EXPOSURE DRAFT (27/11/2025)

Airports (Protection of Airspace) Regulations 2026

I, the Honourable Sam Mostyn AC, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 2026

Sam Mostyn AC
Governor-General

By Her Excellency's Command

Catherine King **[DRAFT ONLY—NOT FOR SIGNATURE]**
Minister for Infrastructure, Transport, Regional Development and Local Government

Contents

Part 1—Preliminary 1
1 Name 1
2 Commencement 1
3 Authority 1
4 Object 1
5 Definitions 1
6 Sensitive controlled activities 3
7 Controlled activities on terrain that intrudes into secondary airspace 3

Part 2—Prescribed airspace 5
8 Prescribed airspace 5
9 Declaration of prescribed airspace 5

Part 3—Matters affecting whether an activity is a controlled activity 7
10 Level of air turbulence 7

Part 4—Approval of controlled activities 8
11 Purpose of this Part 8
12 Application for approval to carry out controlled activity 8
13 Permission to apply to carry out sensitive controlled activities 9
14 Consultation on applications to carry out controlled activities 11
15 Giving applications to the Secretary 11
16 Requests for further information or documents 12
17 Decision on application 12
18 Period for making decision on application 13
19 Notice of decision 14
20 Approval may be subject to conditions 14
21 Revocation and variation of approvals etc. 15

Part 5—Exempt controlled activities 16
22 Exemption for controlled activities in relation to Sydney West Airport 16

Part 6—Notification of proposals to carry out controlled activities 17
23 Building authority to give notice of proposals to carry out controlled activities 17

Part 7—Miscellaneous 18
24 Internal review of certain decisions 18
25 Administrative Review Tribunal 19
26 Delegation 19

Part 8—Transitional provisions 20
Division 1—Provisions relating to this instrument as originally made 20
27 Transitional provision—applications for controlled activities 20
28 Transitional provision—declarations of prescribed airspace 20

EXPOSURE DRAFT

Part 1—Preliminary

1 Name

This instrument is the *Airports (Protection of Airspace) Regulations 2026*.

2 Commencement

(1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	**Column 2**	**Column 3**
Provisions	**Commencement**	**Date/Details**
1. The whole of this instrument	1 April 2026.	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

(2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Airports Act 1996*.

4 Object

The object of this instrument is to establish a system for the protection of airspace at, and around, airports in the interests of the safety, efficiency or regularity of existing or future air transport operations into or out of airports.

5 Definitions

Note: A number of expressions used in this instrument are defined in the Act, including the following:
(a) ***airport-operator company***;
(b) ***airport site***.

In this instrument:

Act means the *Airports Act 1996*.

Aeronautical Information Publication means the Aeronautical Information Publication within the meaning of section 181 of the Act and as in force or existing from time to time.

***building authority*:**

(a) for a building activity that is proposed to be carried out on an airport site for an airport mentioned in subsection 68(1) of the Act—means the airport building controller (within the meaning of the *Airports (Building Control) Regulations 2025*) for the airport site; or

(b) for a building activity that is proposed to be carried out on a place other than an airport site for an airport mentioned in subsection 68(1) of the Act—means the person or body authorised by law to regulate the carrying on of a building activity in that place.

CASA means the Civil Aviation Safety Authority.

controlled activity has the same meaning as in Division 4 of Part 12 of the Act.

Department of Defence means the Department administered by the Minister administering section 1 of the *Defence Act 1903*.

