



Air Navigation (Coolangatta Airport Curfew) Regulations 1999

Statutory Rules 1999 No. 352 as amended

made under the

Air Navigation Act 1920

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taking into account amendments up to SR 2002 No. 13

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Regulation 1

Part 1 Preliminary

1 Name of Regulations [see Note 1]

These Regulations are the *Air Navigation (Coolangatta Airport Curfew) Regulations 1999*.

2 Commencement [see Note 1]

These Regulations commence on gazettal.

3 Object of Regulations

The object of these Regulations is to minimise the impact of aircraft noise on the community surrounding Coolangatta Airport through the imposition of a curfew and related restrictions on certain aircraft movements at the airport between 11 pm and 6 am.

4 Simplified outline of Regulations

- Part 1 contains information necessary for understanding the Regulations.
- Part 2 imposes a curfew on certain aircraft movements at Coolangatta Airport between 11 pm and 6 am.
- Part 3 allows certain aircraft movements during curfew periods.
- Part 4 contains provisions about providing information to the Secretary.
- Part 5 contains miscellaneous provisions.

5 Definitions

(1) In these Regulations:

Act means the *Air Navigation Act 1920*.

Regulation 5

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

Annex means volume 1 of Annex 16 to the Chicago Convention.

curfew period has the meaning given by section 7.

domestic passenger jet aircraft means a jet aircraft engaged in a domestic air service that is carrying passengers.

engage in conduct means:

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

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.

noise level of an aircraft, expressed as a figure of EPNdB, means the effective perceived noise in decibels:

- (a) measured by reference to the test procedures specified in the chapter of the Annex applicable to that type of aircraft; and
- (b) certified in a noise certificate within the meaning of the Air Navigation (Aircraft Noise) Regulations for the aircraft.

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

Secretary means the Secretary to the Department.

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 12 month period beginning on:

- (a) for 1999 — the date on which these Regulations commence; or
- (b) for any other year — the anniversary in that year of that date.

90-95 noise level rule has the meaning given in subregulation (2).

Regulation 6

- (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.

6 Time is legal time in Queensland

In these Regulations, 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, Coolangatta Airport during a curfew period.

Penalty: 45 penalty units.

- (2) It is a defence to a prosecution under subregulation (1) that the take-off or landing was permitted under Part 3.

Note A defendant bears an evidential burden in relation to whether or not the take-off or landing was permitted under Part 3 (see subsection 13.3 (3) of the *Criminal Code*).

Regulation 9

Part 3 Permitted aircraft movements

Division 1 Movements permitted during curfew periods

9 Take-off when taxi clearance received, or taxiing for take-off commenced, before start of curfew period

An aircraft may take off during a curfew period if:

- (a) the aircraft received taxi clearance for the take-off before the start of the curfew period; or
- (b) an Air Traffic Control service is not available, and the aircraft began taxiing for take-off before the start of the curfew period.

10 Domestic passenger jet aircraft movements — annual quota

- (1) 24 domestic passenger jet aircraft movements are permitted each year during curfew periods.
- (2) An operator may use a domestic passenger jet movement permitted under subregulation (1) only if the operator holds a permit granted under regulation 11 to use a movement.
- (3) A domestic passenger jet aircraft movement permitted under subregulation (1) may only be used as follows:
 - (a) on a day when the legal time in Queensland is the same as the legal time in New South Wales, to enable a domestic passenger jet aircraft to land at, or take off from, Coolangatta Airport between 11 pm and 11.45 pm;
 - (b) on a day when summer time is in force in New South Wales, to enable a domestic passenger jet aircraft to land at Coolangatta Airport between 11 pm and 11.30 pm.

Note Summer time is defined for New South Wales by the *Standard Time Act 1987* (NSW).

Regulation 12

- (4) However, an aircraft movement permitted under regulation 9, 16, 18, 19 or 20 is not counted towards the number of domestic passenger jet movements permitted under subregulation (1).

11 Permits for domestic passenger jet aircraft movements

- (1) A domestic passenger jet aircraft operator may apply, in writing, to the Secretary for a permit to use 1 or more domestic passenger jet aircraft movements permitted under subregulation 10 (1).
- (2) The Secretary may, in writing, grant to a domestic passenger jet aircraft operator a permit to use a domestic passenger jet aircraft movement permitted under subregulation 10 (1).
- (3) An operator may apply for a permit even if the Secretary has granted permits for all the domestic passenger jet aircraft movements for that year.
- (4) A permit granted under subregulation (2) may be used only in the year for which it is granted.

12 Revocation of permit

- (1) The Secretary may revoke a permit granted to an operator under regulation 11 if:
- (a) another operator applies for a permit in the circumstances mentioned in subregulation 11 (3); and
 - (b) the Secretary has complied with subregulation (2).
- (2) If the Secretary proposes to revoke a permit under subregulation (1), he or she must give the operator concerned at least 28 days notice of the date on which the permit will be revoked.
- (3) The Secretary may also revoke a permit granted to an operator under regulation 11 if the operator asks the Secretary to revoke the permit.

Regulation 13

13 Notification to the Secretary

- (1) If an operator uses a domestic passenger jet aircraft movement under regulation 10, the operator must, within 7 days of the movement, notify the Secretary in writing 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 must not fail to notify the Secretary under subregulation (1).

Penalty: 10 penalty units.

- (3) For subregulation (2), strict liability applies to the physical element that notification was required by subregulation (1).

Note For *strict liability*, see section 6.1 of the *Criminal Code*.

