

# **Air Navigation Amendment Regulations 1998 (No. 1) 1998 No. 321**

## **EXPLANATORY STATEMENT**

STATUTORY RULES 1998 No. 321

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

*Air Navigation Act 1920*

Air Navigation Amendment Regulations 1998 (No. 1)

Under subsection 26(1) of the *Air Navigation Act 1920*, the Governor-General may make regulations for the purposes of the Act. Paragraph 26(2)(a) of the Act provides that, without limiting the generality of subsection (1), the regulations that may be made include regulations for or in relation to "aviation security".

The purpose of the *Air Navigation Amendment Regulations 1998* ("the Regulations") is to amend the *Air Navigation Regulations 1947*, to wholly address aviation security issues.

The Commonwealth Government sets and administers minimum standards for the security of civil aviation within Australia. These standards are contained within the *Air Navigation Act 1920* and the *Air Navigation Regulations 1947*. The aim of aviation security regulation is to promote a secure environment for Australian civil aviation and to safeguard Australia's civil aviation operations against acts of unlawful interference (such as an act of hijack, the intentional destruction of an aircraft, etc.).

The Regulations enhance aviation security in Australia by providing statutory trespass powers for Australia's major airports - by way of codifying Australia's existing "Aviation Security Identification Card" (ASIC) scheme. In general terms, the trespass powers (under the Regulations) prohibit the unauthorised access into an airport's security sensitive areas and also provide associated powers of removal by designated security officers.

ASICs are unique identification cards, designed and used solely for authorising access to security restricted areas of airports. The rules of the ASIC scheme have been developed in consultation with industry over a period of time.

The primary outcomes of the codified ASIC trespass scheme are:

- \* the easy and rapid identification of persons in security sensitive areas (eg, via the wearing of the "ASIC" identification cards); and
- \* the requirement for persons entering security sensitive areas to have a legitimate reason to be there (eg, to be authorised for access in order to perform specified functions).

The Regulations also introduce a criminal background check as part of the ASIC scheme - in the form of an industry "vetting" arrangement for persons applying to have unescorted access to an airport's security restricted areas.

The ASIC scheme is currently implemented by members of Australia's civil aviation industry (eg, major airlines and airports). As such, the Regulations also outline two transitional arrangements:

- \* outlining how the ASIC criminal background check applies to existing ASIC holders; and

\* confirming that ASICs issued prior to the commencement of the Regulations continue to be regarded as valid ASICs.

Finally, the Regulations establish the legal infrastructure for an "infringement notice" (ie, an on-the-spot fine) compliance scheme for relevant trespass offences.

It is also an objective of aviation security to harmonise Australia's civil aviation industry with internationally-accepted aviation security standards and recommended practices. The Regulations harmonise with, and implement, (within Australia) the international standards of the Convention on International Civil Aviation (the "Chicago Convention"), to which Australia is a signatory.

A Regulation Impact Statement was prepared, and circulated widely within industry, in May 1998.

#### Commencement

Schedule 1 (a single miscellaneous provision, modernising a previous set of amendments to the *Air Navigation Regulations 1947*) is taken to have commenced on 16 November 1995.

Schedule 3 (providing a more modern style of numbering, for the whole of the *Air Navigation Regulations 1947*) commences on 29 March 1999.

The remaining elements of the Regulations (including those regulations codifying the ASIC scheme, as contained in Schedule 2) commence upon notification in the *Gazette*.

Further details of the Regulations appear in the Attachment.

### ***Air Navigation Amendment Regulations 1998***

#### **Clause 1 - Name of regulations**

Clause 1 provides that the name of the Regulations is the *Air Navigation Amendment Regulations 1998*. This model for the naming of regulations has recently been introduced as a standard Commonwealth practice.