OLS (short for Obstacle Limitation Surface) for an airport means a surface for the airport established in accordance with Chapter 7 of the *Part 139 (Aerodromes) Manual of Standards 2019*.

prescribed airspace has the same meaning as in Part 12 of the Act.

primary airspace for an airport means:

(a) the airspace above a primary surface for the airport; or

(b) the airspace within a TIFPOP area for the airport.

primary surface for an airport means:

(a) a TIFPOP surface for the airport; or

(b) any of the following kinds of OLS for the airport:

  (i) the approach surface;

  (ii) the inner approach surface;

  (iii) the transitional surface;

  (iv) the inner transitional surface;

  (v) the baulked landing surface;

  (vi) the take-off climb surface; or

(c) a surface declared to be a primary surface for the airport in a declaration made under section 9.

responsible entity for an airport means:

(a) if there is an airport-operator company for the airport—the company; or

(b) if there is no airport-operator company for the airport—the Secretary.

secondary surface for an airport means:

(a) any of the following kinds of OLS for the airport:

  (i) the outer horizontal surface;

  (ii) the conical surface;

  (iii) the inner horizontal surface; or

(b) a surface declared to be a secondary surface for the airport in a declaration made under section 9.

Secretary means the Secretary of the Department.

sensitive controlled activity: see section 6.

temporary controlled activity means a controlled activity:

(a) that is not expected to continue longer than 3 months; or

(b) that consists of the erection of a building, structure or thing that is not intended to remain in place permanently and can be readily dismantled or removed.

Note: An example of a building, structure or thing mentioned in paragraph (b) is a tent, concrete pump, crane or elevated work platform.

terminal instrument flight procedure has the same meaning as in the *Civil Aviation Safety Regulations 1998*.

TIFPOP area (short for terminal instrument flight procedure obstacle protection area) for an airport means an area associated with any terminal instrument flight procedures for the airport that are published in the Aeronautical Information Publication.

Note: Regulation 173.100 of the *Civil Aviation Safety Regulations 1998* deals with the publication of terminal instrument flight procedures.

TIFPOP surface (short for terminal instrument flight procedure obstacle protection surface) for an airport means a surface associated with any terminal instrument flight procedures for the airport that are published in the Aeronautical Information Publication.

Note: Regulation 173.100 of the *Civil Aviation Safety Regulations 1998* deals with the publication of terminal instrument flight procedures.

working day means a day that is not any of the following:

(a) a Saturday;

(b) a Sunday;

(c) a public holiday in the place concerned;

(d) a public holiday in the Australian Capital Territory;

(e) 27, 28, 29, 30 or 31 December.

6 Sensitive controlled activities

(1) A controlled activity in relation to prescribed airspace is a ***sensitive controlled activity*** if the activity is carried out in relation to primary airspace for an airport.

(2) Despite subsection (1), a controlled activity in relation to prescribed airspace is not a ***sensitive controlled activity*** if the controlled activity is carried out entirely on an airport site.

7 Controlled activities on terrain that intrudes into secondary airspace

This section applies in relation to a controlled activity if:

(a) the terrain on which the activity is carried out intrudes into a secondary surface for an airport; and

(b) the activity is not carried out in relation to primary airspace for the airport; and

(c) if the activity is an activity referred to in paragraph 182(1)(a), (b) or (c) of the Act—the height of the building, structure or thing referred to in that paragraph is no more than 30 metres above ground level.

Part 2—Prescribed airspace

8 Prescribed airspace

(1) For the purposes of section 181 of the Act, the following are prescribed airspace:
  (a) the airspace above any part of an OLS for an airport;
  (b) the airspace above any part of a TIFPOP surface for an airport;
  (c) the airspace within any part of a TIFPOP area for an airport;
  (d) the airspace, connected with an airport, specified in a declaration made under subsection 9(1).

(2) The responsible entity for an airport must make available for inspection or purchase a chart of prescribed airspace connected with the airport.

Note: For example, the responsible entity may publish the chart on a website maintained by the responsible entity.

(3) If there are changes to the prescribed airspace connected with the airport, the responsible entity must bring the chart up to date within 40 working days beginning on the day the prescribed airspace changes.

(4) The responsible entity must publish a notice of the fact that a new chart or updated chart is available within 10 working days after the day the chart becomes available.

(5) The notice must be published in a manner that results in the notice being accessible to the public and reasonably prominent.

