



Sydney Airport Curfew Act 1995

No. 134 of 1995

CONTENTS

PART 1—PRELIMINARY

Section

1. Short title
2. Commencement
3. Definitions
4. Explanation of runway names
5. Time is legal time in New South Wales

PART 2—THE CURFEW AND RELATED RESTRICTIONS

Division 1—The curfew

6. Curfew periods
7. Prohibition on taking off or landing during curfew periods
8. Use of reverse thrust during curfew periods
9. Missed approaches during curfew periods

Division 2—Related restrictions

10. Runways to be used for take-offs between 10.45 pm and 11 pm
11. Runways to be used for take-offs and landings on weekends between 6 am and 7 am and 10 pm and 11 pm

CONTENTS—continued

Section

PART 3—PERMITTED AIRCRAFT MOVEMENTS

Division 1—Movements permitted during curfew periods

- 12. International passenger aircraft movements during curfew shoulder periods
- 13. BAe-146 and DC9 aircraft used for freight
- 14. Propeller-driven aircraft under 34,000 kilograms that comply with noise standards
- 15. Jet aircraft under 34,000 kilograms that comply with noise standards and that are specified by the Minister
- 16. Take-off from runway 16R when taxi clearance received before start of curfew period
- 17. Sections 13, 14 and 15 do not apply after airport at Badgerys Creek is available for night use

Division 2—Emergencies and dispensations

- 18. Aircraft may take off or land in emergencies or if Minister grants dispensation
- 19. Emergencies
- 20. Dispensations in exceptional circumstances

PART 4—PROVISION OF INFORMATION

- 21. Authorised person may require the provision of information
- 22. Provision of false information

PART 5—CONSULTATION BEFORE ACT IS AMENDED

- 23. Minister to consult

PART 6—MISCELLANEOUS

- 24. Delegation
- 25. Conduct by directors, servants and agents
- 26. Regulations

SCHEDULE

CONSULTATION PROCEDURES



Sydney Airport Curfew Act 1995

No. 134 of 1995

**An Act to impose a curfew and related restrictions on
aircraft movements at Sydney Airport, and for related
purposes**

[Assented to 22 November 1995]

The Parliament of Australia enacts:

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Sydney Airport Curfew Act 1995*.

Commencement

2. This Act commences:

- (a) if the 28th day after the day on which this Act receives the Royal Assent is a Sunday—at 10.45 pm on that Sunday; or
- (b) otherwise—at 10.45 pm on the first Sunday after that 28th day.

Definitions

3. In this Act, the following terms have the meanings set out below:

aircraft means any machine or craft that can derive support in the atmosphere from the reactions of the air.

Airservices Australia means the body called Airservices Australia that is established by the *Air Services Act 1995*.

air traffic controller has the meaning given by the regulations.

Australia includes all the external Territories.

authorised person means:

- (a) the Secretary of the Department; or
- (b) a person appointed in writing by the Secretary to be an authorised person for the purposes of this Act; or
- (c) a person included in a class of persons appointed in writing by the Secretary to be authorised persons for the purposes of this Act.

curfew period has the meaning given by section 6.

land—an aircraft lands when it touches the ground.

maximum take-off weight of an aircraft means the weight set out in the aircraft's flight manual as the aircraft's maximum take-off weight.

operator of an aircraft means a person who conducts an aircraft operation using the aircraft.

Sydney Airport means the airport known as Sydney (Kingsford-Smith) Airport.

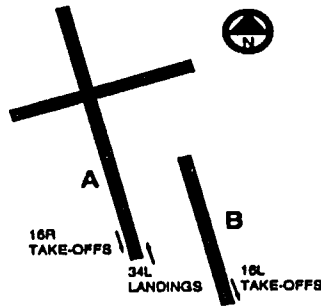
take off—an aircraft takes off when it leaves the ground.

the Annex means Volume 1 of Annex 16 to the Convention on International Civil Aviation concluded at Chicago on 7 December 1944, as amended and in force from time to time.