14 Freight jet aircraft movements — weekly quota

- (1) In this regulation:
freight jet aircraft means:
 - (a) an aircraft of the type known as BAe-146 that is being used solely for carrying freight; or
 - (b) another aircraft being used solely for carrying freight, the maximum take-off weight and noise levels of which do not exceed those of a BAe-146 aircraft.
- (2) 4 freight jet aircraft movements are permitted each week during curfew periods.

15 Permits for freight jet aircraft movements

- (1) A freight jet aircraft operator may apply, in writing, to the Secretary for a permit to use 1 or more freight jet aircraft movements permitted under regulation 14.

- (2) The Secretary may, in writing, grant to a freight jet aircraft operator a permit to use a freight jet aircraft movement permitted under regulation 14.
- (3) A permit granted under subregulation (2) must state the period for which it is effective.

16 Other jet aircraft movements

A jet aircraft may land at, or take off from, Coolangatta Airport during a curfew period if:

- (a) the aircraft has a maximum take-off weight that does not exceed 34,000 kilograms; 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 aircraft complies with the 90-95 noise level rule.

17 Propeller-driven aircraft movements

A propeller-driven aircraft with a maximum take-off weight that does not exceed 34,000 kilograms may land at, or take off from, Coolangatta Airport during a curfew period.

Division 2 Use of Coolangatta Airport as an Alternate Airport

18 Use of Coolangatta Airport as an Alternate Airport by international aircraft

- (1) If an aircraft engaged in an international air service is diverted to Coolangatta Airport, the aircraft may land at Coolangatta Airport during a curfew period.
- (2) If an aircraft lands at Coolangatta Airport during a curfew period under subregulation (1), the aircraft may take off from Coolangatta Airport in that curfew period.

Regulation 19

19 Use of Coolangatta Airport as an Alternate Airport by domestic aircraft

If an aircraft engaged in a domestic air service is diverted to Coolangatta Airport, the aircraft may land at Coolangatta Airport during a curfew period.

Division 3 Emergencies and dispensations

20 Aircraft may take off or land in emergencies or if Secretary grants dispensation

- (1) Despite any other provisions of these Regulations, an aircraft may take off from, or land at, Coolangatta Airport during a curfew period if:
 - (a) the aircraft is involved in an emergency; or
 - (b) the aircraft is taking off from Coolangatta Airport to resume a flight interrupted by an emergency; or
 - (c) a dispensation granted by the Secretary under regulation 21 authorises the take-off or landing, and the take-off or landing is in accordance with the conditions of the dispensation.
- (2) For paragraphs (1) (a) and (b), 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.

21 Secretary may grant dispensations

- (1) An operator may apply to the Secretary for a dispensation from the curfew in exceptional circumstances.
- (2) If there are exceptional circumstances that justify permitting an aircraft to take off from or land at Coolangatta Airport during a curfew period, the Secretary may grant a dispensation to the operator authorising the aircraft to take off from, or land at, Coolangatta Airport during that period.
- (3) A dispensation may be granted subject to conditions including, for example, conditions relating to when the take-off or landing must occur.
- (4) A dispensation need not be in writing, but a written record of a dispensation and the reasons for granting it must be made and kept by the Secretary.
- (5) A dispensation granted under subregulation (2) must relate only to a single take-off or a single landing of an aircraft, but not both.

Regulation 22

Part 4 Provision of information

22 Provision of information to the Secretary

- (1) The Secretary may, by notice in writing, ask an operator to give the Secretary, within 30 days of receiving the notice:
 - (a) information about the noise level of an aircraft; or
 - (b) information relevant to determining whether a take-off or landing of an aircraft was for an aircraft involved in an emergency under subregulation 20 (2).
- (2) A notice under subregulation (1) must state:
 - (a) the information to be provided; and
 - (b) how the information is to be provided; and
 - (c) that the operator must comply with the notice within 30 days of receiving the notice.
- (3) An operator must not fail to comply with a notice under subregulation (1).

Penalty: 10 penalty units.

- (3A) For subregulation (3), strict liability applies to the physical element that a notice was given under subregulation (1).

Note For **strict liability**, see section 6.1 of the *Criminal Code*.

- (4) Subregulation (1) 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.

23 Provision of false information

The operator of an aircraft must not, for a purpose connected with these Regulations, give false or misleading information to the Secretary.

Penalty: 10 penalty units.

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

Part 5 **Miscellaneous**

24 **Review of decisions**

Application may be made to the Administrative Appeals Tribunal for the review of a decision by the Secretary:

- (a) under regulation 11 or 12 to grant, revoke, or refuse to grant a domestic passenger jet aircraft movement permit; and
- (b) under regulation 15 to grant, or refuse to grant a freight jet aircraft movement permit.

25 **Delegation**

The Secretary may, in writing, delegate any of his or her powers under these Regulations (other than this power of delegation) to an officer of the Department.

Table of Statutory Rules

Notes to the *Air Navigation (Coolangatta Airport Curfew) Regulations 1999*

Note 1

The *Air Navigation (Coolangatta Airport Curfew) Regulations 1999* (in force under the *Air Navigation Act 1920*) as shown in this compilation comprise Statutory Rules 1999 No. 352 amended as indicated in the Tables below.

Table of Statutory Rules

Year and number	Date of notification in <i>Gazette</i>	Date of commencement	Application, saving or transitional provisions
1999 No. 352	22 Dec 1999	22 Dec 1999	
2001 No. 145	20 June 2001	20 June 2001	—
2002 No. 13	21 Feb 2002	21 Feb 2002	—

Table of Amendments

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
R. 5.....	am. 2001 No. 145; 2002 No. 13
R. 8.....	rs. 2002 No. 13
R. 13.....	am. 2002 No. 13
R. 22.....	am. 2002 No. 13
R. 23.....	am. 2002 No. 13