9 Declaration of prescribed airspace

(1) For the purposes of paragraph 8(1)(d), the Secretary may, by notifiable instrument, declare specified airspace connected with a particular airport to be prescribed airspace.

(2) Airspace connected with an airport must only be specified in the declaration if the Secretary considers that it is in the interests of the safety, efficiency or regularity of existing or future air transport operations into or out of the airport for the airspace to be prescribed airspace.

(3) In making the declaration, the Secretary:
  (a) must have regard to:
    (i) if there is a final master plan for the airport—any changes to the OLS, TIFPOP surfaces or TIFPOP areas for the airport proposed in the final master plan; and
    (ii) any advice from CASA on the matter; and
  (b) may have regard to any other matters the Secretary considers relevant.

(4) The declaration must specify the lower boundary of the specified airspace.

Section 9

(5) The declaration may declare that a surface below airspace specified in the declaration is:

(a) a primary surface for the airport for the purposes of paragraph (c) of the definition of primary surface in section 5; or

(b) a secondary surface for the airport for the purposes of paragraph (b) of the definition of secondary surface in section 5.

Part 3—Matters affecting whether an activity is a controlled activity

10 Level of air turbulence

For the purposes of subparagraph 182(1)(f)(i) of the Act, the level of air turbulence for turbulence caused by an emission from a stack or vent is upward vertical velocity of 6.1 metres per second at the point of emission.

Part 4—Approval of controlled activities

11 Purpose of this Part

This Part is made for the purposes of section 184 of the Act.

12 Application for approval to carry out controlled activity

Application may be made to carry out controlled activity

(1) A person may apply, in writing, to the responsible entity for an airport for approval to carry out a controlled activity in relation to prescribed airspace connected with the airport.

Note 1: Permission is required to apply to carry out a sensitive controlled activity (see section 13).

Note 2: A person may commit an offence against section 183 of the Act, and remedial orders may be made under section 187 of the Act, if a controlled activity is carried out other than in accordance with an approval.

Requirements

(2) The application must set out the following:
- (a) the proposed controlled activity;
- (b) the proposed location of the activity;
- (c) the proposed duration of the activity;
- (d) the purpose of the activity;
- (e) if the activity consists of the erection of a building, structure or thing:
  - (i) the proposed maximum height (above the Australian Height Datum) of the proposed building, structure or thing; and
  - (ii) the proposed maximum height (above the Australian Height Datum) of any temporary structure or equipment intended to be used in the erection of the proposed building, structure or thing;
- (f) if section 7 applies to the activity and the activity consists of the erection of a building, structure or thing:
  - (i) the proposed maximum height (above ground level) of the proposed building, structure or thing; and
  - (ii) the proposed maximum height (above ground level) of any temporary structure or equipment intended to be used in the erection of the proposed building, structure or thing.

(3) The application must be accompanied by:
- (a) if section 7 does not apply in relation to the controlled activity—a copy of an assessment by Airservices Australia, in relation to the activity, obtained by the responsible entity for the airport; and
- (b) if the controlled activity is a sensitive controlled activity—a copy of the notice given to the applicant under section 13 permitting the applicant to apply to carry out the activity.

Withdrawal of application

(4) The applicant may, in writing, withdraw the application at any time before a decision has been made on the application.

(5) If the application is withdrawn, it is taken never to have been made.

Notice

(6) The responsible entity for the airport must, within 10 working days of receiving the application, notify the applicant, in writing, of the date that the application would be deemed to be refused under subsection 18(6) if:
  (a) a decision is not made on the application within the period mentioned in subsection 18(1); and
  (b) that period is not extended in accordance with subsection 18(2); and
  (c) no further information or documents are requested under section 16 in relation to the application.

13 Permission to apply to carry out sensitive controlled activities

Permission required

(1) A person must not apply under section 12 for approval to carry out a sensitive controlled activity unless the person has first been given permission under this section.

Request for permission

(2) A person may, in writing, request permission to apply under section 12 for approval to carry out a sensitive controlled activity in relation to prescribed airspace connected with an airport.

