

## **Explanatory Statement**

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

*Sydney Airport Demand Management Act 1997*

*Sydney Airport Slot Management Scheme 2025*

### **Purpose**

The *Sydney Airport Slot Management Scheme 2025* (the Scheme) establishes a new slot management scheme under the demand management framework in accordance with the *Sydney Airport Demand Management Act 1997* (the Act).

While some elements reflect continuity of longstanding practice, this instrument repeals the existing *Sydney Airport Slot Management Scheme 2013* (the 2013 Scheme) and introduces several significant structural and operational reforms to promote an equitable and transparent slot management system for Sydney Airport. The Scheme establishes the rules the Slot Manager must follow in the allocation and coordination of slots (permissions to conduct gate movements, i.e. to depart or arrive at Sydney Airport) to operators (airlines or other aircraft operators). Where practicable, the Scheme has been aligned with the Worldwide Slot Management Guidelines (WASG) to reflect general international practice. The WASG categorises three levels of airports based on congestion and outlines that coordinators (or Slot Managers) are appointed to allocate slots to airlines and other aircraft operators at level 3 airports such as Sydney Airport. To encourage greater competition and slot utilisation, the Scheme gives allocation priority to new entrants and slot series, while reaffirming the protections for regional access.

To complement the regulatory framework and civil penalty provisions in the Act, the Slot Manager has new monitoring and administrative powers to identify slot misuse and improve operator performance sooner. In conjunction with a modernised list of specific circumstances where an operator may receive a declared exemption, the Scheme encourages greater operational efficiency at Sydney Airport that will lead to fewer disruptions for the travelling public. This includes provisions to encourage flexibility in relation to retiming and conditions of slot usage and to prioritise early engagement and dialogue between operators and the Slot Manager.

The Scheme is a substantive improvement and modernisation of the 2013 Scheme, and will result in a more equitable, efficient and transparent slot management system for all stakeholders including aviation consumers, operators and Sydney Airport.

### **Background**

The Act regulates the allocation and use of slots for aircraft that take off and land at Sydney Airport. Subsection 34(1) of the Act enables the Minister to make a scheme for the allocation and management of permissions for slots at Sydney Airport.

The Scheme implements a number of recommendations of the 2021 Review of the Sydney Airport Demand Management Scheme (the Harris Review) and the 2019 Productivity Commission inquiry report on the Economic Regulation of Airports, which highlighted the need to reassess Sydney Airport demand management to improve efficiency, transparency, and competition within the Australian aviation market.

The *Aviation White Paper – Towards 2050* (the White Paper), released in August 2024, also committed to a more competitive domestic aviation sector. Initiative 11 of the White Paper seeks to reform Sydney Airport slot management to improve efficiency and reduce incentives for anti-competitive slot misuse. This instrument implements that commitment by establishing a comprehensive scheme which provides for the efficient and effective management of slot allocation and use by airlines and the Slot Manager.

The instrument is part of a suite of reforms to the Sydney Airport demand management framework and follows the introduction of the *Sydney Airport Demand Management Amendment Act 2024* (the Amendment Act) which passed the Parliament on 28 November 2024. The Scheme, together with the *Sydney Airport Demand Management Regulations 2025* (the Regulations) implement the government's reforms to the demand management framework at Sydney Airport.

### **Summary of the Scheme**

The Scheme establishes the framework for the allocation and management of slots at Sydney Airport, supporting the operation of the slot management system under the Act. It sets out the process for slot allocation, including provisions relating to new entrants, historic precedence, slot use, and conditions and requirements that may be imposed on slots. It also includes obligations for operators and powers for the Slot Manager in connection with monitoring, reporting, reconsideration of decisions, and exemption declarations.

Key features of the Scheme include:

- A revised definition of peak period;
- Expanded and prioritised access for new entrants seeking allocation of non-historic slot series;
- A broadened and modernised conditions test to replace the former 'size of aircraft' test;
- A restructured approach to regional service access through protected regional service slot series (PRSS);
- Formal processes for imposing conditions or requirements on slot allocations, and for retiming slots at and after allocation;
- Consequences for contraventions of civil penalty provisions under Division 4 of Part 3 of the Act;
- Monitoring powers for the Slot Manager;
- Internal reconsideration of certain Slot Manager decisions; and
- Provision for the Slot Manager to declare exemptions under the Act (declared exemptions).

### **Authority**

The Scheme is made under subsection 34(1) of the Act.

The Scheme is a legislative instrument for the purposes of the *Legislation Act 2003* and is not exempt from sunset or disallowance.

## **Documents incorporated by reference**

The Scheme incorporates by reference the Worldwide Airport Slot Guidelines (WASG) issued by the Airports Council International, International Air Transport Association (IATA) and the Worldwide Airport Coordinators Group as in force at the commencement of this instrument.

The most recent edition of the WASG, being the fourth edition, is effective 1 August 2025. These guidelines set out an internationally recognised industry standard for management and allocation of airport slots, and can be accessed online from <http://www.iata.org/en/programs/ops-infra/slots/slot-guidelines/>.

## **Consultation**

The Department of Infrastructure, Transport, Regional Development, Communication, Sport and the Arts (the department) consulted extensively with industry in the lead-up to the remaking of the Scheme and associated Regulations. Consultation on the policy framework commenced in early 2024 ahead of the finalisation and passage of the Amendment Act and continued through targeted meetings in November and December 2024 and April 2025.

A formal consultation process on the Scheme was conducted in July 2025. An exposure draft of the Scheme was released on 10 July 2025, with written submissions invited until 25 July 2025. As part of this process, the department held an industry engagement session on 14 July 2025, where the key provisions of the Scheme were presented and discussed. Stakeholders were also offered the opportunity for one-on-one meetings to expand on their written submissions.

In total, the department received 13 written submissions. Submissions provided feedback regarding alignment with the WASG, clarity of rules in relation to protected regional service slot series and the process for the allocation and management of slots in Part 2 of the draft Scheme. Stakeholders also requested shorter timeframes involved in the reconsideration of decisions and sought clarity on the circumstances for declared exemptions.

Following this consultation, refinements were made to the Scheme to respond to stakeholder concerns. The slot allocation process in Part 2 of the draft Scheme was recast to closely model the process outlined in the WASG, and timelines and processes were further enhanced to align with the WASG where practicable. Revisions were also made to the framing of the circumstances for operators to seek declared exemptions under section 47 of the Scheme and for operators to be able to re-time slot series in a manner consistent with the government's objectives to promote competition and efficiency. In addition, the reconsideration process was revised to be limited to decisions by the Slot Manager in relation to the use it or lose it and conditions tests. Additional streamlining was made to enable reconsideration decisions to be finalised sooner, now within 28 days of the date the request is received by the Secretary of the department. The consultation confirmed broad support for the reforms and provided constructive input that directly shaped the final form of the Scheme.

## **Statement of Compatibility with Human Rights**

A statement of compatibility with human rights for the purposes of Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* is at [Attachment B](#).

## Sydney Airport Slot Management Scheme 2025 – Notes on sections

### Part 1 – Preliminary

#### Section 1 – Name of Instrument

1. Section 1 provides that the name of the instrument is the *Sydney Airport Slot Management Scheme 2025*.

#### Section 2 – Commencement

2. Section 2 provides for the instrument to commence at the same time as Schedule 1 to the *Sydney Airport Demand Management Amendment Act 2024*. It is intended that this instrument and the *Sydney Airport Demand Management Regulations 2025* will commence at the same time as the amendments to the *Sydney Airport Demand Management Act 1997*.
3. The date for which Schedule 1 to the Amendment Act is proposed to commence is 26 October 2025. This date is the start of the 2025 northern winter scheduling season and was selected to align with the international slot coordination calendar. This date supports an ordered transition to the new demand management framework.

#### Section 3 – Authority

4. Section 3 provides that the instrument is made under subsection 34(1) of the *Sydney Airport Demand Management Act 1997*.

#### Section 4 – Schedules

5. Section 4 provides that each instrument specified in the Schedule is amended or repealed as set out in the applicable items in that Schedule. It also provides that any other item in a Schedule to the instrument has effect according to its terms.
6. The Schedule to this instrument repeals the *Sydney Airport Slot Management Scheme 2013*, ahead of its sunseting date of 1 April 2026.

