

Queensland



Subordinate Legislation 1994 No. 254

Transport Infrastructure Act 1994

**TRANSPORT INFRASTRUCTURE (AIRPORT
MANAGEMENT) REGULATION 1994**

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PART 1—PRELIMINARY

Division 1—Introduction

Short title

1. This regulation may be cited as the *Transport Infrastructure (Airport Management) Regulation 1994*.

Commencement

2. This regulation commences on 1 July 1994.

Division 2—Interpretation

Definitions

3. In this regulation—

“**airport**” means the Cairns airport or Mackay airport;

“**airport notice**” means a notice, sign, pictograph or similar device, of whatever material and whether fixed or movable, erected or displayed in, or at an entrance to, an airport by the airport’s port authority;

“**authorised officer**” means a person who is appointed under this regulation as an authorised officer;

“**indication**” given by an official traffic sign has the same meaning as in the *Traffic Act 1949*;

“**obstruct**” includes hinder, resist, insult and attempt to obstruct;

“**official traffic sign**” means an official traffic sign within the meaning of the *Traffic Act 1949*;

“**port authority**” means the Cairns Port Authority or Mackay Port Authority;

“**requirement**” of a notice includes a direction, instruction, indication, condition or other provision contained in the notice.

Division 3—Application of regulation

Application of regulation

4. This regulation applies to—
- (a) the Cairns Port Authority in relation to its airport; and
 - (b) the Mackay Port Authority in relation to its airport.

PART 2—AUTHORISED OFFICERS

Appointment of authorised officers

5.(1) A port authority may appoint a person to be an authorised officer under this regulation if the authority is satisfied the person has the necessary training, or knowledge and experience, to be an authorised officer.

(2) A port authority may restrict an authorised officer's powers by written notice given to the officer.

Identity cards

6.(1) A port authority must issue an identity card to each authorised officer appointed by the authority.

- (2) The identity card must—
- (a) contain a recent photograph of the authorised officer; and
 - (b) be signed by the officer; and
 - (c) identify the person as an authorised officer of the authority.

(3) A person who ceases to be an authorised officer must, as soon as practicable, return his or her identity card to the port authority, unless the person has a reasonable excuse for not returning it.

Maximum penalty—10 penalty units.

(4) This section does not apply to an authorised officer who is a police officer.

Production or display of authorised officer's identity card

7.(1) An authorised officer (other than a police officer in uniform) may exercise a power under this regulation in relation to someone else only if the officer—

- (a) first produces his or her identity card for inspection by the person; or
- (b) has his or her identity card displayed so that it is clearly visible to the person.

(2) However, if for any reason, it is not practicable to comply with subsection (1), the authorised officer must produce the identity card for inspection by the person at the first reasonable opportunity.

PART 3—CONTROL OF ACTIVITIES AT AIRPORTS*Division 1—Airport notices***Airport notices—general control of activities**

8.(1) A port authority may, by airport notice, control access to, or the use of, its airport.

(2) Without limiting subsection (1), the port authority may, by airport notice, control activities or conduct at the airport for—

- (a) maintaining or improving the safe, secure or efficient operation of its airport; or
- (b) maintaining or improving the convenience of airport users; or
- (c) protecting the environment at the airport.

(3) The power conferred by another provision of this Division to control by airport notice does not limit the power conferred by this section.

Airport notices—aircraft parking

9. A port authority may, by airport notice, control the parking of aircraft at its airport, including, for example, indicating where the parking of aircraft is restricted or prohibited.

Airport notices—movement, handling or storage of goods

10. A port authority may, by airport notice, control the movement, handling or storage of goods loaded, unloaded or transhipped to or from aircraft using its airport facilities.

Airport notices—movement of passengers

11. A port authority may, by airport notice, control the movement of passengers to or from aircraft using its airport facilities.

Airport notices—movement, stopping or parking of vehicles

12. A port authority may, by airport notice, control the movement, stopping or parking of vehicles at its airport, including, for example—

- (a) fixing a maximum speed limit; or
- (b) indicating a pedestrian crossing; or
- (c) indicating a place where the driving, parking or standing of a vehicle is restricted or prohibited.