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

Explanation of runway names

4.(1) The diagram below shows the runways at Sydney Airport.



- (2) The following runway names are used in this Act:
- (a) **runway 16R**—this is the name for the runway marked A when used for a take-off to the south;
 - (b) **runway 34L**—this is the name for the runway marked A when used for a landing from the south;
 - (c) **runway 16L**—this is the name for the runway marked B when used for a take-off to the south.

Time is legal time in New South Wales

5. References in this Act to time are references to legal time in New South Wales.

PART 2—THE CURFEW AND RELATED RESTRICTIONS

Division 1—The curfew

Curfew periods

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

Prohibition on taking off or landing during curfew periods

7.(1) An aircraft must not take off from, or land at, Sydney Airport during a curfew period, unless the take off or landing is permitted under Part 3.

(2) If the operator of an aircraft knowingly or recklessly allows the aircraft to take off or land in contravention of subsection (1), the operator is guilty of an offence punishable, on conviction, by a fine not exceeding 200 penalty units.

Note 1: If the operator is a body corporate, the maximum fine that may be imposed is 1000 penalty units (see subsection 4B(3) of the *Crimes Act 1914*).

Note 2: For the value of a penalty unit, see subsection 4AA(1) of the *Crimes Act 1914*.

Use of reverse thrust during curfew periods

8.(1) If an aircraft lands at Sydney Airport during a curfew period using reverse thrust greater than idle reverse thrust, the operator of the aircraft must lodge a return in accordance with subsection (3) within 7 days after the landing.

(2) The operator must not intentionally or recklessly fail to comply with subsection (1).

Penalty: 50 penalty units.

Note 1: If the operator is a body corporate, the maximum fine that may be imposed is 250 penalty units (see subsection 4B(3) of the *Crimes Act 1914*).

Note 2: For the value of a penalty unit, see subsection 4AA(1) of the *Crimes Act 1914*.

(3) The return must:

- (a)** state the date and time of the landing; and
- (b)** state the aircraft's registration mark, its operator, and its type; and
- (c)** state the reason why reverse thrust greater than idle reverse thrust was used during the landing; and
- (d)** be lodged by giving the return to an authorised person at a prescribed address.

(4) The operator of an aircraft should not plan to land the aircraft at Sydney Airport during a curfew period if the operator is aware that the landing would require the use of reverse thrust greater than idle reverse thrust.

Sydney Airport Curfew No. 134, 1995

(5) The pilot of an aircraft landing at Sydney Airport during a curfew period should use only the minimum reverse thrust necessary for a safe landing.

Missed approaches during curfew periods

9.(1) If an aircraft attempts to land at Sydney Airport during a curfew period but misses the approach, the operator of the aircraft must lodge a return in accordance with subsection (3) within 7 days after the attempted landing.

(2) The operator must not intentionally or recklessly fail to comply with subsection (1).

Penalty: 50 penalty units.

Note 1: If the operator is a body corporate, the maximum fine that may be imposed is 250 penalty units (see subsection 4B(3) of the *Crimes Act 1914*).

Note 2: For the value of a penalty unit, see subsection 4AA(1) of the *Crimes Act 1914*.

(3) The return must:

- (a)** state the date and time of the attempted landing; and
- (b)** state the aircraft's registration mark, its operator, and its type; and
- (c)** state the reasons for missing the approach, including the wind conditions prevailing at the time; and
- (d)** state the down wind limits for landing specified in the aircraft's flight manual; and
- (e)** be lodged by giving the return to an authorised person at a prescribed address.

Division 2—Related restrictions

Runways to be used for take-offs between 10.45 pm and 11 pm

10.(1) An aircraft taking off from Sydney Airport between 10.45 pm and 11 pm must take off from runway 16L or runway 16R unless the take-off is permitted under Division 2 of Part 3.