#### Section 5 – Definitions

7. Section 5 sets out the defined terms used in the Scheme. A number of terms are defined in the Act, with a note providing a non-exhaustive list of examples to assist readers in locating those definitions. Additional definitions specific to the Scheme are also included below, several of which are incorporated from the WASG.
8. When the term **Act** is used in this instrument, it refers to the *Sydney Airport Demand Management Act 1997*. Other Acts referenced in this Scheme are referred to using their short titles—for example, the *Airports Act 1996*.
9. The term **airport operator** refers to the airport-lessee company responsible for the operation of Sydney Airport. This term is consistent with the usage in the *Airports Act 1996*.
10. The term **allocated** is defined in section 6 of the Scheme.
11. The term **conditions test** is defined in section 11 of the Scheme.
12. The term **equivalent scheduling season** means a corresponding season in a different year. A northern summer is equivalent to another northern summer, and likewise for northern winter. Definitions of northern summer and northern winter are included below.

13. The term **historic precedence** is defined in section 12 of the Scheme. It refers to the conditions under which an operator may retain priority access to a slot series from a previous equivalent scheduling season.
14. The term **historics baseline date** has the same meaning as in the WASG. It is the date on which the Slot Manager applies the use it or lose it test and conditions test to determine whether an operator retains historic precedence to a slot series.
15. The term **IATA** refers to the International Air Transport Association. IATA jointly publishes the WASG with the Airports Council International and the Worldwide Airport Coordinators Group. These guidelines, along with IATA's *Calendar of Coordination Activities*, inform the slot allocation processes and timelines.
16. The term **initial coordination** is defined in section 16 of the Scheme.
17. The term **initial submission deadline** has the same meaning as in the WASG and refers to the deadline by which operators must submit their planned operations to the Slot Manager for the purposes of allocation ahead of an upcoming scheduling season.
18. The term **kind** is used in relation to a gate movement. The Act defines a gate movement as either the first aircraft movement after the closure of aircraft doors in preparation for take-off, or the last aircraft movement before the aircraft parks at a bay after landing. In this section, kind means either kind of gate movement i.e. an arrival or a departure.
19. The term **new entrant** has the same meaning as in the WASG. This term refers to an airline requesting a series of slots at an airport on any day where, if the airline's request were accepted, it would hold fewer than 7 slots at that airport on that day.
20. The term **non-historic slot series** has the meaning given in subsection 18(1).
21. The term **northern summer** refers to the period beginning at the start of the last Sunday in March and ending immediately before the start of the last Sunday in October of same year, consistent with IATA's *Calendar of Coordination Activities*. These dates are determined according to Universal Coordinated Time.
22. The term **northern winter** refers to the period beginning at the start of the last Sunday in October and ending immediately before the start of the last Sunday in March of the following year, consistent with IATA's *Calendar of Coordination Activities*. These dates are determined according to Universal Coordinated Time.
23. The term **peak period** means 7 am to 11 am and 5 pm to 8 pm on any weekday, not including Saturday and Sunday. These periods are defined to enable specific rules to be made which ensure access for protected regional service slot series during periods of high demand.
24. The term **protected regional service slot series** is defined in section 9 of the Scheme. A protected regional service slot series under this instrument was previously referred to as a permanent regional service series under the 2013 Scheme and this term is intended to describe the same concept.
25. The term **reconsideration decision** is defined to provide for review by the Secretary of the department under Part 3 of the Scheme of certain decisions of the Slot Manager. Specifically, reconsideration is available in relation to decisions by the Slot Manager to declare that an operator has failed to comply with the use it or lose it test under section 10 or the conditions test under section 11.
26. The term **regional service** refers to a flight that departs from Sydney Airport and lands at another airport in New South Wales (excluding Sydney West Airport), or vice versa, without stopping elsewhere en route. Multi-leg flights are considered regional only for the relevant portion within New South Wales.

27. The term ***SAL deadline*** has the same meaning as in the WASG and refers to the deadline date by which the Slot Manager must distribute the results of initial coordination to operators.
28. The term ***scheduling season*** means either a northern summer or northern winter.
29. The term ***series return deadline*** has the same meaning as in the WASG and refers to the date by which airlines must return series of slot that they do not intend to operate.
30. The term ***SHL deadline*** has the same meaning as in the WASG and refers to the deadline date by which the Slot Manager must provide operators with details of their historic slots.
31. The term ***slot group*** means two or more slots that together authorise gate movements for aircraft operated over a nominated period for a specific event where the number of slots in the group is less than the number required for a slot series.
32. The term ***slot series*** refers to a group of slots that permit a gate movement at the same time, on the same day of a week for a specified number of consecutive weeks within a scheduling season. For a northern winter slot series, the minimum number of consecutive weeks to meet the requirement is 5 weeks. For a northern summer before 1 January 2027, the minimum is also 5 weeks. From the northern summer starting after 1 January 2027, the minimum slot series increases to 7 weeks.
33. The term ***Sydney West Airport*** has the same meaning as in the *Airports Act 1996*.
34. The term ***use it or lose it test*** is defined in section 10 of the Scheme.
35. The term ***Worldwide Airport Slot Guidelines*** refers to the guidelines jointly published by IATA, the Airports Council International, and the Worldwide Airport Coordinators Group, as in force at the commencement of the Scheme (4<sup>th</sup> edition, effective 1 August 2025). The Scheme intentionally does not incorporate future updates of the guidelines as the government does not have control over such updates and they may not be consistent with the objectives of the Scheme.

#### Section 6 – Meaning of *allocated*

36. Section 6 provides that a slot is taken to have been ***allocated*** to an operator when the Slot Manager offers the slot and the operator accepts that offer.
37. The note to this section explains that if the Slot Manager approves a slot swap between operators, each operator is taken to have been allocated the swapped slot (see subsection 25(6)). This is relevant to the operator and the Slot Manager in calculating slot utilisation for the purposes of determining historic precedence.

#### Section 7 – Slot Manager must publish certain date and deadlines

38. Section 7 requires the Slot Manager to publish, for each scheduling season, key dates and deadlines relevant to slot coordination. Specifically, the historic baseline date, initial submission deadline, SAL deadline, SHL deadline, and series return deadline.
39. The relevant date and deadlines must be published in a way that makes them accessible to operators and at least 30 days before each relevant date or deadline. The dates must also be consistent with the WASG. In practice, the deadlines are aligned with IATA's *Calendar of Coordination Activities*, and published well in advance of each season to support internationally consistent slot coordination practices. The calendar is currently published by IATA and the Slot Manager.

#### Section 8 – Determining the size of an aircraft

40. Section 8 provides for aircraft to be categorised by size according to their wingspan and outer main gear wheel span. These categories may be used when imposing a condition or requirement on the use of a specific slot by a particular aircraft size or type.

41. The approach to categorisation by size is based on the International Civil Aviation Organisation (ICAO) aircraft size categories to provide alignment with international practice.

#### Section 9 – Meaning of *protected regional service slot series*

42. Section 9 defines the circumstances in which a slot series is a ***protected regional service slot series*** (PRSS). The designation secures access to peak period slots for regional services, protecting regional access to Sydney Airport during periods of high-demand for slots.
43. Subsection 9(1) provides that a slot series is a PRSS if every slot in the series falls within a peak period and either the equivalent series in the previous equivalent scheduling season was a PRSS under this Scheme, or it was a permanent regional service series under the 2013 Scheme, with each slot in the equivalent series permitting a gate movement only during a peak period. This is intended to ensure that relevant slot series retain PRSS status if continuity conditions are met.
44. A PRSS under the 2013 Scheme was referred to as a permanent regional service series. The change in terminology to ***protected regional service slot series*** in the Scheme aligns with the updated definitions for ***regional service*** and ***slot series*** provided in section 5, and reflects a more precise articulation of the Scheme’s intent to safeguard regional access during peak periods.
45. Subsection 9(2) provides that the Slot Manager may allocate a slot series that is not a PRSS to a regional service operator during peak periods only if all available PRSS have been fully allocated. Subsection 9(3) makes clear that such a slot series does not itself become a PRSS. These provisions ensure that PRSS slots are utilised first, and that the priority attached to them is not lessened by other slot allocations. While PRSS slots are prioritised for regional services, the Scheme does permit allocation of non-PRSS slots for regional services during peak periods unless PRSS have been fully allocated. Regional service operators may otherwise apply for any available slot series outside the peak periods.
46. Subsection 9(4) provides that PRSS protection is lost if, in each of two equivalent scheduling seasons, a slot in the equivalent slot series was allocated to a non-regional service and the operator complied with both the use it or lose it test and conditions test in relation to those slot series. This ensures that PRSS status is maintained only when slots are consistently used for regional services.
47. A slot series allocated under sections 18 or 20 for regional use cannot become a PRSS in any circumstances.
48. A PRSS that is re-timed under section 19 will only retain PRSS status where the requirements of subsection 19(5) are met and the varied time is on the same day and within the relevant peak period (i.e. AM or PM) as the original PRSS.