(3) A person must make a request under subsection (2) to:
  (a) if an officer or employee of the airport-operator company for the airport may, under a delegation under subsection 26(2), make a decision on the request under this section—the company; or
  (b) otherwise—the Secretary.

Requirements

(4) The request must set out the following:
  (a) the proposed sensitive controlled activity;
  (b) the proposed location of the activity;
  (c) the proposed duration of the activity;
  (d) if the activity consists of the erection of a building, structure or thing:
    (i) the proposed maximum height (above the Australian Height Datum) of the proposed building, structure or thing; and
    (ii) the proposed maximum height (above the Australian Height Datum) of any temporary structure or equipment intended to be used in the erection of the proposed building, structure or thing;

(e) one of the following:
  (i) the emergency recovery works, emergency restoration works or public infrastructure works that the activity is required for;
  (ii) how the activity could be carried out without any significant interference to airport operations;
  (iii) the exceptional circumstances that the applicant believes justify the making of an application under section 12 for approval to carry out the activity.

When permission may be given

(5) The Secretary may, by written notice to the applicant, give the permission requested under subsection (2) if the Secretary is satisfied that:
  (a) the proposed activity would be a temporary controlled activity; and
  (b) the activity is required to carry out emergency recovery works, emergency restoration works or public infrastructure works.

(6) The Secretary may, by written notice to the applicant, give the permission requested under subsection (2) if the Secretary is satisfied that:
  (a) the proposed activity would be a temporary controlled activity; and
  (b) it is reasonably likely that the activity could be carried out without any significant interference to airport operations.

(7) The Secretary may, by written notice to the applicant, give the permission requested under subsection (2) if the Secretary is satisfied that:
  (a) the proposed activity would be a temporary controlled activity; and
  (b) exceptional circumstances exist that justify permitting an application to be made under section 12 for approval to carry out the activity.

When permission must be refused

(8) The Secretary must, by written notice to the applicant, refuse to give the permission requested under subsection (2) if:
  (a) if the request set out the matters mentioned in subparagraph (4)(e)(i)—the Secretary is not satisfied of the matters mentioned in subsection (5); or
  (b) if the request set out the matters mentioned in subparagraph (4)(e)(ii)—the Secretary is not satisfied of the matters mentioned in subsection (6); or
  (c) if the request set out the matters mentioned in subparagraph (4)(e)(iii)—the Secretary is not satisfied of the matters mentioned in subsection (7).

Note: Section 266 of the *Administrative Review Tribunal Act 2024* requires the person to be notified of the person's review rights.

Reasons for decision

(9) If the Secretary refuses under subsection (8) to give permission to make the application, the applicant may request, in writing, the Secretary to give a statement of reasons for the decision. The Secretary must comply with the request.

14 Consultation on applications to carry out controlled activities

Consultation on applications—general rule

(1) If the responsible entity for an airport receives an application under section 12 for approval to carry out a controlled activity (other than a controlled activity to which section 7 applies) the responsible entity must, within 10 working days of receiving the application:
  (a) give written notice of the application to the following authorities:
    (i) for all applications—CASA;
    (ii) if the airport is a joint-user airport—the Department of Defence; and
  (b) invite those authorities to make submissions in relation to the activity.

Consultation on applications—activities to which section 7 applies

(2) If the responsible entity for an airport receives an application for approval to carry out a controlled activity to which section 7 applies, the responsible entity may, within 10 working days of receiving the application:
  (a) give written notice of the application to the following authorities:
    (i) for all applications—CASA and Airservices Australia;
    (ii) if the airport is a joint-user airport—the Department of Defence; and
  (b) invite those authorities to make submissions in relation to the activity.

Authorities may request copies of application

(3) If an authority that is given notice of an application under subsection (1) or (2) requests, in writing, a copy of the application, the responsible entity must give the authority a copy of the application within 10 working days.