(2) If the operator of an aircraft knowingly or recklessly allows the aircraft to take off in contravention of subsection (1), the operator is guilty of an offence punishable, on conviction, by a fine not exceeding 100 penalty units.

Note 1: If the operator is a body corporate, the maximum fine that may be imposed is 500 penalty units (see subsection 4B(3) of the *Crimes Act 1914*).

Note 2: For the value of a penalty unit, see subsection 4AA(1) of the *Crimes Act 1914*.

Runways to be used for take-offs and landings on weekends between 6 am and 7 am and 10 pm and 11 pm

11.(1) An aircraft taking off from Sydney Airport between 6 am and 7 am, or between 10 pm and 11 pm, on a Saturday or Sunday must take off from runway 16L or 16R unless:

- (a) it takes off from another runway that has been nominated by an air traffic controller (provided the take-off does not contravene subsection 10(1)); or
- (b) the take-off is permitted under Division 2 of Part 3.

(2) An aircraft landing at Sydney Airport between 6 am and 7 am, or between 10 pm and 11 pm, on a Saturday or Sunday must land on runway 34L unless:

- (a) it lands on another runway that has been nominated by an air traffic controller; or
- (b) the landing is permitted under Division 2 of Part 3.

(3) If the operator of an aircraft knowingly or recklessly allows the aircraft to take off or land in contravention of subsection (1) or (2), the operator is guilty of an offence punishable, on conviction, by a fine not exceeding 100 penalty units.

Note 1: If the operator is a body corporate, the maximum fine that may be imposed is 500 penalty units (see subsection 4B(3) of the *Crimes Act 1914*).

Note 2: For the value of a penalty unit, see subsection 4AA(1) of the *Crimes Act 1914*.

(4) At the end of each month, Airservices Australia must give the Secretary a written report setting out:

- (a) the number of times (if any) during the month that air traffic controllers nominated runways as mentioned in paragraphs (1)(a) and (2)(a); and
- (b) the reasons for nominating those runways.

PART 3—PERMITTED AIRCRAFT MOVEMENTS

Division 1—Movements permitted during curfew periods

International passenger aircraft movements during curfew shoulder periods

12.(1) For the purposes of this section, an aircraft is an *international passenger aircraft* on take-off from, or landing at, Sydney Airport if:

- (a) the aircraft is being used to carry passengers for hire or reward in an air service that is covered by an international airline licence granted under the Air Navigation Regulations; and
- (b) for a take-off from Sydney Airport—the first port of call of the aircraft after taking off from Sydney Airport is outside Australia; and
- (c) for a landing at Sydney Airport—the last port of call of the aircraft before landing at Sydney Airport was outside Australia.

(2) An international passenger aircraft may take off from, or land at, Sydney Airport between 11 pm and midnight, or may land at Sydney Airport between 5 am and 6 am, if:

- (a) the take-off or landing is covered by a timetable approved under the Air Navigation Regulations; and
- (b) if the take-off or landing is after the time on the day specified under subsection (3)—the take-off or landing has been approved under subsection (4); and
- (c) if the take-off or landing is at or before the time on the day specified under subsection (3)—the take-off or landing has been approved under regulation 6 of the Air Navigation (Aerodrome Curfew) Regulations; and
- (d) for a take-off—the take-off is from runway 16R and the start of roll is from south of the intersection of that runway and taxiway G; and
- (e) for a landing—the landing is on runway 34L; and
- (f) the aircraft complies with the maximum noise levels specified in Chapter 3 of the Annex that are applicable to the maximum take-off weight of the aircraft (whether or not the Chapter is expressed to apply to the aircraft).

(3) The Minister must, by notice in the *Gazette*, specify a time on a specified day as the time after which approvals under subsection (4) are required. The time specified must not be more than 6 months after the commencement of this Act.

