

2022-2023-2024

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

As passed by both Houses

Sydney Airport Demand Management Amendment Bill 2024

No. , 2024

**A Bill for an Act to amend the *Sydney Airport
Demand Management Act 1997*, and for related
purposes**

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1 **A Bill for an Act to amend the *Sydney Airport***
2 ***Demand Management Act 1997, and for related***
3 **purposes**

4 The Parliament of Australia enacts:

5 **1 Short title**

6 This Act is the *Sydney Airport Demand Management Amendment*
7 *Act 2024.*

8 **2 Commencement**

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

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
2. Schedule 1	A day or days to be fixed by Proclamation. However, if any of the provisions do not commence within the period of 12 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	

Note: This table relates only to the provisions of this Act as originally enacted.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

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

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

1 **Schedule 1—Amendments**
2

3 *Sydney Airport Demand Management Act 1997*

4 **1 Title**

5 After “**limit**”, insert “**and optimise**”.

6 **2 Subsection 3(4)**

7 Repeal the table, substitute:
8

Terms that are not identified with an asterisk		
Item	This term	is defined in
1	aircraft	Schedule 1
2	Chair	Schedule 1
3	civil penalty provision	Schedule 1
4	member	Schedule 1
5	Regulatory Powers Act	Schedule 1
6	Secretary	Schedule 1
7	slot	Schedule 1
8	Sydney Airport	Schedule 1
9	this Act	Schedule 1

9 **3 At the end of subsection 4(2)**

10 Add:

11 It also provides for *recovery periods to assist in managing certain
12 disruptions to operations at Sydney Airport.

13 **4 Subsections 4(3) to (6)**

14 Repeal the subsections, substitute:

15 (3) Part 3 explains key concepts relating to *gate movements, and sets
16 out civil penalties for slot misuse. It also deals with gate
17 movements that are exempted from the *maximum movement
18 limit.

- 1 (4) Part 4 deals with the making and contents of the *Slot Management
2 Scheme. It also deals with the power of the Minister to give
3 directions in relation to slots, and the *Slot Manager’s power to
4 make *declared exemptions.
- 5 (5) Part 5 applies the framework established by the Regulatory Powers
6 Act in relation to compliance with, and enforcement of, this Act.
- 7 (6) Parts 6 and 7 deal, respectively, with the appointment etc. of the
8 *Slot Manager and the *Compliance Committee.
- 9 (6A) Part 7A deals with information management.

10 **5 Part 2 (at the end of the heading)**

11 Add “, and recovery periods”.

12 **6 Part 2 (after the heading)**

13 Insert:

14 **Division 1A—Preliminary**

15 **6A Simplified outline of this Part**

16 This Part imposes a limit (called the maximum movement limit) on
17 the number of aircraft movements in each hour (called a regulated
18 hour) outside the curfew period at Sydney Airport.

19 The Minister may determine a lower maximum movement limit for
20 a regulated hour.

21 To assist in managing certain disruptions to operations at Sydney
22 Airport, the Minister may, for a strictly limited period, declare a
23 higher maximum movement limit.

24 Airservices Australia monitors compliance with the maximum
25 movement limit.

Division 1—The maximum movement limit

7 Subsection 6(1)

Repeal the subsection, substitute:

- (1) The maximum number of *aircraft movements at Sydney Airport is:
- (a) during a *regulated hour—80 aircraft movements in the hour;
 - or
 - (b) during a *recovery hour—85 aircraft movements in the hour.

- (1A) The maximum number of *aircraft movements mentioned in subsection (1) is the ***maximum movement limit***.

Note: The Minister may determine a lower limit for a regulated hour—see section 7.

- (1B) The total number of *aircraft movements at Sydney Airport in a day must not exceed 1,360 movements outside the *curfew period for the day.

8 Subsection 6(3)

Repeal the subsection, substitute:

- (3) However, a period is not a ***regulated hour*** if it starts during, or less than 60 minutes before:
- (a) a *curfew period; or
 - (b) a *recovery hour.

Note 1: Aircraft movements during curfew periods are regulated under the *Sydney Airport Curfew Act 1995*.

Note 2: For provisions about recovery hours, see section 9B.

9 Subsection 6(5)

Omit “subsection 35(2) (which requires the *Slot Management Scheme to be consistent with the limit)”, substitute “the *Slot Management Scheme”.

10 Subsections 7(1) and (3)

Omit “subsection 6(1)”, substitute “paragraph 6(1)(a)”.

1 **11 Subsection 8(1)**

2 Omit “cause to be published in the *Gazette*”, substitute “, by notifiable
3 instrument, publish”.

4 **12 Subparagraph 8(1)(b)(i)**

5 Repeal the subparagraph, substitute:

- 6 (i) the airport-operator company (within the meaning of the
7 *Airports Act 1996*) for Sydney Airport or, if there is
8 more than one such company, the airport-management
9 company (within the meaning of that Act) for Sydney
10 Airport;

11 **13 Subsection 8(4)**

12 Repeal the subsection, substitute:

- 13 (4) This section does not limit section 17 of the *Legislation Act 2003*
14 (rule-makers should consult before making legislative
15 instruments).

16 **14 Section 9**

17 Repeal the section, substitute:

18 **9 Airservices Australia to monitor compliance with maximum**
19 **movement limit**

- 20 (1) *Airservices Australia is to monitor compliance with the
21 *maximum movement limit.
- 22 (2) *Airservices Australia is not authorised or required to take any
23 action to enforce compliance with the *maximum movement limit.
- 24 (3) If *Airservices Australia ceases to provide air traffic services at
25 Sydney Airport, the Minister may enter into an arrangement with
26 another person who provides, or who is to provide, such air traffic
27 services under which the person agrees to monitor compliance with
28 the *maximum movement limit.
- 29 (4) The regulations may require *Airservices Australia, or a person
30 mentioned in subsection (3) who provides air traffic services, to

1 publish information about compliance with the *maximum
2 movement limit.

3 (5) Subsection (4) does not limit section 70E (which is about
4 requirements to publish information).

5 **15 At the end of Part 2**

6 Add:

7 **Division 2—Recovery periods**

8 **9A Minister may make recovery period declaration**

- 9 (1) The Minister may, by written notice, make a declaration in respect
10 of a period if the Minister is satisfied that:
- 11 (a) on the day that includes the period, *aircraft movements at
12 Sydney Airport are significantly disrupted; and
 - 13 (b) the cause or circumstances of the disruption are such that
14 criteria specified by the regulations for the purposes of this
15 paragraph are met; and
 - 16 (c) *Airservices Australia has recommended to the Minister that
17 the Minister make the declaration in respect of the period.
- 18 (2) A declaration under subsection (1) is a ***recovery period***
19 ***declaration***.
- 20 (3) A *recovery period declaration must be made on the same day as
21 the period to which it relates.
- 22 (4) For the purposes of this section, it is immaterial whether the cause
23 of the disruption:
- 24 (a) directly disrupts *aircraft movements at Sydney Airport; or
 - 25 (b) occurs elsewhere and, as a consequence, indirectly disrupts
26 aircraft movements at Sydney Airport.
- 27 (5) A *recovery period declaration may be made regardless of whether
28 the disruption has ended or not.
- 29 (6) The Minister may make more than 1 *recovery period declaration
30 for a day.

1 Note: The recovery period declarations may relate to the same disruption, or
2 different disruptions, on the day.

3 (7) The Minister must cause a *recovery period declaration to be
4 published on the Department's website.

5 **9B Recovery periods and recovery hours**

6 *Meaning of **recovery period***

7 (1) The period in respect of which a *recovery period declaration is
8 made is the **recovery period**.