Noncompliance with airport notices

13. A person must comply with an airport notice, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—

- (a) for contravention of a requirement of an airport notice about aircraft parking or the movement, handling or storage of goods—50 penalty units; and
- (b) for contravention of any other airport notice—25 penalty units.

Airport notices generally

14.(1) An airport notice—

- (a) must indicate the area to which the notice applies; and
- (b) if contravention of a requirement of the notice is an offence against this regulation—must state that it is an offence and the maximum penalty for the offence; and
- (c) may be in the form of an official traffic sign and, if it is, is taken to contain the indication given by the corresponding official traffic sign.

(2) Evidence that a sign was erected or displayed in, or at the entrance to, an airport is evidence that the notice was erected or displayed by the airport's port authority.

(3) An airport notice must be clearly visible to passers-by.

Airport notice may refer to standards

15.(1) An airport notice may require a person to comply with requirements in standards adopted by a peak airport industry body about any of the following—

- (a) the movement, handling or storage of goods;
- (b) fire protection;
- (c) emergency procedures.

(2) A port authority must ensure that copies of a document setting out details of the standards are available for inspection and purchase (at reasonable cost) during business hours at its offices in the locality to which the standards relate.

Division 2—General powers of authorised officers**Directions—safety and security**

16.(1) An authorised officer may give directions to persons at an airport that are reasonably necessary for the purpose of ensuring—

- (a) the safety or security of the airport, its users and the port authority's employees; or
- (b) the efficient handling of cargo at the airport.

(2) The power conferred on authorised officers by another provision of this Division does not limit the power conferred on authorised officers by this section.

Control of aircraft parking

17. An authorised officer may control the parking of aircraft at an airport and, for the purpose, may give directions to pilots and other persons apparently in charge of aircraft.

Control of movement, handling or storage of goods

18. An authorised officer may control the movement, handling or storage of goods loaded, unloaded or transhipped to or from aircraft using its airport facilities and, for the purpose, may give directions to persons apparently in charge of goods at the airport.

Control of movement of passengers

19. An authorised officer may control the movement of passengers at an airport and, for the purpose, may give directions to persons at the airport.

Control of movement, stopping or parking of vehicles

20. An authorised officer may control the movement, stopping or parking of vehicles at an airport and, for the purpose, may give directions to drivers of vehicles and other persons at the airport.

Noncompliance with directions

21. A person must comply with a direction given to the person by an authorised officer under this Division, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—

- (a) for contravention of a direction about aircraft parking or the movement, handling or storage of goods—50 penalty units; or
- (b) for contravention of any other airport notice—25 penalty units.

Division 3—Moving illegally parked aircraft and vehicles and illegally left goods

Moving illegally parked aircraft

22.(1) This section applies if—

- (a) an authorised officer believes on reasonable grounds that—
 - (i) an aircraft is parked at an airport in contravention of a requirement of an airport notice or a direction of an authorised officer under Division 2; and
 - (ii) it is necessary to move the aircraft having regard to—
 - (A) the convenience of aircraft or persons using the airport; or
 - (B) the safety or security of the airport, its users or the port authority's employees; and
- (b) the authorised person—
 - (i) cannot immediately find the aircraft's pilot or another person in charge of the aircraft; or
 - (ii) believes on reasonable grounds that neither the aircraft's pilot, nor any other person in charge of the aircraft, is able or willing to move the aircraft immediately.

(2) The authorised officer may take steps that are necessary and reasonable to have the aircraft moved.

Moving illegally parked vehicles

23.(1) This section applies if—

- (a) an authorised officer believes on reasonable grounds that—
 - (i) a vehicle is parked at an airport in contravention of a

requirement of an airport notice or a direction of an authorised officer under Division 2; and

(ii) it is necessary to move the vehicle having regard to—

(A) the convenience of vehicles or persons using the airport; or

(B) the safety or security of the airport, its users or the port authority's employees; and

(b) the authorised officer—

(i) cannot immediately find the vehicle's driver or another person in charge of the vehicle; or

(ii) believes on reasonable grounds that neither the vehicle's driver, nor any other person in charge of the vehicle, is able or willing to move the vehicle immediately.

(2) The authorised officer may take steps that are necessary and reasonable to have the vehicle moved.