#### **Clause 2 - Commencement**

Clause 2 provides that the Regulations commence as follows:

\* Schedule 1 is taken to have commenced on 16 November 1995. Schedule 1 outlines a miscellaneous provision, modernising the structure and terminology used in a previous set of amendments to the *Air Navigation Regulations 1947* (under Statutory Rules 1995 No. 342). This previous set of amendments commenced on 16 November 1995. As a result, commencement of the correcting regulations on this same date deems the more modern structure and terminology to have applied as from the date of the original amendment;

\* Schedule 3 commences on 29 March 1999. Schedule 3 provides for a more modern "decimal" style of numbering, for the whole of the *Air Navigation Regulations 1947*. This "lead in" time for the re-numbering process allows for all relevant parties to make appropriate changes (eg, to amend Departmental stationary); and

\* the remainder of the Regulations - comprising Schedule 2 (ie, the main body of the ASIC trespass provisions) and clauses 1-3 of the Regulations - commence upon notification in the *Gazette*.

### **Clause 3 - Amendment**

Clause 3 provides that the *Air Navigation Regulations 1947* are amended as set out in the Regulations.

### **SCHEDULE 1 - AMENDMENTS TAKEN TO HAVE COMMENCED ON 16 NOVEMBER 1995**

Schedule 1 outlines a miscellaneous provision, modernising the structure and terminology used in a previous set of amendments to the *Air Navigation Regulations 1947* (Statutory Rules 1995 No. 342).

Schedule 1 contains only one item, as follows.

#### **Item 1 - Subregulation 315(2)**

Item 1 replaces existing subregulation 315(2) of the *Air Navigation Regulations 1947* with two separate (and re-drafted) provisions. In particular, item 1 provides more modern terminology and structure - without altering the overall meaning of existing subregulation 315(2).

Existing regulation 315 provides a power for the Secretary to detain aircraft, in the event that the flight would involve an offence or would be a cause of danger.

### **SCHEDULE 2 - AMENDMENTS COMMENCING ON GAZETAL**

Schedule 2 contains the main body of the Regulations - including the ASIC trespass provisions. These provisions are established by way of amendments to the *Air Navigation Regulations 1947*. In particular, Schedule 2:

\* introduces a number of miscellaneous and consequential amendments to the *Air Navigation Regulations 1947* (please see items 2-24 and 26);

\* inserts a new Division 7 into existing Part XVIA (Aviation Security). The new Division is titled "Access to security restricted areas of airports" and comprises the main body of the ASIC trespass provisions (please see item 25); and

\* inserts a new Division 3 into existing Part XVII (Penal Provisions and Prosecutions). The new Division is titled "Infringement notices" and comprises a new infringement notice scheme for the ASIC trespass provisions (please see item 27). Details of Schedule 2 (items 2-27) are as follows.

#### **Item 2 - Regulation 1**

Item 2 re-names the primary regulations (currently, the *Air Navigation Regulations*) as the *Air Navigation Regulations 1947*. This revised model for the naming of regulations has recently been introduced as a standard Commonwealth practice.

#### **Item 3 - Regulation 5, heading**

Existing regulation 5 is the primary definitions provision for the *Air Navigation Regulations 1947*. Currently, the heading for regulation 5 is "Interpretation". Item 3 replaces this heading with the more descriptive "Definitions for regulations".

#### **Item 4 - Regulation 5, definition of "registered"**

Item 4 updates an existing reference to an item of Commonwealth regulation. The reference is contained within the existing definition of the term "registered" under regulation 5 of the *Air Navigation Regulations 1947*. In particular, the reference to *Civil Aviation Regulations is* replaced with *Civil Aviation Regulations 1988*. This revised model for the naming of regulations has recently been introduced as a standard Commonwealth practice.

#### **Item 5 - Regulation 5**

Item 5 inserts definitions for two new terms ("infringement notice" and "infringement notice offence") into the main definitions provision of the *Air Navigation Regulations 1947* (regulation 5).