9 *Recovery period must be whole hours*

10 (2) The *recovery period may be expressed to be either of the
11 following:

- 12 (a) 1 whole hour;
13 (b) 2 consecutive whole hours.

14 (3) Each whole hour in the *recovery period is a **recovery hour**.

15 *Specifying start and end of recovery period*

16 (4) A *recovery period declaration must specify the time at which:

- 17 (a) the *recovery period starts; and
18 (b) the recovery period ends.

19 *Relationship with curfew period*

20 (5) The *recovery period for a day must not cover any part of the
21 *curfew period for the day.

22 *Continuation of disruption during recovery period*

23 (6) Any part of a *recovery period may be a period:

- 24 (a) before which the disruption commenced; or
25 (b) during which the disruption continues.

Requirements specified by regulations

- (7) A *recovery period declaration must comply with the requirements (if any) for the declaration specified in the regulations.

16 Part 3 (heading)

Omit “**Penalties for unauthorised gate movements**”, substitute “**Civil penalties for slot misuse**”.

17 Before Division 1 of Part 3

Insert:

Division 1—Preliminary**10A Simplified outline of this Part**

This Part contains civil penalties for slot misuse at Sydney Airport.

Slot misuse by an operator of an aircraft includes the following:

- (a) failing to use an allocated slot;
- (b) conducting a gate movement without an allocated slot;
- (c) conducting a gate movement outside the period for which the slot is allocated;
- (d) conducting flight operations otherwise than in accordance with prescribed requirements for a slot;
- (e) applying for the allocation of slots without reasonably practicable plans to use the gate movements permitted by the slots;
- (f) failing to return certain unused slots to the Slot Manager, or to transfer the slots to another operator.

The civil penalties apply to all gate movements at Sydney Airport, other than some specified exceptions.

18 Division 1 of Part 3

Renumber as Division 2.

1 **19 Section 10 (notes)**

2 Repeal the notes, substitute:

- 3 Note 1: Regarding paragraph (b), a slot may have been allocated for the gate
4 movement because the aircraft movement was scheduled to occur
5 before or after the curfew period. In that case, this Part applies to the
6 gate movement even if the aircraft movement actually occurs during
7 the curfew period.
- 8 Note 2: Aircraft movements during curfew periods are regulated under the
9 *Sydney Airport Curfew Act 1995*. Slots cannot be allocated under this
10 Act for times during curfew periods (see subsection 37(2) of this Act).

11 **20 Sections 11 to 13**

12 Repeal the sections.

13 **21 Divisions 2, 3 and 4 of Part 3**

14 Repeal the Divisions, substitute:

15 **Division 3—Key concepts relating to gate movements**

16 **11 Meaning of *gate movement***

17 *Gate movement* means:

- 18 (a) the first movement of an aircraft after its external doors have
19 been closed in preparation for an *aircraft movement that is a
20 take-off; or
- 21 (b) the last movement of an aircraft immediately before the
22 moment when, after an aircraft movement that is a landing,
23 the aircraft parks at a bay.

24 **12 Meaning of *no-slot movement***

25 A *gate movement on a day is a ***no-slot movement*** for that day if
26 no slot permitting the movement on the day on which it occurs has
27 been allocated under the *Slot Management Scheme.

28 **13 Meaning of *off-slot movement***

- 29 (1) A *gate movement on a day is an ***off-slot movement*** for that day if:
- 30 (a) a slot permitting the movement on the day on which it occurs
31 has been allocated under the *Slot Management Scheme; but

(b) either of the following applies:

- (i) for a flight with a *block time of less than 3 hours—the movement occurs more than 15 minutes before or after the time specified for the movement by the slot;
- (ii) for a flight with a block time of 3 hours or more—the movement occurs more than 30 minutes before or after the time specified for the movement by the slot.

(2) The regulations may prescribe circumstances in which a *gate movement is an *off-slot movement*.

14 Meaning of *block time*

Block time, for a flight, means the scheduled time between:

- (a) the first movement of the aircraft after its external doors have been closed in preparation for an *aircraft movement that is a take-off; and
- (b) the last movement of the aircraft immediately before the moment when, after an aircraft movement that is a landing, the aircraft parks at a bay.

Division 4—Civil penalty provisions for slot misuse

15 Civil penalty—failure to use allocated slot

(1) A person contravenes this subsection if:

- (a) the person is the *operator of an aircraft; and
- (b) the operator has been allocated a slot under the *Slot Management Scheme to permit a *gate movement of the aircraft on a day; and
- (c) the aircraft does not engage in the gate movement on the day.

Civil penalty: 60 penalty units.

Exception—declared exemption

(2) Subsection (1) does not apply if the failure to engage in the *gate movement is covered by a *declared exemption.

Note: A defendant bears an evidential burden in relation to the matters in this subsection (see section 96 of the Regulatory Powers Act).

Exception—Slot Manager’s agreement

- (3) Subsection (1) does not apply if the *Slot Manager has agreed in writing, at the time of allocating the slot, to the *operator not using the *gate movement for the aircraft.

Note: A defendant bears an evidential burden in relation to the matters in this subsection (see section 96 of the Regulatory Powers Act).

Exception—operator returns or transfers slot

- (4) Subsection (1) does not apply if, before the day on which the *gate movement was permitted by the slot, the *operator:
- (a) returned the slot to the *Slot Manager under the *Slot Management Scheme; or
 - (b) transferred the slot to another person who holds slots under the Slot Management Scheme.

Note: A defendant bears an evidential burden in relation to the matters in this subsection (see section 96 of the Regulatory Powers Act).

16 Civil penalty—no-slot movement

- (1) A person contravenes this subsection if:
- (a) the person is the *operator of an aircraft; and
 - (b) the aircraft engages in a *gate movement on a day; and
 - (c) the movement is a *no-slot movement for that day.

Civil penalty: 60 penalty units.

Exception—circumstances outside operator’s control

- (2) Subsection (1) does not apply if the circumstances that caused the *gate movement to occur on the day were outside the *operator’s reasonable control.

Note: A defendant bears an evidential burden in relation to the matters in this subsection (see section 96 of the Regulatory Powers Act).

17 Civil penalty—off-slot movement

- (1) A person contravenes this subsection if:
- (a) the person is the *operator of an aircraft; and
 - (b) the aircraft engages in a *gate movement on a day; and

1 (c) the movement is an *off-slot movement for that day.

2 Civil penalty: 60 penalty units.

3 *Exception—declared exemption*

4 (2) Subsection (1) does not apply if the *gate movement is covered by
5 a *declared exemption.

6 Note: A defendant bears an evidential burden in relation to the matters in
7 this subsection (see section 96 of the Regulatory Powers Act).

8 *Exception—circumstances outside operator’s control*

9 (3) Subsection (1) does not apply if the circumstances that caused the
10 *gate movement to occur at the time it did were outside the
11 *operator’s reasonable control.

12 Note: A defendant bears an evidential burden in relation to the matters in
13 this subsection (see section 96 of the Regulatory Powers Act).

14 **18 Civil penalty—flight operations not in accordance with slot**
15 **requirements**

16 (1) A person contravenes this subsection if:

- 17 (a) the person is the *operator of an aircraft; and
18 (b) a slot has been allocated under the *Slot Management
19 Scheme that permits a *gate movement for the aircraft on a
20 day; and
21 (c) the aircraft engages in a gate movement on that day; and
22 (d) the movement does not comply with one or more
23 requirements of the slot for the movement that are specified
24 by the Slot Management Scheme for the purposes of this
25 paragraph.

26 Civil penalty: 60 penalty units.

27 *Exception—declared exemption*

28 (2) Subsection (1) does not apply if the failure to comply with the
29 requirement of the slot for the *gate movement is covered by a
30 *declared exemption.

