

EXPLANATORY STATEMENT

Minute No. 36 of 2018 - Minister for Infrastructure, Transport and Regional Development

Subject - *Adelaide Airport Curfew Act 2000*

Adelaide Airport Curfew Regulations 2018

INTRODUCTION

Section 24 of the *Adelaide Airport Curfew Act 2000* (the Act) provides the Governor-General may make regulations, not inconsistent with the Act, prescribing matters required or permitted by the Act to be prescribed.

The Adelaide Airport Curfew Regulations 2000 (the 2000 Regulations) are due to sunset on 1 October 2019. The Adelaide Airport Curfew Regulations 2018 (the Regulations) remake the 2000 Regulations with minor amendments.

OUTLINE

The Act establishes a regulatory framework for the restriction of aircraft movements at Adelaide Airport between the periods of 11pm-6am.

Section 13(1) of the Act allows a jet aircraft of a type specified in regulations made for the purposes of subsection (2) to take off or land at Adelaide Airport during a curfew period.

Section 13(2) of the Act states the regulations may specify a type of jet aircraft that:

- a) has a maximum take-off weight of 34,000 kilograms or less; and
- b) complies with the maximum noise levels specified in Chapter 3 of the International Civil Aviation Organization Annex that is applicable to the maximum take-off weight of the aircraft; and
- c) complies with 90 decibels on take-off and 95 decibels on landing.

Regulation 7 of the 2000 Regulations specifies a type of jet aircraft which meet the criteria in Section 13(2) of the Act.

Jet aircraft permitted to operate, listed at Regulation 7, are mostly business and private jets which are typically designed or configured to transport small groups of people of 19 seats or less.

The 2000 Regulations were previously amended in 2014 to revise the list of aircraft types permitted to operate during the curfew period of 11pm-6am at Adelaide Airport. As a result of sunset provisions, the Regulations include three new Type Certificate identifiers and revise Type Certificate revision numbers.

The impact on industry and the community of the Regulations is minimal as this amendment is an administrative update of existing regulatory practices.

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 amended Regulations could be expected to have a minor impact on business and the community. A certification letter has been provided to OBPR recommending that the 2000 Regulations be remade with minor amendments, and that therefore a Regulation Impact Statement was not required for these Regulations (OBPR 24092).

Consultation before making

Consultation was undertaken with stakeholders representing Adelaide Airport, the Adelaide Airport Consultative Committee, Adelaide City Council, the City of West Torrens, Qantas Airways, Virgin Australia, Australian Business Aviation Association, the South Australian Freight Council and Airservices Australia. Stakeholders have agreed that the Regulations should be remade with minor amendment.

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 after registration.

Details of the *Adelaide Airport Curfew Regulations 2018*

Section 1 – Name of Regulation

This section provides the title of the *Adelaide Airport Curfew Regulations 2018*.

Section 2 – Commencement

This section provides that the instrument commenced on the day after the instrument was registered.

Section 3 – Authority

This section provides that the instrument be made under the *Adelaide Airport Curfew Act 2000* (the Act).

Section 4 – Schedules

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.

Section 5 – Definitions

This section sets out the definitions for terms used throughout the Regulations.

Section 6 – Maximum weekly movements by international aircraft during curfew shoulder periods

This section includes a minor administrative correction to spell out the maximum number of take-offs consistent with the *Legislation Act 2003*.

Section 7 - Maximum weekly movements by low noise heavy freight aircraft during curfew periods

This section specifies a maximum of fifteen take-offs and a maximum of twenty five landings per week by low noise heavy freight aircraft during curfew periods.

Section 8 – Applications to operate low noise heavy freight aircraft – types of aircraft for which applications may be made

This section provides that for the purposes of subsection 11 (1) of the Act, under which an operator of a low noise heavy freight aircraft may apply to the Minister to take off from, or land at, Adelaide Airport during the curfew, each type of aircraft that complies with the definition of low noise heavy freight aircraft is specified.

Section 9 – Types of jet aircraft not affected by curfew periods

This section sets out a list of types of jet aircraft that are exempt from the curfew period as prescribed by the Act.

Section 10 – Landing on runway other than runway 05 during curfew period – address for giving return

This section provides an address that is to be used by an aircraft operator when giving a return on the reasons for not landing on runway 05 during a curfew period.

Schedule 1 – Repeals

This section proposes to repeal the whole of the current Adelaide Airport Curfew Regulations 2000.

Statement of Compatibility with Human Rights

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

Adelaide Airport Curfew 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 amendment will continue to permit newer, quieter and more efficient aircraft to operate during the curfew period. Permitting these newer aircraft will reduce the total noise energy produced by jet aircraft during the curfew and continue to protect residents in surrounding communities from night time noise. The introduction of newer, quieter aircraft will also produce economic and environmental benefits through the use of more efficient jet aircraft. The amendment will continue to phase out older, noisier and less efficient aircraft by 31 December 2022, allowing industry sufficient time to upgrade their fleet without introducing an increased regulatory burden.

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