(4) On written application by the holder of an international airline licence granted under the Air Navigation Regulations, the Secretary of the Department may, in writing, approve a take-off from, or landing at, Sydney Airport between 11 pm and midnight on a specified day, or a landing at Sydney Airport between 5 am and 6 am on a specified day, if:

Sydney Airport Curfew No. 134, 1995

- (a) granting the approval is consistent with the quota requirements in whichever of subsections (8) and (9) applies; and
 - (b) the Secretary is satisfied that approving the take-off or landing during that period on that day is justified because:
 - (i) there are curfew constraints at overseas airports or there is a lack of capacity at Sydney Airport outside curfew periods; and
 - (ii) there is no alternative airport in the Sydney area with capacity to accommodate the take-off or landing.
- (5) An application for approval under subsection (4) must set out the reasons why the applicant thinks the approval should be granted, having regard in particular to paragraph (4)(b).
- (6) The Secretary may defer making the decision on an application for approval until the applicant has provided such further information relevant to making the decision as the Secretary requires.
- (7) Application may be made to the Administrative Appeals Tribunal for review of a decision to refuse to grant an approval.
- (8) These are the quota requirements that apply to take-offs and landings between 11 pm and midnight:
- (a) during a week, the total number of take-offs and landings (treated jointly) of international passenger aircraft at Sydney Airport that occur between 11 pm and midnight must not exceed 14, or such lower number as is prescribed; and
 - (b) the total number of take-offs and landings (treated jointly) of international passenger aircraft at Sydney Airport that occur between 11 pm and midnight on a day must not exceed 4, or such lower number as is prescribed.
- (9) These are the quota requirements that apply to landings between 5 am and 6 am:
- (a) during a week, the total number of landings of international passenger aircraft at Sydney Airport that occur between 5 am and 6 am must not exceed 35, or such lower number as is prescribed; and
 - (b) the total number of landings of international passenger aircraft at Sydney Airport that occur between 5 am and 6 am on a day must not exceed 7, or such lower number as is prescribed.
- (10) In applying the quota requirements, aircraft taking off or landing as permitted by section 16 or 18 are not to be counted.

BAe-146 and DC9 aircraft used for freight

13.(1) Subject to section 17, an aircraft of the type known as BAe-146 that is registered in the name of, or being operated by or on behalf of, a person specified in the regulations may take off from, or land at, Sydney Airport during a curfew period if:

Sydney Airport Curfew No. 134, 1995

- (a) the aircraft is being used solely for the purpose 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 the start of roll is from south of the intersection of that runway and taxiway G; and
- (d) for a landing—the landing is on runway 34L.

(2) Subject to section 17, an aircraft of the type known as DC9 that is registered in the name of, or being operated by or on behalf of, a person specified in the regulations may, on or before 5 May 1996, take off from, or land at, Sydney Airport during a curfew period if:

- (a) the aircraft is being used solely for the purpose of carrying freight; and
- (b) the aircraft complies with the maximum noise levels specified in Chapter 3 of the Annex that are applicable to the maximum take-off weight of the aircraft (whether or not the Chapter is expressed to apply to the aircraft); and
- (c) the take-off or landing will not breach the quota requirements in subsection (4); and
- (d) for a take-off—the take-off is from runway 16R and the start of roll is from south of the intersection of that runway and taxiway G; and
- (e) for a landing—the landing is on runway 34L.

(3) These are the quota requirements that apply to take-offs and landings of aircraft of the type known as BAe-146:

- (a) during a week, the total number of take-offs and landings (treated jointly) of aircraft of that type at Sydney Airport during curfew periods must not exceed:
 - (i) if the week ends on or before 5 May 1996—65, or such lower number as is prescribed; or
 - (ii) if the week ends after 5 May 1996—74, or such lower number as is prescribed; and
- (b) the take-off or landing must not breach any limit imposed by regulations that divide the upper limit applicable under paragraph (a) so as to impose separate limits in relation to aircraft registered in the name of, or operated by or on behalf of, specified persons.