1 Note: A defendant bears an evidential burden in relation to the matters in
2 this subsection (see section 96 of the Regulatory Powers Act).

3 *Exception—Slot Manager’s agreement*

4 (3) Subsection (1) does not apply if the *Slot Manager has agreed in
5 writing to the *gate movement for the aircraft not complying with
6 the requirement of the slot for the movement.

7 Note: A defendant bears an evidential burden in relation to the matters in
8 this subsection (see section 96 of the Regulatory Powers Act).

9 **19 Civil penalty—applying for slots with no reasonable prospects of**
10 **use**

11 (1) A person (the **airline**) contravenes this subsection if:
12 (a) the airline customarily operates aircraft providing air
13 services; and
14 (b) the airline applies for the allocation of one or more slots
15 under the *Slot Management Scheme; and
16 (c) at the time of the application, the airline has no reasonably
17 practicable plans to conduct one or more of the *gate
18 movements permitted by the slots.

19 Civil penalty: 60 penalty units.

20 *Exception—airline notifies intention to Slot Manager*

21 (2) Subsection (1) does not apply if the airline notifies the *Slot
22 Manager, at the time of making the application, that the airline
23 does not at that time plan to conduct one or more specified *gate
24 movements permitted by the slots.

25 Note: A defendant bears an evidential burden in relation to the matters in
26 this subsection (see section 96 of the Regulatory Powers Act).

27 *Evidentiary matters*

28 (3) In proceedings for a contravention of subsection (1), it is not
29 necessary to prove that the airline had no reasonably practicable
30 plans to conduct a particular *gate movement permitted by a
31 particular slot.

-
- 1 (4) In determining whether an airline has contravened subsection (1),
 2 the court may have regard to the airline’s conduct generally in
 3 relation to the following:
 4 (a) *gate movements;
 5 (b) applications for slots;
 6 (c) use of slots;
 7 (d) variations of slots;
 8 (e) surrender of slots.
- 9 (5) Subsection (4) does not limit the matters to which the court may
 10 have regard in deciding whether an airline has contravened
 11 subsection (1).

12 **20 Civil penalty—failure to return or transfer unused slots**

- 13 (1) A person (the **airline**) contravenes this subsection if:
 14 (a) the airline customarily operates aircraft providing air
 15 services; and
 16 (b) the airline has been allocated one or more slots under the
 17 *Slot Management Scheme; and
 18 (c) the airline:
 19 (i) decides not to offer, or to no longer offer, an air service
 20 for which allocation of the slots was sought; or
 21 (ii) becomes aware of other circumstances that make it
 22 unlikely that the airline will use the *gate movements
 23 permitted by the slots for an air service for which
 24 allocation of the slots was sought; and
 25 (d) the airline does not return the slots to the *Slot Manager, or
 26 transfer the slots to another person who holds slots under the
 27 Slot Management Scheme:
 28 (i) in the case of subparagraph (c)(i)—within 14 days after
 29 making the decision; or
 30 (ii) in the case of subparagraph (c)(ii)—within 14 days after
 31 becoming aware of the other circumstances.
- 32 Civil penalty: 60 penalty units.

1 *Relationship with slot return deadline*

2 (2) For the purposes of subsection (1), it is immaterial whether the
3 conduct, or part of the conduct, of the airline alleged to constitute
4 the contravention occurs before, on or after any deadline specified
5 by the *Slot Management Scheme for the return of unused slots by
6 holders of the slots.

7 *Evidentiary matters*

8 (3) In proceedings for a contravention of subsection (1), it is not
9 necessary to prove that the airline would not have conducted, or
10 was unlikely to conduct, a particular *gate movement permitted by
11 a particular slot.

12 (4) In determining whether an airline has contravened subsection (1),
13 the court may have regard to the airline’s conduct generally in
14 relation to the following:

- 15 (a) *gate movements;
16 (b) applications for slots;
17 (c) use of slots;
18 (d) variations of slots;
19 (e) surrender of slots.

20 (5) Subsection (4) does not limit the matters to which the court may
21 have regard in deciding whether an airline has contravened
22 subsection (1).

23 **22 Section 29 (heading)**

24 Omit “**grants dispensation**”, substitute “**makes declared exemption**
25 **under section 48**”.

26 **23 Paragraph 29(b)**

27 Repeal the paragraph, substitute:

- 28 (b) a *declared exemption made under section 48 covers the
29 *gate movement; or

30 **24 Section 31**

31 Repeal the section.

25 Subparagraph 32(a)(ii)

Omit “his or her duties as such a member”, substitute “the member’s duties”.

26 Divisions 1 and 2 of Part 4

Repeal the Divisions, substitute:

Division 1—Preliminary

33 Simplified outline of this Part

The Slot Management Scheme is the main instrument for allocation and management of slots at Sydney Airport.

This Part deals with making the Slot Management Scheme and its contents.

It also covers the Minister’s power in relation to slots, and the Slot Manager’s power to make declared exemptions.

Division 2—Slot Management Scheme

34 Minister to make Slot Management Scheme

(1) The Minister must, by legislative instrument, make a scheme (the ***Slot Management Scheme***) for the allocation and management of permissions for *gate movements at Sydney Airport.

(2) A permission for a *gate movement is called a ***slot***.

Note: For the key features of a slot, see section 38.

35 Core contents of Slot Management Scheme

(1) The *Slot Management Scheme must provide a system for the allocation and management of slots at Sydney Airport.

(2) The Scheme may deal with any matter relating to the system mentioned in subsection (1), including the following matters:
(a) allocation of slots;

- 1 (b) conditions imposed on the use of slots;
2 (c) variation of slots;
3 (d) swapping of slots;
4 (e) suspension of slots;
5 (f) surrender of slots;
6 (g) cancellation of slots.
- 7 (3) Subsection (2) does not limit subsection 33(3A) of the *Acts*
8 *Interpretation Act 1901*.
- 9 (4) The Scheme may make provision in relation to a slot by reference
10 to:
11 (a) specified categories of *gate movements; or
12 (b) any other matter.

13 **36 Other matters covered by Slot Management Scheme**

14 *Required matters*

- 15 (1) The *Slot Management Scheme must set out the circumstances in
16 which the *Slot Manager may make a *declared exemption.
17 Note: For declared exemptions, see Division 4.
- 18 (2) The Scheme must be consistent with the additional requirements (if
19 any) for the Scheme specified in the regulations.

20 *Permitted matters*

- 21 (3) The Scheme may make provision in relation to the exercise of the
22 *Slot Manager's functions.
- 23 (4) The Scheme may provide for the authorisation of persons other
24 than the *Slot Manager to exercise powers, or perform functions, of
25 the Slot Manager relating to:
26 (a) the allocation of slots; or
27 (b) the management of slots that have been allocated.
- 28 (5) The Scheme may confer functions and powers on the Minister.
- 29 (6) The Scheme may contain provisions dealing with the
30 reconsideration of decisions made under the Scheme by:

- 1 (a) the Minister; or
- 2 (b) the *Slot Manager.

37 Restrictions on Slot Management Scheme

- 4 (1) The *Slot Management Scheme must be consistent with the
- 5 *maximum movement limit for *aircraft movements at Sydney
- 6 Airport.

7 Note: For the *maximum movement limit*, see section 6.

- 8 (2) The Scheme must not allow slots to be allocated for times during
- 9 *curfew periods.

- 10 (3) The Scheme must be consistent with any requirements of the
- 11 *Sydney Airport Curfew Act 1995* relating to *aircraft movements
- 12 before or after *curfew periods.