#### **Item 6 - Paragraph 89(b)**

Item 6 updates an existing reference to an item of Commonwealth regulation. The reference is contained under paragraph 89(b) of the *Air Navigation Regulations 1947*. In particular, the reference to *Civil Aviation Regulations is* replaced with *Civil Aviation Regulations 1988*. This revised model for the naming of regulations has recently been introduced as a standard Commonwealth practice.

#### **Item 7 - Subregulation 107(1)**

Item 7 updates an existing reference to an item of Commonwealth regulation. The reference is contained under subregulation 107(1) of the *Air Navigation Regulations 1947*. In particular, the reference to *Civil Aviation Regulations is* replaced with *Civil Aviation Regulations 1988*. This revised model for the naming of regulations has recently been introduced as a standard Commonwealth practice.

#### **Item 8 - Part IX, Division 1 (heading)**

Item 8 deletes the superfluous Division heading under Part IX (Airports and facilities and services). The heading is superfluous since there is currently only one Division within the Part.

#### **Item 9 - Regulation 297**

Existing regulation 297 is the primary definitions provision for Part XVIA. Item 9 inserts a number of new definitions into regulation 297 - by replacing the whole of regulation 297.

Item 9:

- \* inserts new definitions for the terms "photograph" and "security officer";
- \* moves the existing definition for the term "authorised officer" - from subregulation 311 (1) to regulation 297; and

\* moves existing definitions for the terms "primary identification document", "secondary identification document" and "tertiary identification document" - from subregulation 311CN(2) to regulation 297.

### **Item 10 - Regulation 297J**

Item 10 deletes existing regulation 297J, as part of the overall ASIC scheme.

Regulation 297J currently requires operators of aircraft to ensure that their passengers do not have unescorted access to security sensitive areas of airports. This requirement is maintained - as part of the ASIC scheme - under new subregulation 311CSE(3).

### **Item 11 - After regulation 297P; & Item 12 - Regulations 311, 311A and 311B**

Existing regulations 311, 311A and 311B are moved within Part XVIA - from Division 4 (Powers of officers to enter and inspect etc.) to Division 1 (General). This is because the provisions are of a general nature and fit more appropriately within Division 1.

Items 11 and 12 implement this move by:

- \* item 12 deleting the current provisions; and
- \* item 11 inserting similar provisions as new regulations 297PA, 297PB and 297PC.

### **Item 13 - Subregulation 311C(2)(c)**

Item 13 provides an additional inspection power, for Departmental "authorised officers", to ensure compliance by ASIC issuing bodies With the *Air Navigation Act 1920* and the *Air Navigation Regulations 1947*.

Item 13 adds an additional paragraph (d) to subregulation 311C(2) -thereby extending the existing inspection power of Departmental "authorised officers" to also cover areas, buildings (except domiciles) and vehicles under the control of an ASIC issuing body.

### **Item 14 - Subregulation 311CAA(1)**

Item 14 provides a limitation upon existing inspection powers, of Departmental . "authorised officers", in relation to entering and inspecting aircraft. Currently, the power to inspect under existing regulation 311CAA may be exercised at any time and Without notice. Item 14 limits the existing power by providing that the power may only be exercised:

- \* at any reasonable time (eg, during normal business or operating hours); and
- \* after giving notice to the aircraft operator.

### **Item 15**

Item 15 is a consequential provision to items 11 and 12. Item 15 updates the reference, in the note following subregulation 311CAA(3), to reflect the insertion of new regulation 297PC.

### **Item 16 - Part XVIA, Division 5, heading**

Currently, the heading for Division 5 is "Prescribed requirements for categorised airports". Item 16 replaces this heading with the more descriptive "Categorised airports".

### **Item 17 - Part XVIA, Division 5, before regulation 311CD**

In summary, item 17 outlines a number of amendments (to the *Air Navigation Regulations 1947*) that are consequential to the ASIC trespass scheme. These consequential amendments are implemented within existing Division 5 ("Categorised airports") of Part XVIA. The effect of the consequential amendments under item 17 is two-fold.

