

Airports (Building Control) Regulations (Amendment) 1997 No. 114

EXPLANATORY STATEMENT

STATUTORY RULES 1997 NO. 114

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

Airports Act 1996

Airports (Building Control) Regulations (Amendment)

Section 252 of the Airports Act 1996 (the Act) allows the Governor-General to make regulations prescribing matters that are required or permitted by the Act to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Part 5, Division 5, of the Act provides for the Commonwealth to regulate "building activities" (defined in section 98 of the Act) at airports to which the Part applies.

Section 99 of the Act prohibits building activity (other than an activity exempted under the regulations) without an approval granted under the regulations. Section 100 of the Act enables the regulations to make provision for and in relation to approvals for on-airport building activities and, in doing so, to draw on relevant documents, including the Building Code of Australia, as in force or existing from time to time. The regulations may deal with matters including inspections in addressing the conditions of building approvals.

Section 106 of the Act prohibits the occupation or use of a building or works without a certificate of fitness (defined in section 104 of the Act) in force under the regulations. The Aviation Legislation *Amendment Act* (No. 1) 1997 (the ALA Act) amended Section 106 of the Act having the effect of repealing the definition of 'certificates of fitness' and replacing it with the definition of 'certificate of compliance'.

Section 107 of the Act enables the regulations to make provision for and in relation to certificates of fitness and, in doing so, to draw on relevant documents, including the Building Code of Australia, as in force or existing from time to time. The ALA Act amended subsection 107(1)(a) of the Act to provide that regulations can deal with the issue of certificates of compliance stating that a building, structure, works or eligible alteration is to be treated as complying with the regulations.

The Airports (Building Control) Regulations (the Regulations) inter alia:

- * provide for the approval of the conduct of building and other works at leased airports (Part 2 of the Regulations), and the issue of certificates of compliance in respect of those buildings and works (Part 3 of the Regulations); and
- * provide for review of certain decisions of the airport building controller and the airport-lessee company by the Administrative Appeals Tribunal (regulation 5.02).

The amendments to the Regulations make changes agreed to by the Minister with the Senate Standing Committee on Regulations and Ordinances and implement changes consequential to the passage of the ALA Act. In summary, the key proposed amendments:

- * add a number of the decisions of the Airport Building Controller to those already reviewable by the Administrative Appeals Tribunal (item 7);
- * applies time limits to a number of decisions that the Airport Building Controller must make (items 3 to 5); and
- * implement changes to the regulations which are consequential to the passage of the ALA Act which amends the Act (item 6 relating to the function of a certificate of compliance and item 8 repealing the definition of 'certificate of fitness' and replacing it with the definition of 'certificate of compliance').

Further detail on the amendments to the Regulations is set out in the Attachment.

The amendments to the Regulations commenced on notification in the Gazette.

ATTACHMENT

Item 2

Item 2 provides that the correct cross-reference (regulation 2.11) is made in the definition of "building approval" in regulation 1.04(1).

Item 3

Item 3 inserts a new sub-regulation (2.16(5)) requiring the airport building controller to determine an application for granting a varied building approval within 21 days of receiving the application.

Item 4

Item 4 inserts a new sub-regulation (3.04(8)) requiring the airport building controller to determine an application for the issue of a certificate of compliance within 14 days of receiving the application.

Item 5

Item 5 inserts a new sub-regulation (3.10(3)) requiring the airport building controller to determine an application for the granting of a varied certificate of compliance within 14 days of receiving the application.

Item 6

Item 6 substitutes a new regulation for the existing regulation 3.15 to ensure that regulation 3.15 is consistent with paragraph 107(1)(a) of the Act, as amended by the ALA Act.

Item 7

Item 7 provides for the review of additional certain decisions of the airport building controller by the Administrative Appeals Tribunal: refusal to approve non-compliance with Australian building standards; refusal to grant a varied building approval; revocation of a certificate of compliance; and refusal to issue certified copy of a certificate of compliance.

Item 8

Item 8 provides for the replacement of the term 'certificate of fitness' wherever it occurs in Part 3 of the regulations with the term 'certificate of compliance' to ensure consistency with the amended Section 106 of the Act.