- 13 (4) Except as provided in this section, this Division does not limit the
- 14 matters that may be dealt with by the Scheme.

38 Key features of a slot

- 16 (1) A slot allocated under the *Slot Management Scheme permits a
- 17 specified *gate movement at a specified time on a specified day.
- 18 (2) The use of a slot may be subject to conditions imposed on the slot.
- 19 (3) A slot allocated under the Scheme is not transferable, except in
- 20 accordance with provisions in the Scheme about swapping slots.
- 21 (4) A slot:
- 22 (a) is not property; and
- 23 (b) does not create rights or obligations that are enforceable
- 24 against any person.
- 25 (5) The permission granted by a slot is subject to other laws that
- 26 impose requirements or restrictions on or in relation to *aircraft
- 27 movements or *gate movements.

27 Division 3 of Part 4 (heading)

29 Repeal the heading, substitute:

Division 3—Minister’s power in relation to slots

28 Subsection 46(2)

Repeal the subsection, substitute:

- (2) Each of the following must comply with the direction:
- (a) the *Slot Manager;
 - (b) any person authorised by the Slot Manager, under the *Slot Management Scheme, to exercise powers or perform functions of the Slot Manager in relation to the allocation or management of slots.

29 Subsection 46(6)

Omit “to be taken to be”.

30 Section 47

Repeal the section.

31 At the end of Part 4

Add:

Division 4—Slot Manager’s power to make declared exemptions

47 Declared exemptions relating to allocated slots

The *Slot Manager may, by instrument in writing, declare that one or more specified *gate movements that occur, or that are scheduled to occur, during the period covered by the declaration are not required to be conducted in accordance with their allocated slots, or at all.

Note: An aircraft movement that is associated with a gate movement covered by a declared exemption under this section is counted towards to the maximum movement limit.

48 Declared exemptions in exceptional circumstances

- (1) The *Slot Manager may, by instrument in writing, authorise the *operator of an aircraft to conduct a *gate movement in

circumstances where the conduct of the gate movement would otherwise contravene a civil penalty provision of this Act.

Note: An aircraft movement that is associated with a gate movement covered by a declared exemption under this section is *not* counted towards the maximum movement limit: see subsection 6(4) and paragraph 29(b).

- (2) An instrument may be made under subsection (1) only if the *Slot Manager is satisfied that the *gate movement permitted by the instrument is necessary to protect:
- (a) the health or safety of any person; or
 - (b) the security, defence or international relations of the Commonwealth.

49 General matters relating to declared exemptions

Declared exemption must be permitted by Scheme

- (1) A *declared exemption may be made by the *Slot Manager only in the circumstances permitted by the *Slot Management Scheme.

Conditions on, and classes of, declared exemptions

- (2) A *declared exemption may be made subject to conditions.
- (3) A *declared exemption may be made in relation to any of the following:
- (a) a specified *gate movement of a specified aircraft on a specified day;
 - (b) the gate movements of some or all aircraft on a specified day;
 - (c) the whole or a part of a specified day.
- (4) Subsection (3) does not limit subsection 33(3A) of the *Acts Interpretation Act 1901*.

Notifying declared exemption

- (5) The *Slot Manager must notify the making of a *declared exemption in accordance with the requirements of the *Slot Management Scheme.

Declared exemption not a legislative instrument

(6) A *declared exemption is not a legislative instrument.

50 When declared exemption covers a gate movement

A *declared exemption covers a *gate movement if:

- (a) for a gate movement conducted by the *operator of an aircraft—the declared exemption allows the operator to conduct the movement; or
- (b) for a gate movement that the operator of an aircraft is permitted to conduct but does not conduct—the declared exemption allows the operator to not conduct the movement; or
- (c) for a gate movement that is conducted otherwise than in accordance with the requirements of the slot for the movement—the declared exemption allows the movement to not comply with the requirement of the slot.

32 Part 5

Repeal the Part, substitute:

Part 5—Compliance and enforcement

51 Simplified outline of this Part

This Part applies the framework established by the Regulatory Powers Act in relation to certain compliance and enforcement matters.

Those matters are the enforcement of civil penalty provisions, as well as the use of infringement notices, enforceable undertakings and injunctions.

52 Civil penalty provisions

Enforceable civil penalty provisions

- (1) Each civil penalty provision of this Act is enforceable under Part 4 of the Regulatory Powers Act.

Note: Part 4 of the Regulatory Powers Act allows a civil penalty provision to be enforced by obtaining an order for a person to pay a pecuniary penalty for the contravention of the provision.

Authorised applicant

- (2) For the purposes of Part 4 of the Regulatory Powers Act, each of the following persons is an authorised applicant in relation to the civil penalty provisions of this Act:

- (a) the Minister;
- (b) the Secretary;
- (c) an SES employee, or an acting SES employee, in the Department.

Relevant court

- (3) For the purposes of Part 4 of the Regulatory Powers Act, each of the following courts is a relevant court in relation to the civil penalty provisions of this Act:

- (a) the Federal Court of Australia;
- (b) the Federal Circuit and Family Court of Australia (Division 2);
- (c) a court of a State or Territory that has jurisdiction in relation to matters arising under this Act.

Extension to external Territories

- (4) Part 4 of the Regulatory Powers Act, as that Part applies in relation to the civil penalty provisions of this Act, extends to every external Territory.

Liability of Crown

- (5) Part 4 of the Regulatory Powers Act, as that Part applies in relation to the civil penalty provisions of this Act, does not make the

1 Crown liable to be subject to civil proceedings for a contravention
2 of a civil penalty provision.

3 **53 Infringement notices**

4 *Provisions subject to an infringement notice*

5 (1) Each civil penalty provision of this Act is subject to an
6 infringement notice under Part 5 of the Regulatory Powers Act.

7 Note: Part 5 of the Regulatory Powers Act creates a framework for using
8 infringement notices in relation to provisions.

9 *Infringement officer*

10 (2) For the purposes of Part 5 of the Regulatory Powers Act, each of
11 the following persons is an infringement officer in relation to the
12 civil penalty provisions of this Act:

- 13 (a) the Minister;
14 (b) the Secretary;
15 (c) an SES employee, or an acting SES employee, in the
16 Department.

17 *Relevant chief executive*

18 (3) For the purposes of Part 5 of the Regulatory Powers Act, the
19 Secretary is the relevant chief executive in relation to the civil
20 penalty provisions of this Act.

21 *Extension to external Territories*

22 (4) Part 5 of the Regulatory Powers Act, as that Part applies in relation
23 to the civil penalty provisions of this Act, extends to every external
24 Territory.

25 **54 Enforceable undertakings**

26 *Enforceable provisions*

27 (1) The provisions of this Act are enforceable under Part 6 of the
28 Regulatory Powers Act.

1 Note: Part 6 of the Regulatory Powers Act creates a framework for
2 accepting and enforcing undertakings relating to compliance with
3 provisions.

4 *Authorised person*

5 (2) For the purposes of Part 6 of the Regulatory Powers Act, each of
6 the following persons is an authorised person in relation to the
7 provisions of this Act:

- 8 (a) the Minister;
- 9 (b) the Secretary;
- 10 (c) an SES employee, or an acting SES employee, in the
11 Department.

12 *Relevant court*

13 (3) For the purposes of Part 6 of the Regulatory Powers Act, each of
14 the following courts is a relevant court in relation to the provisions
15 of this Act:

- 16 (a) the Federal Court of Australia;
- 17 (b) the Federal Circuit and Family Court of Australia
18 (Division 2);
- 19 (c) a court of a State or Territory that has jurisdiction in relation
20 to matters arising under this Act.