#### Section 10 – Use it or lose it test

49. Section 10 sets out the ***use it or lose it test***, which is used by the Slot Manager to determine whether an operator will be eligible for historic precedence in relation to a slot series under section 12. The use it or lose it test is internationally recognised best practice test for slot series retention and determines how historic precedence (ongoing protection and access) is determined.

50. Historic precedence is only granted for a series of slots if an airline can demonstrate, to the satisfaction of the Slot Manager, that they operated a slot series at least 80% of the time during the period allocated in the previous equivalent season. The policy intention of this test is to ensure efficient use of constrained airport capacity by encouraging operators to utilise their allocated slots consistently, in alignment with Chapter 8 of the WASG.
51. Subsection 10(2) requires the Slot Manager to apply the use it or lose it test after the completion of a slot series for assessment of historic precedence. The use it or lose it test does not apply to single slots or slot groups. For a northern summer scheduling season, where historic precedence is granted prior to the end of that season, the assessment of historic precedence must be regarded as provisional until the season is completed and the 80% usage has been verified. This approach aligns with practices set out in Chapter 10 of the WASG and is set out in section 13 of the Scheme.
52. The use it or lose it test involves assessing whether an operator has operated at least 80% of the slots in a series for gate movements of the kind permitted by the series. If the Slot Manager is satisfied that this threshold has not been met, the Slot Manager may declare this in writing and, if a declaration has been made, must notify both the operator and the department.
53. Before making a declaration, the Slot Manager must issue the operator with a show cause notice. The notice must set out the reasons for the proposed declaration and invite written submissions within a reasonable timeframe. The Slot Manager must consider any submission provided by the operator before deciding whether to proceed with the declaration. These procedural steps—show cause, opportunity to respond, and formal consideration—are covered in subsections 10(3) to (6).
54. This process serves to provide the operator with procedural fairness by providing an opportunity to respond to the show cause notice. The response might include evidence that details that the reasons for the non-utilisation of slots involved circumstances that were beyond the operator's control or that the declaration would be unreasonable in the circumstances. These provisions provide the Slot Manager with a limited degree of discretion to provide alleviation in situations where it may be necessary to take broader circumstances into account, including balancing competition and efficiency at Sydney Airport.
55. Subsection 10(7) provides that, in applying the use it or lose it test, the Slot Manager will treat a gate movement (slot) as operated if an operator has been granted a declared exemption under section 47 of the Act. This ensures that operators are not penalised for disruptions caused by exceptional circumstances beyond their control (for example, significant weather events or national emergencies). These declared exemptions are known as Justified Non-Use of Slots (JNUS) under international terminology. In calculating utilisation of slot series, the Slot Manager will take as operated any gate movements which are 'covered' by a declared exemption. In practice, an operator is able to cancel up to 20% of gate movements within a series, and any declared exemptions are in addition to the 20% of cancellations.



56. Subsection 10(8) provides further detail on how the Slot Manager must calculate compliance with the use it or lose it test. Slots that were returned on or before the historic baseline date, or involved in a slot swap that only applied for a single day, must be treated as though they had not been allocated. This ensures short-term operational swaps or timely slot returns do not negatively affect an operator's compliance record. In contrast, slots returned after the baseline date, or slots received through a swap of two or more days, must be treated as though they had been allocated. The treatment of slot swaps is intended to reflect the actual use of the slot and ensure fairness in how slot use is measured for each operator.
57. Subsection 10(9) provides that if no declaration is made by the Slot Manager under subparagraph 10(2)(b)(i), the operator is taken to have complied with the use it or lose it test.

### Section 11 – Conditions test

58. Section 11 sets out the **conditions test**, which applies where the Slot Manager has imposed one or more conditions on the use of a slot series under section 23. The test replaces the former 'size of aircraft' test and works alongside the use it or lose it test in determining whether an operator may retain historic precedence for a slot series under section 12. The conditions test does not apply in relation to single slots or slot groups.
59. The objective of the conditions test is to support efficient and appropriate slot use by ensuring that slot series are operated in accordance with specific operational or policy-related conditions imposed by the Slot Manager—such as requirements relating to aircraft size, or type of service which may affect the capacity or infrastructure limitations of Sydney Airport.
60. Subsection 11(2) requires the Slot Manager to assess whether the operator complied with the conditions imposed on at least 80% of the slots in the series after the completion of the slot series for assessment of historic precedence. If the Slot Manager is satisfied that the operator failed to meet this threshold, the Slot Manager may declare the failure in writing and, if a declaration has been made, must notify both the operator and the department.
61. Before making such a declaration, the Slot Manager must issue a show cause notice. The notice must set out the reasons for the proposed declaration and invite an operator to respond within a reasonable timeframe. The Slot Manager must consider any operator response or submission before deciding whether to proceed with the declaration. These procedural steps—show cause, opportunity to respond, and formal consideration—are covered in subsections 11(3) to (6).
62. This process serves to provide the operator with procedural fairness by providing an opportunity to respond to the show cause notice. The response might include evidence that details that the reasons for the non-compliance with conditions involved circumstances that were beyond the operator's control or that the declaration would be unreasonable in the circumstances. These provisions provide the Slot Manager with a limited degree of discretion to provide alleviation in situations where it may be necessary to take broader circumstances into account, including balancing competition and efficiency at Sydney Airport.

63. Subsection 11(7) provides that, in assessing compliance with the conditions test the Slot Manager must treat any gate movements covered by a declared exemption under section 47 of the Act as operated. This ensures that operators are not penalised for disruptions caused by exceptional circumstances beyond their control (for example, significant weather events or national emergencies). These declared exemptions are known as Justified Non-Use of Slots (JNUS) under international terminology.
64. Subsection 11(8) provides further detail on how the Slot Manager must calculate compliance with the conditions test. A slot returned on or before the historic baseline date, or swapped for a single day, is treated as if it had not been allocated. A slot returned after the baseline date, or obtained via a swap that had effect for two or more days, is treated as if it had been allocated. This approach mirrors the treatment under the use it or lose it test, supporting clarity and consistency for operators.
65. Subsection 11(9) provides that if the Slot Manager does not make a declaration that the operator failed to comply with the conditions test, the operator is taken to have satisfied the test in relation to the relevant slot series.

## Section 12 – Meaning of historic precedence

66. Section 12 sets out the circumstances in which an operator of an aircraft has ***historic precedence*** to a slot series. Historic precedence refers to the conditions under which an operator may retain priority access to a slot series from a previous equivalent scheduling season for the purpose of future allocations.
67. An operator will have historic precedence to a slot series if they were allocated the corresponding series in the previous equivalent scheduling season and complied with both the use it or lose it test and the conditions test in relation to that slot series. This reflects the principle that operators who consistently use their allocated slots as required under the Scheme should retain priority to continue using them in future seasons.
68. Subsection 12(2) includes additional requirements for PRSS that have been used for non-regional services. In this case, historic precedence will not be available unless the operator was allocated the corresponding slot series for two consecutive equivalent scheduling seasons and complied with both tests during each of those seasons in relation to that slot series. This ensures that PRSS remain primarily available for regional services unless consistently and compliantly used otherwise over time.
69. For example, an operator seeking to retain historic precedence to a Monday 9.30am slot series originally designated as a PRSS in the 2028 northern summer scheduling season would need to demonstrate that it was allocated the corresponding slot series in both the 2026 and 2027 northern summer scheduling seasons, and that it complied with the applicable tests in both of those seasons while using the series for non-regional services. This would have the effect of removing the slot from the PRSS ringfence over time.
70. Historic precedence for a slot series, including a PRSS, will be retained at the varied time, where a slot series has been varied under section 19 or 26.
71. A note to this section also refers to paragraph 29(1)(b), which provides that an operator will lose historic precedence to a slot series if a court determines that the operator has contravened a civil penalty provision in Division 4 of Part 3 of the Act in relation to a slot in that series.

## **Part 2 – System for allocation and management of slots**

72. Part 2 sets out the system for allocation and management of slots, as required by subsection 34(1) of the Act and is modelled, where practicable, on the system for allocation and management of slots set out in the WASG.

