

EXPLANATORY STATEMENT

Issued by authority of the Minister for Infrastructure, Transport, Regional Development and
Local Government

Sydney Airport Curfew Act 1995

Sydney Airport Curfew Regulations 2023

Sydney Airport is one of four Australian airports subject to a curfew. The *Sydney Airport Curfew Act 1995* (the Act) imposes a curfew and related restrictions on aircraft movements at Sydney (Kingsford-Smith) Airport (Sydney Airport).

Section 7 of the Act prohibits aircraft from taking-off from, or landing at, Sydney Airport during the curfew period, unless the take-off or landing is permitted under Part 3 of the Act. The curfew period is from 11.00 pm each night until 6.00 am the next morning. Sections 10 and 11 of the Act impose requirements in relation to which runways must be used during certain periods shortly before the commencement of the curfew period, and shortly after the end of the curfew period. A limited number of aircraft types are allowed to operate during the curfew, including emergency service aircraft and any aircraft that needs to land for safety reasons.

Section 26 of the Act allows the Governor-General to make regulations prescribing matters that are required or permitted by the Act to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The *Sydney Airport Curfew Regulations 2023* (the Regulations) prescribe matters necessary for giving effect to the Act. This includes:

- prescribing an address for the lodgement of returns required to be provided under Part 2 of the Act;
- prescribing the permitted number of take-offs and landings of international passenger aircraft during curfew shoulder periods under Part 3 of the Act;
- specifying operators of BAe-146 aircraft permitted to undertake freight operations at Sydney Airport during the curfew period; and
- specifying the quota requirements that apply to specified BAe-146 operators.

The Regulations replace the *Sydney Airport Curfew Regulations 1995* (the old Regulations) which sunset on 1 April 2024. The Regulations make no substantive change to aircraft operations currently permitted during the curfew period at Sydney Airport and are the same in substance as the old Regulations.

The Office of Impact Analysis was consulted on the development of the Regulations. Targeted consultation on the Regulations was conducted with aircraft operators, local councils and community groups. Further consultation was not considered necessary as the Regulations do not substantively alter the operation of the curfew at Sydney Airport.

The Act does not specify any conditions that need to be met before the power to make the Regulations may be exercised.

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

The Regulations commence the day after the instrument is registered and provide transitional arrangements to account for Sydney Airport's 2023 program of runway maintenance.

Details of the Regulations are set out in Attachment A.

The Regulations are compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in Attachment B.

ATTACHMENT A

All references are to the Regulations unless otherwise stated. Changes of a minor or machinery nature, such as the increased use of headings and references to ‘section’ rather than ‘regulation’ in accordance with modern drafting practices, are generally not specifically identified in this Attachment. Where the Regulations make changes that require further explanation, these are identified and explained in this Attachment.

Details of the *Sydney Airport Curfew Regulations 2023*

Part 1 – Preliminary

Section 1 – Name

1. This section provides that the Regulations may be cited as the *Sydney Airport Curfew Regulations 2023*.

Section 2 – Commencement

2. This section provides that the Regulations are to commence the day following registration.

Section 3 – Authority

3. This section provides that the instrument is made under the *Sydney Airport Curfew Act 1995*.

Section 4 – Schedules

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

Section 5 – Definitions

5. This section provides that, in this instrument, *Act* means the *Sydney Airport Curfew Act 1995*.

Section 6 – Meaning of *air traffic controller*

6. This section defines the term *air traffic controller* for the purposes of section 3 of the Act.

Part 2 – The curfew

Section 7 – Address for lodgement of return

7. This section prescribes the address at which aircraft operators must lodge a return to:

- provide notification of the use of reverse thrust greater than idle reverse thrust when landing at Sydney Airport during the curfew period (as required under section 8 of the Act); and
- provide notification of missed approaches by an aircraft attempting to land at Sydney Airport during the curfew period (as required under section 9 of the Act).

Part 3 – Quota requirements

Section 8 – Quota requirements that apply to take-offs and landings between 11 pm and midnight

8. This section reduces the quota of international passenger aircraft shoulder movements between 11pm and midnight that can be allocated under section 12(8) of the Act to zero.

Section 9 – Quota requirements that apply to landings between 5 am and 6 am

9. This section reduces the quota of international passenger aircraft shoulder movements between 5am to 6am that can be allocated under section 12(9) of the Act to a maximum of 24 movements with no more than 5 movements each day.

Section 10 – Specified persons – aircraft of the type known as BAe-146

10. This section provides that the persons listed below can operate BAe-146 aircraft at Sydney Airport during the curfew period where the aircraft is being used solely for the purposes of carrying freight.

- (a) National Jet Express Pty Ltd;
- (b) Pionair Australia Pty Ltd;
- (c) Qantas Airways Ltd;
- (d) IPEC Pty Ltd;
- (e) Virgin Australia Airlines Pty Ltd.

Section 11 – Quota requirements that apply to take-offs and landings of aircraft of the type known as BAe-146

11. This section allocates the 74 weekly BAe-146 overnight freight movements permitted under the Act as follows:
 - (a) 28 movements to National Jet Express Pty Ltd;
 - (b) 10 movements to Pionair Australia Pty Ltd;
 - (c) 27 movements Qantas Airways Ltd;
 - (d) 9 movements to IPEC Pty Ltd;
 - (e) 0 movements to Virgin Australia Airlines Pty Ltd.

Part 4 – Application and savings provisions

Section 12 – Application of sections 10 and 11

12. This section provides that the changes to the quota of permitted overnight freight movements (sections 10 and 11 of the Regulations) will only apply from 2 July 2023. Until this time, the equivalent quota provided for in sections 8 and 9 of the Old Regulations will continue to apply.
13. The delayed application of these provisions is to appropriately transition the allocation of the quota of permitted freight movements and account for Sydney Airport's program of runway maintenance until 2 July 2023.

Schedule 1 – Repeals

Item 1

Item 1 of Schedule 1 repeals the *Sydney Airport Curfew Regulations 1995* (the old Regulations). These Regulations replace the old Regulations prior to their sunset date of 1 April 2024.

Statement of Compatibility with Human Rights

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

Sydney Airport Curfew Regulations 2023

This Legislative Instrument is compatible with 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 Legislative Instrument

The *Sydney Airport Curfew Act 1995* (the Act) places restrictions on aircraft operations at Sydney Airport during and adjacent to the curfew period (11:00 pm – 6:00 am). During the curfew period, take-offs and landings at Sydney Airport are restricted to specific types of aircraft and operations.

The purpose of the *Sydney Airport Curfew Regulations 2023* (the Regulations) is to prescribe matters that are required or permitted by the Act to be prescribed, or that are necessary or convenient to be prescribed for the carrying out or giving effect to the Act. The Regulations prescribe a range of matters, including the number of permitted aircraft movements by international passenger aircraft and aircraft used solely for freight during curfew periods.

Human Rights Implications

This instrument does not engage any of the applicable rights or freedoms.

Conclusion

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

The Hon. Catherine King MP
Minister for Infrastructure, Transport, Regional Development and Local Government