

EXPLANATORY STATEMENT

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

Airports Act 1996

*Airports (Control of On-Airport Activities) Amendment (Sydney West Airport) Regulations
2025*

Purpose and Operation

Western Sydney International (Nancy-Bird Walton) Airport (WSI) will open by late 2026 as a curfew-free airport, operating every day of the year.

The *Airports (Control of On-Airport Activities) Amendment (Sydney West Airport) Regulations 2025* (the Regulations) will amend the *Airports (Control of On-Airport Activities) Regulations 1997* (the Principal Regulations) to:

- include WSI within the scope of Part 1A, therefore applying the existing framework for the regulation of liquor trading at federally-leased airports in NSW to WSI; and
- insert a new regulation in Part 3 of the Principal Regulations to permit businesses at WSI to trade 365 days a year, including on restricted shop trading days, as defined in section 4 of the *Retail Trading Act 2008* (NSW).

The Principal Regulations are due to sunset on 31 March 2026, however remade regulations will not come into effect in time to allow businesses to make necessary commercial arrangements, including applying for appropriate liquor licenses, ahead of the airport opening in late 2026. The Regulations are therefore required to provide these businesses with certainty surrounding the regulation of liquor and commercial trading at WSI, until the Principal Regulations are remade and commence.

If the changes in the Regulations were not made, the *Commonwealth Places (Application of Laws) Act 1970* would automatically operate to apply NSW laws at WSI, including restrictions on liquor and consumer trading, which would be inconsistent with WSI's 24 hour, 365 days a year operating model. These changes align liquor licensing and commercial trading at WSI with the arrangements currently in place at Sydney (Kingsford-Smith) Airport (KSA).

Further details of the Regulations are outlined in Attachment A.

Authority

The *Airports Act 1996* (the Act) established a system for regulating airports.

Part 11 of the Act provides that regulations may deal with the control of certain matters at airports, including liquor, commercial trading, vehicle movements, gambling and smoking.

Section 170 of the Act specifies that the regulations may make provision for, and in relation to, prohibiting or regulating the sale, supply, disposal or possession of liquor at specified airports.

Section 171 of the Act provides that the regulations may make provision for and in relation to prohibiting, regulating or authorising the supply of goods or services at a specified airport to individuals as consumers (within the meaning of section 4B of the *Competition and Consumer Act 2010*).

The Principal Regulations regulate activities including liquor, commercial trading, vehicle movements, gambling and smoking at specified airports.

Consultation

Section 178 of the Act specifies that, for regulations made for the purposes of Part 11 of the Act, at least 30 days before regulations relating to a particular airport are made the Minister must give each airport operator company for the airport a notice:

- a) stating that there is a proposal to make those regulations; and
- b) inviting the company to give the Minister a submission about the proposed regulations within 30 days after receiving the notice.

In accordance with subsection 178(3) of the Act, if a company gives the Minister a written submission in accordance with the notice, the Minister must have due regard to the submission in dealing with the proposal.

WSA Co Limited (WSA Co), as the airport operator for WSI, was provided with a notice in accordance with section 178 of the Act. WSA Co responded to this notice within 30 days, and the Minister has had due regard to the submission.

An exposure draft of the Regulations was also made available for public comment on the Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts' 'Have Your Say' page for 30 days, from 27 June to 27 July 2025.

Two written submissions were received from WSA Co and NSW Health. WSA Co's submission was supportive of the Regulations and NSW Health had no comments.

Regulatory Impact

A preliminary assessment of the impacts of Regulations identified a minor benefit for businesses by increasing confidence in the regulatory arrangements for WSI and a minor potential benefit on individual passengers using the airport by late 2026 by increasing the range of retail and hospitality offerings available to them. The Office of Impact Analysis has determined that detailed analysis is not required under the Australian Government's Policy Impact Analysis Framework (OIA25-09751).

Statement of Compatibility with Human Rights

A Statement of Compatibility with Human Rights is set out at **Attachment B**.

Details of the *Airports (Control of On-Airport Activities) Amendment (Sydney West Airport) Regulations 2025*

Section 1 – Name of Instrument

This section specifies the name of the Regulations as the *Airports (Control of On-Airport Activities) Amendment (Sydney West Airport) Regulations 2025*.

Section 2 – Commencement

This section provides that the Regulations commenced on the day after they were registered on the Federal Register of Legislation.

Section 3 – Authority

This section sets out that the Regulations are made under the *Airport Act 1996*.

Section 4 – Schedule

This section is an explanatory provision of how the Regulations work. It 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 to this instrument has effect according to its term.

There is only one Schedule to the Regulations which amends the Principal Regulations.

Schedule 1 – Amendments to the *Airports (Control of On-Airport Activities) Regulations 1997*

Item 1 – subregulation 3(2)

Regulation 3 in the Principal Regulations defines terms used in the Principal Regulations. Subregulation 3(2) provides that terms used in the Principal Regulations and the *Airports Regulations 1997* have the same meaning unless a contrary intention appears.

The *Airports Regulations 1997* have been repealed and replaced with the *Airport Regulations 2024*.

Item 1 replaces an out-of-date reference to the repealed *Airports Regulations 1997* with a reference to the current *Airport Regulations 2024*.