### **Division 1 – How slots are allocated**

#### **Subdivision A – SHL deadline**

##### **Section 13 – Preparation for allocation of slots before scheduling season starts**

73. Section 13 establishes the requirements the Slot Manager must take prior to allocating slots to operators prior to the relevant scheduling season.
74. Subsection 13(1) requires the Slot Manager to identify the slot series for which operators have or will have historic precedence and notify each operator accordingly no later than the SHL deadline. This notification must be given in writing and must include the relevant slot histories list, the deadline by which operators may raise concerns (the agreed histories deadline), and provide any other information relevant to allocation of slots for that scheduling season.
75. Subsection 13(2) provides that operators who do not raise a concern within the specified period are taken to accept the slot histories list.
76. The process provides clarity to operators to ensure orderly planning for the next scheduling season.

#### **Subdivision B – Slot Manager must invite applications**

##### **Section 14 – Slot Manager must invite operators to apply**

77. Section 14 requires the Slot Manager to invite operators to apply for slots, slot groups, or slot series for an upcoming scheduling season. The invitation must be issued no later than the initial submission deadline.
78. This formal invitation initiates the seasonal coordination process and aligns with established international slot management practices, including those set out in the WASG.

### **Division 2 – Applications for slots**

#### **Subdivision A – Applications for slots**

##### **Section 15 – Applying for slots**

79. Section 15 sets out the process by which an operator of an aircraft may apply for the allocation of a single slot, a slot group, or a slot series.
80. Subsection 15(1) provides that any operators of an aircraft may apply for the allocation of any single slot, slot group or slot series, or any combination of slots.
81. Subsection 15(2) requires that applications must be made in a form or manner approved in writing by the Slot Manager and must include the information specified in subsection 15(3). Currently, the application process adopted by the Slot Manager follows Chapter 6 of the Standard Schedules Information Manual (SSIM) published by IATA, which establishes the rules and technical specifications for electronic exchange of airline schedule data. SSIM provides a data sharing platform that allows airlines, airports and Slot Managers to seamlessly share complex scheduling information. While Chapter 6 of the SSIM is the current industry standard, this provision is drafted in a way to also enable alternative standards to be used in future, by enabling the Slot Manager to specify the scheduling system that operators are to use in applying for slots at Sydney Airport.

82. This provision is intended to provide for flexibility in the manner or form of applications that are approved and accepted by the Slot Manager to account for the different systems, including electronic systems, that are used by the Slot Manager to provide for the allocation and management of slots. It ensures the Slot Manager will be able to publish the requirements for slot application processes at Sydney into the future.
83. Subsection 15(3) requires that the application include the following information: airline or aircraft identifiers, flight details, timing (expressed in either New South Wales legal time or Universal Coordinated Time, provided the time system is specified), routing, aircraft type and seating capacity, and any new entrant status. The Slot Manager may also require additional information through the approved form.
84. Subsection 15(5) requires the Slot Manager to publish details of any approved forms or application procedures on its website, together with guidance material to assist operators, and to make application forms available to operators.
85. This section ensures that applications for slots are made in a consistent manner and include sufficient detail to support orderly and transparent slot allocation.

### **Subdivision B – Initial Coordination**

#### **Section 16 – Initial coordination**

86. Section 16 requires the Slot Manager to commence the initial allocation of slots (initial coordination) after the initial submission deadline and complete the initial coordination before the SAL deadline. This initial round of allocations is conducted in line with the processes set out in sections 17 to 19 of the Scheme.
87. The Slot Manager may also allocate additional slots after initial coordination under section 20.
88. This staged approach allows for structured initial allocation whilst retaining flexibility for further allocations as needed and is broadly consistent with the allocation sequence set out in the WASG.

#### **Section 17 – Allocation of slot series based on historic precedence**

89. Section 17 requires the Slot Manager to offer a slot series to an operator who applies in response to a section 14 invitation and holds historic precedence to that series. The provision applies only to slot series and does not extend to single slots or slot groups. The preference for operators who hold historic precedence to slot series is consistent with the WASG.
90. Subsection 17(3) provides that where the allocation would conflict with section 21 (which includes requirements that the Slot Manager not allocate a slot if the allocation would either exceed the movement cap or the Sydney Airport curfew), the Slot Manager must consult the operator and offer an alternative slot series.
91. PRSS are also subject to historic precedence protections and operators that have applied for a PRSS for which they hold historic precedence are also required to be offered those slot series under this section.

#### **Section 18 – Allocation of non-historic slot series as part of initial coordination**

92. Section 18 applies once all slot series offered on the basis of historic precedence under section 17 have been accepted or rejected. At that point, the Slot Manager must offer the remaining slot series (the non-historic slot series) to applicants in accordance with this Division and subject to the rules in sections 21 and 22.

93. Subsection 18(2) provides for the prioritisation of two key government priorities when offering non-historic slot series to operators relating specifically to new entrants and the treatment of unallocated PRSS.
94. Paragraph 18(2)(a) serves to ensure that slot series are available to new entrants and provides that, where new entrants have applied for less than 50% of the available non-historic slot series, the total of the slot series applied for must be offered to them. Where new entrants have applied for 50% or more of the available non-historic slot series, they must be offered no less than 50% of the total non-historic slot series available. The WASG has a different treatment of the allocation of non-historic slot series, in that it requires remaining applications for slot series to be treated equally. The scheme gives effect to the government's commitments to increase competition in Australia's highly concentrated aviation market, by prioritising access to new entrants ahead of incumbent operators, while maintaining protections for operators intending to access Sydney from regional markets.
95. Paragraph 18(2)(b) provides that the Slot Manager must ensure, as far as reasonably possible, that any PRSS are offered to an operator proposing to use the series to conduct a regional service. This reflects the government's continued commitment to protect regional access to Sydney Airport during peak periods.

#### Section 19 – Re-timing of historic slots as part of initial coordination

96. Section 19 allows the Slot Manager, with the agreement of the operator, to vary the timing of a slot series to which the operator has historic precedence after the allocation of non-historic slot series under section 18. The provision applies separately to ordinary historic slot series and PRSS, reflecting their differing peak period requirements.
97. Subsections 19(2) and 19(3) deal specifically with original historic slot series, which are slot series other than PRSS, and provide that once the timing of the series is varied with the operator's agreement, the series is treated as having always permitted the gate movement at the varied time.
98. Subsections 19(4) and 19(5) deal with the re-timing of PRSS. For PRSS, the same principle applies, but the varied timing must remain on the same day of the week and within the same peak period, in relation to the morning or afternoon peaks, to retain PRSS status. Variations outside of these constraints will result in the operator holding the re-timed slot series without PRSS status. This approach ensures that operators retain historic precedence to re-timed slots while maintaining the integrity of peak period protections for regional services.
99. This section which deals with the re-timing of historic slots is framed as occurring after the allocation of non-historic slot series under section 18 to make clear that consideration of the policies relating to new entrants and the preferencing regional services for unallocated PRSS should be prioritised ahead of a request to re-time a historic slot series. Preferential treatment of new entrants, and continuing protection of PRSS remain key commitments of the government's reforms to the Sydney Airport demand management framework.

#### **Subdivision C – Applications for, and allocation of, slots after initial coordination etc.**

#### Section 20 – Applications for, and allocation of, slots after initial coordination

100. Section 20 enables operators to apply for slots that remain unallocated after the initial coordination period.

101. Subsection 20(1) relates specifically to slot series and provides that an operator may make an application at any time after initial coordination for an available but as yet unallocated slot series.
102. Subsection 20(2) provides that the Slot Manager may allocate available single slots and slot groups after the series return deadline for the scheduling season, in accordance with the rules in sections 21 and 22. Allocation of single slots and slot groups after the series return deadline is intended to ensure that slot series are prioritised in order to provide for efficiency in the slot allocation process. This also reduces the likelihood of ‘trapped slots’ which are available slots that are not sought after by operators. Trapped slots represent wasted capacity, which in turn can prevent operators using those slots to form a viable slot series.
103. Subsection 20(3) provides that applications for single slots or slot groups submitted before the initial submission deadline are placed on a waitlist and cannot be considered until after the series return deadline, which ensures fair treatment of early submissions.

#### **Subdivision D – Other requirements relating to slot allocation**

##### **Section 21 – Rules that apply to all slot allocations**

104. Section 21 establishes the general requirements which govern all slot allocations under the Scheme, including allocations after initial coordination.
105. Subsection 21(2) provides that the Slot Manager must not offer a single slot, slot group, or slot series if doing so exceed the maximum movement limit at Sydney Airport during a regulated hour or conflict with requirements of the *Sydney Airport Curfew Act 1995*. These requirements ensure that no slots are offered in a way which either breaches the maximum movement limit or the Sydney Airport curfew.
106. Subsection 21(3) requires that the Slot Manager must have regard to advice from the air traffic control provider or the airport operator on the likely effect of the allocation on operational efficiency or capacity before offering any slot, slot group or slot series to an operator. Advice from the air traffic control provider or the airport operator is limited to matters associated with the capacity (including airspace, runways, terminals, other infrastructure and operational limits) at Sydney Airport.
107. This includes consideration of the capacity declaration required under subsection 21(4). This capacity declaration sets out relevant infrastructure and operational limits for the scheduling season and must be prepared by the airport operator and provided to the Slot Manager at least 7 days before the initial submission deadline. The Slot Manager may publish the capacity declaration as considered appropriate.
108. Subsection 21(6) provides that if an operator does not accept a slot, slot group, or slot series within three business days of the offer, the allocation is treated as withdrawn and returned to the Slot Manager. This mechanism ensures that unaccepted allocations are promptly returned for reallocation and aligns with international practices as outlined in Chapter 10 of the WASG.