15 Giving applications to the Secretary

(1) This section applies if:
  (a) an airport-operator company for an airport receives an application under section 12 for approval to carry out a controlled activity in relation to prescribed airspace connected with the airport; and
  (b) no officer or employee of the company may, under a delegation under subsection 26(2), make a decision on the application under subsection 17(1).

(2) The airport-operator company must, within 30 working days of receiving the application, give the application, and any submissions made under section 14 in relation to the application, to the Secretary for decision.

(3) At the time the airport-operator company gives the application to the Secretary under subsection (2), the company must advise the Secretary, in writing:
  (a) whether the company supports the application; and
  (b) the date that the application was received by the company.

16 Requests for further information or documents

Request for further information or documents

(1) If the Secretary needs further information or documents to determine an application made under section 12, the Secretary may give the applicant a notice requesting the further information or documents.

Note: The period for making a decision on an application is extended when further information or documents are requested: see subsection 18(5).

(2) Subject to subsection (3), the applicant must give the requested information or documents to the Secretary within 60 working days after the day the notice is given.

Application taken to be withdrawn if information or documents not provided

(3) The application is taken to have been withdrawn if the requested information or documents are not given within the period mentioned in subsection (2).

17 Decision on application

Secretary must approve or refuse application

(1) If a person applies under section 12 for approval to carry out a controlled activity in relation to prescribed airspace connected with an airport, the Secretary must:
   (a) approve the application; or
   (b) refuse the application.

Note: Approval may be given subject to conditions (see section 20).

(2) The Secretary must approve the application unless the Secretary is satisfied that carrying out the controlled activity would interfere with the safety, efficiency or regularity of existing or future air transport operations into or out of the airport.

(3) Despite subsection (2), the Secretary must refuse the application if:
   (a) CASA has advised the Secretary that carrying out the controlled activity would have an unacceptable effect on the safety of existing or future air transport operations into or out of the airport; or
   (b) there is an airport-operator company for the airport, and the company does not support the application.

(4) Despite subsection (2), if the controlled activity would, if carried out, result in a building, structure or thing intruding into primary airspace for the airport, the Secretary must refuse the application unless the controlled activity is a temporary controlled activity.

Matters to be taken into account in considering application

(5) In considering, for the purposes of this section, the effect that the controlled activity, if carried out, will have on the safety, efficiency or regularity of existing or future air transport operations into or out of the airport concerned, the Secretary:

(a) must have regard to:
  (i) any opinion of the applicant; and
  (ii) any opinion of the airport-operator company (if any) for the airport; and
  (iii) if an authority was invited under subsection 14(1) or (2) to make submissions in relation to the application—any opinion of that authority; and
(b) may have regard to any other matters the Secretary considers relevant.

18 Period for making decision on application

Decision making period

(1) Subject to subsections (2) and (5) of this section, the Secretary must make a decision under subsection 17(1) in relation to an application within the period of 40 working days beginning on the first working day after the day the application is made under section 12.

Extension of decision making period—by notice from the Secretary

(2) The Secretary may extend the period for making a decision in relation to the application by a further period of not more than 10 working days.

(3) The Secretary must give written notice of the extension to:
  (a) the applicant; and
  (b) the airport-operator company (if any) of the airport concerned.

(4) Paragraph (3)(b) of this section does not apply in relation to a decision made under subsection (2) of this section by an officer or employee of an airport-operator company who is performing the Secretary's functions under a delegation under subsection 26(2).

Extension of decision making period—request for further information

(5) A day is not to be counted as a working day for the purposes of subsection (1) or (2) of this section if:
  (a) the Secretary has requested further information or documents under subsection 16(1) in relation to the application; and
  (b) the day is:
    (i) on or after the day the Secretary requested the further information or documents; and
    (ii) on or before the first working day after the day on which the further information or documents are given to the Secretary.

Deemed decisions

(6) If the Secretary does not make a decision within the period mentioned in subsection (1), or that period as extended in accordance with subsection (2), the Secretary is taken to have refused under this subsection the application to carry out the controlled activity.

