



Air Navigation (Gold Coast Airport Curfew) Regulations 2018

made under the

Air Navigation Act 1920

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About this compilation

This compilation

This is a compilation of the *Air Navigation (Gold Coast Airport Curfew) Regulations 2018* that shows the text of the law as amended and in force on 24 September 2019 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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Part 1—Preliminary

1 Name

This instrument is the *Air Navigation (Gold Coast Airport Curfew) Regulations 2018*.

3 Authority

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

5 Definitions

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

- (a) aircraft;
- (b) the Chicago Convention.

In this instrument:

90-95 noise level rule: see subsection 15(2).

Act means the *Air Navigation Act 1920*.

Annex means volume 1 of Annex 16 to the Chicago Convention, being that Annex as amended and in force at the commencement of this instrument.

curfew period: see section 7.

eligible freight jet aircraft: see subsection 12(2).

eligible passenger jet aircraft: see subsection 9(2).

engage in conduct means:

- (a) do an act; or
- (b) omit to perform an act.

helicopter has the same meaning as in the Annex.

involved in an emergency: see subsection 17(2).

land: an aircraft **lands** when it touches the ground.

maximum take-off weight, of an aircraft, means the weight, or the greatest of the weights, set out as a maximum take-off weight for the aircraft in the aircraft's certificate of airworthiness (within the meaning of the *Civil Aviation Regulations 1988*) or flight manual (within the meaning of the *Civil Aviation Safety Regulations 1998*).

movement, in relation to an aircraft, means the take-off or landing of the aircraft.

Section 6

noise level of an aircraft, expressed as a figure of EPNdB, means the effective perceived noise in decibels certified in a noise certificate (within the meaning of the *Air Navigation (Aircraft Noise) Regulations 2018*) for the aircraft.

subsonic jet aircraft has the same meaning as in the *Air Navigation (Aircraft Noise) Regulations 2018*.

take off: an aircraft **takes off** when it leaves the ground.

week means a period of 7 days starting at 11 pm on a Sunday.

year means a calendar year.

6 Time is legal time in Queensland

In this instrument, references to time are references to legal time in Queensland.

Part 2—The curfew

7 Curfew period

A *curfew period* starts at 11 pm on a day and ends at 6 am on the next day.

8 Prohibition on taking off or landing during curfew periods

- (1) An operator of an aircraft must not engage in conduct that results in an aircraft taking off from, or landing at, Gold Coast Airport during a curfew period.

Penalty: 50 penalty units.

- (2) Subsection (1) does not apply if the take-off or landing is permitted under Part 3 or 4.

Note: A defendant bears an evidential burden in relation to the matter in this subsection: see subsection 13.3(3) of the *Criminal Code*.

Section 9

Part 3—Aircraft movements permitted under quotas

Division 1—Eligible passenger jet aircraft movements

9 Eligible passenger jet aircraft movements—yearly quota

Quota

- (1) 24 movements of eligible passenger jet aircraft are permitted each year during curfew periods at Gold Coast Airport.
- (2) An **eligible passenger jet aircraft** is a subsonic jet aircraft that:
 - (a) is engaged in an air service; and
 - (b) is carrying passengers; and
 - (c) if the aircraft is engaged in an international air service:
 - (i) has a maximum take-off weight of no more than 100,000 kilograms; and
 - (ii) complies with the maximum noise levels specified in Chapter 4 or 14 of the Annex that are applicable to the maximum take-off weight of the aircraft (whether or not that Chapter is expressed to apply to the aircraft).

Restriction on use of movement permitted by quota—requirement for permit

- (3) Subsection (1) permits the take-off or landing of an eligible passenger jet aircraft in a year only if:
 - (a) the operator of the aircraft holds a permit in force under section 10 to use a movement in that year; and
 - (b) there is at least one movement (the **unused movement**) authorised by the permit for that year that has not previously been used by the operator; and
 - (c) the operator uses the unused movement for the take-off or landing.
- (4) Subsection (1) permits the movement of an aircraft only as follows:
 - (a) unless paragraph (b) applies—the aircraft is permitted to take off or land between 11 pm and 11.45 pm;
 - (b) on a day during a summer time period for New South Wales under the *Standard Time Act 1987* (NSW) as that Act is in force at the time this subsection commences—the aircraft is permitted to land between 11 pm and 11.30 pm.