##### **Section 22 – Rules that apply to allocations of slots other than on the basis of historic precedence**

109. Section 22 sets out the principles the Slot Manager must apply when allocating slots on a basis other than historic precedence under section 17.

110. In making such allocations, the Slot Manager must have regard to the WASG as well as a set of policy aims. These aims include (and are not listed in order of priority) resolving competing applications through consultation and negotiation, prioritising the use of larger aircraft, supporting year-round services, improving access for regional services during peak periods, ensuring compliance with civil penalty provisions under the Act, promoting competition and fairness, and encouraging a diversity of operators (including domestic, international and freight services).
111. These provisions ensure that non-historic allocations are made transparently, consistently with international slot coordination practices, and in a way that balances efficiency, fairness and policy objectives. It also recognises and takes account of the differing interests of stakeholders.

#### Section 23 – Conditions on the use of slots

112. Section 23 enables the Slot Manager to impose conditions on a slot, slot group, or slot series at the time of allocation.
113. Subsection 23(3) provides a non-exhaustive list of matters conditions may relate to which include the type or size of aircraft permitted, the operator authorised to use the slot, the approved arrival or destination airports, and whether the slot is used for passenger or freight services.
114. The note to subsection 23(1) explains that conditions cannot be imposed on a slot series after it has commenced, although section 27 allows variation of conditions at any time with the operator's written agreement.
115. These provisions support efficient use of allocated capacity and enable the Slot Manager to monitor compliance. Operators are required to comply with imposed conditions, and failure to do so may affect their ability to retain historic precedence for the relevant slot series.
116. The note to subsection 23(3) provides that under section 46 of the Act, the Minister may direct the Slot Manager to exercise powers under the Scheme subject to limitations, which need not be consistent with this Scheme.

#### Section 24 – Slot requirements

117. Section 24 specifies the operational requirements a slot must meet under section 18(1)(d) of the Act. These requirements reflect the conditions that may be imposed under section 23 of the Scheme and clarify what is expected of an operator when using a slot on a particular day.
118. Requirements of a slot specified under this section relate to the type and size of aircraft, the authorised operator, the approved arrival or destination airport, and whether the movement is for freight or passenger services. These requirements support efficient use of limited slot capacity at Sydney Airport. A failure to comply with any of these requirements may give rise to a contravention of the civil penalty provision in section 18 of the Act.

### **Division 3 – Slot swaps and slot variations**

#### Section 25 – Slot swaps

119. Section 25 allows two operators to apply jointly to the Slot Manager for approval to swap allocated slots. A slot swap has no effect unless approved in writing by the Slot Manager before it occurs. Once approved, each operator is taken to have been allocated the swapped slot.

120. When deciding whether to approve a slot swap, the Slot Manager must consider the operational efficiency of Sydney Airport. Once approved, the recipient operator is taken to have been allocated the swapped slot for the period specified, or for the remainder of the scheduling season if no period is specified.
121. The Slot Manager must notify the operators of the decision as soon as practicable. An operator may be liable for a civil penalty if an aircraft engages in a gate movement under an unapproved swap. This section is intended to clarify that while operators may swap slots, they must seek the Slot Manager's agreement prior to conducting the gate movements.

#### Section 26 – Variation of slot times

122. Section 26 allows the Slot Manager, with the written agreement of the operator, to vary the time of a gate movement permitted by a slot to an earlier or later time on the same day. The Slot Manager must notify the operator of the variation in writing as soon as practicable. Nothing in this section prevents an operator approaching the Slot Manager to initiate the process of varying slot times.
123. A variation of slot times may also relate to more than one slot and could for example be approved in relation to a number of slots in a slot group or a slot series.
124. Subsection 26(4) provides that a varied slot is taken to always have permitted the gate movement at the new time. This ensures continuity for the purposes of assessing compliance with slot conditions and the preservation of historic precedence.
125. This section provides for flexibility to vary the time of a gate movement permitted by a slot to an earlier or later time on the same day with the view to enhancing efficiency at Sydney Airport. This flexibility may also allow the Slot Manager to administratively address instances of non-compliance by adjusting slot times to better suit actual performance. For example, if an operator is consistently late, the slot can be retimed to help address the issue.
126. However, more stringent requirements apply if an operator seeks to vary the time of a PRSS and retain PRSS status for the relevant slots (see section 19).

#### Section 27 – Variation of conditions of slots

127. Section 27 enables the Slot Manager and operator, through agreement to vary conditions imposed on slots. The section provides operators with greater flexibility by encouraging continuous dialogue with the Slot Manager to ensure conditions imposed on slots are reasonable and appropriate, and to enable those slot conditions to be varied from time to time.
128. Subsection 27(1) provides that if an operator has been allocated a slot with one or more conditions, they may apply to the Slot Manager for variation of the conditions.
129. Subsection 27(2) provides that the Slot Manager may, with written agreement of the operator, vary the original slot by varying the conditions imposed on the use of the slot.
130. Subsection 27(3) requires the Slot Manager to notify the operator as soon as practicable after varying the condition. The notification must be in writing.
131. Subsection 27(4) explains that a varied slot is taken to have been allocated subject to the new conditions. This ensures that compliance with slot requirements and historic precedence are assessed on the basis of the varied conditions rather than the original conditions.



## **Division 4 – How slot allocations are lost**

### **Section 28 – Returning slots to Slot Manager at operator’s initiative**

132. Section 28 allows an operator of an aircraft to return an allocated slot to the Slot Manager at any time. A slot that is returned is no longer held by the operator and becomes available for reallocation by the Slot Manager in accordance with the rules set out in the Scheme. This provision gives operators flexibility to relinquish slots they no longer require and supports the efficient reallocation of unused capacity at Sydney Airport.
133. The note in this section encourages operators to return slots they do not intend to operate as soon as possible. Slot series should be returned no later than the series return deadline as this allows other the Slot Manager to offer the entire or part of the series to another operator for historic precedence purposes. The return of slots or slot groups is encouraged to be no later than the historic baseline date, as the use it or lose it test is applied to all slots held on that date. Even at short notice, slots may be offered to other operators on an ad hoc basis ensuring high utilisation of available slots and improving utilisation of Sydney Airport. Failing to return or transfer unused slots or applying for slots with no reasonable prospects of use attract civil penalty under the Act.

### **Section 29 – Consequences if operator contravenes a civil penalty provision**

134. Section 29 provides that an operator ceases to have historic precedence where a court determines that an operator has contravened a civil penalty provision under Division 4 of Part 3 of the Act.
135. Subsection 29(1) requires the Slot Manager to cancel the contravened slot as soon as practicable after the court’s determination. In addition, the operator loses historic precedence to the same kind of slot for both the remainder of the current scheduling season and the following scheduling season. Subsection 29(1)(b) would apply specifically in relation to slots that form part of a slot series, with historic precedence to be lost for that slot and related slots, that is, other slots in the same slot series.
136. Subsection 29(2) requires the Slot Manager to notify the operator in writing of the cancellation and provide a statement explaining the effect of the operator’s loss of historic precedence on their future slot allocations.
137. This section is intended to deter non-compliance with civil penalty provisions in the Act by removing the benefit of historic precedence to slots and making such slots available for reallocation. This is an important deterrent for operators from contravening civil penalties, and this provision gives effect to the government’s commitment to improving enforcement of the demand management framework.
138. Sections 30 to 34 of the Scheme empower the Slot Manager to monitor use, suspend or cancel slots for non-compliance, and take administrative actions. These powers are in addition to the availability of court proceedings to pursue civil penalties under the Act.

## **Division 5—Monitoring slot use and administrative action for non-compliance**

### **Section 30 – Application**

139. Section 30 provides that Division 5 of Part 2 is made in accordance with subsection 37(4) of the Act, which provides that Scheme may deal with matters that do not fall within the restrictions provided in that section. Specifically, the Division enables the Slot Manager to monitor the use of slots and take appropriate administrative action in response to non-compliance.

