AVIATION TRANSPORT SECURITY AMENDMENT (ADDITIONAL SCREENING MEASURES) BILL 2007

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Transport and Regional Services, The Honourable Mark Vaile, MP)
AVIATION TRANSPORT SECURITY AMENDMENT (ADDITIONAL SCREENING MEASURES) BILL 2007

OUTLINE

The Aviation Transport Security Amendment (Additional Screening Measures) Bill 2007 aims to enhance the screening measures to limit the amount of liquids, aerosols and gels that can be taken through an international screening point by people flying to or from Australia.

On 9 August 2006, United Kingdom security services interrupted a terrorist operation involving planned attacks against international aviation targets. Analysis of the foiled plot revealed an enduring vulnerability in the technical capability of aviation security screening points with respect to liquid explosive detection. The identified vulnerability has prompted the United States, Canada and the European Union to introduce restrictions on the amount of liquids, aerosols and gels that can be carried on board international outbound and domestic flights.

The International Civil Aviation Organization recommends the introduction of security control guidelines for member countries, by 1 March 2007. The Australian Government has taken the decision to introduce these measures for international inbound and outbound flights from 31 March 2007.

Consequently, the Aviation Transport Security Act 2004 (“the Principal Act”) is being amended to manage this particular risk to the aviation industry.

FINANCIAL IMPACT STATEMENT

There will be a cost of $3.1m for the implementation of these measures.
AVIATION TRANSPORT SECURITY AMENDMENT (ADDITIONAL SCREENING MEASURES) BILL 2007

NOTES ON CLAUSES

Clause 1: Short title

Clause 1 provides that the bill will be called the Aviation Transport Security Amendment (Additional Screening Measures) Act 2007 once enacted.

Clause 2: Commencement

The bill contains one schedule of amendments to the Principal Act. Clause 2 specifies when the various provisions will come into force.

Subclause 2(1) provides that each provision of the bill specified in column 1 of the table incorporated in that subclause commences or is taken to have commenced on the day in column 2 of the table.

Item 1 of the table provides that clauses 1 to 3 of the bill and anything not covered elsewhere in the table commences on the day of Royal Assent.

Item 2 of the table provides that the items in Schedule 1 commence on the later of 31 March 2007 and the day after the bill receives the Royal Assent. This ensures that the offence established by section 95C does not commence operation retrospectively.

Clause 3: Schedule(s)

Clause 3 is a formal provision that specifies that each Act that is specified in a Schedule to the bill will be amended as set out in the applicable items in the relevant Schedule, and any other item in a Schedule has effect according to its own terms.

SCHEDULE 1 – AMENDMENTS RELATING TO SCREENING

Overview of Schedule 1

Schedule 1 amends the Principal Act to allow measures to be applied to liquids, aerosols and gels at screening points. The Act is also amended to allow screening officers to ask persons at screening points to agree to be frisk searched which is intended to support the screening measures for liquids, aerosols and gels.

Item 1 – Subsection 44(2) (requirements for screening and clearing)
Item 1 amends the subsection 44(2) by including a new paragraph 44(2)(aa) to allow regulations to be written to deal with things that must not pass through a screening point. It is intended that the regulations written will deal with such matters as the types of things that must not pass through a screening point, in particular liquids, aerosols and gels.
Item 2 – Subsection 44(3) (requirements for screening and clearing)
Item 2 amends subsection 44(3) by including a reference in that subsection to new paragraph 44(2)(aa); thus allowing that some of the matters specified in regulations made under 44(2)(aa) may be specified in written notices issued by the Secretary. Subsection 44(3) lists other matters which may be covered partly in regulations and partly in notices. All of these matters are treated this way to allow flexibility (if the Secretary proceeds to cover some matters in a notice). Notices may be appropriate if matters contain lists, which may need to be speedily updated or amended or if the matters covered in the notice are technically oriented.

Items 3 and 4 – Paragraphs 95B(3)(a) and (b) (screening powers - frisk search as an additional screening procedure)
Items 3 and 4 inserts new wording that links the requirement that a screening officer must not require a person to undergo a frisk search; or conduct a frisk search of a person without the person’s consent to the conduct of the search being undertaken under this section.

Item 5 – new Section 95C (screening powers – frisk search general power)
This item introduces a new section with general powers for frisk searches. This is intended to allow an additional capacity for screening officers to ask persons passing through a screening point to agree to undergo a frisk search, beyond what is empowered under section 95B.

Subsection (1) notes if a screening officer considers it necessary in order to screen a person properly, the screening officer may request the person to undergo a frisk search. If a screening officer conducts a frisk search, subsection (2) notes that the screening officer may conduct the search only to the extent necessary to complete the proper screening of the person. In subsection (3), a screening officer must not:
(a) require the person to undergo a frisk search under this section; or
(b) conduct a frisk search of a person under this section without the person’s consent; or
(c) contravene subsection (2).