EXPLANATORY STATEMENT

Select Legislative Instrument 2005 No. 198

Issued by the Authority of the Minister for Transport and Regional Services

Subject - Aviation Transport Security Act 2004

Aviation Transport Security Amendment Regulations 2005 (No. 1)

Subsection 133(1) of the Aviation Transport Security Act 2004 (the Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Subsection 12(c) of the Act provides that the regulations may prescribe the kind of aviation industry participants required to have a transport security program.

The Regulations will amend the Aviation Transport Security Regulations 2005 (the Principal Regulations) to:

- omit division 2.5 relating to airside facility operators; and
- omit subregulation 2.03(b) that defines an airside facility operator.

The amendment to the Principal Regulations will remove obligations placed on aviation industry participants who occupy or control an area at a security controlled airport with direct airside access to have approved transport security programs in place from 1 September 2005. This will apply to organisations with a permanent presence at the airside of the airport, either under lease or as a requirement for the operation of the airport. These organisations will no longer be required to have their own transport security program and will instead continue to be covered by the transport security program of the security controlled airport. This will remove an unwieldy process that was limited in its application and could possibly have produced inconsistent treatment of risk within the boundaries of an airport.

There has been broad consultation with the aviation industry since the aviation transport security legislation came into effect on 10 March 2005. This ranges from the smallest security controlled airports to the largest airport operators and airport facility operators. The forums include Industry Consultation Meetings for large industry participants, Regional Industry Consultation Meetings for small to medium sized industry participants, meetings of all general aviation airports that are classified as security controlled airports and meetings of airports that have a security screening function but do not have a counter-terrorist first response obligation at the airport. There has been universal support for the removal of Division 2.5. There is ongoing consultation on alternative security treatments at airports that will more effectively raise awareness for all those with authorised access to airports.

The details of the Regulations are set out in the Attachment.
The Regulations will be a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Regulations will commence on 31 August 2005.

There are no conditions that need to be met before the power to make the Regulations may be exercised.
Details of the proposed *Aviation Transport Security Amendment Regulations 2005 (No. 1)*

**Regulation 1 – Name of Regulations**
Regulation 1 provides that the name of the Regulations is the *Aviation Transport Security Amendment Regulations 2005 (No. 1).*

**Regulation 2 – Commencement**
Regulation 2 provides that the proposed Regulations will commence on 31 August 2005.

**Regulation 3 – Amendment of *Aviation Transport Security Regulations 2005***
Regulation 3 provides that Schedule 1 to the Regulations amends the *Aviation Transport Security Regulations 2005.*

**Schedule 1 - Amendments**

**Item [1] – Paragraph 2.03(b)**
This item will amend Regulation 2.03 by omitting paragraph (b). The amendment will remove aviation industry participants that occupy or control an area at a security controlled airport with direct access to the airside of the airport from being prescribed for the purposes of paragraph 12(c) of the *Aviation Transport Security Act 2004.* These aviation industry participants will not be required to have a Transport Security Program.

**Item [2] – Division 2.5**
This item will omit Division 2.5 entirely. The amendment removes requirements for transport security programs for airside facility operators. This amendment is consistent with the removal of the definition of airside facility operator in Paragraph 2.03(b).