21 *Enforceable undertaking may be published on the Department's*
22 *website*

23 (4) An authorised person in relation to the provisions of this Act for
24 the purposes of Part 6 of the Regulatory Powers Act may publish
25 an undertaking given in relation to a provision of this Act on the
26 Department's website.

27 *Extension to external Territories*

28 (5) Part 6 of the Regulatory Powers Act, as that Part applies in relation
29 to the provisions of this Act, extends to every external Territory.

55 Injunctions

Enforceable provisions

- (1) The provisions of this Act are enforceable under Part 7 of the Regulatory Powers Act.

Note: Part 7 of the Regulatory Powers Act creates a framework for using injunctions to enforce provisions.

Authorised person

- (2) For the purposes of Part 7 of the Regulatory Powers Act, each of the following persons is an authorised person in relation to the provisions of this Act:

- (a) the Minister;
- (b) the Secretary;
- (c) an SES employee, or an acting SES employee, in the Department.

Relevant court

- (3) For the purposes of Part 7 of the Regulatory Powers Act, each of the following courts is a relevant court in relation to the provisions of this Act:

- (a) the Federal Court of Australia;
- (b) the Federal Circuit and Family Court of Australia (Division 2);
- (c) a court of a State or Territory that has jurisdiction in relation to matters arising under this Act.

Extension to external Territories

- (4) Part 7 of the Regulatory Powers Act, as that Part applies in relation to the provisions of this Act, extends to every external Territory.

33 Before section 60

Insert:

60A Simplified outline of this Part

There is a Slot Manager for Sydney Airport. A key function of the Slot Manager is administering the Slot Management Scheme.

The Minister appoints the Slot Manager.

The Slot Manager may charge fees for certain functions it performs.

34 Subsection 60(2)

Omit “of the Slot Manager”, substitute “of the *Slot Manager”.

35 Paragraph 60(2)(a)

Repeal the paragraph, substitute:

(a) administer the *Slot Management Scheme; and

36 Paragraph 60(2)(b)

Omit “, the regulations, the *Slot Management Scheme or the *Compliance Scheme”.

37 Subsection 61(1)

Omit “Slot Manager”, substitute “*Slot Manager”.

38 After subsection 62(2)

Insert:

Application of the finance law

(2A) An officer, employee or agent of the *Slot Manager is not an official for the purposes of the finance law (within the meaning of the *Public Governance, Performance and Accountability Act 2013*).

39 Paragraph 62(5)(c)

Repeal the paragraph, substitute:

(c) any person authorised by the Slot Manager, under the *Slot Management Scheme, to exercise powers or perform

1 functions of the Slot Manager in relation to the allocation or
2 management of slots.

3 **40 Paragraph 64(3)(a)**

4 Omit “to the Slot Manager”, substitute “to the *Slot Manager”.

5 **41 Paragraph 64(3)(b)**

6 Omit “under provisions of the *Slot Management Scheme referred to in
7 subsection 35(3)”, substitute “by the Slot Manager, under the *Slot
8 Management Scheme, to exercise powers or perform functions of the
9 Slot Manager in relation to the allocation or management of slots who
10 is”.

11 **42 At the end of Part 6**

12 Add:

13 **65A Slot Manager may charge fees**

14 (1) The *Slot Manager may charge a fee in relation to anything done in
15 performing its function of allocating and managing slots under the
16 *Slot Management Scheme.

17 (2) A fee must not be such as to amount to taxation.

18 **43 Sections 66 to 69**

19 Repeal the sections, substitute:

20 **66A Simplified outline of this Part**

21 This Part establishes the Compliance Committee and sets out its
22 membership and functions.

23 The regulations may make provision for matters relating to the
24 Compliance Committee.

25 **66 The Compliance Committee**

26 (1) The Compliance Committee is established by this section.

Membership

- (2) The *Compliance Committee consists of the following members:
- (a) the Chair;
 - (b) a representative of the airport-operator company (within the meaning of the *Airports Act 1996*) for Sydney Airport or, if there is more than one such company, a representative of the airport-management company (within the meaning of that Act) for Sydney Airport;
 - (c) a representative of the *Slot Manager;
 - (d) a representative of *Airservices Australia;
 - (e) 3 other members.

Appointment of members

- (3) The Chair and the members mentioned in paragraph (2)(e) are to be appointed, in writing, by the Minister.

Note: A member may be reappointed: see section 33AA of the *Acts Interpretation Act 1901*.

- (4) The Chair must be a person who is independent from:
- (a) an airport-operator company (within the meaning of the *Airports Act 1996*) for Sydney Airport; and
 - (b) the *Slot Manager; and
 - (c) *Airservices Australia; and
 - (d) an airline that customarily provides air services (whether or not from Sydney Airport); and
 - (e) any other person prescribed by the regulations for the purposes of this paragraph.
- (5) A person is not eligible to be a member unless the Minister is satisfied that the person has appropriate qualifications, knowledge, skills or experience.

Functions

- (6) The *Compliance Committee has the following functions:
- (a) on its own initiative or at the request of the Minister, to inquire into and report to the Minister about any of the following matters:

- 1 (i) the allocation or use of slots at Sydney Airport;
2 (ii) *gate movements at Sydney Airport;
3 (iii) compliance with this Act;
4 (b) to publish information held by the Committee in accordance
5 with the regulations;
6 (c) such other functions as are conferred on the Committee by
7 this Act;
8 (d) to do anything incidental to, or conducive to, the
9 performance of the above functions.

10 *Minister's requests*

- 11 (7) The Minister may, in writing, request the *Compliance Committee
12 to inquire into and report to the Minister about any matter.
13 (8) If the Minister makes such a request, the Minister may determine
14 the *Compliance Committee's terms of reference for conducting
15 the inquiry and reporting to the Minister.
16 (9) The request must comply with the requirements (if any) prescribed
17 by the regulations.
18 (10) A request under subsection (7) is not a legislative instrument.

19 **67A Minister may give directions to the Compliance Committee**

- 20 (1) The Minister may, by notifiable instrument, give written directions
21 to the *Compliance Committee about the performance of its
22 functions.
23 (2) A direction under subsection (1) must be of a general nature only.
24 (3) The *Compliance Committee must comply with a direction under
25 subsection (1).

26 **67 Regulations may provide for matters relating to the Compliance**
27 **Committee**

28 The regulations may make provision for or in relation to the
29 *Compliance Committee, including for or in relation to the
30 following matters:

- 31 (a) the operation and procedures of the Committee;

-
- 1 (b) the appointment of members, including, but not limited to:
 - 2 (i) how many members may be appointed; and
 - 3 (ii) selection criteria or other requirements for appointment;
 - 4 and
 - 5 (iii) the duration of appointments; and
 - 6 (iv) the terms and conditions of appointments; and
 - 7 (v) the appointment of acting members; and
 - 8 (vi) the termination of appointments;
 - 9 (c) the resignation of members;
 - 10 (d) disclosures of interests by members;
 - 11 (e) leave of absence of members;
 - 12 (f) deputies of members;
 - 13 (g) meetings of the Committee, including, but not limited to:
 - 14 (i) convening of meetings of the Committee; and
 - 15 (ii) the number of members who are to constitute a quorum;
 - 16 and
 - 17 (iii) the selection of a member to preside at meetings of the
 - 18 Committee in the absence of the Chair; and
 - 19 (iv) the manner in which questions arising at a meeting of
 - 20 the Committee are to be decided;
 - 21 (h) requests made by the Minister under subsection 66(7);
 - 22 (i) administrative and other support for the Committee.

