

## **EXPLANATORY STATEMENT – SUMMARY FOR CONSULTATION**

### **Airports (Control of On-Airport Activities) Regulations 2025**

#### ***Purpose and operation***

The *Airports (Control of On-Airport Activities) Regulations 2025* (the Regulations) establish a system for the control of liquor, commercial trading, vehicle movements, gambling and smoking at leased federal airports, and an infringement notice scheme to support enforcement of these controls. The Regulations aim to strike the right balance between ensuring competitive neutrality between on-airport and off-airport activities, while standardising the regulation of on-airport activities (to the extent possible) across jurisdictions.

The Regulations operate alongside relevant State (and Territory) laws, including making limited modifications to how some of these laws are applied at leased federal airports. As airport sites are Commonwealth land, the Regulations form a crucial part of how these laws are applied at each airport (in accordance with the *Commonwealth Places (Application of Laws) Act 1970* for State laws), and how airport-operator companies, tenants, regulators, and enforcement officers understand and apply relevant laws at leased federal airports.

This draft instrument is intended to replace the *Airports (Control of On-Airport Activities) Regulations 1997* (‘the 1997 Regulations’) which will sunset on 1 April 2026. Sunsetting is an automatic repeal of instruments after a fixed period, under the *Legislation Act 2003*. The aim is to ensure instruments remain fit for purpose and only in force for so long as required.

The sunsetting date was set by the Legislation (Airport Instruments) Sunset-altering Declaration 2018, and subsequent Legislation (Deferral of Sunsetting-Airport Instruments) Certificate 2022.

Consultation activities have confirmed that while there is an ongoing need to regulate activities covered by these regulations, and that the regulations remain generally fit for purpose, there were opportunities to modernise language, and make minor and technical updates to bring the regulations more into line with modern drafting standards.

The main purpose of this explanatory statement is to summarise the changes that have been made as part of the remaking process. The Federal Register of Legislation provides the legislative history of the sunsetting instrument, including past explanatory statements.

The latest versions of Australian Government Acts, Regulations and other legislative instruments referenced in this explanatory statement and the draft instrument are available at the Federal Register of Legislation (<https://www.legislation.gov.au>).

The latest versions of State or Territory Government Acts, Regulations and other legislative instruments referenced in this explanatory statement and the draft instrument are available on equivalent registers for each State or Territory.

### ***Modernisation***

The Regulations have been updated to more closely align with relevant provisions in the *Airports Act 1996* (the Act), and meet modern drafting standards, while generally maintaining the intent and effect of the 1997 Regulations they replace. For example:

- a range of changes to language have been made throughout the instrument;
- definitions have been consolidated into Part 1 of the Regulations (to the extent able); and
- spent and redundant provisions have been removed in the new instrument.

### ***Minor and technical updates***

The Regulations have been updated to address a variety of minor and technical issues in order to clarify intent and streamline processes. These include, for example:

- reviewing and updating references to, and any modification of, relevant State laws (as applied by the *Commonwealth Places (Application of Laws) Act 1970*), and relevant Territory laws, to ensure that the Regulations continue to achieve their intended effect, acknowledging that there have been updates to the relevant laws since the 1997 Regulations were originally made;
- substantial clarification of the technical operation of provisions relating to vehicles and gambling;
- making technical updates to the infringement notice scheme outlined in the Regulations, in order to bring it more into line with modern standards for infringement notices, as outlined in the *Regulatory Powers (Standard Provisions) Act 2014* and the [\*Guide to Framing Commonwealth Offences, Infringement Notices, and Enforcement Powers\*](#);
- clarifying provisions enabling the Secretary to make appointments to more appropriately limit and define powers that may be performed by authorised persons, infringement notice officers, and notice authorities, for specific parts of the Regulations; and
- clarifying how the Regulations apply to Sydney West Airport, to ensure that controlled activities are generally regulated in a manner consistent with other airports, both in New South Wales (NSW) and more broadly, in relation to liquor, commercial trading arrangements, and gambling, ahead of Sydney West Airport's anticipated opening by late 2026.

### ***Control of liquor at leased federal airports in New South Wales***

The most substantial update to the Regulations relates to the control of liquor in NSW. Part 1A of the 1997 Regulations set out a scheme for the Commonwealth to control liquor activities at leased federal airports in NSW.

Following agreement with the NSW Government, Part 2 of the Regulations been updated to transition oversight of the control of liquor activities at leased federal airports in NSW to the relevant State regulator, in a manner consistent with the approach taken in other States and Territories. This includes making some modifications to how the relevant State law is applied at leased federal airports in NSW.

The Regulations also include transitional provisions covering matters such as the transition of licences issued under the Commonwealth scheme to the NSW regime.

As a result of this transition, Part 1A of the 1997 Regulations has not been remade, and is not included in the new instrument.

### ***Legislative authority***

The Act establishes a regulatory framework for leased federal airports. Section 252 of the Act provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Under Part 11 of the Act, sections 169 to 174 identify a range of matters related to liquor, commercial (consumer) trading, vehicle movements, gambling and smoking, which may be prescribed by regulations.

Section 175 to 176 of the Act provides that regulations may prescribe penalties for offences against regulations made under Part 11 and establish an infringement notice scheme for these penalties.

Section 177 of the Act sets out the intention for Part 11 of the Act to operate concurrently with State laws (as applied by the *Commonwealth Places (Application of Laws) Act 1970*) and Territory laws, though regulations may declare that a specified State (or Territory) law has no effect at a specified airport to the extent it applies for and in relation to a matter outlined in Part 11.

The instrument is a disallowable legislative instrument for the purposes of the *Legislation Act 2003*.

### ***Consultation***

#### ***Policy***

The department initially conducted public consultation on policy through a survey on sunseting regulations under the *Airports Act 1996* in 2017. This was followed by further public consultation in 2022 specifically focussed on the 1997 Regulations, which was undertaken through a public submissions process held between 16 September 2022 and 19 October 2022. The consultation paper and non-confidential submissions were published on the [department's website](#).

