



# **Air Navigation (Aircraft Noise) Amendment Regulations 2010 (No. 2)<sup>1</sup>**

## **Select Legislative Instrument 2010 No. 118**

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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 3 June 2010

QUENTIN BRYCE  
Governor-General

By Her Excellency's Command

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

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**1 Name of Regulations**

These Regulations are the *Air Navigation (Aircraft Noise) Amendment Regulations 2010 (No. 2)*.

**2 Commencement**

These Regulations commence as follows:

- (a) on 1 July 2010 — regulations 1 to 3 and Schedule 1;
- (b) immediately after the commencement of Schedule 1 — Schedule 2.

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

Schedules 1 and 2 amend the *Air Navigation (Aircraft Noise) Regulations 1984*.

**Schedule 1      Amendments commencing on  
1 July 2010**  
(regulation 3)

- [1]      Regulation 11**  
*renumber and relocate as regulation 14*
- [2]      Regulation 13**  
*renumber and relocate as regulation 15*

**Schedule 2 Amendments commencing  
immediately after  
commencement of Schedule 1**  
(regulation 3)

[1] **Before regulation 1**

*insert*

**Part 1 Preliminary**

[2] **Subregulation 2 (1), after definition of *adventure  
flight***

*insert*

*Aeronautical Information Publication* has the same meaning as in subregulation 1.03 (1) of the *Air Services Regulations 1995*.

*Aeronautical Information Service* has the same meaning as in subregulation 1.03 (1) of the *Air Services Regulations 1995*.

[3] **Subregulation 2 (1), after definition of *air display***

*insert*

*airport* has the same meaning as in section 5 of the *Airports Act 1996*.

[4] **Subregulation 2 (1), after definition of *environmental  
operations***

*insert*

*EPNdB* means effective perceived noise in decibels.

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[5] **Subregulation 2 (1), after definition of *inspector***

*insert*

***large marginally compliant aircraft*** means a subsonic jet aircraft that:

- (a) either:
  - (i) has a maximum take-off weight of 34 000 kg or more; or
  - (ii) is permitted by its type certificate to have a passenger seating capacity of more than 19 seats other than seats for crew; and
- (b) if it was not previously a state aircraft — was certificated for compliance with the standards for aircraft noise in Chapter 2 of the Annex; and
- (c) has been modified; and
- (d) if it was not previously a state aircraft — has been re-certificated for compliance with the standards for aircraft noise in Chapter 3 of the Annex; and
- (e) complies with the noise certification limits mentioned in the standards for aircraft noise in Volume 1, Part II of Chapter 3 of the Annex by a cumulative margin of not more than 5 EPNdB if:
  - (i) the cumulative margin is the amount of noise, expressed in EPNdB, that is obtained by adding the individual margins at each of the 3 noise reference points mentioned in Volume 1, Part II of Chapter 3 of the Annex; and
  - (ii) an individual margin is the difference between the certificated noise level and the maximum permitted noise level at a referenced noise measurement point.

*Note* Paragraph (e) of this definition is based upon the definition of ‘Marginally compliant aircraft’ in Article 2 of Directive 2002/30/EC of the European Parliament and of the Council of 26 March 2002 on the establishment of rules and procedures with regard to the introduction of noise-related operating restrictions at Community airports.

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**[6] Subregulation 2 (1), after definition of *noise certificate***

*insert*

*Notice to Airmen* has the same meaning as in subregulation 1.03 (1) of the *Air Services Regulations 1995*.

**[7] Subregulation 2 (1), after definition of *relevant law***

*insert*

*restricted airport* means an airport mentioned in a notice under subregulation 11 (1) as an airport where the restrictions or prohibitions mentioned in the notice are to apply.

**[8] After regulation 4**

*insert*

## **Part 2 Noise certification of aircraft**

**[9] After regulation 10**

*insert*

## **Part 3 Restrictions on operation of large marginally compliant aircraft and permissions**

**11 Imposition of operating restrictions at airport**

- (1) The Minister may, by notice in writing, restrict or prohibit the operation of large marginally compliant aircraft at an airport.
- (2) The Minister may issue a notice under subregulation (1) for an airport only if satisfied that the operation of large marginally compliant aircraft at the airport is creating, or may create, excessive noise at the airport and in at least 1 community near the airport.

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- (3) The Minister must consider the outcome of consultation conducted by the Department with persons who may be affected by the issue of a notice, including persons living in communities near the airport, when deciding if he or she is satisfied of the matter mentioned in subregulation (2).

*Example*

Persons who may be affected by the issue of the notice include aircraft operators, airport operators, members of the public, local, state and federal government bodies and relevant industry bodies.

- (4) A notice under subregulation (1):
- (a) must mention:
    - (i) the restricted airport; and
    - (ii) the restrictions or prohibitions that are to apply to the operation of large marginally compliant aircraft at the restricted airport; and
  - (b) may mention the kinds of large marginally compliant aircraft to which a restriction or prohibition applies.

*Example*

Examples of restrictions that may be imposed by a notice under subregulation (1) are as follows:

- (a) limiting aircraft operations to stated runways or flight paths;
- (b) restricting the hours of aircraft operations;
- (c) ways in which aircraft operations are to be phased out;
- (d) non-addition rules.

Examples of non-addition rules for paragraph (d) are restricting operators from replacing a large marginally compliant aircraft operating at a restricted airport with another large marginally compliant aircraft, or from operating additional large marginally compliant aircraft at a restricted airport.

- (5) A notice under subregulation (1) must be:
- (a) published in the *Gazette*; and
  - (b) published by the Aeronautical Information Service in:
    - (i) a Notice to Airmen; and
    - (ii) the Aeronautical Information Publication.

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**12 Permission to use restricted airport in public interest**

- (1) The operator of a large marginally compliant aircraft may apply to the Secretary for permission for the aircraft to operate at a restricted airport in a way that would otherwise contravene a notice under subregulation 11 (1).
- (2) The Secretary may give permission for the large marginally compliant aircraft to operate at a restricted airport in a way that would otherwise contravene a notice under subregulation 11 (1) only if the Secretary considers that the aircraft is to operate for a purpose that is in the public interest.
- (3) For subregulations (1) and (2), a purpose that is in the public interest includes any of the following:
  - (a) a medical or emergency flight;
  - (b) a humanitarian purpose;
  - (c) the provision of essential services to a remote area;
  - (d) a scientific or research flight.
- (4) A permission by the Secretary under subregulation (2) must:
  - (a) be in writing; and
  - (b) mention the following:
    - (i) the purpose in the public interest for which the large marginally compliant aircraft may operate at the restricted airport;
    - (ii) the period, not more than 1 month, during which the large marginally compliant aircraft may operate for the public interest purpose at the restricted airport;
    - (iii) any conditions with which the large marginally compliant aircraft must comply when operating at the restricted airport.

**13 Prohibition on operating at restricted airport**

- (1) A large marginally compliant aircraft must not operate at a restricted airport in contravention of a notice issued by the Minister under subregulation 11 (1) unless the operation of the aircraft is permitted by the Secretary under subregulation 12 (2).



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- (2) The operator of a large marginally compliant aircraft commits an offence if:
- (a) the operator engages in conduct; and
  - (b) the operator's conduct results in a contravention of subregulation (1).
- Penalty: 50 penalty units.
- (3) Strict liability applies to paragraph (2) (b).

## **Part 4                      Miscellaneous**

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### **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>.