23 **68 Remuneration**

- 24 (1) A member is to be paid the remuneration that is determined by the
- 25 Remuneration Tribunal. If no determination of that remuneration
- 26 by the Tribunal is in operation, the member is to be paid the
- 27 remuneration that is prescribed by the regulations.
- 28 (2) However, a member is not entitled to be paid remuneration if the
- 29 member is:
- 30 (a) the representative of an airport-operator company (within the
- 31 meaning of the *Airports Act 1996*) for Sydney Airport; or
- 32 (b) the representative of the *Slot Manager; or
- 33 (c) the representative of *Airservices Australia.

- 1 (3) A member entitled to be paid remuneration is to be paid the
2 allowances that are prescribed by the regulations.
- 3 (4) This section has effect subject to the *Remuneration Tribunal Act*
4 *1973*.

5 **69 Application of the finance law**

6 A member is not an official of the Department for the purposes of
7 the finance law (within the meaning of the *Public Governance,*
8 *Performance and Accountability Act 2013*).

9 **69A Protection from civil actions**

10 A member is not liable to an action or other proceeding for
11 damages for, or in relation to, an act done or omitted to be done in
12 good faith by the member in the performance or purported
13 performance of any function of the *Compliance Committee.

14 **69B Legal position of the Compliance Committee**

15 The *Compliance Committee, or a member acting as such a
16 member, is not to be taken:
17 (a) to be the Commonwealth or a Commonwealth authority; or
18 (b) to be established for a public purpose or for a purpose of the
19 Commonwealth; or
20 (c) to hold a Commonwealth office or to be a Commonwealth
21 officer; or
22 (d) to be a public authority or an agency or instrumentality of the
23 Crown;
24 (within the ordinary meaning of the expression concerned) for the
25 purposes of a law of the Commonwealth, or of a State or Territory,
26 unless that law, or regulations made for the purposes of this
27 section, expressly provide otherwise.

28 **44 Before Part 8**

29 Insert:

Part 7A—Information management

70A Simplified outline of this Part

This Part contains obligations in relation to following aspects of information management:

- (a) the Minister’s power to require a person to give information or produce documents;
- (b) records;
- (c) publication of information.

The Minister may share information or documents with certain entities.

There is a prohibition on disclosure of protected information by certain entrusted persons.

70B References to Slot Manager

A reference in this Part to the *Slot Manager includes any person authorised by the Slot Manager, under the *Slot Management Scheme, to exercise powers or perform functions of the Slot Manager in relation to the allocation or management of slots.

70C Minister may require information or documents

Scope

- (1) This section applies if the Minister believes, on reasonable grounds, that a person is capable of giving any information, or producing any document, that is relevant to:
 - (a) the allocation or use of slots at Sydney Airport; or
 - (b) *gate movements at Sydney Airport; or
 - (c) compliance with this Act; or
 - (d) administering or enforcing a civil penalty provision of this Act; or
 - (e) investigating an offence provision of the *Crimes Act 1914* or the *Criminal Code*, to the extent that it relates to this Act; or

- 1 (f) performing functions, or exercising powers, under or for the
2 purposes of this Act.

3 *Minister may give notice requiring information or document*

- 4 (2) The Minister may, by written notice, require the person to give the
5 information, or produce the document, to any one or more of the
6 following:
7 (a) the Minister;
8 (b) the Secretary;
9 (c) an APS employee in the Department;
10 (d) *Airservices Australia;
11 (e) the *Slot Manager;
12 (f) the *Compliance Committee.
- 13 (3) The notice must specify the following:
14 (a) how the person is to give the information or produce the
15 document;
16 (b) the period (which must be at least 14 days after the day the
17 notice is given) within which the person is to give the
18 information or produce the document;
19 (c) the effect of subsection (4) and sections 137.1 and 137.2 of
20 the *Criminal Code*.

21 *Civil penalty—notice requiring information or document*

- 22 (4) A person is liable to a civil penalty if the person fails or refuses to
23 comply with a notice under this section.

24 Civil penalty: 60 penalty units.

25 *Exception—certain recipients*

- 26 (5) Subsection (4) does not apply to the following:
27 (a) the *Compliance Committee;
28 (b) a Commonwealth entity (within the meaning of the *Public*
29 *Governance, Performance and Accountability Act 2013*) that:
30 (i) has functions involving matters relevant to operations at
31 Sydney Airport; and

1 (ii) is prescribed by the regulations for the purposes of this
2 paragraph.

3 Note: A defendant bears an evidential burden in relation to the matters in
4 this subsection (see section 96 of the Regulatory Powers Act).

5 *Exception—person not capable of complying*

6 (6) Subsection (4) does not apply to the extent that the person is not
7 capable of complying with the notice.

8 Note: A defendant bears an evidential burden in relation to the matters in
9 this subsection (see section 96 of the Regulatory Powers Act).

10 *Commercially sensitive information*

11 (7) A person is not excused from complying with a notice under this
12 section merely because the information or document specified in
13 the notice is or contains *commercially sensitive information.

14 *Use and disclosure*

15 (8) Information or documents obtained under this section may be used
16 for the purposes of administering this Act, including, but not
17 limited to, the following purposes:

- 18 (a) ensuring compliance with this Act;
- 19 (b) administering or enforcing a civil penalty provision of this
20 Act;
- 21 (c) investigating an offence provision of the *Crimes Act 1914* or
22 the *Criminal Code*, to that the extent that it relates to this
23 Act;
- 24 (d) performing functions, or exercising powers, under or for the
25 purposes of this Act.

26 Note: If the information or documents are protected information,
27 sections 70G and 70H will apply to their use and disclosure.

28 **70D Requirements in relation to records**

29 *Scope*

30 (1) This section applies to the following persons (each a ***regulated***
31 ***entity***):

- 32 (a) *Airservices Australia;

- 1 (b) an airport-operator company (within the meaning of the
2 *Airports Act 1996*) for Sydney Airport;
3 (c) the *Slot Manager;
4 (d) the *Compliance Committee;
5 (e) a person who holds, or who has held, slots under the *Slot
6 Management Scheme;
7 (f) a person prescribed by regulations made for the purposes of
8 this paragraph.

9 *Regulations dealing with records*

- 10 (2) The regulations may make provision in relation to records that are
11 relevant to:
12 (a) the allocation or use of slots at Sydney Airport; or
13 (b) *gate movements at Sydney Airport; or
14 (c) compliance with this Act;
15 (d) administering or enforcing a civil penalty provision of this
16 Act; or
17 (e) performing functions, or exercising powers, under or for the
18 purposes of this Act.
- 19 (3) The regulations may make provision in relation to the following
20 matters:
21 (a) keeping records;
22 (b) accessing records;
23 (c) disposing of records;
24 (d) transferring records.
- 25 (4) Subsection (3) does not limit:
26 (a) the matters for which the regulations may make provision; or
27 (b) subsection 33(3A) of the *Acts Interpretation Act 1901*.

28 *Civil penalty—records*

- 29 (5) A person is liable to a civil penalty if:
30 (a) the person is a regulated entity (other than the *Compliance
31 Committee); and

- 1 (b) regulations made for the purposes of subsection (2) impose
 2 an obligation on the regulated entity in relation to a record;
 3 and
 4 (c) the regulated entity fails or refuses to comply with the
 5 obligation.

6 Civil penalty: 60 penalty units.

7 *Exception—regulated entity not capable of complying*

- 8 (6) Subsection (5) does not apply to the extent that the regulated entity
 9 is not capable of complying with the obligation.

10 Note: A defendant bears an evidential burden in relation to the matters in
 11 this subsection (see section 96 of the Regulatory Powers Act).

12 *Commercially sensitive information*

- 13 (7) A regulated entity is not excused from complying with an
 14 obligation under this section to provide access to records merely
 15 because the records are or contain *commercially sensitive
 16 information.

