

1996

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Sydney Airport (Regulation of
Movements) Bill 1996**

No. , 1996

(Mr Albanese)

**A Bill for an Act to limit the number of aircraft
movements at Sydney (Kingsford-Smith) Airport,
and for related purposes**

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A Bill for an Act to limit the number of aircraft movements at Sydney (Kingsford-Smith) Airport, and for related purposes

The Parliament of Australia enacts:

Part 1—Introduction

1 Short title

This Act may be cited as the *Sydney Airport (Regulation of Movements) Act 1996*.

2 Commencement

This Act commences on the day on which it receives the Royal Assent.

Section 3

3 Crown to be bound

- (1) This Act binds the Crown in the right of the Commonwealth.
- (2) This Act does not make the Crown liable to be prosecuted for an offence.

Part 2—Limitation on number of aircraft movements

4 Limitation on number of aircraft movements

- (1) Not more than 80 aircraft movements per hour shall be permitted at Sydney (Kingsford-Smith) Airport.
- (2) If any person knowingly or recklessly allows an aircraft to take off or land at the airport in contravention of subsection (1), the person is guilty of an offence punishable, on conviction, by a fine not exceeding 200 penalty units.

Note 1: If the person is a body corporate, the maximum fine that can be imposed is 1000 penalty units (see subsection 4B(3) of the *Crimes Act 1914*);

Note 2: For the value of a penalty unit, see subsection 4AA(1) of the *Crimes Act 1914*.

5 Aircraft may take off or land in emergencies

- (1) An aircraft movement is not to be counted for the purposes of section 4 if the aircraft is involved in an emergency as described in subsection (2).
- (2) An aircraft is involved in an emergency if:
 - (a) the aircraft is being used for or in connection with
 - (i) a search and rescue operation; or
 - (ii) a medical emergency; or
 - (iii) a natural disaster; or
 - (iv) war, war-like conflict or war-like operations; or
 - (v) the response to an act of terrorism; or
 - (b) the pilot of the aircraft has declared an in-flight emergency and has reasonable grounds for doing so; or

Part 2 Limitation on number of aircraft movements

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Section 5

- 1 (c) the aircraft has insufficient fuel to be diverted to another
- 2 airport; or
- 3 (d) there is an urgent need for the aircraft to land or take off:
- 4 (i) to ensure the safety or security of the aircraft or any
- 5 person; or
- 6 (ii) to avoid damage to property.

Part 3—Provision of information

6 Authorised person must require provision of information

- (1) Each month an authorised person must, by notice in writing given to a person who has, or who can be presumed to have relevant information, require that person to give the authorised person, within 30 days of receiving the notice, information in writing relating to the number of aircraft movements, or any individual aircraft movement, at Sydney (Kingsford-Smith) Airport during the preceding month.
- (2) A person given a notice under this section must not intentionally refuse or intentionally fail to provide the information to the extent that the person is capable of doing so.
- (3) A person given a notice under this section must not provide information that is false or misleading in a material particular if:
 - (a) the person knows that the information is false or misleading in a material particular, or;
 - (b) the person is reckless as to whether the answer is false or misleading in a material particular.
- (4) A person who contravenes subsection (2) or (3) is guilty of an offence punishable on conviction by a fine not exceeding 50 penalty units.

Note 1: If the person is a body corporate the maximum penalty imposed is 250 penalty units (see subsection 4B(3) of the *Crimes Act 1914*).

Note 2: For the value of a penalty unit, see subsection 4AA(1) of the *Crimes Act 1914*.

- (5) If a person is asked to provide information under subsection (1), the person is not required to provide the information if the

Section 7

1 information might tend to incriminate the person or expose the
2 person to a penalty.

3 **7 Information to be provided to Minister and tabled in each House**

4 (1) A copy of information obtained under section 6 must be provided
5 to the Minister within 10 days of its receipt by the authorised
6 person.

7 (2) The Minister must ensure that a copy of information the Minister
8 receives under subsection (1) is tabled in each House of the
9 Parliament within 10 sitting days after its receipt by the Minister.

