently announced its intention to regulate in the National Aviation Policy Statement – White Paper, released in December 2009.

Prior to the commencement of drafting, the Government wrote to the Civil Aviation Safety Authority, Airservices Australia, airports, operators of these aircraft and other key industry stakeholders announcing the Government’s intent to introduce regulations by 1 July 2010, and seeking to engage with them on the draft framework.

Feedback from peak bodies within the freight industry indicates that there will be little impact or effect of this action on current aviation activities as there is, at this time, excess carrying capacity within the domestic and international freight network.

A Regulation Impact Statement was completed for the Regulations and an approval of this statement was received from the Office of Best Practice Regulation. Details of the Regulations are set out in the Attachment.

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

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

The Regulations would commence on 1 July 2010.

Authority: Section 26(1) of the
Air Navigation Act 1920

[Minister’s initials]

Details of the *Air Navigation (Aircraft Noise) Amendment Regulations 2010 (No. 2)*.

Regulation 1 – Name of Regulations

This regulation will provide that the title of the Regulations is the *Air Navigation (Aircraft Noise) Amendment Regulations 2010 (No. 2)*.

Regulation 2 – Commencement

This regulation will provide for the Regulations to commence on 1 July 2010.

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

This regulation will provide that the *Air Navigation (Aircraft Noise) Regulations 1984* (the Principal Regulations) are amended as set out in Schedule 1 and Schedule 2.

Schedule 1 – Amendments commencing on 1 July 2010

Item [1] – Regulation 11

This item will renumber regulation 11 of the Principal Regulations and relocate as regulation 14, for drafting purposes.

Item [2] – Regulation 13

This item will renumber regulation 13 of the Principal Regulations and relocate as regulation 15, for drafting purposes.

Schedule 2 – Amendments commencing immediately after commencement of Schedule 1

Item [1] – before regulation 1, insert

To enhance comprehension, the Principal Regulations has been divided into three Parts. This item will insert a new *Part 1- Preliminary* heading for drafting purposes.

Items [2], [3] and [6] – Regulation 2

These items will insert new definitions for *Aeronautical Information Publication*, *Aeronautical Information Service*, *airport*, and *Notice to Airmen* into regulation 2 of the Principal Regulations to ensure continuity with definitions contained in the *Air Services Act 1995* and the *Airports Act 1996*.

Items [4], [5] and [7] - Regulation 2

These items will introduce new definitions for *EPNdB*, *large, marginally compliant aircraft*, and *restricted airport* to ensure continuity with the Annex and clearly define the characteristics of aircraft to be affected by the Principal Regulations.

Item [8] – After regulation 4, insert

This item will insert a new *Part 2 Noise certification of aircraft* heading for drafting purposes.

Item [9] – After regulation 10, insert

This item will insert new *Part 3 Restrictions on operation of large marginally compliant aircraft and permissions* and *Part 4 Miscellaneous* headings for drafting purposes.

This item will also insert new regulations 11, 12 and 13.

Regulation 11 enables the Minister to impose restrictions and/or prohibitions on current and future operations by large, marginally compliant aircraft at an airport, for noise mitigation purposes.

Sub regulations 11(2) and (3) would establish what the Minister must consider prior to issuing of a Notice under subregulation 11(4).

Sub regulation 11(5) would provide for the publication of all Notices issued under the regulations in the public domain.

Regulation 12 enables the Secretary of the Department to give permission for a large marginally compliant aircraft to operate at a restricted airport, for a purpose that is deemed to be in the public interest and for a period of not more than one month. For example: in a medical emergency or for the transport of essential equipment to remote areas.

Regulation 13 will prohibit large marginally compliant aircraft from operating in contravention of subregulation 11(1), provides for offences to be applied for a contravention and establishes the penalty units to be applied to these offences.