



Sydney Airport Compliance Scheme 2012

I, ANTHONY ALBANESE, Minister for Infrastructure and Transport, acting under subsection 54 (2) of the *Sydney Airport Demand Management Act 1997*:

- (a) determine that the scheme set out in this determination is the Compliance Scheme for Sydney Airport; and
- (b) specify that that scheme comes into force as the Compliance Scheme on 28 October 2012.

Dated 1 September 2012.

ANTHONY ALBANESE
Minister for Infrastructure and Transport



Sydney Airport Compliance Scheme 2012

made under subsection 54 (2) of the

Sydney Airport Demand Management Act 1997

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Part 1 Preliminary

1 Citation

This Scheme is the *Sydney Airport Compliance Scheme 2012*.

2 Definitions

In this Scheme:

Act means the *Sydney Airport Demand Management Act 1997*.

block time, for a flight, means the scheduled time between:

- (a) the first movement of the aircraft after its external doors have been closed in preparation for take-off; and
- (b) the last movement of the aircraft immediately before the moment when, after landing, it comes to a standstill and the engines are turned off.

civil contravention has the same meaning as in Division 3 of Part 3 of the Act.

scheduling season has the same meaning as in the Slot Management Scheme.

slot group has the same meaning as in the Slot Management Scheme.

slot series has the same meaning as in the Slot Management Scheme.

Note The following terms used in this Scheme are defined in the Act:

- aircraft
- Compliance Committee
- gate movement
- infringement notice
- no-slot movement
- off-slot movement
- operator
- slot
- Slot Management Scheme
- Slot Manager.

Part 2 When a movement is taken to be off-slot (Act ss 49 (1))

3 Movements that are taken to be off-slot movements

For subsections 11 (2) and 49 (1) of the Act, a gate movement is taken to be an off-slot movement if:

- (a) for a flight with a block time of less than 3 hours — the movement occurs more than 15 minutes before or after the slot; and
- (b) for a flight with a block time of 3 hours or more — the movement occurs more than 30 minutes before or after the slot.

4 Movements that are taken not to be off-slot movements

Despite section 3, a gate movement is taken not to be an off-slot movement if the circumstances that caused the movement to occur at the time it did were not within the operator's control.

Note The Compliance Committee only needs a reasonable belief as to the matter set out in this section when deciding whether to direct the Slot Manager to issue an infringement notice under subsection 19 (1) of the Act.

Part 3 When an infringement notice is appropriate (Act ss 49 (2))

5 Infringement notices for no-slot movements

- (1) For paragraph 49 (2) (a) of the Act, and subject to this section, it is appropriate to issue an infringement notice to a person for any contravention of section 12 of the Act.

Note It is expected that in practice the Slot Manager will institute civil proceedings for a contravention of section 12 except in circumstances where:

- (a) the operator had been allocated a slot on the previous day; and
 - (b) the operator did not conduct a gate movement using that slot.
- (2) It is not appropriate to issue such an infringement notice if the Slot Manager has instituted proceedings under section 15 of the Act for a contravention of section 12 of the Act in relation to that no-slot movement.
- (3) It is not appropriate to issue such an infringement notice in the circumstances mentioned in the note to subsection (1) if the circumstances that caused the movement to occur on the day it did, rather than using the allocated slot, were not within the operator's control.
- (4) It is not appropriate to issue such an infringement notice before the end of the scheduling season in which the contravention occurred.
- (5) It is not appropriate to issue such an infringement notice if it is more than 12 months after the date on which the relevant gate movement occurred.

