



Sydney Airport Curfew (Dispensation) Guideline 2016

Sydney Airport Curfew Act 1995

I, DARREN JEFFREY CHESTER, Minister for Infrastructure and Transport, make the following guideline under section 20(5) of the *Sydney Airport Curfew Act 1995*.

Dated 22 March 2016

Darren Chester
Minister for Infrastructure and Transport

Part 1 Preliminary

1

Citation

This instrument may be cited as the *Sydney Airport Curfew (Dispensation) Guideline 2016*.

2 Commencement

This instrument commences on the day after its registration on the Federal Register of Legislation.

3 Authority

This instrument is made pursuant to section 20(5) of the *Sydney Airport Curfew Act 1995*.

4 Definitions

Note: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) aircraft;
- (b) curfew period;
- (c) land;
- (d) noise level;
- (e) operator;
- (f) Sydney Airport;
- (g) take off.

In this instrument:

Act means the *Sydney Airport Curfew Act 1995*.

main runway means the runway commonly designated as runway 16R and runway 34L, and marked 'A' in the diagram in subsection 4(1) of the Act.

regular curfew traffic means take-offs and landings permitted on the main runway under Division 1 of Part 3 of the Act.

5 Repeal

The Dispensation Guidelines made on 12 May 1996 (Instrument No. M35/96, F2005B01041) are repealed on the commencement of this instrument.



Part 2 Guidelines about the granting of dispensations

What constitutes exceptional circumstances

6 **Exceptional circumstances – primary criteria for assessment**

Subject to sections 7 and 8, circumstances will generally only be considered exceptional so as to justify a take-off or landing within the curfew period if:

- (a) they originated during, or during preparation for, the take-off of a flight scheduled to fly directly to, or to depart from, Sydney Airport; and
- (b) they involve a delay caused by:
 - (i) unforeseen mechanical failure of the aircraft in relation to which the dispensation has been requested; or
 - (ii) the offloading of baggage from the aircraft in relation to which the dispensation has been requested, which was required due to passengers failing to board; or
 - (iii) the re-screening (for aviation security purposes) of passengers and/or baggage of the aircraft in relation to which the dispensation has been requested;or the circumstances are otherwise of such a character that they could not reasonably have been foreseen by the operator; and
- (c) the operator has demonstrated to the satisfaction of the Minister that it has made every reasonable effort to avoid the need for a dispensation but was unable to make alternative arrangements to the take-off or landing.

7 **Unavailability of main runway**

An exceptional circumstance will exist in relation to regular curfew traffic where the main runway is not available because of maintenance or repairs of the runway, or other maintenance or repairs necessary for the safe operation of Sydney Airport.

8 **Protracted industrial disputes**

An exceptional circumstance may exist where a protracted industrial dispute causes long-term severe disruption to an operator's aviation services and this in turn causes the delay or cancellation of flights.

9 **Circumstances that are not generally exceptional**

Exceptional circumstances will not generally exist on the basis that:



- (a) one of the following has caused changes to scheduled flights:
 - (i) adverse weather conditions, where the operator of an aircraft scheduled to fly to Sydney Airport knew, or could reasonably have been expected to know, prior to take-off, that those conditions were likely to eventuate;
 - (ii) adverse weather conditions, where the operator of an aircraft scheduled to depart Sydney Airport knew, or could reasonably have been expected to know, within a reasonable period prior to take-off, that those conditions were likely to eventuate;
 - (iii) industrial disputes, other than those referred to in section 8;
 - (iv) disruptions to an operator's network or schedules due to mechanical problems, other than a problem referred to in section 6(b)(i); or
- (b) the dispensation would allow the accommodation of airline management requirements (such as a need to reposition or crew aircraft).

Matters to be considered

10 Overarching consideration

In determining whether a dispensation should be granted, and the conditions to which a dispensation should be subject, a key consideration is the avoidance of any circumstances that could compromise the safety or security of an aircraft.

11 Other relevant considerations

In determining whether a dispensation should be granted in relation to an aircraft take-off or landing, the following matters are relevant:

- (a) the margin by which it is predicted that the take-off or landing would fall within the curfew period;
- (b) whether the take-off or landing would be over water;
- (c) if the circumstances involve a delay, whether the cause of the delay was or is within the control of the operator;
- (d) the noise level of the aircraft;
- (e) the number of passengers that would be affected if the dispensation was not granted;
- (f) the severity of the hardship likely to be caused to such passengers if the dispensation was not granted.



Conditions

12 Conditions to limit noise exposure

A dispensation should generally be granted subject to a condition that specified procedures be followed to limit the noise exposure of Sydney residents. In particular, wherever possible, a dispensation should be made subject to a condition that the aircraft land or take off over the water.

Administrative procedures

13 Applications for dispensations

- (1) If an operator makes an application for a dispensation by phone, the Minister should request that written confirmation of the circumstances leading to the application be provided as soon as possible.

14 Making decisions about dispensations

- (1) Decisions on dispensation applications may be given by phone or in writing.
- (2) If a dispensation is granted in writing, it must set out the conditions, if any, to which it is subject.
- (3) If a dispensation is granted by phone, it must be followed, as soon as possible, by written confirmation of the dispensation setting out the conditions, if any, to which it is subject.