(4) These are the quota requirements that apply to take-offs and landings, on or before 5 May 1996, of aircraft of the type known as DC9:

- (a) during a week, the total number of take-offs and landings (treated jointly) of aircraft of that type at Sydney Airport during curfew periods must not exceed 6, or such lower number as is prescribed; and

- (b) the take-off or landing must not breach any limit imposed by regulations that divide the upper limit applicable under paragraph (a) so as to impose separate limits in relation to aircraft registered in the name of, or operated by or on behalf of, specified persons.

(5) In applying the quota requirements, aircraft taking off or landing as permitted by section 16 or 18 are not to be counted.

Propeller-driven aircraft under 34,000 kilograms that comply with noise standards

14. Subject to section 17, a propeller-driven 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, 5 (other than paragraph 5.1.3), 6 or 10 of the Annex that are applicable to aircraft of the class to which the aircraft belongs;

may:

- (c) take off from runway 16R during a curfew period if the start of roll is from south of the intersection of that runway and taxiway G; or
- (d) land on runway 34L during a curfew period.

Jet aircraft under 34,000 kilograms that comply with noise standards and that are specified by the Minister

15.(1) Subject to section 17, a jet aircraft of a type specified in a notice in force under subsection (2) may:

- (a) take off from runway 16R during a curfew period if the start of roll is from south of the intersection of that runway and taxiway G; or
- (b) land on runway 34L during a curfew period.

(2) Subject to subsections (5) and (6), the Minister may publish a notice in the *Gazette* specifying 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 Annex that are applicable to the maximum take-off weight of the aircraft (whether or not the Chapter is expressed to apply to the aircraft); and
- (c) complies with the 90-95 noise level rule specified in subsection (3).

(3) A type of aircraft complies with the 90-95 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.

(4) In subsection (3), *noise level*, expressed as a figure of EPNdB, means the effective perceived noise in decibels:

- (a) measured by reference to the test procedures specified in Chapter 3 of the Annex; and
- (b) certified in a noise certificate within the meaning of the Air Navigation (Aircraft Noise) Regulations.

(5) A notice under subsection (2) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

(6) The consultation procedures set out in the Schedule apply if the Minister proposes, before the date specified in paragraph 16(1)(a) of the *Legislative Instruments Act 1995*, to publish a notice under subsection (2).

(7) A notice in force under subregulation 6A(1) of the Air Navigation (Aerodrome Curfew) Regulations immediately before the commencement of this Act has effect after that commencement as if it were a notice published by the Minister under subsection (2) of this section.

Take-off from runway 16R when taxi clearance received before start of curfew period

16. An aircraft may take off from runway 16R during a curfew period if it received taxi clearance for the take-off before the start of the curfew period.

Sections 13, 14 and 15 do not apply after airport at Badgerys Creek is available for night use

17. Sections 13, 14 and 15 do not apply to a take-off or landing that occurs on or after the date specified by the Minister by notice in the *Gazette* as the date on which the airport to be constructed at the site known as Badgerys Creek is able to be used for night aircraft movements.

Division 2—Emergencies and dispensations

Aircraft may take off or land in emergencies or if Minister grants dispensation

18. An aircraft may take off from, or land at, Sydney Airport in circumstances that would otherwise contravene section 7, 10 or 11 if:

- (a) the aircraft is involved in an emergency as described in section 19; or
- (b) a dispensation granted by the Minister under section 20 authorises the take-off or landing and the take-off or landing is in accordance with any conditions of the dispensation.

Emergencies

19. 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
- (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.

Dispensations in exceptional circumstances

20.(1) The Minister may grant a dispensation authorising an aircraft to take off from, or land at, Sydney Airport in circumstances that would otherwise contravene section 7, 10 or 11 if the Minister is satisfied that there are exceptional circumstances justifying the take-off or landing.

(2) A dispensation may be granted subject to conditions including, for example, conditions relating to when the take-off or landing must occur and the runway to be used.