Movements permitted under Part 4 not included in quota

- (5) Subsection (1) does not apply in relation to a movement that is permitted under Part 4.

10 Permits for eligible passenger jet aircraft movements

- (1) The Secretary may, on written application by an operator of an aircraft, grant the operator a permit to use one or more movements permitted under subsection 9(1) in a year.

Note: For variation and revocation of a permit, see subsection 33(3) of the *Acts Interpretation Act 1901*.

- (2) The permit must:
 - (a) be in writing; and
 - (b) specify the number of movements that the operator is authorised to use under the permit in the year.
- (3) In deciding whether to grant the permit, the Secretary must have regard to the following:
 - (a) the timetables for air services to or from Gold Coast Airport for the year and the number and proximity of scheduled flights by the operator in the year to curfew periods;
 - (b) the past use of movements permitted under subsection 9(1) by all aircraft operators;
 - (c) any other matter the Secretary considers relevant.

11 Notifying Secretary about use of permit for eligible passenger jet aircraft movement

- (1) If the operator of an eligible passenger jet aircraft uses a movement permitted under subsection 9(1) in relation to the aircraft, the operator must, within 7 days after the day of the movement, give the Secretary written notice of the following details about the movement:
 - (a) the purpose of the movement;
 - (b) the date and time of the movement;
 - (c) the type of aircraft;
 - (d) the origin or destination of the aircraft;
 - (e) the runway used.
- (2) An operator of an aircraft commits an offence if the operator contravenes subsection (1).

Penalty: 10 penalty units.

Section 12

Division 2—Eligible freight jet aircraft movements

12 Eligible freight jet aircraft movements—weekly quota

- (1) 4 movements of eligible freight jet aircraft are permitted each week during curfew periods at Gold Coast Airport.
Note: For the definition of *week*, see section 5.
- (2) An **eligible freight jet aircraft** is a subsonic jet aircraft that is being used solely for carrying freight and:
 - (a) is of the type known as BAe-146; or
 - (b) is of a type the maximum take-off weight and noise levels of which do not exceed those of a BAe-146 aircraft.
- (3) Subsection (1) permits the take-off or landing of an eligible freight jet aircraft in a week only if:
 - (a) the operator of the aircraft holds a permit in force under section 13 to use a movement in that week; and
 - (b) there is at least one movement (the **unused movement**) authorised by the permit for that week that has not previously been used by the operator; and
 - (c) the operator uses the unused movement for the take-off or landing.
- (3) Subsection (1) does not apply in relation to a movement that is permitted under Part 4.

13 Permits for eligible freight jet aircraft movements

- (1) The Secretary may, on written application by an operator of an aircraft, grant the operator a permit to use one or more movements permitted under subsection 12(1) in a week.
Note: For variation and revocation of a permit, see subsection 33(3) of the *Acts Interpretation Act 1901*.
- (2) The permit must:
 - (a) be in writing; and
 - (b) specify the number of movements that the operator is authorised to use under the permit in each week to which the permit relates; and
 - (c) state when the permit expires.

Part 4—Other permitted aircraft movements

14 Taxi clearance received, or taxiing for take-off started, before start of curfew period

An aircraft may take off from Gold Coast Airport during a curfew period, despite section 8, if:

- (a) the aircraft received taxi clearance for the take-off before the start of the curfew period; or
- (b) air traffic control (within the meaning of the *Civil Aviation Regulations 1988*) is not available, and the aircraft began taxiing for take-off before the start of the curfew period.

