

## EXPLANATORY STATEMENT

### AVIATION TRANSPORT SECURITY (PROHIBITED CARGO – SOMALIA) INSTRUMENT 2015

#### *Aviation Transport Security Act 2004*

The *Aviation Transport Security Act 2004* (the Act) establishes a regulatory framework to safeguard against unlawful interference with civil aviation in Australia. The Act gives effect to Australia's obligations under Annex 17 to the Convention on International Civil Aviation (Chicago Convention) by establishing a regulatory framework to safeguard against unlawful interference with aviation in Australia. The Act establishes minimum security requirements for civil aviation in Australia by imposing obligations on persons engaged in civil aviation-related activities, including activities related to the handling and transport of air cargo.

In May 2013, the Act was amended to enable the Minister to prohibit the carriage of certain cargo into Australian territory on an aircraft through the use of a disallowable instrument. Subsection 65B(1) of the Act allows the Minister to prohibit the entry of specified kinds of cargo into Australian territory for the purposes of safeguarding against unlawful interference with aviation.

Subsection 65B(2) specifies that, without limiting subsection 65B(1), an instrument made under that subsection may relate to all or any of the following:

- (a) some or all of a class of persons to whom the Act applies;
- (b) cargo originating from a particular country;
- (c) cargo transiting through a particular country;
- (d) cargo packaged in a particular way;
- (e) cargo that meets, or is more or less than, a specified weight; and
- (f) cargo that comes within a specified weight range.

The purpose of the Aviation Transport Security (Prohibited Cargo –Somalia) Instrument 2015 is to prohibit all cargo originating from, or transiting through, the Federal Republic of Somalia from entry into Australian territory.

This instrument applies to aviation industry participants, as defined in the Act.

Failure to comply with this instrument is an offence under section 65C of the Act.

This instrument is a legislative Instrument for the purpose of the *Legislative Instruments Act 2003*.

This instrument commences on the day after registration.

#### **Consultation**

The Minister for Infrastructure and Regional Development has consulted with the Foreign Affairs Minister and the Trade Minister. Other consultations were not undertaken as this

legislative instrument is required as a matter of urgency and because of an issue of national security. These are both grounds for exemption to undertake consultation under paragraphs 18(2)(b) and 18(2)(d) of the *Legislative Instruments Act 2003* respectively.

Authority:  
Subsection 65B(2) of the  
*Aviation Transport Security Act 2004*

## **Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

### **Aviation Transport Security (Prohibited Cargo –Somalia) Instrument 2015**

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### **Overview of the legislative instrument**

This Legislative Instrument prohibits all cargo originating from, or transiting through, the Federal Republic of Somalia from entry into Australian territory.

#### **Human rights implications**

This legislative instrument does not engage any of the applicable rights or freedoms.

#### **Conclusion**

This legislative instrument is compatible with human rights as it does not raise any human rights issues.

WARREN TRUSS  
Minister for Infrastructure and Regional Development