



# **Aviation Transport Security Amendment Act 2018**

**No. 136, 2018**

**An Act to amend the *Aviation Transport Security  
Act 2004*, and for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation  
(<https://www.legislation.gov.au/>)



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# Aviation Transport Security Amendment Act 2018

No. 136, 2018

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## An Act to amend the *Aviation Transport Security Act 2004*, and for related purposes

[Assented to 29 November 2018]

The Parliament of Australia enacts:

### 1 Short title

This Act is the *Aviation Transport Security Amendment Act 2018*.

### 2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with

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column 2 of the table. Any other statement in column 2 has effect according to its terms.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. The whole of this Act	The day this Act receives the Royal Assent.	29 November 2018

Note: This table relates only to the provisions of this Act as originally enacted.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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

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## Schedule 1—Amendments

### *Aviation Transport Security Act 2004*

#### **1 Section 4 (paragraph relating to Part 2)**

Omit “detail”, substitute “set out”.

#### **2 Section 11**

Omit:

The content and form of transport security programs is dealt with in Division 4.

The approval of transport security programs by the Secretary is dealt with in Division 5. That Division also deals with the variation and revision of programs, and with the cancellation of the approval of programs.

substitute:

An aviation industry participant may give the Secretary a transport security program for approval. The content and form of such programs is dealt with in Division 4. Division 5 deals with the approval, variation, revision, and cancellation of the approval of, such programs.

If the Secretary is satisfied that it is appropriate to do so, taking into account existing circumstances as they relate to aviation security, the Secretary may give a transport security program to an aviation industry participant. This is dealt with in Division 6. That Division also deals with the content, revision and cancellation of such programs.

#### **3 Division 4 of Part 2 (at the end of the heading)**

Add “given to the Secretary”.

#### **4 Division 4 of Part 2 (after the heading)**

Insert:

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**15A Application of this Division**

This Division applies to a transport security program other than a transport security program given by the Secretary under Division 6.

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

Add “given to the Secretary”.

**6 Division 5 of Part 2 (after the heading)**

Insert:

**17A Application of this Division**

This Division applies to a transport security program other than a transport security program given by the Secretary under Division 6.

**7 At the end of Part 2**

Add:

**Division 6—Programs given by the Secretary**

**26B Secretary may give participants a program**

- (1) The Secretary may, by written notice, give a transport security program to an aviation industry participant referred to in subsection 12(1).
- (2) The notice must set out, or be accompanied by writing that sets out, the transport security program for the participant.
- (3) The Secretary may give a participant a transport security program under subsection (1) only if the Secretary is satisfied that it is appropriate to do so, taking into account existing circumstances as they relate to aviation security.

**26C Content of programs**

- (1) A transport security program that is given to an aviation industry participant under section 26B must:



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- (a) set out the minimum security requirements that the participant must comply with for the purposes of safeguarding against unlawful interference with aviation; and
    - (b) deal with any other matter required to be dealt with in the program by regulations made for the purposes of subsection (2); and
    - (c) be appropriate for the operations or locations covered by the program.
  - (2) The regulations may prescribe other matters that are to be dealt with in one or more of the following:
    - (a) each transport security program given under section 26B;
    - (b) each transport security program for a particular kind of aviation industry participant given under section 26B;
    - (c) each transport security program for a particular class of a particular kind of aviation industry participant given under section 26B.
  - (3) A transport security program that is given to an aviation industry participant under section 26B may require the participant to have in place any of the following:
    - (a) procedures to manage and coordinate aviation security activities within the participant's operation;
    - (b) procedures to coordinate the management of aviation security with other parties (including Commonwealth agencies) who have responsibilities for, or are connected with, aviation;
    - (c) technology, equipment and procedures that will be used by the participant to maintain aviation security;
    - (d) a plan for how the participant will respond to aviation security incidents;
    - (e) practices and procedures to protect security compliance information.

## **26D When a program is in force**

### *When program comes into force*

- (1) A transport security program given under section 26B comes into force at the time specified in the notice giving the program. The time specified must not be earlier than the time the notice is given.

*Period in which program remains in force*

- (2) The program remains in force until the earliest of the following times:
  - (a) if the notice giving the program specifies a time at which the program ceases to be in force—that time;
  - (b) if the program is replaced under section 26F—the time of replacement;
  - (c) if the program is cancelled under section 26F, 26G or 26H—the time of cancellation.

**26E Relationship with Division 5**

If a transport security program given to an aviation industry participant under section 26B is in force, the participant must not give the Secretary another transport security program under Division 5 unless the Secretary has given the participant written permission to do so.

Note: The permission could be a permission under subsection 12(2).

**26F Secretary may revise or cancel inadequate programs**

- (1) This section applies if:
  - (a) a transport security program given to an aviation industry participant under section 26B (the *existing program*) is in force; and
  - (b) the Secretary is no longer satisfied that the existing program is appropriate:
    - (i) because there is a change in the circumstances that relate to aviation security; or
    - (ii) because there is a change in circumstances that could impact on aviation security; or
    - (iii) for some other reason.
- (2) The Secretary may:
  - (a) give the participant another transport security program under section 26B (a *revised program*); or
  - (b) by written notice to the participant, cancel the existing program.

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- (3) If the Secretary gives the participant a revised program, the revised program replaces the existing program when it comes into force.

## **26G Cancelling for failure to comply**

- (1) If:
- (a) a transport security program given to an aviation industry participant under section 26B is in force; and
  - (b) the participant has accumulated the number of demerit points prescribed by the regulations as the number necessary for the Secretary to be able to cancel the program;
- the Secretary may, by written notice given to the participant, cancel the program.

Note: For the demerit points system, see Division 5 of Part 8.

- (2) Before cancelling a program under subsection (1), the Secretary may, by written notice given to the participant, request the participant to show cause why the program should not be cancelled.

## **26H Cancelling programs on request**

- (1) An aviation industry participant may, in writing, request the Secretary to cancel a transport security program given to the participant under section 26B.
- (2) The request must set out reasons for making the request.
- (3) The Secretary may, by written notice given to the participant, cancel the program if the Secretary is satisfied that it is appropriate to do so, taking into account existing circumstances as they relate to aviation security.
- (4) If the Secretary is not so satisfied, the Secretary must:
- (a) refuse to cancel the program; and
  - (b) give the participant written notice of the refusal.
- (5) If the Secretary does not cancel, or refuse to cancel, the program within the period of 60 days after the request was given, the Secretary is taken to have refused to cancel the program.

## 8 Subsection 125(1)

Repeal the subsection, substitute:

- (1) The regulations may establish a system (the *demerit points system*) under which, if an aviation industry participant accrues a prescribed number of demerit points:
  - (a) the approval under Division 5 of Part 2 of a transport security program of the participant may be cancelled; or
  - (b) a transport security program given to the participant under Division 6 of Part 2 may be cancelled.

Note: For cancellations referred to in paragraph (a), see section 26. For cancellations referred to in paragraph (b), see section 26G.

## 9 After paragraph 126(1)(d)

Insert:

- (da) to give a participant a transport security program under section 26B (including a revised transport security program as referred to in section 26F); or
- (db) to cancel a transport security program under section 26F or 26G; or
- (dc) to refuse to cancel a transport security program under section 26H; or

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[Minister's second reading speech made in—  
House of Representatives on 19 September 2018  
Senate on 12 November 2018]

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(192/18)

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