



Air Navigation (Essendon Airport) Regulations 2001

Statutory Rules 2001 No. 125 as amended

made under the

Air Navigation Act 1920

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Part 1 Preliminary

Regulation 1

Part 1 Preliminary

1 Name of Regulations [see Note 1]

These Regulations are the *Air Navigation (Essendon Airport) Regulations 2001*.

2 Commencement

These Regulations commence on gazettal.

3 Object of Regulations

The object of these Regulations is to minimise the impact of aircraft noise on the community surrounding Essendon Airport through the imposition of a curfew between 11 pm and 6 am and restrictions on certain aircraft operations at all times.

4 Simplified outline of Regulations

- Part 1 contains information necessary for understanding the Regulations
- Part 2 imposes restrictions on aircraft movements at Essendon Airport that apply at all times
- Part 3 imposes a curfew on certain aircraft movements at Essendon Airport between 11 pm and 6 am
- Part 4 allows certain aircraft movements
- Part 5 contains provisions about providing information to the Secretary
- Part 6 contains provisions for review of decisions and delegation of the Secretary's powers.

5 Definitions

In these Regulations:

Annex means volume 1 of Annex 16 to the Chicago Convention.

curfew period has the meaning given by regulation 7.

4 *Air Navigation (Essendon Airport) Regulations 2001*

Regulation 5

land — an aircraft lands when it touches the ground.

maximum take-off weight of an aircraft means the weight set out in the aircraft's flight manual as the aircraft's maximum take-off weight.

noise emission level of an aircraft, expressed as a figure of EPNdB, means the effective perceived noise in decibels:

- (a) measured by reference to the test procedures specified in the chapter of the Annex applicable to that type of aircraft; and
- (b) certified in a noise certificate (within the meaning of the *Air Navigation (Aircraft Noise) Regulations 1984*) for the aircraft.

Secretary means the Secretary to the Department.

take-off — an aircraft takes off when it leaves the ground.

Part 2 Restrictions applying at all times

Regulation 6

**Part 2 Restrictions applying at all
times**

6 Maximum take-off weight

The operator of an aircraft is guilty of an offence if:

- (a) the operator allows the aircraft to take off from, or land at, Essendon Airport; and
- (b) the aircraft has a maximum take-off weight of 45 000 kilograms or more, and the operator knows, or is reckless about, that fact; and
- (c) the take-off or landing is not authorised under Division 4.2, and the operator knows, or is reckless about, that fact.

Penalty: 50 penalty units.

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

Part 3 The curfew

7 Curfew period

A curfew period starts at 11 pm on a day and ends at 6 am on the next day.

Note As these Regulations relate to activities at Essendon Airport, which is in Victoria, references to time in these Regulations are references to the time in Victoria: see the *Acts Interpretation Act 1901*, section 37.

8 Prohibition on taking off or landing during curfew periods

The operator of an aircraft is guilty of an offence if:

- (a) the operator allows the aircraft to take off from, or land at, Essendon Airport; and
- (b) the take-off or landing occurs during a curfew period, and the operator knows, or is reckless about, that fact; and
- (c) the take-off or landing is not permitted under Part 4, and the operator knows, or is reckless about, that fact.

Penalty: 50 penalty units.

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

9 Alternate airport

- (1) The operator of an aircraft involved in a scheduled flight is guilty of an offence if:
 - (a) the flight plan for the flight lists Essendon Airport as an alternate airport for the flight; and
 - (b) the flight is scheduled to end during a curfew period.

Penalty: 50 penalty units.

- (2) Strict liability applies to an offence under subregulation (1).

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

Part 3 The curfew

Regulation 10

(3) In this regulation:

alternate airport, in relation to a flight, means an airport specified in the flight plan for the flight to which the flight may proceed when it becomes inadvisable to land at the airport of intended landing.