140. The powers in the Division are modelled on the slot monitoring powers set out in Chapter 9 of the WASG, which details administrative actions for Slot Managers at level 3 coordinated airports like Sydney Airport.
141. The powers provided in this Division are designed to encourage dialogue between operators and the Slot Manager to achieve consistent utilisation of slots at Sydney Airport.

#### Section 31 – Slot Manager may monitor the use of slots at Sydney Airport

142. Section 31 sets out the purposes for which the Slot Manager may monitor slot use at Sydney Airport. This includes ensuring gate movements occur in accordance with allocated slots, preventing slot misuse and waste of scarce capacity at Sydney Airport, and improving overall airport efficiency and fairness. The monitoring may also be undertaken to determine whether operators are complying with relevant obligations under the legislative framework, including the use it or lose it test and conditions tests.
143. Subsections 31(2) and 31(3) permit the Slot Manager to adopt such monitoring measures and procedures as it considers appropriate in the circumstances, provided they are consistent with Part 9 of the WASG as in force at commencement of the Scheme. This aligns monitoring practices with international coordination standards while maintaining operational flexibility for the Slot Manager and operators at Sydney Airport. This section is designed to provide alternative mechanisms for improving compliance with the demand management framework, and for administrative enforcement of the Scheme separate to the civil penalty provisions in the Act.

#### Section 32 – Administrative actions available to the Slot Manager

144. Section 32 sets out the administrative options available to the Slot Manager where, following monitoring, the Slot Manager is satisfied on reasonable grounds that an operator has contravened a civil penalty provision in Division 4 of Part 3 of the Act.
145. This section is designed to align with regulatory best practice, by seeking input from the operator and considering alternative actions to suspending or cancelling a slot. The ‘show cause’ mechanism is designed to promote dialogue between operators and the Slot Manager, prior to the Slot Manager making its decision.
146. Subsection 32(2) provides that the Slot Manager may, by issuing a compliance notice, take a range of remedial actions including referring the matter the Compliance Committee or Minister, negotiating a performance plan with the operator, or suspending or cancelling a slot allocation.
147. Subsection 32(3) enables the Slot Manager to issue a written warning in response to an operators’ conduct prior to taking additional remedial actions in paragraphs 32(2)(b) to 32(2)(f) inclusive.
148. Subsections 32(4) to 32(6) detail the process in which the Slot Manager must issue a show cause notice, prior to suspending or cancelling a slot. The Slot Manager must set out the nature of the non-compliance, the proposed action, and provide a reasonable period for the operator to respond or rectify the issue.
149. Subsection 32(7) requires the Slot Manager to take into account any submissions that the operator makes within the period specified in the show cause notice.

150. Subsection 32(8) requires a compliance notice issued in respect of a decision by the Slot Manager to require the operator to enter into a performance plan or to cancel or suspend a slot to include reasons for the Slot Manager's decision. Additionally, if the Slot Manager has decided to cancel or suspend a slot, this subsection requires the Slot Manager to include the date on which the suspension or cancellation has effect. If the Slot Manager proceeds with remedial action, the compliance notice must include the reasons for the decision and, where applicable, the effective date and duration of any suspension or cancellation.

#### Section 33 – Effect of suspension and cancellation

151. Section 33 sets out the effect of a decision by the Slot Manager to suspend or cancel a slot, slot group, or slot series allocated to an operator, in accordance with section 32 of the Scheme.
152. Where a slot is suspended, it is returned to the Slot Manager for the duration of the suspension. However, the operator may be re-allocated the slot before the end of the suspension period if the Slot Manager is satisfied that the operator has completed the actions specified in an applicable performance plan before the end of the suspension period.
153. Where a slot is cancelled, it is returned to the Slot Manager for the remainder of the scheduling season. It may be re-allocated to another operator to be operated on a non-historic basis for use during that season.
154. The note to this section clarifies that if an operator uses a slot that has been suspended or cancelled, this may constitute a contravention of a civil penalty provision under Division 4 of Part 3 of the Act.

#### Section 34 – Show cause requirement does not affect proceedings for contravention of civil penalty provisions

155. Section 34 confirms that requirements for the Slot Manager to issue a show cause notice under section 32 before taking certain administrative action do not limit the commencement of proceedings for contraventions of civil penalty provisions under Division 4 of Part 3 of the Act.
156. This provision is included to remove any doubt that civil penalty proceedings may be initiated independently of the Slot Manager's administrative compliance process.

### **Division 6—Audit of slot usage**

#### Section 35 – Application

157. Section 35 provides that Division 6 of Part 2 is made in accordance with subsection 37(4) of the Act, which provides that Scheme may deal with matters that do not fall within the restrictions provided in that section. This Division deals specifically with auditing of slot usage.

#### Section 36 – Audit of slot usage

158. Section 36 enables the Secretary to engage an appropriately qualified and experienced person to conduct an independent audit of the allocation and use of slots at Sydney Airport. This audit power may be exercised at any time.

159. The audit function supports transparency and accountability in the administration of the Sydney Airport demand management framework. The Secretary's ability to commission an independent audit of the allocation and utilisation of slots at Sydney Airport is an important tool to facilitate a transparent Sydney Airport demand management framework. It also supports the work of the department in its regulatory role, by identifying patterns that may inform future regulatory priorities and ensuring that the demand management system is operating as intended.

### **Part 3 – Reconsideration of decisions**

#### **Section 37 – Application**

160. Section 37 provides that Part 3 of the Scheme is made for the purposes of subsection 36(6) of the Act, which enables the Scheme to include provisions for the reconsideration of decisions made under the Scheme.

#### **Section 38 – Reconsideration of decisions**

161. Section 38 establishes a mechanism for internal review of reconsideration decisions for affected operators by the department. The definition of ***reconsideration decision*** in section 5 clarifies that reconsideration will only apply in relation to decisions by the Slot Manager to declare that an operator failed the use it or lose it test or the conditions test.
162. An operator whose interests are affected may request the Secretary of the department to reconsider such a decision.
163. Subsection 38(2) contains the requirements for a request which include that the request must be made in writing within 7 days of receiving notice of the decision, must set out reasons for the request, and be accompanied by the relevant show cause notice and any submissions previously made within the period specified in the relevant show cause notice.
164. On receiving a valid request, the Secretary must notify the Slot Manager and review the decision as soon as practicable.
165. Subsections 38(5) and 38(6) provide that in conducting the review, the Secretary may seek further written information or documents from the operator, the Slot Manager, or any other regulated entity likely to hold relevant material, such as Airservices Australia or the airport operator. Responses must generally be provided within 5 days, unless a longer timeframe is agreed in writing.
166. Following review, the Secretary may affirm, vary, or set aside the reconsideration decision. If the decision is set aside, the Secretary may substitute another decision considered appropriate. Any new decision must be consistent with the Act, and must be made within 28 days of the request being given to the Secretary. This ensures that any reconsideration decision is to be made in accordance with the existing framework, and balances the interests of operators, the Slot Manager and aviation consumers, while promoting efficiency and competition at Sydney Airport.
167. A new decision is taken to have been made by the Slot Manager and takes effect on the day specified in the decision or, if no date is specified, on the day it is made. This ensures continuity and legal certainty for operators and other regulated entities.
168. This provision is intended to give operators certainty that decisions of the Slot Manager on slot allocation may be reviewed by the department in a timely manner.

## Section 39 – Notice of new decision

169. Section 39 requires the Secretary, as soon as practicable after making a new decision under section 38, to notify the operator in writing of the decision and the reasons for it. This ensures transparency and enables the operator to understand the basis of the outcome.
170. Subsection 39(2) provides that a failure to give notice does not affect the validity of the new decision. This preserves the legal effect of the decision while recognising that administrative oversights in notification should not undermine its operation.