Moving illegally left goods

24.(1) This section applies if—

(a) an authorised officer believes on reasonable grounds that—

(i) goods have been left at an airport in contravention of a requirement of an airport notice or a direction of an authorised officer under Division 2; and

(ii) it is necessary to move the goods having regard to—

(A) the efficient operation of the airport; or

(B) the safety or security of the airport, its users and the port authority's employees; and

(b) the authorised officer—

(i) cannot immediately find the owner or other person in charge of the goods; or

(ii) believes on reasonable grounds that neither the owner, nor any other person in charge of the goods, is able or willing to

move the goods immediately.

(2) The authorised officer may take steps that are necessary and reasonable to have the goods moved or, if the goods are perishable or of little or no value, treat the goods as abandoned property.

PART 4—LIABILITY FOR, AND RECOVERY OF, CHARGES AND EXPENSES

Division 1—Liability for charges and expenses

Persons who are liable for charges

25.(1) If charges are payable for an aircraft, the liability for the charges falls jointly and severally on the owner of the aircraft, the licensee, lessee and charterer of the aircraft or any other person who has made himself or herself liable for the charges.

(2) If charges are payable for goods, the liability for the charges falls jointly and severally on the owner of the aircraft, the owner of the goods, the consignor and consignee of the goods, the agent for the sale or custody of the goods and the person entitled to possession of the goods.

(3) If charges are payable for passengers, the liability for the charges falls jointly and severally on the owner of the aircraft, the licensee, lessee and charterer of the aircraft or any other person who has made himself or herself liable for the charges.

Liability for movement of aircraft, goods or vehicles

26.(1) If a port authority incurs reasonable expenses because an authorised officer takes steps under this regulation to have an aircraft or goods moved, the amount of the expenses is a debt payable jointly and severally to the authority by the persons who would be liable for any charges payable for the aircraft or goods.

(2) If a port authority incurs reasonable expenses because an authorised

officer takes steps under this regulation to have a vehicle moved, the amount of the expenses is a debt payable jointly and severally to the authority by the owner and driver of the vehicle.

Division 2—Recovery of charges and expenses by detention

Meaning of “property” in Division

27. In this Division—

“**property**” means an aircraft, goods or a vehicle, and includes anything attached to, or contained in, an aircraft or vehicle.

Detention for outstanding charges and interest, or expenses

28.(1) If charges are payable to a port authority for an aircraft (including any charges payable for passengers of the aircraft), goods or a vehicle (the “**property**”) that is at its airport, the port authority may detain the property as security for the recovery of the charges and any interest on the charges.

(2) If a port authority incurs reasonable expenses because an authorised officer takes steps under this regulation to have property moved, the port authority may detain the property as security for the recovery of the expenses.

(3) A port authority may take steps that are necessary and reasonable to give effect to the detention of property under this section.

Notice to owner

29.(1) As soon as practicable but within 14 days after property has been detained under this Division by a port authority, the authority must give to its owner a written notice stating that it has been detained, explaining how it may be recovered and stating that it may be sold if it is not recovered.

(2) If the owner cannot be decided or located within 14 days after the detention, the notice may be given by publishing it in a newspaper circulating generally in the State.

(3) This section does not apply to perishable goods if it is impracticable, having regard to the nature and condition of the goods, to give the notice

required by the section.

Return of property on payment

30. The authority must return the property to its owner if—

- (a) a port authority detains property under this Division; and
- (b) the charges and any interest, or the expense, and any additional expenses reasonably incurred by the authority in detaining, or taking steps to sell, the property are paid before the authority sells it.

Sale of property if payment not made

31.(1) This section applies if—

- (a) a port authority detains property under this Division; and
- (b) the charges and any interest, or expense, and any additional expenses reasonably incurred by the authority in detaining the property (the **“total amount owing”**), are not paid within 2 months after notice of the detention is given to its owner under this Division.

(2) The port authority may—

- (a) sell the property; or
- (b) if the proceeds of sale of the property are not likely to cover the total amount owing and the reasonable expenses that would be incurred by the authority in selling the property—dispose of the property in the way it considers appropriate.

(3) Despite anything else in this Division, if the property is perishable goods, the port authority may sell the property immediately if it is impracticable, having regard to the nature and condition of the property, for it to be detained by the authority.