17 **70E Publication of information**

18 *Scope*

- 19 (1) This section applies to the following persons (each an **information**
 20 **holder**):
 21 (a) the Minister;
 22 (b) the Department;
 23 (c) *Airservices Australia;
 24 (d) an airport-operator company (within the meaning of the
 25 *Airports Act 1996*) for Sydney Airport;
 26 (e) the *Slot Manager;
 27 (f) the *Compliance Committee;
 28 (g) a person who holds, or who has held, slots under the *Slot
 29 Management Scheme;
 30 (h) any other person prescribed by regulations made for the
 31 purposes of this paragraph.

Regulations about publication of information

- (2) The regulations may make provision in relation to publishing information held by, or under the control of, an information holder that is relevant to:
- (a) the allocation or use of slots at Sydney Airport; or
 - (b) *gate movements at Sydney Airport; or
 - (c) compliance with this Act;
 - (d) administering or enforcing a civil penalty provision of this Act; or
 - (e) performing functions, or exercising powers, under or for the purposes of this Act.
- (3) The regulations may make provision in relation to the following matters:
- (a) information that must, or must not, be published;
 - (b) how information is to be published;
 - (c) the circumstances in which an information holder is subject to an obligation to publish information.
- (4) Subsection (3) does not limit:
- (a) the matters for which the regulations may make provision; or
 - (b) subsection 33(3A) of the *Acts Interpretation Act 1901*.

Civil penalty—publication obligations

- (5) A person is liable to a civil penalty if:
- (a) the person is an information holder mentioned in paragraph (1)(d), (g) or (h); and
 - (b) regulations made for the purposes of subsection (2) impose an obligation on the information holder in relation to publishing information; and
 - (c) the information holder fails or refuses to comply with the obligation.

Civil penalty: 60 penalty units.

Exception—information holder not capable of complying

- (6) Subsection (5) does not apply to the extent that the information holder is not capable of complying with the obligation.

Note: A defendant bears an evidential burden in relation to the matters in this subsection (see section 96 of the Regulatory Powers Act).

Commercially sensitive information

- (7) An information holder is not excused from complying with an obligation under this section to publish information merely because the information is or contains *commercially sensitive information.

Protection from civil proceedings

- (8) An information holder is not liable to an action, suit or other civil proceeding for or in relation to the publication, in good faith, of information in compliance, or purported compliance, with an obligation under this section.

70F Sharing of information and documents

Scope

- (1) The section applies in relation to information obtained, or documents received, by the Minister in the course of exercising powers, or performing functions or duties, under or for the purposes of this Act.
- (2) To avoid doubt, information or documents covered by subsection (1) may include *commercially sensitive information.

Minister may share information or documents

- (3) The Minister may share the information or documents with a person or body (each a **receiving entity**) covered by subsection (5) if:
- (a) sharing the information or documents is for the purposes of:
- (i) the Minister exercising powers, or performing functions or duties, under or for the purposes of this Act; or
 - (ii) the receiving entity exercising the entity's powers, or performing the entity's functions or duties; and

- 1 (b) the information is relevant to the receiving entity's functions
2 or duties; and
3 (c) the Minister is satisfied, on reasonable grounds, that the
4 receiving entity has satisfactory arrangements in place for
5 protecting the information or documents; and
6 (d) in a case where the regulations provide that information or
7 documents may be shared with the receiving entity only if
8 specified conditions are met—those conditions are met.
- 9 (4) Subsection (3) is subject to sections 70G and 70H (which are about
10 the use and disclosure of protected information).

11 *Receiving entities*

- 12 (5) For the purposes of subsection (3), the following persons and
13 bodies are covered by this subsection:
14 (a) the *Slot Manager;
15 (b) the *Compliance Committee;
16 (c) *Airservices Australia;
17 (d) a person or body engaged to perform a compliance audit
18 under the *Slot Management Scheme or in relation to any
19 other obligation under this Act;
20 (e) a Commonwealth entity (within the meaning of the *Public*
21 *Governance, Performance and Accountability Act 2013*) that:
22 (i) has functions involving matters relevant to operations at
23 Sydney Airport; and
24 (ii) is prescribed by the regulations for the purposes of this
25 paragraph;
26 (f) any other person or body prescribed by the regulations for the
27 purposes of this paragraph.

28 *Minister may impose limits on use or further sharing*

- 29 (6) The Minister may, by notice in writing given to the receiving
30 entity, impose conditions that:
31 (a) limit the use of the information or documents given to the
32 receiving entity; or
33 (b) prohibit the further sharing of the information or documents
34 by the receiving entity.

1 (7) The receiving entity must comply with any such conditions.

2 *Minister under no obligation to advise sharing*

3 (8) The Minister need not notify any other person of the Minister's
4 plans to share the information or the documents with a receiving
5 entity, or that the Minister has done so.

6 *No commercial use*

7 (9) A receiving entity must not use or further disclose the information
8 or documents for a commercial purpose.

9 Note: Receiving entities are also subject to secrecy obligations: see
10 section 70G.

11 **70G Civil penalty—using or disclosing protected information**

12 (1) A person contravenes this subsection if:

- 13 (a) the person is, or has been, an *entrusted person; and
14 (b) the person obtained or generated *protected information in
15 the course of, or for the purposes of:
16 (i) performing functions or duties, or exercising powers,
17 under or for the purposes of this Act; or
18 (ii) assisting another person to perform functions or duties,
19 or exercise powers, under or for the purposes of this
20 Act; and
21 (c) the person use or discloses the protected information.

22 Civil penalty: 60 penalty units.

23 *Exception—authorised use or disclosure*

24 (2) Subsection (1) does not apply if the use or disclosure of the
25 *protected information is authorised by or under section 70H.

26 Note: A defendant bears an evidential burden in relation to the matters in
27 this subsection (see section 96 of the Regulatory Powers Act).

28 *Meaning of **entrusted person***

29 (3) Each of the following persons is an **entrusted person**:

- 30 (a) the Minister;

- (b) the Secretary;
- (c) an APS employee in the Department;
- (d) an APS employee in Airservices Australia;
- (e) an officer, employee or other person engaged by the *Slot Manager;
- (f) the Chair or another member of the *Compliance Committee;
- (g) a contractor engaged to provide services to the Department for the purposes of this Act;
- (h) an officer or employee of such a contractor.

*Meaning of **protected information***

- (4) **Protected information** is:
- (a) *commercially sensitive information; or
 - (b) *sensitive personal information.

*Meaning of **commercially sensitive information***

- (5) **Commercially sensitive information** is information the disclosure of which could reasonably be expected to substantially prejudice the commercial interests of a person.

*Meaning of **sensitive personal information***

- (6) **Sensitive personal information** is:
- (a) information about an identified individual, or an individual who is reasonably identifiable, that if communicated (whether alone or in conjunction with other information) would, or could reasonably be expected to:
 - (i) endanger the safety of the individual; or
 - (ii) cause harm to the individual's physical or mental health; or
 - (iii) have a substantial adverse effect on the individual's lawful business, professional, commercial or financial affairs; or
 - (iv) expose the individual to a substantial risk of being a victim of identity fraud; or
 - (b) information that if communicated (whether alone or in conjunction with other information) would, or could

reasonably be expected to disclose, or enable a person to ascertain, the existence or identity of a confidential source of information in relation to the enforcement or administration of the law.

70H Authorisations to use or disclose protected information

Use or disclosure in performing functions or exercising powers under this Act

- (1) An *entrusted person may use or disclose *protected information in performing functions or duties, or exercising powers, under or for the purposes of this Act.

Note: A provision of this section constitutes an authorisation for the purposes of the *Privacy Act 1988* and other laws (including the common law).