Item 2 – regulation 4AA

Part 1A of the Principal Regulations sets out a scheme for the control of liquor at airports in New South Wales. Item 1 amends Regulation 4AA inserts ‘Sydney West Airport’ into the list

of NSW airports to which Part 1A of the Principal Regulations applies, so that it is listed after KSA.

Please note that where ‘Sydney West Airport’ is referred to in the Regulations, this is a reference to Western Sydney International (Nancy-Bird Walton) Airport (WSI).

Item 3 – Paragraph 4AE(a)

Subdivision 1A.2.1 of the Principal Regulations sets out the different types of liquor licences for NSW airports.

New paragraph 4AE(a) repeals and substitute existing paragraph 4AE(a) in Part 1A to specify that a passenger terminal licence to authorise the sale or supply of liquor on premises in the passenger terminal at WSI can be applied for in the same way as for KSA.

Item 4 – regulations 4AF and 4AG

Regulations 4AF and 4AG in Part 1A set out general and functions licences as types of liquor licence under Part 1A of the Principal Regulations.

A general licence is generally tied to particular premises and is intended to allow for the sale or supply of liquor at premises such as hotels, taverns and bottle shops on airport sites, but which are outside the passenger terminal.

General licences authorise the Licensee to sell or supply liquor on premises on an airport as specified on the licence and in accordance with conditions set by the Secretary.

A function licence authorises the sale or supply of liquor at one or more functions on an airport site, as specified in the licence. The conditions of these licences are also specified.

A function licence should be applied for where it is proposed, to hold a one-off function, such as an air show or a publicity launch. Function licences are not generally required where alcohol is served privately to a small number of persons, for example where the Board of a general aviation airport meets and has a few drinks afterwards, or where staff enjoy a drink together before close of business.

This item inserts WSI in regulations 4AF and 4AG so that general liquor licences and functions licences can be applied for under Part 1A for premises outside a passenger terminal at WSI in the same way as they currently are at KSA.

Item 5 – subregulation 4AN(4)

Regulation 4AN in Part1A sets out general restrictions on the grant of a liquor licence.

Subregulation 4AN(3) specifies that liquor licences may not be granted for businesses primarily used as convenience stores or mixed businesses, unless these businesses are located in a tourist area or another area with special needs and there are not adequate existing facilities for the sale and supply of liquor in that area.

Subregulation 4AN(4) provides that the passenger terminal at KSA is not covered by this restriction. Item 5 amends subregulation 4AN(4) by adding a passenger terminal at WSI.

Item 6 – regulation 4BN

Item 6 amends regulation 4BN in Part 1A of the Principal Regulations so that a sub-licensee may be authorised under a sub-licence to sell or supply liquor on premises specified in the sub-licence in a passenger terminal at WSI in the same way this occurs at KSA.

Item 7 – subregulation 4BO(1)

Regulation 4BO authorises applications for, and grants of, sub-licences for premises within KSA's passenger terminals. Regulation 4BO also permits a licensee to grant a sub-licence, subject to conditions, or to refuse to grant a sub-licence altogether (provided reasons for such a refusal are given to the applicant in writing).

A sub-licence can be renewed, transferred, varied, suspended or cancelled by the licensee. A decision to refuse to do any of these things must also be communicated in writing to the sub-licensee.

Item 7 amends subregulation 4BO(1) to insert WSI, so that a person may apply to a passenger terminal licence holder for a sub-licence to sell or supply alcohol at a premises within the passenger terminal at WSI in the same way as this currently occurs at KSA.

Item 8 – regulation 99 (heading)

Item 8 the heading of regulation 99 in Part 3 of the Principal Regulations 'Consumer trading – Sydney (Kingsford-Smith) Airport' to insert WSI so that it is clear that the rules for consumer trading in regulation 99 also apply at WSI.

Item 9 – regulation 99

Regulation 99 in Part 3 of the Principal Regulations currently operates to exempt KSA from the application of section 4 of the *Retail Trading Act 2008* (NSW) which restricts NSW retail businesses from trading on Good Friday, Easter Sunday, Anzac Day, Christmas Day and Boxing Day.

Item 9 amends regulation 99 to insert WSI, so that section 4 of the *Retail Trading Act 2008* (NSW) does not apply at WSI, therefore allowing retail businesses at WSI to trade 365 days per year, consistent with KSA.

Item 10 – regulation 100

Regulation 100 relates to modification of consumer trading rules for federally-leased airports in NSW, other than KSA.

This item inserts WSI in regulation 100 in Part 3, so that it is clear that this regulation does not apply to WSI or KSA.

Statement of Compatibility with Human Rights

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

Airports (Control of On-Airport Activities) Amendment (Sydney West Airport) Regulations 2025

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 Legislative Instrument

The *Airports (Control of On-Airport Activities) Amendment (Sydney West Airport) Regulations 2025* (the Legislative Instrument) amends the *Airports (Control of On-Airport Activities) Regulations 1997* to allow the Commonwealth to grant liquor licences and permit retail trading on restricted shop trading days, as defined in section 4 of the *Retail Trading Act 2008* (NSW), at Western Sydney International (Nancy-Bird Walton) Airport.

Human rights implications

This Legislative Instrument does 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.

The Hon Catherine King MP

Minister for Infrastructure, Transport, Regional Development and Local Government