(3) In granting dispensations, the Minister must have regard to guidelines made under subsection (5).

(4) A dispensation need not be in writing, but a written record of each dispensation and the reasons for granting it must be made and must be tabled in each House of the Parliament within 5 sitting days of that House after the dispensation is granted.

(5) Subject to subsections (6) and (7), the Minister must, in writing, make guidelines about the granting of dispensations under this section including, in particular:

Sydney Airport Curfew No. 134, 1995

- (a) what constitutes exceptional circumstances; and
- (b) the conditions to which dispensations should be subject.

(6) Guidelines under subsection (5) are disallowable instruments for the purposes of section 46A of the *Acts Interpretation Act 1901*.

(7) The consultation procedures set out in the Schedule apply if the Minister proposes, before the date specified in paragraph 16(1)(a) of the *Legislative Instruments Act 1995*, to make guidelines under subsection (5).

PART 4—PROVISION OF INFORMATION

Authorised person may require the provision of information

21.(1) An authorised person may, by notice in writing given to the operator of an aircraft, require the operator to give the authorised person, within 30 days of receiving the notice:

- (a) information relating to the noise level of the aircraft; or
- (b) information relevant to determining whether a take-off or landing of the aircraft was permitted by paragraph 18(a) (emergencies).

(2) The operator must not knowingly or recklessly fail to comply with the notice.

Penalty: 50 penalty units.

Note 1: If the operator is a body corporate, the maximum penalty that may be imposed is 250 penalty units (see subsection 4B(3) of the *Crimes Act 1914*).

Note 2: For the value of a penalty unit, see subsection 4AA(1) of the *Crimes Act 1914*.

(3) This section does not affect a person's right to refuse to give information on the ground that the information, or giving the information, might tend to incriminate the person or expose the person to a penalty.

Provision of false information

22. The operator of an aircraft must not, for a purpose connected with this Act, knowingly or recklessly give information to an authorised person that is false or misleading in a material particular.

Penalty: 50 penalty units.

Note 1: If the operator is a body corporate, the maximum penalty that may be imposed is 250 penalty units (see subsection 4B(3) of the *Crimes Act 1914*).

Note 2: For the value of a penalty unit, see subsection 4AA(1) of the *Crimes Act 1914*.

PART 5—CONSULTATION BEFORE ACT IS AMENDED

Minister to consult

23.(1) The consultation procedures set out in the Schedule apply if the Minister proposes to introduce a Bill for an Act that amends this Act into a House of the Parliament.

(2) If the Minister introduces a Bill for an Act that amends this Act into a House of the Parliament, the Minister must also table in that House a report setting out what consultation has taken place.

PART 6—MISCELLANEOUS

Delegation

24.(1) The Minister may, in writing, delegate the Minister's powers to grant dispensations under section 20 to:

- (a) the Secretary of the Department; or
- (b) an officer of the Department; or
- (c) an employee of Airservices Australia.

(2) The Secretary of the Department may, in writing, delegate the Secretary's powers to grant approvals under section 12 to an officer of the Department.

Conduct by directors, servants and agents

25.(1) If, in proceedings for an offence against this Act, it is necessary to prove the state of mind of a body corporate in relation to particular conduct, it is enough to show:

- (a) that the conduct was engaged in by a director, servant or agent of the body corporate within the scope of his or her actual or apparent authority; and
- (b) that the director, servant or agent had the state of mind.

(2) Any conduct engaged in on behalf of a body corporate by a director, servant, or agent of the body corporate within the scope of his or her actual or apparent authority is taken, for the purposes of a prosecution for an offence against this Act, to have been engaged in also by the body corporate unless the body corporate proves that the body corporate took reasonable precautions and exercised due diligence to avoid the conduct.

(3) If, in proceedings for an offence against this Act, it is necessary to establish the state of mind of an individual in relation to particular conduct, it is enough to show:

- (a) that the conduct was engaged in by a servant or agent of the individual within the scope of his or her actual or apparent authority; and
- (b) that the servant or agent had the state of mind.