10 Flight plans

(1) The operator of an aircraft is guilty of an offence if:

- (a) the operator allows the aircraft to take off from Essendon Airport; and
- (b) the take-off occurs during a curfew period, and the operator knows, or is reckless about, that fact; and
- (c) a flight plan for the flight is not submitted to Airservices Australia before take-off, and the operator knows, or is reckless about, that fact.

Penalty: 50 penalty units.

(2) The operator of an aircraft is guilty of an offence if:

- (a) the operator allows the aircraft to land at Essendon Airport; and
- (b) the landing occurs during a curfew period, and the operator knows, or is reckless about, that fact; and
- (c) a flight plan for the flight is not submitted to Airservices Australia before landing, and the operator knows, or is reckless about, that fact.

Penalty: 50 penalty units.

(3) However, subregulation (2) does not apply to an aircraft that lands at Essendon Airport during a curfew period if:

- (a) both of the following conditions are met:
 - (i) when the aircraft takes off, the aircraft operator reasonably believes that the aircraft will land before the beginning of the curfew period;
 - (ii) the landing is authorised by a dispensation given under regulation 15; or

The curfew Part 3

Regulation 10

(b) the aircraft is involved in an emergency (within the meaning given by subregulation 14 (2)).

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

Part 4 Permitted aircraft movements
Division 4.1 Movements permitted during curfew periods
Regulation 11

Part 4 Permitted aircraft movements

Division 4.1 Movements permitted during curfew periods

11 Take-off when taxi clearance received, or taxiing for take-off commenced, before start of curfew period

An aircraft may take off during a curfew period if:

- (a) the aircraft received taxi clearance for the take-off before the start of the curfew period; or
- (b) an Air Traffic Control service is not available, and the aircraft began taxiing for take-off before the start of the curfew period.

12 Propeller-driven aircraft

- (1) A propeller-driven aircraft may land at, or take off from, Essendon Airport during a curfew period if:
 - (a) the aircraft:
 - (i) has a maximum take-off weight that does not exceed 8 618 kilograms; and
 - (ii) is not mentioned in Schedule 1; or
 - (b) the aircraft has a maximum take-off weight that exceeds 8 618 kilograms and the aircraft's noise emission levels do not exceed:
 - (i) 90 EPNdB on take-off; and
 - (ii) 95 EPNdB on approach to landing.
- (2) For paragraph (1) (b), an aircraft's noise emission levels must be measured in accordance with the procedures set out in Appendix 2 to the Annex, but without allowing any trade-offs under the process set out in clause 3.5 of Chapter 3 to the Annex.

Regulation 14

13 Helicopters

A helicopter may land at, or take off from, Essendon Airport during a curfew period if the helicopter complies with the relevant maximum noise levels specified in Chapter 8 or 11 of the Annex that are applicable to the maximum take-off weight of the helicopter (whether or not the Chapter is expressed to apply to the helicopter).

Division 4.2 Emergencies and dispensations

14 Aircraft may take off or land in certain circumstances even if otherwise prohibited

- (1) Despite any other provisions of these Regulations, an aircraft may take off from, or land at, Essendon Airport if:
 - (a) the aircraft is involved in an emergency; or
 - (b) the aircraft is taking off from Essendon Airport to resume a flight interrupted by an emergency involving the aircraft; or
 - (c) the aircraft is involved in a Police Air Wing operation; or
 - (d) a dispensation granted by the Secretary under regulation 15 authorises the take-off or landing, and the take-off or landing is in accordance with the conditions of the dispensation.
- (2) For paragraphs (1) (a) and (b), 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) a mercy flight; or
 - (b) the pilot of the aircraft has declared an in-flight emergency; or
 - (c) the aircraft has insufficient fuel to be diverted to another airport; or

Part 4 Permitted aircraft movements
Division 4.2 Emergencies and dispensations

Regulation 15

- (d) there is an urgent need for the aircraft to land or take off:
 - (i) to ensure the safety or security of the aircraft or a person; or
 - (ii) to avoid damage to property.