Disclosure for purposes of proceedings

- (2) An *entrusted person may disclose *protected information to a court or tribunal, or in accordance with an order of a court or tribunal, for the purposes of proceedings.

Use or disclosure for purposes of enforcement-related activity

- (3) An *entrusted person may use *protected information, or disclose protected information to an enforcement body (within the meaning of the *Privacy Act 1988*), if the person reasonably believes that the use or disclosure is reasonably necessary for, or directly related to, one or more enforcement-related activities being conducted by, or on behalf of, that enforcement body.

- (4) An enforcement body to which *protected information is disclosed under subsection (3) may use or disclose the information for the purposes of one or more enforcement-related activities being conducted by, or on behalf of, that enforcement body.

Use or disclosure required or authorised by another Australian law

- (5) An *entrusted person may use or disclose *protected information if the use or disclosure is required or authorised under a law of:

- 1 (a) the Commonwealth (other than this Act); or
2 (b) a State or Territory.

3 *Disclosure to person to whom information relates*

- 4 (6) An *entrusted person may disclose *protected information to the
5 person to whom the information relates.

6 *Use or disclosure with consent*

- 7 (7) An *entrusted person (the **first person**) may use or disclose
8 *protected information for a purpose if the person to whom the
9 information relates has expressly consented to the first person
10 using or disclosing the information for that purpose.

11 *Disclosure to person who provided information*

- 12 (8) An *entrusted person may disclose *protected information to the
13 person who provided the information.

14 *Use or disclosure of information that is already public*

- 15 (9) An *entrusted person may use *protected information, or disclose
16 protected information to another person, if the information has
17 already been lawfully made available to the public.

18 *Disclosure to integrity agency*

- 19 (10) An *entrusted person may disclose *protected information to any of
20 the following persons for the purposes of that person exercising the
21 person's powers, or performing the person's functions or duties:
22 (a) the Commonwealth Ombudsman, or another officer within
23 the meaning of subsection 35(1) of the *Ombudsman Act*
24 *1976*;
25 (b) the Australian Information Commissioner, a member of the
26 staff of the Office of the Australian Information
27 Commissioner, or a consultant engaged under the *Australian*
28 *Information Commissioner Act 2010*.

Disclosure for purposes of preventing serious threat to safety, health or well-being

- (11) An *entrusted person may disclose *protected information if the disclosure is necessary to lessen or prevent a serious threat to the safety, health or well-being of another person.

45 Before section 70

Insert:

70AA Simplified outline of this Part

This Part deals with miscellaneous matters such as delegations, the position of the Crown and the power to make regulations.

46 Paragraph 70(1)(b)

Omit “no-slot movement or an off-slot movement”, substitute “*no-slot movement or an *off-slot movement”.

47 Section 71

Repeal the section, substitute:

71 Delegation by the Minister

- (1) Subject to subsections (2) and (3), the Minister may, in writing, delegate all or any of the Minister’s functions or powers under this Act to:

- (a) the Secretary; or
- (b) an SES employee, or acting SES employee, in the Department.

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

- (2) The Minister may, in writing, delegate the Minister’s functions or powers under one or more of the following provisions to an APS employee in the Department who holds, or is acting in, an Executive Level 2, or equivalent, position:

- (a) section 70C (about the Minister’s power to require a person to produce information or documents);

- 1 (b) section 70E (about obligations to publish certain
2 information);
3 (c) section 70F (about the Minister’s power to share information
4 with certain entities).

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

- 7 (3) The Minister must not delegate a power to make a legislative
8 instrument.
9 (4) In performing a delegated function or exercising a delegated
10 power, the delegate must comply with any written directions of the
11 Minister.

12 **71A Delegation by the Secretary**

- 13 (1) The Secretary may, in writing, delegate all or any of the
14 Secretary’s functions or powers under this Act to an SES
15 employee, or acting SES employee, in the Department.

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

- 18 (2) In performing a delegated function or exercising a delegated
19 power, the delegate must comply with any written directions of the
20 Secretary.

21 **48 Subsection 72(1)**

22 Omit “(1)”.

23 **49 Subsection 72(2)**

24 Repeal the subsection.

25 **50 Subsection 74(1)**

26 Omit “(1)”.

27 **51 Subsection 74(1)**

28 Omit “, not inconsistent with this Act,”.

29 **52 Subsection 74(2)**

30 Repeal the subsection.

53 Clause 1 of Schedule 1

Insert:

block time: see section 14.

Chair means the Chair of the *Compliance Committee.

54 Clause 1 of Schedule 1 (definition of *civil penalty provision*)

Repeal the definition, substitute:

civil penalty provision has the same meaning as in the Regulatory Powers Act.

55 Clause 1 of Schedule 1

Insert:

commercially sensitive information: see subsection 70G(5).

56 Clause 1 of Schedule 1 (definition of *Compliance Committee*)

Repeal the definition, substitute:

Compliance Committee means the committee established by subsection 66(1).

57 Clause 1 of Schedule 1 (definition of *Compliance Scheme*)

Repeal the definition.

58 Clause 1 of Schedule 1

Insert:

declared exemption means an instrument made by the *Slot Manager under section 47 or 48.

entrusted person: see subsection 70G(3).

59 Clause 1 of Schedule 1 (definition of *Federal Court*)

Repeal the definition.

1 **60 Clause 1 of Schedule 1 (definition of *gate movement*)**

2 Repeal the definition, substitute:

3 *gate movement*: see section 11.

4 **61 Clause 1 of Schedule 1 (definition of *infringement notice*)**

5 Repeal the definition.

6 **62 Clause 1 of Schedule 1 (definition of *maximum movement***
7 ***limit*)**

8 Repeal the definition, substitute:

9 *maximum movement limit*: see subsection 6(1A).

10 **63 Clause 1 of Schedule 1**

11 Insert:

12 *member* means a member of the *Compliance Committee and
13 includes the Chair.

14 *no-slot movement*: see section 12.

15 *off-slot movement*: see section 13.

16 *protected information*: see subsection 70G(4).

17 *recovery hour*: see subsection 9B(3).

18 *recovery period*: see subsection 9B(1).

19 *recovery period declaration*: see subsection 9A(2).

20 *regulated hour*: see subsections 6(2) and (3).

21 *Regulatory Powers Act* means the *Regulatory Powers (Standard*
22 *Provisions) Act 2014*.

23 *Secretary* means the Secretary of the Department.

24 *sensitive personal information*: see subsection 70G(6).

25 **64 Clause 1 of Schedule 1 (definition of *slot*)**

26 Repeal the definition, substitute:

1 *slot*: see subsection 34(2).

2 **65 Clause 1 of Schedule 1 (definition of *Slot Management***
3 ***Scheme*)**

4 Repeal the definition, substitute:

5 ***Slot Management Scheme***: see subsection 34(1).

6 **66 Clause 1 of Schedule 1**

7 Insert:

8 ***this Act*** includes:

9 (a) the regulations; and

10 (b) any instruments made under this Act; and

11 (c) the Regulatory Powers Act as it applies in relation to this
12 Act.

13 **67 Application—civil penalties for slot misuse**

14 Divisions 3 and 4 of Part 3 of the *Sydney Airport Demand Management*
15 *Act 1997*, as inserted by this Schedule, apply in relation to gate
16 movements that occur, or that are permitted to occur but do not occur,
17 on or after the commencement of this Schedule.

18 **68 Application—record keeping requirements**

19 Section 70D of the *Sydney Airport Demand Management Act 1997*, as
20 inserted by this Schedule, applies in relation a record, whether the
21 record was created before, on or after the commencement of this
22 Schedule.
23

(122/24)