The approach to remaking the Regulations has also been informed by the department's regular engagement with airport-operator companies, and other relevant stakeholders during the administration of the Act and associated regulations, and broader public consultation activities, including activities to inform development of the *Aviation White Paper – Towards 2050*.

In its *Aviation White Paper – Towards 2050*, the Australian Government committed to conducting a comprehensive review of the Act, and the accompanying legislative and regulatory arrangements for the ownership, planning, development and environmental management of leased federal airports by 2030.

This review will be an opportunity to consider more substantial updates to the Act, and complementary regulations, including the *Airports (Control of On-Airport Activities) Regulations 2025*.

### ***Draft regulations***

The department has consulted with State and Territory regulators on the application of relevant State and Territory laws, and particularly the NSW Government in relation to the control of liquor at leased federal airports in NSW, including Liquor and Gaming NSW and the NSW Police Force.

The Australian Border Force, Australian Federal Police, Attorney-General's Department, and Department of Finance, were also consulted in the development of the draft Regulations.

### ***Overview of Parts and Relation to 1997 Regulations***

The remainder of this document provides an overview of each Part, Division and Schedule in the Regulations, summarising updates from the 1997 Regulations for each.

### ***Part 1 – Preliminary***

#### ***Overview***

This Part outlines preliminary material to assist readers in understanding and navigating the instrument. The Part outlines the name and commencement of the instrument, as well as the authority under which the instrument is made. The Part also:

- provides key definitions used throughout the Regulations;
- prescribes additional airports to which Part 11 of the Act applies; and
- clarifies the application of the Regulations.

#### ***Relation to 1997 Regulations***

This Part has been updated to more closely align with provisions in the Act, and meet modern drafting standards, while generally maintaining the intent and effect of the 1997 Regulations they replace. This includes updates to:

- set out new short title for the Regulations, and proposed commencement date for the Regulations;
- outline authority for the Regulations, which are made under the *Airports Act 1996*;
- reflect modern drafting practices in relation to definitions, including noting where expressions used in the regulations are defined in the *Airports Act 1996*; and
- consolidate definitions that were previously defined for specific Parts and Divisions of the 1997 Regulations (to the extent able).

Several definitions have also been updated. This includes, for example, revisions to:

- update references to the most recent version of the [Australian Road Rules](#) (as approved by the Infrastructure and Transport Ministers' Meeting and published by the Parliamentary Counsel's Committee, as at 9 June 2023);
- update the definition of **terminal area** to no longer rely on the meaning provided in the *Air Navigation Act 1920* (as this definition is no longer included in that Act);
- replace terms relating to infringement notices, such as **infringement notice offence** and **authorised person** with equivalent, revised terms, including **subject to an infringement notice**, **infringement officer**, and **notice authority**, as part of updates to better align the infringement notice scheme outlined in Part 7 with equivalent provisions in the *Regulatory Powers (Standard Provisions) Act 2014*; and
- replace the term **Part 11 Airport** with the term **activity-controlled airport**.

The Part has also been updated to clarify that:

- an airport may only be considered an **activity-controlled airport** if there is an airport lease for the airport, and
- a provision of this instrument that is stated to apply to a named airport does not apply to that airport if there is not an airport lease for the airport.

This clarification has been included to better align the Regulations with relevant provisions in the Act, noting that section 169 of the Act specifies that Part 11 of the Act may only apply to an airport if there is an airport lease for the airport.

## ***Part 2 – Control of liquor***

### ***Overview***

This Part is made for the purposes of section 170, section 173 and section 177 of the Act, and provides the regulatory framework for the control of liquor at leased federal airports. The Part makes limited and specific modifications to how relevant State (and Territory) liquor laws are applied at leased federal airports. To the extent possible, equivalent modifications are generally applied across jurisdictions to:

- provide airport-operator companies with an opportunity to input into decisions around liquor licences on the airport site, generally in the place of a local government authority (recognising that an airport-operator company performs the equivalent of a land-use planning role for sub-lessees on the airport site that would generally be undertaken by a relevant local government authority off-airport); and
- remove requirements to align with State, Territory or Local government planning regimes, or for plans to be approved by relevant local government planning authorities (recognising that the airport site is Commonwealth land, and these planning and approval processes do not apply on the airport site).

In specific instances, the Regulations also enable liquor to be sold within terminals for longer periods than may otherwise be possible under the relevant State regime (recognising that some airports operate on a 24-hour basis, 365 days a year). Such modifications have only been made in limited circumstances where there are not appropriate mechanisms to seek approval for extended trading hours or similar arrangements.

With these modifications, relevant State liquor laws are otherwise applied on the airport site as Commonwealth law (to the extent they are able to do so), in accordance with the *Commonwealth Places (Application of Laws) Act 1970*. Relevant Territory liquor laws are similarly applied on the airport site with outlined modifications.

For airports not listed in this Part and Schedule 2 (Archerfield Airport, Brisbane Airport, Mount Isa Airport, Jandakot Airport, and Tennant Creek), relevant State liquor laws are applied without modification on the airport site as Commonwealth law. The policy settings for these airports remains consistent with the approach taken in the 1997 Regulations.

#### *Relation to 1997 Regulations – General updates*

This Part has been updated to more closely align with provisions in the Act, and meet modern drafting standards, while generally maintaining the intent and effect of the 1997 Regulations they replace.

The Part has also been updated to:

1. review and update modification of relevant State and Territory liquor laws, to ensure the Regulations continue to achieve their intended effect, acknowledging there have been updates to the relevant laws since the 1997 Regulations were originally made;
2. remove modifications of State and Territory liquor laws that are no longer necessary; and
3. remove transitional provisions relating to the control of liquor in the 1997 Regulations, which have been spent.

Otherwise, the Part is intended to largely retain existing liquor controls at airports set out in the 1997 Regulations.

#### *Relation to 1997 Regulations – control of liquor at leased federal airports in NSW*

This Part has also been updated to include modifications to how relevant State liquor laws are applied at leased federal airports in NSW (specifically, Sydney (Kingsford-Smith) Airport, Sydney West Airport, Bankstown Airport and Camden Airport). This follows the agreement of the NSW Government to the transition of oversight of the control of liquor activities at leased federal airports in NSW to the relevant State regulator, in a manner consistent with the approach taken in other States and Territories.