19 Notice of decision

Notice of decision—Secretary or Departmental delegate

(1) If a decision is made under subsection 17(1) by the Secretary personally, or by a person performing the Secretary's functions under a delegation under subsection 26(1), the Secretary or person must, as soon as practicable, notify the following in writing of the decision:
  (a) in all cases:
    (i) the applicant; and
    (ii) the airport-operator company (if any) of the airport concerned; and
    (iii) CASA; and
    (iv) Airservices Australia; and
    (v) the building authority concerned;
  (b) if the airport concerned is a joint-user airport—the Department of Defence.

Notice of decision—airport-operator company delegate

(2) If a decision is made under subsection 17(1) by an officer or employee of an airport-operator company performing the Secretary's functions under a delegation under subsection 26(2), the officer or employee must, as soon as practicable, notify the following in writing of the decision:
  (a) in all cases:
    (i) the applicant; and
    (ii) CASA; and
    (iii) Airservices Australia; and
    (iv) the building authority concerned;
  (b) if the airport concerned is a joint-user airport—the Department of Defence.

Notice of decision—deemed refusal

(3) If the Secretary is taken to have refused an application under subsection 18(6), the Secretary must, as soon as practicable, notify the applicant of the deemed refusal.

Note: Section 266 of the *Administrative Review Tribunal Act 2024* requires the person to be notified of the person's review rights.

20 Approval may be subject to conditions

(1) The Secretary may approve an application under subsection 17(1) subject to conditions, if the Secretary reasonably believes that carrying out the controlled activity otherwise than in accordance with the conditions would not be in the interests of the safety, efficiency or regularity of existing or future air transport operations into or out of the airport.

(2) Without limiting subsection (1), a condition may be about how, when or by whom the controlled activity is carried out.

Note 1: For example, a condition may require:
(a) a controlled activity to be completed by a particular date; or

(b) a building, structure or thing to be marked or lit (including marked or lit in a specified way); or

(c) the preparation of a plan to manage the impact of the controlled activity on the airport or areas surrounding the airport; or

(d) the preparation of a plan to manage communication between the applicant and the airport.

Note 2: A person who carries out a controlled activity otherwise than in accordance with a condition of an approval commits an offence against section 185 of the Act. That section provides for a penalty of 250 penalty units for each such offence.

21 Revocation and variation of approvals etc.

If the Secretary is satisfied that it is necessary to do so in the interests of the safety, efficiency or regularity of existing or future air transport operations into or out of an airport, the Secretary may:

(a) revoke the approval of an application under subsection 17(1); or

(b) impose a condition on, or vary a condition of, an application approved under subsection 17(1).

Part 5—Exempt controlled activities

22 Exemption for controlled activities in relation to Sydney West Airport

For the purposes of paragraphs 183(1)(d) and 187(1)(b) of the Act, a controlled activity in relation to prescribed airspace connected with Sydney West Airport is declared to be exempt from Division 4 of Part 12 of the Act if:

(a) an airport plan for Sydney West Airport is in force; and

(b) the controlled activity is, or comprises part of, a development covered by Part 3 of the airport plan; and

(c) the activity is not carried out after 30 June 2026.

Part 6—Notification of proposals to carry out controlled activities

23 Building authority to give notice of proposals to carry out controlled activities

(1) This section is made for the purposes of section 186 of the Act.

(2) A building authority that receives a proposal for a building activity must notify the airport-operator company (if any) for an airport of the proposal if the activity, if undertaken, would constitute a controlled activity in relation to prescribed airspace connected with the airport.

Note: A building authority who fails to comply with this section commits an offence against section 186 of the Act.

(3) The notice must be given as soon as reasonably practicable and before a final decision on the proposal is made.

(4) This section does not apply in relation to a proposal for a building activity that would, if undertaken:

(a) constitute a controlled activity; and

(b) be exempt from Division 4 of Part 12 of the Act in accordance with section 22 of this instrument (exemption for controlled activities in relation to Sydney West Airport).