15 Maximum take-off weight of 34,000 kg or less

- (1) An aircraft may take off from, or land at, Gold Coast Airport during a curfew period, despite section 8, if:
 - (a) the aircraft is a subsonic jet aircraft or a propeller-driven aircraft; and
 - (b) the aircraft has a maximum take-off weight of 34,000 kilograms or less; and
 - (c) a noise certificate issued under section 8 of the *Air Navigation (Aircraft Noise) Regulations 2018* is in force for the aircraft; and
 - (d) for a subsonic jet aircraft—the aircraft is of a type that complies with the 90-95 noise level rule.
- (2) A type of aircraft complies with the **90-95 noise level rule** if aircraft of that type have a noise level that:
 - (a) on take-off:
 - (i) does not exceed 90 EPNdB; or
 - (ii) if the amount in excess of 90 EPNdB is offset by a maximum noise level on landing that is correspondingly lower than the amount specified in subparagraph (b)(i) for landing noise—does not exceed 92 EPNdB; and
 - (b) on landing:
 - (i) does not exceed 95 EPNdB; or
 - (ii) if the amount in excess of 95 EPNdB is offset by a maximum noise level on take-off that is correspondingly lower than the amount specified in subparagraph (a)(i)—does not exceed 97 EPNdB.
- (3) To avoid doubt, this section does not apply to helicopters.

16 Use of Gold Coast Airport as an alternate airport

- (1) An aircraft may land at Gold Coast Airport during a curfew period, despite section 8, if:

Section 17

- (a) the aircraft is engaged in an international air service or a domestic air service; and
 - (b) the aircraft is diverted to Gold Coast Airport.
- (2) An aircraft engaged in an international air service that lands under subsection (1) may also take off from Gold Coast Airport during that curfew period.

17 Aircraft involved in emergencies

- (1) An aircraft may take off from, or land at, Gold Coast Airport during a curfew period, despite section 8, if:
- (a) the aircraft is involved in an emergency; or
 - (b) the aircraft is taking off from Gold Coast Airport to resume a flight interrupted because the aircraft was involved in an emergency.
- (2) An aircraft is ***involved in an emergency*** if:
- (a) the aircraft is being used for or in connection with:
 - (i) a search and rescue operation; or
 - (ii) a medical emergency; or
 - (iii) a natural disaster; or
 - (iv) a mercy flight; or
 - (b) the pilot of the aircraft has declared an in-flight emergency; or
 - (c) the aircraft has insufficient fuel to be diverted to another airport; or
 - (d) there is an urgent need for the aircraft to land or take off:
 - (i) to ensure the safety or security of the aircraft or any person; or
 - (ii) to avoid damage to property.

18 Dispensations in exceptional circumstances

Grant of dispensation

- (1) An aircraft may take off from, or land at, Gold Coast Airport during a curfew period, despite section 8, if:
- (a) a dispensation granted by the Secretary under subsection (2) authorises the take-off or landing; and
 - (b) the take-off or landing is in accordance with any conditions of the dispensation.
- (2) The Secretary may, on application by an operator of an aircraft, grant a dispensation authorising the aircraft to take off from, or land at, Gold Coast Airport during a curfew period, despite section 8, if the Secretary is satisfied that there are exceptional circumstances that justify permitting the take-off or landing.
- (3) The Secretary may grant the dispensation subject to conditions.
- Example: A condition about when the take-off or landing must occur.

- (4) The dispensation must relate only to one take-off or one landing of the aircraft (but not both).

Record keeping

- (5) The application need not be in writing. However, as soon as practicable after the grant of the dispensation, the operator must give a written statement to the Secretary explaining the exceptional circumstances that gave rise to the application.
- (6) The dispensation need not be in writing. However, the Secretary must make and keep a record of the dispensation and the reasons for granting it.

Offence

- (7) An operator of an aircraft commits an offence if:
- (a) the operator is subject to a requirement under subsection (5); and
 - (b) the operator fails to comply with the requirement.

Penalty: 10 penalty units.

Part 5—Giving information to the Secretary

19 Giving information to the Secretary

- (1) The Secretary may, by notice in writing, require an operator of an aircraft to give the Secretary, within 30 days after receiving the notice, information relevant to determining whether a provision of this instrument has been complied with.

Example: Information about the noise level of an aircraft, or information relevant to determining whether a take-off or landing of an aircraft was permitted under section 17 (aircraft involved in emergencies).

- (2) A notice under subsection (1) must state:
- (a) the information to be given; and
 - (b) how the information is to be given; and
 - (c) that the operator must comply with the notice within 30 days after receiving the notice.
- (3) The operator of an aircraft commits an offence if:
- (a) the operator is subject to a requirement under subsection (1); and
 - (b) the operator fails to comply with the requirement.