This includes modifications to:

1. provide for the Australian Federal Police to support relevant NSW Government agencies and the NSW Police Force in enforcing State liquor laws at leased federal airports in NSW;
2. provide airport-operator companies with an opportunity to input into decisions around liquor licences on the airport site;

3. remove requirements to align with State or Local government planning regimes; and
4. clarify that the keeping of gaming machines is not lawful on premises on Sydney (Kingsford-Smith) Airport, Sydney West Airport, Bankstown Airport and Camden Airport to which a licence granted under the NSW *Liquor Act 2007* relates (in order to retain current policy settings which prevented the keeping and operation of gaming machines at these airports – as a relevant NSW liquor license required to keep or operate gaming machines could not be granted in relation to a premises at these airports – and consistent with settings in other jurisdictions, where keeping of gaming machines on airport is generally prohibited).

This Part has also been updated to include provisions to transition liquor licences issued under the Commonwealth scheme outlined in Part 1A of the 1997 Regulations to the NSW liquor regime.

### ***Part 3 – Commercial trading***

#### ***Overview***

This Part is made for the purposes of section 171 and section 177 of the Act, and provides the framework for regulation of commercial trading at leased federal airports. This Part makes specific, limited modifications to how relevant State commercial trading laws are applied at specific airports, or provides that specific State laws limiting shop opening days and trading hours do not apply at the identified airports.

To the extent possible, equivalent modifications are generally applied across jurisdictions to provide an appropriate regulatory regime for major domestic and international airports that operate on a 24-hour basis, every day of the year, while recognising that smaller regional or metropolitan airports should generally operate within a community environment.

With these modifications, relevant State commercial trading laws are otherwise applied on the airport site as Commonwealth law (to the extent they are able to do so), in accordance with the *Commonwealth Places (Application of Laws) Act 1970*.

Consistent with section 177 of the Act, commercial trading operations at airports not listed in this part are controlled under relevant State and Territory laws. The policy settings for these airports remains consistent with the approach taken in the 1997 Regulations.

#### ***Relation to 1997 Regulations***

This Part has been updated to more closely align with provisions in the Act, and meet modern drafting standards, while generally maintaining the intent and effect of the 1997 Regulations they replace.

In addition, the Part has been updated to:

1. ensure consistency between Sydney (Kingsford-Smith) Airport and Sydney West Airport ahead of Sydney West Airport's anticipated opening by late 2026 (like Sydney (Kingsford-Smith) Airport, Sydney West Airport is intended to be in operation every day of the year); and
2. remove transitional provisions relating to commercial trading authorisations in the 1997 Regulations, which have been spent.

## ***Part 4 – Vehicles***

### ***Overview of the Part***

This Part is made for the purposes of section 172 and 177 of the Act, and provides the framework for the regulation of vehicle movements, including parking, at leased federal airports. The Part provides for different controls on the airside and landside of airport sites.

#### *Airside controls*

The airside area of an airport site refers to the area where aircraft operations occur, where access is restricted. The airside area of a specific airport is generally outlined in an Airside Vehicle Control Handbook published by an airport-operator company for the relevant airport. The Airside Vehicle Control Handbook for each leased federal airport is publicly available, and generally published on the relevant airport-operator company's website.

In addition, under the *Aviation Transport Security Act 2004*, an airport may be declared as a security controlled airport. These declarations also outline the extent of airside areas at these security controlled airports. Current declarations of security controlled airports under the *Aviation Transport Security Act 2004* are also available at the [Federal Register of Legislation](#).

Regulations relating to the control of airside vehicles are included in Division 3 and Division 4 of this Part.

#### *Landside controls*

The landside area of an airport site refers to the areas of the airport site that are not identified as airside areas, and are generally accessible to the public.

Where relevant, the landside areas of an airport subject to vehicle parking and operation controls under these Regulations are outlined in a Parking Signage Plan for the relevant airport. The Parking Signage Plans for these airports are published on the relevant airport-operator company's website.

Regulations relating to the control of landside vehicles are included in Division 2 of this Part.



## *Offences*

This Part includes various offences for contraventions of a provision within the Part. Section 175 of the Act provides that the regulations made for the purposes of Part 11 of the Act may prescribe penalties not exceeding 50 penalty units for offences against the regulations. All penalties prescribed in this Part are below 50 penalty units.

## *Relation to 1997 Regulations*

This Part has been updated to more closely align with provisions in the Act, and meet modern drafting standards, while generally maintaining the intent and effect of the 1997 Regulations they replace. There have also been a variety of technical updates to the operation of the Part, which are outlined for each Division below.

### ***Division 1 – Introductory***

#### *Overview of Division*

This Division sets out the purpose of the Part and provides the meaning of an **authorised person** for Division 2, Division 3 and Division 4 of this Part.

#### *Relation to 1997 Regulations*

Definitions included Division 1 of the 1997 Regulations have been consolidated into Part 1 of the Regulations where relevant. This Division has also been updated to consolidate and clarify usage of **authorised persons** across Division 2, Division 3 and Division 4 of this Part.

### ***Division 2 – Landside vehicle parking and operation***

#### *Overview of Division*

The leased federal airports were privatised by way of long-term leases from the mid-1990s. At the time of privatisation, the Australian Government required each of the leased federal airport operators to establish rules and enforcement mechanisms for the management of vehicles throughout their landside areas. Most deferred to State (and Territory) government and Local government parking regimes.

This Division provides a framework for administering landside vehicle parking and operation arrangements at eight specific airports: Sydney (Kingsford-Smith) Airport, Melbourne (Tullamarine) Airport, Brisbane Airport, Perth Airport, Gold Coast Airport, Hobart International Airport, Launceston Airport, and Townsville Airport.

Each of these airports were unable to reach agreements to manage landside traffic under relevant State or Territory and Local government parking and vehicle operation regimes during privatisation.