(4) If the property is sold, the proceeds of the sale must be applied in the following order—

- (a) in payment of the expenses reasonably incurred by the port authority in selling the property (the **“sale expenses”**);

- (b) in payment of the total amount owing to the port authority in relation to the property;
- (c) in payment of any balance to the owner.

(5) If the proceeds of the sale are less than the total of the sale expenses and total amount owing, the difference is a debt payable to the port authority by the persons who were or would be liable for the payment of any charge for the property.

(6) Compensation is not recoverable against the port authority for a payment under this section.

PART 5—GENERAL

Power to require name and address

32.(1) An authorised officer may require a person to state the person's name and address if the officer—

- (a) finds the person committing an offence against the Act or this regulation; or
- (b) finds the person in circumstances that lead, or has information that leads, the officer to suspect on reasonable grounds that the person has just committed an offence against the Act or this regulation.

(2) When making the requirement, the authorised officer must warn the person it is an offence to fail to state the person's name and address, unless the person has a reasonable excuse.

(3) The authorised officer may require the person to give evidence of the correctness of the person's stated name and address if the authorised officer suspects, on reasonable grounds, the stated name or address is false.

(4) A person must comply with an authorised officer's requirement under subsection (1) or (3), unless the person has a reasonable excuse for not complying with it.

Maximum penalty—10 penalty units.

- (5) The person does not commit an offence against this section if—
- (a) the authorised officer required the person to state the person's name and address on suspicion of the person having committed an offence against the Act or this regulation; and
 - (b) the person is not proved to have committed the offence.

Inspection of documents, aircraft, goods and vehicles

33.(1) An authorised officer may require a person who is or may be liable to pay charges to a port authority to produce for the officer's inspection documents under the person's control relevant to deciding whether the person is liable to pay the charge and, if so, the amount of the charge.

(2) The person must comply with the requirement, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—50 penalty units.

(3) The person in charge of an aircraft, goods or a vehicle that is at an airport must allow an authorised officer to enter and inspect the aircraft, inspect the goods or enter and inspect the vehicle for the purpose of deciding whether charges are payable for the aircraft, goods or vehicle and, if so, the amount of the charge.

Obstructing authorised officers

34. A person must not obstruct an authorised officer in the exercise of a power, unless the person has a reasonable excuse.

Example—

This regulation allows an authorised officer to enter and inspect an aircraft to decide whether charges are payable for it. If the authorised officer is obstructed by the person in charge of the aircraft from entering the aircraft, the person commits an offence against this section.

Maximum penalty—50 penalty units.

Conduct causing public nuisance

35. A person must not, at an airport, be disorderly or create a disturbance.

Maximum penalty—50 penalty units.

Power to deal with persons causing public nuisance etc.

36.(1) This section applies if an authorised officer at an airport—

- (a) finds a person committing an offence against section 35 (Conduct causing public nuisance); or
- (b) finds a person in circumstances that leads the authorised officer to suspect on reasonable grounds that the person has just committed an offence against section 35; or
- (c) has information that leads the authorised officer to suspect on reasonable grounds that the person has just committed an offence against section 35; or
- (d) reasonably believes, having regard to the way the person is behaving, that a person's presence at the airport may pose a threat to the safety or security of the airport, its users or the port authority's employees; or
- (e) has information that leads the authorised officer to believe, on reasonable grounds, a person's presence at the airport may pose a threat to the safety or security of the airport, its users or the port authority's employees; or
- (f) reasonably believes that a person is at the airport without lawful justification or excuse.

(2) The authorised officer may direct the person to leave the airport or a part of the airport.

(3) A direction under subsection (2) to leave the airport may include a direction not to re-enter the airport, or a part of the airport, for 24 hours.

(4) A person must not contravene a direction given to the person under subsection (2), unless the person has a reasonable excuse.

Maximum penalty for subsection (4)—100 penalty units.

Damaging etc. airport notices

37. A person must not unlawfully remove, damage or interfere with an airport notice.

Maximum penalty—25 penalty units.