## **Part 4 – Declared exemptions**

### Section 40 – Declared exemptions

171. Section 40 specifies the circumstances in which the Slot Manager may make a declared exemption, which has the effect of exempting the operator from the usual requirements relating to gate movements at Sydney Airport. A declared exemption may be made on the Slot Manager's own initiative or on the written request of an operator under section 41. The power of the Slot Manager to grant exemptions is confined to circumstances outside an operator's reasonable control, with specific categories of permitted circumstances set out in subsection 40(3). An operator requesting an exemption under section 41 may rely on any one or more of those circumstances set out in subsection 40(3). In doing so, the operator must demonstrate that the circumstances have a significant and material impact on aircraft operations, such that the non-utilisation of the gate movement was unavoidable.
172. Declared exemptions are in addition to the 20% of gate movements an airline is able to cancel due to operational reasons of the type normally experienced during aircraft operations. Declared exemptions made by the Slot Manager are specific to the circumstances in which they are sought by operators, and are not to be taken as granted in perpetuity, as the specific circumstances will vary from time to time.
173. Paragraph 40(3)(a) provides for circumstances where an urgent airworthiness directive has been issued in relation to an aircraft type, or an engine for such an aircraft type, and compliance is critical to the safe operation of that aircraft type at Sydney Airport. Such circumstances might include, but are not limited to, directives requiring immediate inspections or modifications that prevent an aircraft or engine type from being used until compliance is achieved, or that result in the grounding of a fleet normally used for such operations where mandated by a regulatory authority.
174. Paragraph 40(3)(b) provides for circumstances where airspace, runways or essential airport infrastructure are unavailable or restricted and the restriction or unavailability adversely impacts an operation at Sydney Airport, including aircraft operations arriving at or departing from Sydney Airport. Such circumstances might include, but are not limited to, runway closures for urgent maintenance, damage to taxiways or runways, restricted airspace arising from emergency or security operations, electricity or communications services outages and Ground Delay Programs (GDPs) (where the program was implemented and resulted in an adverse and material impact on aircraft operations). For clarity, these circumstances may occur at Sydney Airport or an airport from which a flight at Sydney Airport is arriving or an airport to which a flight from Sydney Airport is departing.

175. Paragraph 40(3)(c) provides for circumstances where weather conditions have resulted in significant cancellations of flights on a particular day. Such circumstances might include, but are not limited to, severe storms, fog, or strong winds disrupting scheduled operations. This paragraph includes adverse weather events which either directly impact aircraft operations arriving at or departing from Sydney Airport, or adverse weather events elsewhere which cause a material and adverse impact on operations at Sydney Airport.
176. Paragraph 40(3)(d) provides for circumstances where, in the opinion of the Slot Manager, exceptional circumstances prevent aircraft operations arriving at or departing from Sydney Airport. Such exceptional circumstances might include the impact of widespread flooding, bushfires affecting airport access, or international events that abruptly disrupt aviation operations. This paragraph is intended to provide a ‘safety net’ for events which fall outside the other paragraphs in this subsection.
177. Paragraph 40(3)(e) provides for circumstances where personnel essential to the safe operation of aircraft are unavailable due to industrial action at, or in proximity to Sydney Airport. Such circumstances might include, but are not limited to, strikes by air traffic controllers, baggage handlers, or security staff where their absence prevents safe or lawful flight operations. This might also include circumstances where an operator’s own staff are unavailable due to protected industrial action and those staff are needed for the safe operation of aircraft at Sydney Airport.
178. Paragraph 40(3)(f) provides for circumstances where a failure of, or defect in, equipment required for safe aircraft operation occurs at Sydney Airport. Such circumstances might include, but are not limited to, radar system outages, navigational aid failures, or breakdown in fuel supply systems. This provision is not intended to deal with defects relating to the aircraft itself and the focus of this provision is on airport equipment. Circumstances that relate to the safe operation of aircraft may instead be captured by other provisions such as paragraph 40(3)(a).
179. Paragraph 40(3)(g) provides for circumstances where an occurrence at Sydney Airport is a transport safety matter, as defined in the *Transport Safety Investigation Act 2003* (TSI Act). Such circumstances include aircraft incidents or accidents where an aircraft is damaged, destroyed, abandoned, disabled, stranded or missing in operation, an aircraft incident or accident where a person dies or is injured or property is damaged, or where an aircraft is involved in a near-accident or an occurrence that affected, or could have affected, the safety of the operation of the aircraft. A transport safety matter also includes something that occurred that affected, is affecting, or might affect, transport safety. These examples reflect the statutory definition in the TSI Act.
180. Paragraph 40(3)(h) provides for circumstances where there has been an unlawful interference with aviation at Sydney Airport, within the meaning of the *Aviation Transport Security Act 2004*. Such circumstances include any of the following actions or attempted actions: taking control of an aircraft by force, intimidation or deception, damaging an aircraft that is in service or in a way that puts safety at risk, placing an item on board that endangers safety, interfering with navigation facilities, communicating false information that endangers aircraft, or causing interference or damage at the airport that puts safe operations at risk. These examples reflect the statutory definition and indicate the types of conduct covered.

181. By limiting exemptions to these defined grounds, the Scheme ensures that exemptions are reserved for events beyond an operator's control that necessitate a flight cancellation, to prevent an operator from being penalised for a cancellation. In practice, a slot covered by a declared exemption will be treated as operated for the purpose of the use it or lose it test.

#### Section 41 – Operators may request a declared exemption

182. Section 41 allows an operator of an aircraft to request the Slot Manager to make a declared exemption in relation to a gate movement. The request must be made in writing. This provision ensures that operators have a formal mechanism to seek relief from slot requirements in circumstances where compliance may not be feasible or appropriate, subject to the Slot Manager's consideration under the Act.
183. A request for a declared exemption under this section must be made no later than 7 days after the gate movement to which the request relates.

#### Section 42 – Notifying declared exemption

184. Section 42 is made for the purposes of subsection 49(5) of the Act and requires the Slot Manager to notify operators of declared exemptions. Notification must be given in writing and ensures transparency and accountability in the exercise of the Slot Manager's power to make exemptions. By requiring written notice, the Scheme provides operators with certainty about the scope and effect of any exemption granted.
185. Subsections 42(2) and (3) outline the relevant deadlines for notification which are within 14 days after making the declared exemption for a declared exemption made at the initiative of the Slot Manager and within 7 days after making a declared exemption at the request of an operator.
186. Subsection 42(4) provides that the Slot Manager must notify the department of all declared exemptions made by the Slot Manager during each calendar month by the end of the following month. This is intended to provide the department with oversight of the declared exemptions that have been granted and provide transparency and accountability in the exercise of the Slot Manager's power to make exemptions.

### **Part 5 – Authorisations**

#### Section 43 – Authorisation of other persons to exercise powers or perform functions

187. Section 43 enables the Slot Manager to authorise another person, in writing, to exercise specified powers or perform specified functions on the Slot Manager's behalf. The authorisation may apply generally or in relation to particular matters, and is subject to any conditions specified in the authorisation. Specified persons that the Slot Manager may authorise to exercise specified powers or perform specified functions on the Slot Manager's behalf are provided in subsection 43(3) and include Airservices Australia, any other body that provides air traffic control services at Sydney Airport and the airport operator.

188. The provision ensures that the Slot Manager can delegate operational tasks where appropriate, supporting flexibility and efficiency in scheme administration and to ensure continuation of aircraft operations to and from Sydney Airport, including outside of business hours, on public holidays and in the event either the Slot Manager or Airservices Australia are unable to manage slot allocation at the airport. Authorised persons act within the scope of the Slot Manager's powers under the Scheme, and their actions are taken to be those of the Slot Manager. However, the Slot Manager remains ultimately accountable for the proper exercise of all functions and powers under the Act and the Scheme.
189. This mechanism provides a clear legal basis for practical arrangements where routine or technical functions may be carried out by other personnel, while preserving the integrity and accountability of slot management decisions.

## **Part 6 – Transitional provisions**

### **Section 44 – Definitions**

190. Section 44 sets out the defined terms used in Part 6 of the Scheme.
191. **2013 Scheme** means the *Sydney Airport Slot Management Scheme 2013*.
192. **2024 Australian holiday period** means the period between 15 December 2024 and 27 January 2025.
193. **2025 Australian holiday period** means the period between 15 December 2025 and 27 January 2025.
194. **2024 northern winter scheduling season** means the period that began at the start of the last Sunday in October 2024 and ended immediately before the start of the last Sunday in March 2025.
195. **2025 northern winter scheduling season** means the period that begins at the start of the last Sunday in October 2025 and ends immediately before the start of the last Sunday in March 2026.
196. **Commencement day** means the day on which the Scheme commences.

### **Section 45 – Transitional provisions—general**

197. Section 45 sets out general transitional arrangements to support the transition from the 2013 Scheme to the new 2025 Scheme. This is intended to provide continuity of slot allocation and management by preserving the effect of certain arrangements made under the 2013 Scheme, and providing that allocations for gate movements made under the 2013 Scheme are taken to be made under this Scheme for consistency of operations.
198. This ensures that operators are not disadvantaged by the transition, while also allowing the Slot Manager to apply the updated framework, including in relation to the slot utilisation tests (the use it or lose it and the conditions test) from the commencement of the 2025 Scheme.
199. Subsection 45(2) provides that an application for allocation of a gate movement to be conducted on or after the commencement day, but which was not dealt with under the 2013 Scheme is taken to be made under and in accordance with this Scheme.