This Division enables the control of landside vehicle movement and parking at these airports to ensure that vehicle traffic is managed in a safe, secure and efficient manner.

Consistent with section 177 of the Act, landside parking and vehicle operation at airports not covered by this Division is controlled under relevant State and Territory laws.

### *Relation to 1997 Regulations*

The Division has been updated to more closely align with provisions in the Act, and meet modern drafting standards, while generally maintaining the intent and effect of the 1997 Regulations they replace.

In addition, the Division has been updated to:

1. clarify and simplify provisions within the Division;
2. streamline and consolidate sections relating to parking signage plans and standard operating procedures in order to clarify and simplify requirements;
3. more effectively apply the Australian Road Rules at airports covered by the Division (including clarifying that other provisions of the Australian Road Rules apply in relation to the landside of an airport to the extent that they relate to provisions in Part 12);
4. more explicitly provide for airport-operator companies to install traffic control devices to indicate that taxi drivers must not leave their taxis unattended in a taxi zone on the landside of an airport;
5. clarify that a driver of a taxi, hire care or public bus may only be required to show an authority card in instances where the operation of a taxi, hire car or public bus is regulated in the State where the airport is located, to properly account for instances where this may not be the case;
6. account for instances where a vehicle is disposed of in circumstances where the owner of a vehicle has been unable to be identified or contacted before the disposal, and there is a chance that the vehicle has not been abandoned; and
7. clarify and rationalise the kinds of persons who may be appointed by the Secretary as an authorised person for an airport for the purposes of a provision in this Division, in order to ensure individuals are appropriately qualified or experienced.

### ***Division 3 – Airside vehicle parking***

#### *Overview of Division*

This Division provides a framework for controlling airside vehicle parking and stopping at all activity-controlled airports to ensure vehicle traffic is managed in a safe, secure and efficient manner. This includes:

1. providing for the designation of areas with parking restrictions and stopping restrictions on the airside of an airport;
2. providing for the enforcement of parking restrictions and stopping restrictions within designated areas on the airside of an airport; and
3. providing that appropriately authorised persons may direct that a vehicle be moved if it is contravening parking restrictions or stopping restrictions on the airside of an airport.

### *Relation to 1997 Regulations*

The Division has been updated to more closely align with provisions in the Act, and meet modern drafting standards, while generally maintaining the intent and effect of the 1997 Regulations they replace.

In addition, the Division has been updated to:

1. clarify, simplify and streamline provisions;
2. explicitly account for treatment of police vehicles (alongside emergency vehicles); and
3. clarify and rationalise the kinds of persons who may be appointed by the Secretary as an authorised person for an airport for the purposes of a provision in this Division, in order to ensure individuals are appropriately qualified or experienced.

### ***Division 4 – Airside vehicle operation***

#### *Overview of Division*

This Division provides a framework for controlling airside vehicle operation at all activity-controlled airports to ensure vehicle operations are managed in a safe, secure and efficient manner. This includes:

1. providing for the issuing (and withdrawal) of Authorities to Drive Airside (ADAs) to control who may drive a vehicle on the airside of an airport, and under what conditions;
2. providing for the issuing (and withdrawal) of Authorities to Use Airside (AUAs) to control which vehicles may be used on the airside of an airport, and under what conditions;
3. providing for the escorting of vehicles without an AUA, and / or driven by a person without an ADA, with the escort able to direct the person being escorted;
4. providing that vehicles must be kept clear of aircraft; and
5. providing that appropriately authorised persons may direct that a vehicle be moved, or move a vehicle to protect public safety and prevent interference with airport operations.

### *Relation to 1997 Regulations*

The Division has been updated to more closely align with provisions in the Act, and meet modern drafting standards, while generally maintaining the intent and effect of the 1997 Regulations they replace.

In addition, the Division has been updated to:

1. clarify, simplify and streamline provisions;
2. clarify that decisions by an approved issuing authority for an airport may be subject to review by the Administrative Review Tribunal;
3. clarify the specific decisions under this Division for which an application may be made to the Administrative Review Tribunal for review;
4. remove provisions providing that an airport-operator company's decision to revoke a person's approval to issue ADAs or AUAs (or both) for the airport could be subject to review by the Administrative Review Tribunal (to better align with Australian Government guidance outlined in [\*What decisions should be subject to merit review\*](#), which notes that decisions to appoint a person to undertake a specified function should not be subject to merit review);
5. more effectively account for the formalisation of Aviation Security Identification Card (ASIC) regulation at leased federal airports which have been declared security controlled airports under the *Aviation Transport Security Act 2004*, while retaining equivalent requirements at airports without an active declaration under the *Aviation Transport Security Act 2004*;
6. remove references to ASICs issued by the Federal Airports Corporation (FAC), noting that the FAC ceased operations in August 1998;
7. clarify and rationalise the kinds of persons who may be appointed by the Secretary as an authorised person for an airport for the purposes of a provision in this Division, in order to ensure individuals are appropriately qualified or experienced; and
8. remove transitional provisions relating to ADAs and AUAs issued by FAC in the late 1990s, before the commencement of an airport lease, which have been spent.

### ***Division 5 – Liability of owner of vehicle for offences***

#### *Overview of Division*

This Division is included to clarify the liability of the owner of a vehicle for offences relating to parking offences, and is intended to be used in instances where the driver of the vehicle is not present or known. Similar provisions are included in State and Territory vehicle parking and control regimes.

### *Relation to 1997 Regulations*

The Division includes provisions that largely replicate the intent of regulation 155A and regulation 155B included in Part 7 of the 1997 Regulations. These provisions have been moved to Part 4 in the Regulations, to more accurately reflect that they relate to vehicle offences, whether or not an infringement notice has been issued for the offence.

The Division has also been updated to clarify and better step out processes and requirements, and to better align with modern drafting standards. This has included making technical updates to the provisions to:

1. refer to a **notice authority** rather than an airport-operator company to correctly account for instances where there is not an appropriate appointment in place for an airport-operator company to make decisions relating to matters such as the withdrawal of infringement notices (further information on the **notice authority** is included in explanatory material for Part 7); and
2. explicitly clarify that the provisions apply to parking offences (rather than all offences under Part 4 of the Regulations), reflecting that the Division is intended to account for instances where the driver of a vehicle is not otherwise known (as they are not present with the vehicle).

