

EXPLANATORY STATEMENT

Minute No. 32 of 2018 - Minister for Infrastructure, Transport and Regional Development

Subject - *Air Navigation Act 1920*

Air Navigation (Aerodrome Flight Corridors) Repeal Regulations 2018

INTRODUCTION

The *Air Navigation Act 1920* (the Act) gives effect to the International Convention on Civil Aviation (the Chicago Convention) which regulates all aspects of international air transport.

Section 26 of the Act provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed.

The purpose of the *Air Navigation (Aerodrome Flight Corridors) Repeal Regulations 2018* (the Regulations) is to repeal the *Air Navigation (Aerodrome Flight Corridor) Regulations 1994* (the 1994 Regulations) which are due to sunset on 1 October 2018.

OUTLINE

The 1994 Regulations were established in response to the opening of the third runway at Sydney (Kingsford Smith) Airport (the Sydney Airport). Flight corridors were identified to direct traffic on the main runway and the third runway.

The 1994 Regulations provided designated flight corridors, which jet aircraft must fly, when landing at, or departing from, the parallel north-south runways. An operator of a jet aircraft that flies outside, or deviates from, the designated flight corridor for the relevant runway at Sydney Airport is guilty of an offence.

In 1996, following the opening of the East-West runway, the 1994 Regulations were amended to remove the corridors to the north of Sydney Airport, commonly known as the Bennelong Funnel, to eliminate the concentration of aircraft noise. This meant only landings and take-offs to the south over Botany Bay were regulated. The amendment also made an inclusion for propeller-driven aircraft.

The nomination of runways in the 1994 Regulations has been superseded by the introduction in 1995 of the *Sydney Airport Curfew Act 1995* (the Act) and the Long Term Operating Plan (LTOP) in 1996 in response to community complaints of aircraft noise concentration. The Act stipulates which runways must be used by jet and propeller-driven aircraft during the curfew period and LTOP implements noise sharing arrangements at Sydney Airport through runway and flight path selection based on operations and weather conditions.

The *Air Services Act 1995* gives provision for the Minister for Infrastructure, Transport and Regional Development to provide directions to Airservices Australia (Airservices) as a legislative instrument. The direction for Airservices to implement and maintain the LTOP noise sharing arrangements is found within the *Air Services Act 1995* - subsection 16(1) - Direction concerning the Sydney Airport long term operating plan.

Sydney Airport runway and flight path selections are also governed by the Enroute Supplement and the Departure and Approach Procedures, which are maintained by Airservices.

Subsection 48E(1) of the *Legislation Act 2003* provides that regulations may repeal a legislative instrument. Subsection 48E(2) provides that, before the Governor-General makes such a regulation, the Attorney-General must be satisfied that the legislative instrument is no longer required. The Attorney-General has confirmed that he is satisfied the legislative instrument is no longer required.

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 repeal could be expected to have a minor impact on business and the community. A certification letter has been provided to OBPR recommending repeal of the 1994 Regulations, and that therefore a Regulation Impact Statement is not required for this Regulation (OBPR 23979).

The impact on industry and the community of the Regulations will be minimal due to existing regulatory protections.

Consultation before making

Consultation was undertaken with Airservices Australia, the Sydney Airport LTOP Implementation and Monitoring Committee, Sydney Airport Community Forum and the Department's Australian Government Solicitor in-house counsel. Stakeholders have agreed that the 1994 Regulations are no longer required.

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 Regulations are a legislative instrument for the purpose of the *Legislation Act 2003*.

The Regulations commenced on the day of registration.

Details of the *Air Navigation (Aerodrome Flight Corridors) Repeal Regulations 2018*

Section 1 – Name of Regulation

This section provides the title of the *Air Navigation (Aerodrome Flight Corridors) Repeal Regulations 2018*.

Section 2 – Commencement

This section provides that the instrument will commence on the day after the instrument is registered.

Section 3 – Authority

This instrument is made under the *Air Navigation Act 1920*.

Section 4 – Schedule

This section provides that each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1 - Repeals

This Part repeals the whole of the *Air Navigation (Aerodrome Flight Corridor) Regulations 1994*.

Statement of Compatibility with Human Rights

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

Air Navigation (Aerodrome Flight Corridors) Repeal Regulations 2018

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

The Regulations:

- repeal the *Air Navigation (Aerodrome Flight Corridors) Regulations 1994* in its entirety.

The nomination of runways in the *Air Navigation (Aerodrome Flight Corridors) Regulations 1994* have been superseded and are repealed.

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.

Deputy Prime Minister and Minister for Infrastructure, Transport and Regional Development, the Hon Michael McCormack MP