Examples for subparagraph (2) (a) (iv)

A flight to transport a person in urgent need of medical attention, to transport an organ for urgent transplant, or to rescue a person from a dangerous situation.

15 Secretary may grant dispensations

- (1) An operator may apply to the Secretary for a dispensation from regulation 6 or 8 in exceptional circumstances.
- (2) If there are exceptional circumstances that justify permitting an aircraft to take off from or land at Essendon Airport in circumstances that would otherwise contravene regulation 6 or 8, the Secretary may grant a dispensation to the operator authorising the aircraft to take off from, or land at, Essendon Airport.
- (3) A dispensation may be granted subject to conditions including, for example, conditions relating to when the take-off or landing must occur.
- (4) A dispensation need not be in writing, but a written record of a dispensation and the reasons for granting it must be made and kept by the Secretary.
- (5) A dispensation granted under subregulation (2) in relation to the requirements of regulation 8 must relate only to a single take-off or a single landing of an aircraft, but not both.

Part 5 Provision of information

16 Provision of information to Secretary

- (1) The Secretary may, by notice in writing, ask an operator to give the Secretary, within 30 days of receiving the notice:
 - (a) information about the noise level of an aircraft; or
 - (b) information relevant to determining whether, at the time an aircraft took off or landed, it was involved in an emergency (within the meaning of subregulation 14 (2)).
- (2) A notice under subregulation (1) must state:
 - (a) the information to be provided; and
 - (b) how the information is to be provided; and
 - (c) that the operator must comply with the notice within 30 days of receiving the notice.
- (3) An operator is guilty of an offence if:
 - (a) the operator receives a notice; and
 - (b) the notice is issued under subregulation (1); and
 - (c) the operator engages in conduct; and
 - (d) the operator's conduct contravenes the notice.

Penalty: 10 penalty units.

- (4) In this regulation:
engage in conduct means:
 - (a) do an act; or
 - (b) omit to perform an act.
- (5) Subregulation (3) does not affect a person's right to refuse to give information on the ground that the information, or giving the information, might tend to incriminate the person or expose the person to a penalty.

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

Part 5 Provision of information

Regulation 16

Note 2 It is an offence to give false information to a Commonwealth entity in certain circumstances: see section 137.1 of the *Criminal Code*.

Part 6 Miscellaneous

17 Review of decisions

Application may be made to the Administrative Appeals Tribunal for the review of a decision of the Secretary, under regulation 15, to grant, or refuse to grant, a dispensation from regulation 6.

18 Delegation

The Secretary may, in writing, delegate any of his or her powers under these Regulations (other than this power of delegation) to an employee of the Department who is classified at or above Executive Level 2.

Schedule 1 Aircraft not automatically exempted from curfew restriction

**Schedule 1 Aircraft not automatically
exempted from curfew
restriction**
(regulation 12)

Note At present, no aircraft are excluded under subparagraph 12 (1) (a) (ii) from the curfew exemption provided by regulation 12. Any propeller-driven aircraft with a maximum take-off weight that does not exceed 8 618 kilograms may take off from, or land at, Essendon Airport during a curfew period, so long as the aircraft meets any requirements set out in other laws of the Commonwealth or Victoria.

Notes to the *Air Navigation (Essendon Airport) Regulations 2001*

Table of Statutory Rules

Notes to the *Air Navigation (Essendon Airport) Regulations 2001*

Note 1

The *Air Navigation (Essendon Airport) Regulations 2001* (in force under the *Air Navigation Act 1920*) as shown in this compilation comprise Statutory Rules 2001 No. 125 amended as indicated in the Tables below.

Table of Statutory Rules

Year and number	Date of notification in Gazette	Date of commencement	Application, saving or transitional provisions
2001 No. 125	6 June 2001	6 June 2001	
2002 No. 123	14 June 2002	14 June 2002	—

Notes to the *Air Navigation (Essendon Airport) Regulations 2001*

Table of Amendments

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
R. 16	am. 2002 No. 123