In addition, the Division has been updated to:

1. require a notice authority to withdraw an infringement notice in instances where satisfied that the owner was not the driver of the vehicle at the time an alleged offence occurred, and as such should not be taken to have committed the offence (consistent with equivalent requirements placed on courts at the hearing of a prosecution relating to the offence);
2. ensure that in instances where the Secretary is not the notice authority for an airport relevant to the parking offence, the Commonwealth is still provided with a copy of a statutory declaration provided under this Division (so that the Commonwealth may be able to provide the document to a court as necessary);
3. remove provisions enabling an airport-operator company to extend the 14-day period within which a statutory declaration may be provided by providing written notice to the owner of the vehicle (noting that:
4. a notice authority may still withdraw an infringement notice, regardless of whether or not a statutory declaration is provided within the 14-day period, if it becomes evident that the owner was not the driver at the time the offence was committed; and
5. a notice authority or court may be satisfied that the owner was not the driver at the time the offence was committed, on the basis of a statutory declaration or otherwise).

### *Part 5 – Gambling*

#### *Overview of Part*

This Part is made for the purposes of section 173 of the Act, and provides the framework for the regulation of gambling at leased federal airports.

### *Airports excluded from the Part*

The leased federal airports were privatised by way of long-term leases from the mid-1990s. During this process, the Australian Government advised all State and Territory governments they could take up responsibility for regulating gambling on airport sites on the basis that States and Territories were prepared to amend or adapt their gambling regulations to allow existing gambling activities being engaged in at airports. Only the NSW Government took up this opportunity.

Consequently, the then Australian Government Minister for Transport and Regional Development wrote to State and Territory governments in December 1997 indicating the Commonwealth would put in place regulations under Part 11 of the *Airports Act 1996* to control gambling at all leased federal airports not in NSW. This general policy setting has been retained in the Regulations, which have also been updated to account for the expected opening of Sydney West Airport in 2026.

Mount Isa and Tennant Creek Airport are also excluded from gambling controls put in place under Part 11 of the Act, reflecting their status as small remote airports, which are more appropriately subject to State and Local government regulatory regimes. This general policy setting has again been retained in the Regulations.

### *Engaging in gambling activities is generally prohibited*

The Part sets out that engaging in gambling activities is generally prohibited at airports covered by the Regulations, with an exception to provide that historic gambling activities may continue to be engaged in in line with old gambling authorities that were in place immediately before the airport privatisation process.

The Part sets out how these old gambling authorities are continued, and subsequently sets out a regime to facilitate the ongoing regulation of gambling activities permitted under these old gambling authorities, including a system to provide for the granting (or refusal) of a follow-on gambling permission to cover the same gambling activities, and the cancellation and suspension of old gambling authorities and gambling permissions where necessary.

### *Offences*

This Part includes an offence for a contravention of a provision within the Part. Section 175 of the Act provides that the regulations made for the purposes of Part 11 of the Act may prescribe penalties not exceeding 50 penalty units for offences against the regulations. All penalties prescribed in this Part are below 50 penalty units.

### *Relation to 1997 Regulations*

This Part has been updated to more closely align with provisions in the Act, and meet modern drafting standards, while generally maintaining the intent and effect of the 1997 Regulations they replace. There have also been a variety of technical updates to the operation of the Part, which are outlined for each Division below.

## ***Division 1 – Preliminary***

### *Overview of the Division*

This Division sets out the purpose of the Part and prescribes activity-controlled airports to which gambling controls included in the Part apply.

The Division provides that this Part applies to all activity-controlled airports, except for Sydney (Kingsford-Smith) Airport, Sydney West Airport, Bankstown Airport, Camden Airport, Mount Isa Airport, and Tennant Creek Airport.

Consistent with section 177 of the Act, gambling at airports not covered by this Part is controlled under relevant State and Territory laws.

### *Relation to 1997 Regulations*

The Division has been updated to include Sydney West Airport in the list of activity-controlled airports excluded from the Part. This ensures that gambling at Sydney West Airport is regulated in a manner consistent with other leased federal airports in NSW, which are also excluded from the Part.

## ***Division 2 – Regulation of gambling activity at airports***

### *Overview of the Division*

This Division sets out that engaging in a gambling activity at an airport is prohibited, unless the gambling activity is in accordance with a gambling permission or old gambling authority.

The Division also:

1. makes clear that State (or Territory) laws that permit a gambling activity does not apply at an airport; and
2. sets out how State (or Territory) laws regulating the conduct of a gambling activity are relevant for gambling activities undertaken at an airport.

### *Relation to 1997 Regulations*

The Division has been updated to more closely align with provisions in the Act, and meet modern drafting standards, while generally maintaining the intent and effect of the 1997 Regulations they replace.

In addition, the Division has been updated to:

1. clarify how relevant State (and Territory) laws operate in relation to permitted and authorised gambling activities (in that complying with such a law is a condition of the gambling authorisation or permission, with some explicit exemptions), and
2. clarify that non-compliance with a relevant State law is a matter that may be enforced by the Commonwealth in relation to the relevant gambling permission or authority.

### ***Division 3 – Continuation of old gambling authority***

#### *Overview of the Division*

This Division sets out how old gambling authorities continue to have effect under the Regulations, providing that historic gambling activities may continue to be undertaken in line with old gambling authorities in place immediately before the airport privatisation process.

#### *Relation to 1997 Regulations*

The Division has been updated to more closely align with provisions in the Act, and meet modern drafting standards, while generally maintaining the intent and effect of the 1997 Regulations they replace.

In addition, the Division has been updated to:

1. provide for how old gambling authorisation are continued on a general basis (rather than making specific provisions for an individual authority);
2. account for equivalent updates to how Division 2 of Part 5 of the Regulations now applies State (or Territory) law in relation to an old gambling authority or gambling permission (i.e. as a condition of the authority or permission); and
3. remove transitional provisions relating to old gambling authorities for gambling activities at an airport in NSW, which have been spent.