Part 7—Miscellaneous

24 Internal review of certain decisions

Application for review

(1) If an officer or employee of an airport-operator company, performing the functions of the Secretary under a delegation under subsection 26(2), refuses under subsection 13(8) to give a person permission to make an application, the person may request that the Secretary review the decision.

(2) The person must make the request in writing before the end of the period of 10 working days beginning on the day after the person is notified of the airport-operator company's decision.

(3) The person must set out in the request the reasons for the request.

Decision on review

(4) The Secretary, on receiving a person's request made in accordance with subsections (2) and (3):
   (a) must review the decision; and
   (b) must affirm, vary or set aside the decision; and
   (c) if the Secretary sets aside the decision—may make a new decision in substitution for the decision set aside.

(5) The Secretary must do so before the end of the period of 30 working days beginning on the day the Secretary receives the request.

Notice of decision

(6) The Secretary must give the person written notice of the Secretary's decision under subsection (4) and of the reasons for that decision.

Note: Section 266 of the *Administrative Review Tribunal Act 2024* requires the person to be notified of the person's review rights.

When decision on review takes effect

(7) The decision (the ***decision on review***) of the Secretary under subsection (4) takes effect:
   (a) unless paragraph (b) applies—on the day after the decision on review is made; or
   (b) if the notice specifies a later day on which that decision on review is to take effect—on that day.

Secretary may be taken to have affirmed decision

(8) The Secretary is taken to have made a decision under subsection (4) affirming the officer or employee's decision if the Secretary has not notified the person of

the Secretary's decision under subsection (4) before the end of the period mentioned in subsection (5).

25 Administrative Review Tribunal

An application may be made to the Administrative Review Tribunal for review of any of the following decisions:

(a) a decision of the Secretary under section 9 to make a declaration;

(b) a decision of the Secretary under subsection 13(8) to refuse to give permission to make an application;

(c) a decision of the Secretary under subsection 17(1) or 18(6) to refuse an application;

(d) a decision of the Secretary under section 24 to affirm, vary or set aside a decision.

26 Delegation

Delegation to employees in the Department

(1) The Secretary may, in writing, delegate one or more of the Secretary's functions or powers under this instrument to:

(a) an SES employee, or acting SES employee, in the Department; or

(b) an APS employee who holds, or is acting in, an Executive Level 2, or equivalent, position in the Department.

Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain provisions relating to delegations.

Delegation to officers or employees of airport-operator companies

(2) The Secretary may, in writing, delegate to an officer or employee of an airport-operator company for a particular airport:

(a) one or more of the Secretary's functions or powers under this instrument in relation to:

(i) temporary controlled activities in relation to prescribed airspace connected with that airport; or

(ii) controlled activities, in relation to prescribed airspace connected with that airport, to which section 7 apply; and

(b) any of the Secretary's functions or powers under section 13 in relation to prescribed airspace connected with that airport.

Directions to delegate

(3) A person performing functions or exercising powers under a delegation under subsection (1) or (2) must comply with any written directions of the Secretary under subsection (4).

(4) The Secretary may, in writing, give directions for the purposes of subsection (3).

Part 8—Transitional provisions

Division 1—Provisions relating to this instrument as originally made

27 Transitional provision—applications for controlled activities

The *Airports (Protection of Airspace) Regulations 1996*, as in force immediately before the commencement of the *Airports (Protection of Airspace) Legislation (Repeal and Consequential Amendments) Regulations 2026*, continue to apply on and after that commencement in relation to an application made under section 7 of the *Airports (Protection of Airspace) Regulations 1996* before that commencement.

28 Transitional provision—declarations of prescribed airspace

A declaration that was in force under regulation 5 of the *Airports (Protection of Airspace) Regulations 1996* immediately before the commencement of the *Airports (Protection of Airspace) Legislation (Repeal and Consequential Amendments) Regulations 2026* continues in force (and may be dealt with) on and after that commencement as if it had been made under section 9 of this instrument.