(4) Any conduct engaged in on behalf of an individual by a servant or agent of the individual within the scope of his or her actual or apparent authority is taken, for the purposes of a prosecution for an offence against this Act, to have been engaged in also by the individual, unless the individual proves that he or she took reasonable precautions and exercised due diligence to avoid the conduct.

(5) In this section:
director, in relation to a body that:

Sydney Airport Curfew No. 134, 1995

(a) is incorporated for a public purpose by a law of the Commonwealth, of a State or of a Territory; and

(b) is constituted by one or more members;

means the member, or any of the members, constituting the body.

engage in conduct includes fail or refuse to engage in conduct.

offence against this Act includes the following:

(a) an offence against section 6, 7 or 7A of the *Crimes Act 1914* that relates to an offence against this Act;

(b) an offence against subsection 86(1) of the *Crimes Act 1914*, because of paragraph (a) of that subsection, that relates to an offence against this Act.

state of mind, in relation to a person, includes:

(a) the person's knowledge, intention, opinion, belief or purpose; and

(b) the person's reasons for the intention, opinion, belief or purpose.

Regulations

26. The Governor-General may make regulations prescribing matters:

(a) required or permitted by this Act to be prescribed; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

SCHEDULE

Sections 15, 20 and 23

CONSULTATION PROCEDURES

Schedule sets out consultation procedures

1. Clauses 3 to 6 of this Schedule set out the consultation procedures that apply if:

- (a) the Minister proposes, before the date specified in paragraph 16(1)(a) of the *Legislative Instruments Act 1995*, to publish a notice under subsection 15(2) of this Act; or
- (b) the Minister proposes, before the date specified in paragraph 16(1)(a) of the *Legislative Instruments Act 1995*, to make guidelines under subsection 20(5) of this Act; or
- (c) the Minister proposes to introduce a Bill for an Act that amends this Act into a House of the Parliament.

Minister may determine that a body or organisation represents those likely to be affected

2. The Minister may, by notice in the *Gazette*, determine that a specified body or organisation sufficiently represents the interests of those likely to be affected by proposed actions to which clauses 3 to 6 apply.

Minister must prepare a written proposal

- 3.** The Minister must prepare a written proposal containing:
- (a) a summary of the action that the Minister is proposing to take; and
 - (b) a statement of the reasons for that proposed action; and
 - (c) a broad indication of the relative costs and benefits to the Government and to the affected public of that proposed action.

Public to be invited to make submissions

4.(1) The Minister must cause a notice complying with subclause (2) to be published in a daily newspaper circulating in the Sydney metropolitan area.

- (2)** The notice must:
- (a) state the Minister's intention to take the proposed action; and
 - (b) describe the manner in which copies of the written proposal can be obtained or inspected; and
 - (c) invite the public to make written submissions on the proposal and indicate the period within which (not being less than 21 days after the notice is published), and the place at which, written submissions may be made.

Body or organisations specified under clause 2 to be consulted

5. If a notice specifying a body or organisation under clause 2 is in force, the Minister must:

SCHEDULE—continued

- (a) give a copy of the written proposal to the body or organisation; and
- (b) invite the body or organisation to make written submissions on the proposal and indicate the period within which (not being less than 21 days after receipt of the written proposal), and the place at which, written submissions may be made.

Minister to consider submissions

6. The Minister must consider all written submissions received within the periods specified as required by paragraphs 4(2)(c) and 5(b) before taking the action to which the submissions relate.

Failure to comply does not invalidate

7. A failure to comply with this Schedule does not affect the validity of an amendment of this Act, of a notice published under subsection 15(2) or of an instrument making guidelines under subsection 20(5).

*[Minister's second reading speech made in—
House of Representatives on 26 September 1995
Senate on 16 October 1995]*