### ***Division 4 – Permission to engage in gambling activity***

#### *Overview of the Division*

This Division provides a mechanism for certain people to apply to the Secretary to seek permission to engage in a gambling activity at an airport (in very limited circumstances) to permit the continuation of historic gambling activities on an airport, broadly in line with the original terms. This includes setting out:

1. who may apply for apply for permission to engage in a gambling activity;
2. how the application may be made;
3. how the Secretary is to decide an application (including matters that the Secretary must have regard to);
4. how the Secretary is to impose conditions on a gambling permission;
5. how notice of a decision is to be provided to an applicant (including providing reasons);
6. the terms of a granted permission; and
7. merits review processes.



### *Relation to 1997 Regulations*

The Division been updated to more closely align with modern drafting standards, while generally maintaining the intent and effect of the 1997 Regulations they replace.

In addition, the Division has been updated to:

1. more logically flow through application and decision making processes, including streamlining and consolidating provisions to clarify requirements;
2. more explicitly set out how an application may be made;
3. more explicitly set out the decisions the Secretary may make in relation to an application (i.e. deciding whether or not to grant a gambling permission, and deciding the conditions that a granted gambling permission is subjected to);
4. clearly outline matters the Secretary must have regard to when making a decision in relation to an application;
5. consolidate examples of conditions that may be imposed on a gambling permission included in different provisions in the 1997 Regulations;
6. require the Secretary to provide written notice of a decision, including a statement of reasons for a decision to refuse a permission, or to alter conditions imposed on a permission;
7. account for equivalent updates to how Division 2 of Part 5 of the Regulations now applies State (or Territory) law in relation to a gambling permission (i.e. as a condition of the permission which should be stated in the terms of the permission); and
8. clarify the specific decisions under this Division for which an application may be made to the Administrative Review Tribunal for review.

### ***Division 5 – Cancellation and suspension of permissions and authorities***

#### *Overview of the Division*

This Division provides a mechanism for the cancellation or suspension of a gambling permission or old gambling authority where necessary. This includes setting out:

1. how the Secretary may give a show cause notice in relation to a suspected breach of a gambling permission or old gambling authority (including providing for a possible temporary suspension of the gambling permission or old gambling authority);
2. how the Secretary is required to make a decision in relation to a cancellation of a gambling permission or old gambling authority;
3. how notice of a decision is to be provided to the holder;
4. processes for the Secretary to cancel a gambling permission or old gambling authority at the request of the holder; and
5. merits review processes.

### *Relation to 1997 Regulations*

The Division been updated to more closely align with modern drafting standards, while generally maintaining the intent and effect of the 1997 Regulations they replace.

In addition, the Division has been updated to:

1. streamline and more logically step through show cause notice, suspension and decision making processes;
2. clarify the basis on which a show cause notice may be issued, including providing that a show cause notice may be issued if the Secretary reasonably believes that an application for a gambling permission, or a document or statement supplied in support of the application or a response to a request for further information, was false or misleading in material particular;
3. clarify that the Secretary may make a decision to temporarily suspend a gambling permission or old gambling authority (rather than framing the suspension as a matter to be outlined in a show cause notice);
4. require that the Secretary provide written notice if a suspension is revoked;
5. more explicitly outline that a decision must be made by the Secretary on whether to cancel a permission or authority after a show cause notice has been issued, taking into account any written representation made by the holder;
6. clarify that the Secretary may cancel a permission or authority if **satisfied** that there that there is a basis for cancellation (rather than having **reasonable grounds for believing** that there is a basis for cancellation);
7. explicitly provide that the Secretary may cancel a gambling permission if satisfied that the application for a gambling permission, or a document or statement supplied in support of the application or a response to a request for further information, was false or misleading in material particular;
8. explicitly require written notice be provided for a decision to cancel an authority or gambling permission; and
9. clarify the specific decisions under this Division for which an application may be made to the Administrative Review Tribunal for review.

## ***Part 6 – Smoking***

### ***Overview of Part***

This Part is made for the purposes of section 174 of the Act, and provides the framework for the regulation of smoking at leased federal airports.

The Part sets out a scheme for airport-operator companies at all activity-controlled airports to designate specified areas of the airport as no-smoking areas, makes it an offence for a person to smoke in a designated no-smoking area, and establishes a framework for the Secretary to appoint infringement officers for this purpose.

Consistent with section 177 of the Act, relevant State and Territory smoking laws are otherwise applied on the airport site to the extent that the law is able to operate concurrently with this Part.

### ***Offences***

This Part includes an offence for a contravention of a provision within the Part. Section 175 of the Act provides that the regulations made for the purposes of Part 11 of the Act may prescribe penalties not exceeding 50 penalty units for offences against the regulations. All penalties prescribed in this Part are below 50 penalty units.

### ***Relation to 1997 Regulations***

The Part has been updated to meet modern drafting standards, while generally maintaining the intent and effect of the 1997 Regulations they replace.

The Part has also been updated to:

1. more explicitly outline which airports the Part applies to;
2. clarify that if an area is not appropriately marked as a no-smoking area, then the designation of the area has no effect; and
3. clarify and rationalise the kinds of persons who may be appointed by the Secretary as an infringement officer for an airport for the purposes of a provision in this Part, in order to ensure individuals are appropriately qualified or experienced.

## ***Part 7 – Infringement notices***

### ***Overview of Part***

This Part is made for the purposes of section 176 of the Act, and provides the framework for issuing of infringement notices for contravention of provisions under the Regulations that are subject to an infringement notice.

The Part provides that infringement notices may be issued in relation to:

1. a provision in Part 4, contravention of which constitutes an offence of strict liability; and
2. a provision of Part 6, contravention of which constitutes an offence of strict liability.

Subsection 176(1) of the Act provides that the Regulations may make provisions enabling a person who is alleged to have committed an offence against regulations made for the purposes of Part 11 of the Act to pay a penalty to the Commonwealth as an alternative to prosecution.