200. Subsection 45(3) provides that any preparation for the allocation of slots that is carried out before commencement for a scheduling season that starts on or after the commencement day is taken to have been done in accordance with this Scheme. This provision clarifies that preparation for allocation of slots for the 2025 northern winter scheduling season and 2026 northern summer scheduling season are taken to have been done in accordance with this Scheme, despite the commencement of this Scheme on the first day of the 2025 northern winter scheduling season.
201. Subsection 45(4) clarifies that a slot series that was a permanent regional service series under the 2013 Scheme, but that does not fall within the new peak period (as defined in section 5), is not considered a PRSS for the purposes of the Scheme.
202. By providing clear transitional rules, section 45 facilitates an orderly shift to the new Scheme, minimises disruption for operators and the Slot Manager, and ensures that the repeal of the 2013 Scheme does not create uncertainty in the ongoing management of slots at Sydney Airport.

Section 46 – Transitional provisions—gate movements during the 2025 Australian holiday period to be treated as operated for the 2025 northern winter scheduling season

203. Section 46 provides a transitional provision to temporarily extend an operational arrangement under the 2013 Scheme whereby operators were able to treat returned slots during the Australian holiday period as operated for the purposes of the use it or lose it test. The operational arrangement under the 2013 Scheme permitted operators to include certain returned slots in slot utilisation calculations due to seasonal demand fluctuations. These arrangements are being phased out as part of the broader reforms to increase efficiency and competition at Sydney Airport, as the practical consequence of this arrangement was to prevent operators being required to operate services, and to prevent alternative operators accessing slots at Sydney Airport during the Australian holiday period.
204. The temporary extension of this arrangement for the 2025 northern winter scheduling season is intended to enable the broader reforms provided by the Scheme to take effect in an orderly way. The extension provides operators, the Slot Manager and the airport operator additional time to adjust to the new framework. It ensures operators have time to adjust to the removal of the Australian holiday period and can make alternative operational decisions with respect to applying for slots for the 2026 northern summer scheduling season and beyond, by which point operators will have operational experience with the new Scheme.
205. Subsection 46(1) outlines the circumstances in which the transitional provision applies. Specifically, this section applies to circumstances where an operator was allocated a slot series for the 2025 northern winter scheduling season that included slots relating to gate movements during the 2025 Australian holiday period, returns those slots to the Slot Manager before the end of 31 August 2025 and makes a request of the Slot Manager to make a calculation under subsection 46(2).
206. If the requirements in subsection 46(1) are met and the operator makes a request of the Slot Manager under paragraph 46(1)(c), subsection 46(2) provides for an alternate calculation process for the purposes of paragraph 10(2)(a) (the use it or lose it test).

207. This subsection provides that where an operator held a slot series for the 2025 northern winter scheduling season that included slots relating to gate movements during the 2025 Australian holiday period at the historic baseline date, the Slot Manager must treat the slots which would have authorised gate movements during the 2025 Australian holiday period slots as if they had been operated. However, this alternate calculation will only apply if the Slot Manager is satisfied that the operator had been allocated a slot series equivalent to the 2025 northern winter slot series in the 2024 northern winter scheduling season, and had returned to the Slot Manager slots equivalent to the 2025 holiday period slots in respect of the 2024 Australian holiday period before the end of 31 August 2024.
208. In short, subsections 46(1) and 46(2) are intended to provide that an operator that was able to apply an alternate use it or lose it test calculation for a 2024 northern winter scheduling season slot series which included returned slots during the 2024 Australian holiday period, will be able to apply an alternate use it or lose it test calculation for an equivalent 2025 northern winter slot series if all relevant requirements have been met.
209. Subsection 46(3) provides that a request for an alternate use it or lose it calculation made under paragraph 46(1)(c) must be made in the form approved, in writing, by the Slot Manager and include the information required by the form.
210. Subsection 46(4) requires that the Slot Manager must publish details of the form approved for the purposes of paragraph 46(3)(a) (including details of any information required by the form) on the Slot Manager's website. This provision is intended to ensure that the form is readily accessible to operators.

Section 47 - Transitional provisions—loss of historic precedence for returned 2025 Australian holiday period slots

211. Section 47 provides that where an operator returned slots for gate movements during the 2025 Australian holiday period prior to 31 August 2025 and where the Slot Manager is satisfied the operator complied with the use it or lose it test for the parts of the series which occurred outside the Australian holiday period, the operator does not have historic precedence to the returned slots.
212. The section clarifies that despite the returned slots being counted for the purposes of the use it or lose it test, the inclusion of the returned slots in the calculation does not grant historic precedence to the returned slots in the next equivalent scheduling season. This provision limits the historic precedence for operators to the slots which were actually held within the series, where the operator has passed the use it or lose it test under the alternate calculation process provided for in section 46.
213. This provision has the effect of preserving the intent of the reforms to the demand management framework, while providing transitional support to operators due to the discontinuation of the Australian holiday period.

### **Schedule 1 – Repeals**

Item 1 repeals the *Sydney Airport Slot Management Scheme 2013* as it will be replaced with this Scheme, ahead of its sunseting date of 1 April 2026.

## Statement of Compatibility with Human Rights

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

### *Sydney Airport Slot Management Scheme 2025*

#### **Overview**

The purpose of the *Sydney Airport Slot Management Scheme 2025* (the Scheme) is to repeal and replace the existing slot management scheme, the *Sydney Airport Slot Management Scheme 2013*.

The Scheme establishes a system for the allocation and management of gate movements at Sydney Airport. The new scheme implements recommendations identified in the 2021 Review of the Sydney Airport Demand Management Scheme (the Harris Review) and the 2019 Productivity Commission's inquiry report on the Economic Regulation of Airports. These reports have highlighted anti-competitive behaviour by airlines at Sydney Airport and the need to reassess the Sydney Airport demand management framework for efficiency, transparency, and better competition.

#### **Human rights implications**

This instrument engages the following rights:

- Right to freedom of movement
- Right to health (airplane noise and emissions)
- Right of privacy and reputation (information management)

#### Right to freedom of movement

Article 12 of the International Covenant on Civil and Political Rights (ICCPR) provides that everyone lawfully within the territory of a State shall have the right to liberty of movement and shall be free to leave any country, including his own.

The Scheme provides for a system for the allocation and management of gate movements at Sydney Airport. While the Scheme may have some implications in relation to the frequency and timing of certain gate movements at Sydney Airport, the objectives of the instrument are to improve efficiency at Sydney Airport including through the protection of regional services and new entrants to provide for the promotion of competition within the Australian aviation market.

The Scheme does not infringe upon an individual's right to freedom of movement but rather promotes the right through by promoting efficient utilisation of Sydney Airport.

#### Right to health

Article 12 of the International Covenant on Economic, Social, and Cultural Rights (ICESCR) sets out an obligation for the Australian Government to ensure the highest standard of physical and mental health of the Australian people. The ICESCR has stated that the right to health extends to the underlying determinants of health including the promotion of a healthy environment.

Consultation has found that some community groups held concerns on the wellbeing of their residents due to the noise from flights entering and exiting Sydney Airport.

The Scheme establishes a system for the allocation of gate movements at Sydney Airport and changes made to the scheme do not have the effect of increasing the number of, nor frequency of aircraft movements through Sydney Airport meaning that an increase to air pollution is unlikely. Therefore, the scheme does not infringe on the right to health.

#### Right to privacy

Article 17 of the ICCPR prohibits unlawful or arbitrary interferences with a person's privacy, family, home and correspondence, and unlawful attacks on a person's reputation. The right to privacy includes respect for informational privacy, including in respect of storing, using and sharing personal information, and the right to control the dissemination of this information. It also provides that persons have the right to protection of the law against such interference or attacks. The rights contained in Article 17 of the ICCPR may be subject to permissible limitations where limitations are authorised by law and are non-arbitrary. For limitations to be non-arbitrary they must be reasonable, necessary and proportionate to a legitimate objective.

The Scheme contains some minor information keeping requirements including requiring that the Slot Manager keep a record of authorisations and provide the authorisation to the Secretary as well as a requirement that a record of declared exemptions is given to the department. These provisions are not intended to capture personal information and do not infringe on the right to privacy.

#### ***Conclusion***

The instrument is compatible with human rights given the scheme promotes the protection of human rights and to the extent that it may limit human rights, those limitations are reasonable, necessary and proportionate.