Penalty: 10 penalty units.

Part 6—Miscellaneous

20 Review of decisions

Applications may be made to the Administrative Appeals Tribunal for review of decisions of the Secretary:

- (a) under section 10:
 - (i) to grant, or refuse to grant, a permit to use a movement permitted under subsection 9(1) in relation to an eligible passenger jet aircraft; or
 - (ii) to vary or revoke such a permit; or
- (b) under section 13:
 - (i) to grant, or refuse to grant, a permit to use a movement permitted under subsection 12(1) in relation to an eligible freight jet aircraft; or
 - (ii) to vary or revoke such a permit.

21 Delegation

- (1) The Secretary may, in writing, delegate any of the Secretary's powers or functions under this instrument (other than this power of delegation) to an APS employee in the Department who holds or performs the duties of:
 - (a) an Executive Level 1 position; or
 - (b) an equivalent or higher position.
- (2) Before delegating a power or function under subsection (1), the Secretary must have regard to:
 - (a) if the power or function is to be delegated to an APS employee holding, occupying, or performing the duties of, a specified office or position—whether the office or position is sufficiently senior for the APS employee to exercise the power or perform the function or duty; or
 - (b) otherwise—whether the APS employee has appropriate qualifications or expertise to exercise the power or perform the function.
- (3) In doing anything under a delegation under this section, the delegate must comply with any directions of the Secretary.

Part 7—Transitional provisions

22 Definitions

In this Part:

old law means the *Air Navigation (Coolangatta Airport Curfew) Regulations 1999* as in force immediately before the commencement of this instrument.

Note: Gold Coast Airport was formerly known as Coolangatta Airport.

23 Passenger jet aircraft movements

First quota year

- (1) Despite the definition of *year* in section 5, the first year in relation to which subsection 9(1) applies (the *transition year*) is taken to be the period starting on 22 December 2018 and ending on 31 December 2019.

Permits for domestic passenger jet aircraft movements

- (2) A permit in force under regulation 11 of the old law immediately before the commencement of this section that relates to the year (within the meaning of the old law) starting on 22 December 2018 continues in force (and may be dealt with) on and after that commencement as if it were a permit issued under section 10 of this instrument for the transition year.

24 Saving of delegations

A delegation to a person, under regulation 25 of the old law, that is:

- (a) of a power or function of the Secretary under the old law described in column 1 of an item in the following table; and
(b) in force immediately before the commencement of this section;

has effect on and after that commencement as if it were a delegation to that person, under section 21 of this instrument, of a power or function under this instrument described in column 2 of that item.

Saving of delegations

Item	Column 1 Description of delegated power or function under the old law	Column 2 Description of delegated power or function under this instrument
1	Power under regulation 11 to grant a permit	Power under section 10 to grant a permit
2	Power under regulation 12 to revoke a permit	Power under section 10 to vary or revoke a permit
3	Power under regulation 15 to grant a permit	Power under section 13 to grant, vary or

Saving of delegations

Item	Column 1 Description of delegated power or function under the old law	Column 2 Description of delegated power or function under this instrument
		revoke a permit
4	Power or function under regulation 21 relating to grant of a dispensation	Power or function under section 18 relating to grant of a dispensation
5	Power under regulation 22 to ask for information	Power under section 19 to require information to be given

Endnotes

Endnote 1—About the endnotes

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnotes

Endnote 3—Legislation history

Endnote 3—Legislation history

Name	Registration	Commencement	Application, saving and transitional provisions
Air Navigation (Gold Coast Airport Curfew) Regulations 2018	7 Dec 2018 (F2018L01688)	1 Jan 2019 (s 2(1) item 1)	
Air Navigation (Gold Coast Airport Curfew) Amendment (Technical Measures) Regulations 2019	23 Sept 2019 (F2019L01249)	24 Sept 2019 (s 2(1) item 1)	—

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Part 1	
s 2	rep LA s 48D
s 4	rep LA s 48C
s 5	am F2019L01249
Part 3	
Division 1	
s 9	am F2019L01249
Part 4	
s 15	am F2019L01249
Schedule 1	rep LA s 48C