

EXPLANATORY STATEMENT

Select Legislative Instrument No. of 2016

Issued by the Minister for Infrastructure and Transport

Sydney Airport Curfew Act 1995

Sydney Airport Curfew Amendment (Permitted Freight Movements) Regulation 2016

INTRODUCTION

Section 26 of the *Sydney Airport Curfew Act 1995* (The Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed.

OUTLINE

Section 13(1) of the Act allows a Bae-146 aircraft registered in the name of, or being operated by or on behalf of, a person specified in the regulations to take off or land at Sydney Airport during a curfew period if:

- a) the aircraft is being used solely for the purposes of carrying freight; and
- b) the take-off or landing will not breach the quota requirements in subsection (3); and
- c) for a take-off, the take-off is from runway 16R; and
- d) for a landing, the landing is on runway 34L.

Section 13(3)(a)(ii) specifies the number of quota movements permitted is 74 per week, or such lower number as is prescribed.

The amended Regulations:

- clarify the definition of an air traffic controller for the purposes of Regulation 4 of the Sydney Airport Curfew Regulations 1995;
- specify Cobham Aviation Services; Qantas Airways Ltd; Toll Transport Pty Ltd; and Virgin Australia Airlines Pty Ltd as permitted operators for Bae-146 aircraft into Sydney Airport during the curfew;
- amend the operator provisions for Australian Air Express to Qantas Airways Ltd, which reflects the change in ownership of Australian Air Express;
- amend the operator provisions for National Jet Systems to Cobham Aviation Services, Cobham Aviation Services are the parent company of National Jet Systems and this more appropriately reflects the current operator;
- reallocate the current freight quota to ensure that it reflects usage and enables appropriate flexibility for freight movements during the curfew; and
- maintain the number of quota movements at 74 per week.

Regulatory impact analysis

The regulatory impact was assessed using the Preliminary Assessment tool approved by the Office of Best Practice Regulation (OBPR). The OBPR considered that the amendments could be expected to have a minor impact on business and the community as no substantive amendments have been made to the provisions which apply. Therefore, a Regulation Impact Statement was not required (OBPR 21064).

Consultation before making

The Minister for Infrastructure and Transport considered the obligation to consult under both Item 1 of the Schedule to the *Sydney Airport Curfew Act 1995* and Section 17 of the *Legislation Act 2003*. Consultation was undertaken with the peak industry association for overnight freight, freight operators and contractors, Sydney Airport and the Sydney Airport Community Forum. The impact on industry and the community of the revised regulations will be minimal as the maximum quota movements are prescribed in the Act. Existing noise abatement procedures including designated runways for take-offs and landings remain.

Details of the Regulations are set out in [Attachment A](#).

A Statement of Compatibility with Human Rights is set out in [Attachment B](#) prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

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

The Regulation is a legislative instrument for the purpose of the *Legislation Act 2003*.

The Regulation commenced on the day after it was registered on the Federal Register of Legislation.

Details of the Sydney Airport Curfew Amendment (Permitted Freight Movements) Regulation 2016

Section 1 – Name of Regulations

This section provides that the title of the Regulations is the Sydney Airport Curfew Amendment (Permitted Freight Movements) Regulation 2016.

Section 2 – Commencement

This instrument commences on the day after it is registered.

Section 3 – Authority

This instrument is made under the *Sydney Airport Curfew Act 1995*.

Section 4 – Schedules

Each instrument that is specified in a schedule in this instrument is amended or repealed as set out in the applicable Schedule concerned.

Schedule 1 – Amendments

Item 1 – Regulation 4

Regulation 4 is amended to reference Part 65B of the Civil Aviation Safety Regulations 1998 following the repeal of subregulation 102(1) of the Civil Aviation Regulation 1988 for those who are qualified to conduct air traffic control.

Item 2 – Regulation 8

Regulation 8 is amended to:

- a) replace National Jet System with their parent company Cobham Aviation Services as a prescribed operator;
- b) replace Australian Air Express with Qantas Airways Ltd as a prescribed operator as Australian Air Express are a wholly owned subsidiary of Qantas Airways Ltd;
- c) retain Toll Transport Pty Limited as a prescribed operator; and
- d) include Virgin Australia Airlines Pty Ltd as a prescribed operator.

Item 3 – Regulation 10

Regulation 10 is amended to impose separate limits for prescribed operators as follows:

- e) for aircraft registered in the name of, or operated on behalf of, Qantas Airways Ltd – 27;
- f) for aircraft registered in the name of, or operated on behalf of, Cobham Aviation Services – 28;

- g) for aircraft registered in the name of, or operated on behalf of, Toll Transport Pty Limited – 1;
- h) for aircraft registered in the name of, or operated on behalf of, Virgin Australia Airlines Pty Ltd – 18.

ATTACHMENT B

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Sydney Airport Curfew Amendment (Permitted Freight Movements) Regulation 2016

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Regulations

Amendments to the Sydney Airport Curfew Regulations 1995 to reference Part 65B in relation to air traffic control for the purposes of Regulation 4; prescribe an additional freight operator under Regulation 8, and update the prescribed freight operators and allocate the quota of movements permitted by Section 13 of the *Sydney Airport Curfew Act 1995* under Regulation 10.

The amendment does not alter any of the substantive provisions which applied.

Human rights implications

The amendments made by this Legislative Instrument do not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

Minister for Infrastructure and Transport, the Hon Darren Chester MP