Subsection 176(2) of the Act requires that the penalty for these infringement notices must equal one-fifth of the maximum fine a court could impose as a penalty for the offence.

### ***Relation to 1997 Regulations***

This Part has been substantially updated to more closely align with provisions in the Act, and meet modern drafting standards, reduce duplication, and clarify intent, while generally maintaining the intent and effect of the regulations they replace.

These updates have been focussed on better aligning the Part with equivalent provisions in the *Regulatory Powers (Standard Provisions) Act 2014*, and, expectations set out in the [\*Guide to Framing Commonwealth Offences, Infringement Notices and Enforcement Powers\*](#), including updates to:

1. consolidate and clearly outline which offences may be subject to an infringement notice;
2. split out powers which could be exercised by an authorised officer in the 1997 Regulations into powers which may be exercised by an **infringement officer** or a **notice authority**, to appropriately limit and separate powers, functions and duties between these two positions, with:
3. Infringement officers able to issue infringement notices in relation to an offence against a provision of the Regulations at an airport; and
4. Notice authorities having powers broadly consistent with a Chief Executive under the *Regulatory Powers (Standard Provisions) Act 2014* (including extending the time in which an infringement notice may be paid, and withdrawing an infringement notice), and may also provide evidentiary certificates;
5. provide that the Secretary may appoint an airport-operator company for an airport as a notice authority for the airport in relation to offences against provisions in a Division or Part of Regulations, and the requirements that must be satisfied for such an appointment;
6. ensure appropriate arrangements are in place for the management of any amounts paid under infringement notices that an airport-operator company receives on behalf of the Commonwealth;
7. limit the period in which an infringement notice may be given to within 12 months after the day on which the offence is alleged to have been committed;

8. specify that a single infringement notice may only relate to a single contravention of a single provision;
9. align matters to be included in infringement notices with equivalent provisions in the *Regulatory Powers (Standard Provisions) Act 2014* to the extent able;
10. align provisions setting out how a notice authority may extend the time in which an infringement notice may be paid with equivalent provisions in the *Regulatory Powers (Standard Provisions) Act 2014* to the extent able;
11. align provisions relating to withdrawal of infringement notices with equivalent provisions in the *Regulatory Powers (Standard Provisions) Act 2014* to the extent able;
12. align provisions relating to the effect of payment of an infringement notice with equivalent provisions in the *Regulatory Powers (Standard Provisions) Act 2014* to the extent able; and
13. align provisions relating to the effect of this Part infringement notice with equivalent provisions in the *Regulatory Powers (Standard Provisions) Act 2014* to the extent able.

## ***Part 8 – Miscellaneous***

### ***Overview of Part***

This Part outlines other miscellaneous matters relevant to the Regulations. The only provision in the Part provides for the Secretary to delegate functions or powers in this instrument to a Senior Executive Service employee or acting Senior Executive Service employee.

### ***Relation to 1997 Regulations***

The Part has been updated to meet modern drafting standards, while generally maintaining the intent and effect of the 1997 Regulations they replace.

## ***Part 9 – Application, saving and transitional provisions***

### ***Overview of Part***

This Part is included to set out transitional arrangements in relation to the commencement of the instrument to assist in a smoother transition between the 1997 Regulations and these new Regulations. The Part includes transitional provisions to:

1. preserve the appointment of an authorised person in relation to an airport for provisions in the 1997 Regulations that was in force immediately before the commencement of this instrument as if the appointment were made for the purposes of the relevant provisions in this instrument, in order to ensure that control and enforcement activities at airports may continue with minimal interruption;
2. provide that an employee of an airport-operator company who is taken to be appointed as an authorised person for the purposes of provisions in Division 2 of Part 4 of this instrument may also exercise the powers of the **notice authority** for the airport in relation to offences against those provisions at the airport;
3. ensure that a permit to park in a vehicle permit zone issued under the 1997 Regulations that was immediately in force before the commencement of this instrument continues to

be in force, and may be dealt with, after that commencement as if it had been issued under the relevant provision in this instrument;

4. ensure that a vehicle on the airside of an airport moved under the 1997 Regulations that was in the possession of the airport-operator company (having not been recovered, sold or otherwise disposed of) immediately before the commencement of this instrument may be dealt with, after that commencement as if it had moved under the relevant provision in this instrument;
5. ensure an authorisation to issue ADAs and / or AUAs for an airport under the 1997 Regulations that was in force immediately before the commencement of this instrument continues to be in force (and may be dealt with) after that commencement as if the approval was given under the relevant provision in this instrument;
6. ensure that an ADA for an airport issued to a person under the 1997 Regulations that was in force immediately before the commencement of this instrument continues to be in force (and may be dealt with) after that commencement as if it had been issued for the airport under the relevant provision in this instrument.
7. ensure that an AUA for an airport issued in relation to a vehicle under the 1997 Regulations that was in force immediately before the commencement of this instrument continues to be in force (and may be dealt with) after that commencement as if it had been issued for the airport under the relevant provision in this instrument.
8. ensure that a gambling permission granted under the 1997 Regulations that was in force immediately before the commencement of this instrument continues to be in force (and may be dealt with) after that commencement as if had been granted under the relevant provision in this instrument;
9. provide that despite the repeal of the 1997 Regulations, a person who, immediately before that repeal, was an authorised person within the meaning of Part 7 of the 1997 Regulations may still:
10. issue an infringement notice in relation to an infringement notice offence (within the meaning of that Part) that is alleged to have occurred before the repeal of the 1997 Regulations as if they had not been repealed (within 12 months of the alleged offence having occurred); and
11. deal with an infringement notice issued under the 1997 Regulations as if they had not been appealed, until 1 April 2028.
12. provide for the Secretary to appoint an authorised person to issue an infringement notice in relation to an alleged offence that occurred under the 1997 Regulations while they were still in force before 1 April 2026, and to deal with deal with an infringement notice issued under the 1997 Regulations, if there is a need, with such appointments to expire on 1 April 2028.

## ***Schedule 1 – Penalties for contravention of applied Australian Road Rules***

### ***Overview***

This Schedule outlines the penalty units that apply in relation to a contravention of an offence provision in Part 12 of the Australian Road Rules on the landside of each of the airports covered by Part 4 of Division 2 of the Regulations.