6 Infringement notices for off-slot movements

- (1) In subsection (2):
set of slots means:
 - (a) a slot group; or
 - (b) a slot series; or
 - (c) the single slots allocated to an operator in a scheduling season.
- (2) For paragraph 49 (2) (a) of the Act, and subject to this section, it is appropriate to issue an infringement notice to a person for a contravention of section 13 of the Act by a gate movement that was conducted as part of a particular set of slots if:

- (a) the movement resulted in more than 20% of the gate movements conducted in relation to that set of slots being off-slot movements; or
 - (b) the movement occurred after the movement mentioned in paragraph (a).
- (3) For paragraph 49 (2) (a) of the Act, it is not appropriate to issue an infringement notice to a person for a contravention of section 13 of the Act in any other circumstances.
 - (4) It is not appropriate to issue such an infringement notice if the Slot Manager has instituted proceedings under section 15 of the Act for a contravention of section 13 of the Act in relation to that off-slot movement.
 - (5) It is not appropriate to issue such an infringement notice before the end of the scheduling season in which the contravention occurred.
- Note* The effect of this subsection is that the Compliance Committee should wait until the end of a scheduling season before issuing any infringement notices, by which time it will be possible to make the calculations necessary for subsection (2), and to assess the applicable fines under section 8.
- (6) It is not appropriate to issue such an infringement notice if it is more than 12 months after the date of the relevant gate movement.

7 Withdrawal of infringement notices

- (1) For paragraph 49 (2) (b) of the Act, it is appropriate to withdraw an infringement notice in any of the following circumstances:
 - (a) the Slot Manager has instituted proceedings under section 15 of the Act in relation to the gate movement to which the infringement notice relates;
 - (b) the infringement notice was issued more than 12 months after the relevant gate movement;
 - (c) the Compliance Committee ceases to believe that the person to whom the infringement notice was issued committed the civil contravention.

Example In the case of an infringement notice for a contravention of section 13 of the Act, if the Compliance Committee ceases to believe that the circumstances that caused the gate movement to take place at the time it did were within the operator's control, it would be appropriate to withdraw the infringement notice because of paragraph (c).

- (2) For paragraph 49 (2) (b) of the Act, it is not appropriate to withdraw an infringement notice in any other circumstances.

Part 4 Rates of fine for infringement notices (Act ss 49 (3))

8 Rates of fine for civil contraventions

(1) For paragraphs 49 (3) (a) and (b) of the Act, the table specifies:

- (a) the rates of fines that may be specified in infringement notices; and
- (b) the circumstances to which the different rates apply.

Rates of fines for civil contraventions		
This fine for an individual ...	or this fine for a body corporate ...	applies to each contravention if there are ...
1 penalty unit	5 penalty units	no more than 3 contraventions in summer; or no more than 2 contraventions in winter.
2 penalty units	10 penalty units	4 to 6 contraventions in summer; or 3 or 4 contraventions in winter.
3 penalty units	15 penalty units	7 to 9 contraventions in summer; or 5 or 6 contraventions in winter.
5 penalty units	25 penalty units	10 to 12 contraventions in summer; or 7 or 8 contraventions in winter.
8 penalty units	40 penalty units	13 to 15 contraventions in summer; or 9 or 10 contraventions in winter.
12 penalty units	60 penalty units	16 to 18 contraventions in summer; or 11 or 12 contraventions in winter.
20 penalty units	100 penalty units	19 to 21 contraventions in summer; or 13 or 14 contraventions in winter.
40 penalty units	200 penalty units	22 or more contraventions in summer; or 15 or more contraventions in winter.

(2) In this section:

- (a) a reference to **summer** is a reference to a northern summer scheduling season; and
- (b) a reference to **winter** is a reference to a northern winter scheduling season.

Part 5 Performance of the Compliance Committee's functions (Act ss 49(5))

9 Notification of operators when contraventions found

As soon as practicable after identifying a gate movement as one that might constitute a civil contravention, the Compliance Committee must:

- (a) decide whether it is likely to give a direction to the Slot Manager under section 19 of the Act in relation to the contravention; and
- (b) if it is likely to do so, inform the relevant operator.

10 When decision on infringement notices should be made

As soon as practicable after the end of a scheduling season, the Compliance Committee must decide in relation to each operator whether to give a direction to the Slot Manager under section 19 of the Act in relation to civil contraventions by the operator during the season.

Part 6 Repeal and transitional

11 Repeal of the *Determination of the Sydney Airport Compliance Scheme 1998*

The *Sydney Airport Compliance Scheme 1998* is repealed.

12 Transitional provisions

Despite section 11, the *Sydney Airport Compliance Scheme 1998* continues to apply to aircraft movements that took place before 28 October 2012 as if it had not been repealed.