Part 4—Injunctions

8 Injunctions

Restraining injunctions

- (1) If a person has engaged, is engaging or is proposing to engage in any conduct in contravention of this Act, the Federal Court may, on the application of any person, grant an injunction:
- (a) restraining the person from engaging in the conduct; and
 - (b) if, in the court's opinion, it is desirable to do so—requiring the person to do something.

Performance injunctions

- (2) If:
- (a) a person has refused or failed, or is refusing or failing, or is proposing to refuse or fail, to do an act or thing; and
 - (b) the refusal or failure was, is or would be a contravention of this Act;
- the Federal Court may, on the application of any person, grant an injunction requiring the person to do that act or thing.

9 Interim injunctions

Grant of interim injunction

- (1) If an application is made to the court for an injunction under section 8 the court may, before considering the application, grant an interim injunction restraining a person from engaging in conduct of a kind referred to in that section.

Section 10

No undertakings as to damages

- (2) The court is not to require an applicant for an injunction under section 8 as a condition of granting an interim injunction, to give any undertakings as to damages.

10 Discharge etc. of injunctions

The court may discharge or vary an injunction granted under this Part.

11 Certain limits on granting injunctions not to apply

Restraining injunctions

- (1) The power of the court under this Part to grant an injunction restraining a person from engaging in conduct of a particular kind may be exercised:
- (a) if the court is satisfied that the person has engaged in conduct of that kind—whether or not it appears to the court that the person intends to engage again, or to continue to engage, in conduct of that kind; or
 - (b) if it appears to the court that, if an injunction is not granted, it is likely that the person will engage in conduct of that kind—whether or not the person has previously engaged in conduct of that kind and whether or not there is a danger of substantial damage to any person if the person engages in conduct of that kind.

Performance injunctions

- (2) The power of the court to grant an injunction requiring a person to do an act or thing may be exercised:
- (a) if the court is satisfied that the person has refused or failed to do that act or thing—whether or not it appears to the court that the person intends to refuse or fail again, or to continue to refuse or fail, to do that act or thing; or

Section 12

1 (b) if it appears to the court that, if an injunction is not granted, it
2 is likely that the person will refuse or fail to do that act or
3 thing—whether or not the person has previously refused or
4 failed to do that act or thing and whether or not there is a
5 danger of substantial damage to any person if the person
6 refuses or fails to do that act or thing.

7 **12 Other powers of the court unaffected**

8 The powers conferred on the court under this Part are in addition
9 to, and not instead of, any other powers of the court, whether
10 conferred by this Act or otherwise.

Section 13

Part 5—Miscellaneous

13 Interpretation

In this Act:

aircraft means any machine or craft that can derive support in the atmosphere from the reactions of the air.

aircraft movement means a landing or a take-off by an aircraft.

authorised person means

- (a) the Secretary; or
- (b) a person appointed in writing by the Secretary to be an authorised person for the purposes of this Act; or
- (c) a person included in a class of persons appointed in writing by the Secretary to be authorised persons for the purposes of this Act.

Federal Court means the Federal Court of Australia.

landing means the action of an aircraft when it touches the ground.

Secretary means the Secretary to the Department of Transport and Regional Development.

take-off means the action of an aircraft when it leaves the ground.

14 Amendment of *Airports Act 1996*

The *Airports Act 1996* is amended as set out in Schedule 1.

1 **Schedule 1—Amendment of the Airports Act**
2 **1996**

3 **1 Division 8 of Part 13**

4 Repeal the heading, substitute:

5 **Division 8—Part supplements Sydney Airport Curfew Act,**
6 **Sydney Airport (Regulation of Movements) Act**
7 **and Air Navigation Regulations**

8 **2 Section 210**

9 Repeal the section, substitute:

10 **210 Part supplements Sydney Airport Curfew Act and Sydney**
11 **Airport (Regulation of Movements) Act**

12 This Part has effect in addition to, and not instead of, the Sydney
13 Airport Curfew Act 1995 and the Sydney Airport (Regulation of
14 Movements) Act 1996.





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