Power to hand over certain offenders to the police

38. An authorised officer who finds a person at an airport—

- (a) committing an offence against section 35 (Conduct causing public nuisance); or
- (b) committing an offence against section 36(4) (Power to deal with persons causing public nuisance etc.); or
- (c) committing an offence against section 37 (Damaging etc. airport notices); or
- (d) unlawfully damaging other property;

may take the person immediately to a police officer, using only such force as is necessary and reasonable.

Police power of arrest

39.(1) This section applies to an offence against the following provisions—

- section 32 (Power to require name and address)
- section 36(4) (Power to deal with persons causing public nuisance etc.).

(2) A police officer may arrest a person if—

- (a) the officer—
 - (i) finds the person committing an offence to which this section applies; or
 - (ii) finds the person in circumstances that lead, or has information that leads, the officer to suspect on reasonable grounds that the person has just committed an offence to which this section applies; and

- (b) the officer believes on reasonable grounds that a proceeding against the person by way of complaint and summons would be ineffective.

Disposal of abandoned property

40.(1) In this section—

“abandoned property” means property (including aircraft, vehicles and anything attached to, or contained in, aircraft or vehicles) that a port authority believes on reasonable grounds has been abandoned.

(2) If a port authority finds abandoned property at its airport and intends to take action under this section, the authority—

- (a) must take reasonable steps to locate the owner of the property; and
- (b) may have the property moved to a place it considers appropriate.

(3) As soon as practicable but within 14 days after finding the abandoned property and deciding to take action under this section, the authority must give to the owner of the property a written notice describing the property, stating that the property has been found, explaining how it may be recovered and stating that it may be sold or disposed of if it is not recovered.

(4) If the owner cannot be located within the 14 days mentioned in subsection (3), the notice may be given by publishing it in a newspaper circulating generally in the State.

(5) If a person claims the abandoned property within 1 month after the notice is given, the port authority must return the property to the person if the person—

- (a) satisfies the port authority that the person is the owner of the property; and
- (b) pays the expenses reasonably incurred by the authority in dealing with the property under this section.

(6) If a person does not claim the abandoned property within 1 month after the notice is given, the port authority may—

- (a) sell the property; or

- (b) dispose of the property in the way it considers appropriate if the proceeds of sale of the property are not likely to cover the total of—
- (i) the expenses reasonably incurred by the authority in selling the property; and
 - (ii) the expenses reasonably incurred by the authority in dealing with the property under this section; and
 - (iii) any charges, interest and other expenses owing to the authority in relation to the property.

(7) Despite anything else in this section, if the abandoned property is perishable, the port authority may sell the property immediately if it is impracticable, having regard to the nature and condition of the property, for it to be detained by the authority.

(8) If the abandoned property is sold, the proceeds of the sale must be applied in the following order—

- (a) in payment of the expenses reasonably incurred by the port authority in selling the property;
- (b) in payment of the expenses reasonably incurred by the authority in dealing with the property under this section;
- (c) in payment of any charges, interest and other expenses owing to the authority in relation to the property;
- (d) in payment of any balance to the owner.

(9) If the proceeds of the sale are less than the total of the expenses mentioned in subsection (8)(a), (b) and (c), the difference is a debt payable to the port authority by the owner.

(10) Despite anything else in this section, if the abandoned property has no value or insufficient value to justify its sale, the authority may dispose of the property in the way it considers appropriate.

(11) Compensation is not recoverable against the port authority for a payment under this section.

PART 6—TRANSITIONAL PROVISIONS

Authorised officers

41. A person who was, immediately before the commencement, an airport supervisor, airport administrator or authorised officer of a port authority under by-laws made under the *Harbours Act 1955*, *Cairns Airport Act 1981* or *Mackay Airport Act 1989* becomes, on the commencement, an authorised officer of the authority under this regulation.

Airport charges

42. Any airport charges chargeable by or payable to a port authority under the *Cairns Airport Act 1981* or *Mackay Airport Act 1989* become charges of the port authority on the commencement and, unless the port authority resolves otherwise, are chargeable or payable at the same rates and in the same way as they were immediately before the commencement.

Expiry of Part

43. This Part expires 6 months after it commences.

ENDNOTES

1. Made by the Governor in Council on 30 June 1994.
2. Notified in the Gazette on 1 July 1994.
3. Laid before the Legislative Assembly on . . .
4. The administering agency is the Department of Transport.