The penalty for the offence is the number of penalty units mentioned in the table included in the Schedule for the offence provision contravened and for the airport at which the offence occurs.

Different penalty units are prescribed for each airport in order to align penalties with equivalent penalties for a contravention of offences against the Australian Road Rules off-airport under the relevant State law where each airport is based.

Section 175 of the Act provides that the regulations made for the purposes of Part 11 of the Act may prescribe penalties not exceeding 50 penalty units for offences against the regulations. All penalties prescribed in Schedule 1 are below 50 penalty units.

Amounts to be stated in infringement notices for a contravention of an alleged offence are set at one-fifth of the maximum penalty that a court could impose on the person for the alleged offence.

### ***Relation to 1997 Regulations – Updated offence provisions***

The Schedule has been updated to include all relevant offence provisions in Part 12 of the Australian Road Rules, including offences that were not outlined in the 1997 Regulations (noting that there have been revisions and additions to the Australian Road Rules since the 1997 Regulations were made).

This update ensures that Part 12 of the Australian Road Rules may be fully applied at airports covered by Part 4 of Division of the Regulations, as all offences under Part 12 of the Australian Road Rules may be effectively enforced. Descriptions of offence provisions have also been updated to better align with descriptions in the Australian Road Rules.

### ***Relation to 1997 Regulations – Revised penalty units***

Penalty units specified for each offence at each airport have been reviewed for consistency with equivalent penalties for a contravention of offences against a provision in Part 12 of the Australian Road Rules off airport under the relevant State law where each airport is based.

Where the maximum penalty for a contravention of a provision is higher under the relevant State law, the maximum penalty has been increased proportionately to maintain consistency with the relevant State law. Otherwise, penalty units for contraventions remain consistent with the 1997 Regulations. For offences where there is not an applicable provision in the relevant State law, the penalty for similar offences has been used as a guide to maintain consistency.

This has resulted in an increase in penalty units for a contravention of an offence provision in Part 12 of the Australian Road Rules at Sydney (Kingsford-Smith) Airport, Townsville Airport, Gold Coast Airport and Brisbane Airport:

1. The value of a penalty unit under Commonwealth law is prescribed by the *Crimes Act 1914*. On 7 November 2024, the value of a penalty unit was \$330. The latest version of the *Crimes Act 1914* is available at the Federal Register of Legislation (<https://www.legislation.gov.au>).
2. The Queensland *Transport Operations (Road Use Management – Road Rules) Regulation 2009* prescribes a maximum penalty of 20 penalty units (Queensland value) for each contravention of an offence provision in Part 12 of the Australian Road Rules. The latest version of these regulations is available at the Queensland Legislation website (<https://www.legislation.qld.gov.au>).
3. The value of a penalty unit under Queensland law is prescribed by the Queensland *Penalties and Sentences Act 1992*. On 1 July 2025, the value of a penalty unit (Queensland value) was \$166.90. The latest version of the *Penalties and Sentences Act 1992* is available at the Queensland Legislation website (<https://www.legislation.qld.gov.au>). This meant that 20 penalty units (Queensland value) had a monetary value of \$3380.
4. Give the differences in monetary value of a penalty unit under Commonwealth law and Queensland law in 2025, the maximum penalty for a contravention of an offence provision in Part 12 of the Australian Road Rules at Townsville Airport, Gold Coast Airport and Brisbane Airport has been set at 10.5 penalty units.
5. The NSW *Road Rules 2014* prescribes a maximum penalty of 20 penalty units (NSW value) for each contravention of an offence provision in the Australian Road Rules. The latest version of the NSW *Road Rules 2014* is available at the New South Wales Legislation website (<https://legislation.nsw.gov.au>).
6. The value of a penalty unit under NSW law is prescribed by the NSW *Crimes (Sentencing Procedure) Act 1999*. On 1 July 2025, the value of a penalty unit (NSW value) was \$110. The latest version of the *Penalties and Sentences Act 1992* is available the New South Wales Legislation website (<https://legislation.nsw.gov.au>). This meant that 20 penalty units (NSW value) had a monetary value of \$2,200.
7. Give the differences in monetary value of a penalty unit under Commonwealth law and NSW law in 2025, the maximum penalty for a contravention of an offence provision in Part 12 of the Australian Road Rules at Sydney Airport has been set at 8 penalty units.

Maximum penalties for the remaining airports remain consistent with the 1997 Regulations. Where the 1997 Regulations did not specify a penalty for an offence against a provision in Part 12 of the Australian Road Rules, the Regulations align the maximum penalty for that offence at each of these airports with the maximum penalty for a similar offence to maintain consistency.



## ***Schedule 2 – Modifications of State liquor legislation***

### ***Overview***

This Schedule outlines specific modifications to how relevant State and Territory laws are applied at specific leased federal airports under Part 2 of the Regulations.

With these modifications, relevant State liquor laws are otherwise applied on the airport site as Commonwealth law (to the extent they are able to do so), in accordance with the *Commonwealth Places (Application of Laws) Act 1970*. Relevant Territory liquor laws are similarly applied on the airport site with outlined modifications.

### ***Relation to 1997 Regulations***

The Schedule has been updated to better reflect modern drafting standards and clarify the intent of each modification.

In addition, the Schedule has been revised to:

1. include modifications to how relevant NSW liquor laws are applied at Sydney (Kingsford-Smith) Airport, Sydney West Airport, Bankstown Airport and Camden Airport;
2. update modification of relevant State and Territory liquor laws to ensure the Regulations continue to achieve their intended effect, acknowledging there have been updates to the relevant laws since the 1997 Regulations were originally made;
3. clarify and simplify modifications (by only modifying relevant parts of each provision);
4. consistently refer to an airport-operator company, rather than an airport-lessee company, to correctly account for instances where an airport-lessee company enters into an arrangement with an airport-management company under an airport-management agreement as set out in section 33 of the Act; and
5. remove modifications of State and Territory liquor laws that are no longer necessary.