First, item 17 inserts a general (and codified) trespass provision (comprising both a trespass offence and a "move on" power) for all security sensitive areas of categorised airports. Second, item 17 restructures Division 5, by way of..

- \* inserting a new Subdivision 1 ("Preliminary"), to contain a new definitions provision for Division 5;

- \* inserting a new Subdivision 2 ("Entry to categorised airports"), to contain the new general trespass provisions; and

- \* inserting a new Subdivision 3 ("Prescribed security requirements for categorised airports"). This new Subdivision is to contain the existing regulations within Division 5 (regulations 311CD-311CKA), as amended under items 18-22.

Details of item 17 are as follows.

#### New regulation 311CBA - Definitions for Division 5

New regulation 311CBA inserts a definition for the term "airside controlled area". The term is a new concept to the *Air Navigation Regulations 1947* and is one of the components to an airport's security sensitive areas (for the purposes of the general trespass provisions contained under the Regulations).

#### New regulation 311CBB - Definition for Subdivision

New regulation 311CBB inserts a definition for the term "security sensitive area". The term is used within Subdivision 2 as the area to which the general trespass provisions apply.

#### New regulation 311CBC - Meaning of "person in charge of an area"

New regulation 311CBC inserts an additional definition for the purposes of Subdivision 2. The definition defines when a person is "in charge of an area".

#### New regulation 311CBD - Entry to certain parts of categorised airports prohibited

New regulation 311CBD outlines the trespass offence - in relation to persons under Division 5. Under this provision, a person must not, without a lawful excuse:

- \* enter a security sensitive area, of a categorised airport, without the permission of a person in charge of the area; or

- \* remain in a security sensitive area, of a categorised airport, after being asked by a person in charge of the area to leave the area. The maximum penalty for the offence is 10 penalty units.

In addition, subregulation (3) provides that the offence is also an "infringement notice offence".

New regulation 311CBE - Taking vehicles into certain parts of categorised airports prohibited

New regulation 311CBE outlines the trespass offence - in relation to vehicles under Division 5. Under this provision, a person must not, without a lawful excuse:

- \* take a vehicle into a security sensitive area, of a categorised airport, without the permission of a person in charge of the area; or
- \* leave a vehicle in a security sensitive area, of a categorised airport, after being asked by a person in charge of the area to remove the vehicle from the area.

The maximum penalty for the offence is 10 penalty units.

In addition, subregulation (3) provides that the offence is also an "Infringement notice offence".

New regulation 311CBF - Security officer may remove person from certain areas

New regulation 311CBF outlines the second element - in relation to persons of the general trespass provision under Division 5. In particular, new regulation 311CBF covers the power of security officers to require trespassers to leave an airport's security sensitive areas.

Under new regulation 311CBF, a security officer may physically remove a person from a security sensitive area, if,

- \* the security officer, or a person in charge of the area, has asked the person to leave the area;
- \* the security officer has shown the person an identity card of the officer (or other appropriate form of identification); and
- \* the person does not leave the area at once.

However, under subregulation (2), a security officer - in removing a person must not use more force, or subject the person to greater indignity, than is necessary and reasonable to effect the person's removal.

New regulation 311CBG - Security officer may remove vehicle from certain areas

New regulation 311CBG outlines the second element - in relation to vehicles of the general trespass provision under Division 5. In particular, new regulation 311CBG covers the power of security officers to require vehicles to be removed from an airport's security sensitive areas.

Under new regulation 311CBG, a security officer may physically remove a vehicle from a security sensitive area, if,

- \* the security officer, or a person in charge of the area, has asked the person in control of the vehicle to remove the vehicle from the area;
- \* the security officer has shown the person an identity card of the officer (or other appropriate form of identification); and

- \* the person does not remove the vehicle at once.

Also, a security officer may physically remove a vehicle, from a security sensitive area, if the officer has made all reasonable efforts to find the person in control of the vehicle, without success.

However, under subregulations (4) and (5), a security officer - in removing a vehicle - must not use more force, or subject any person to greater indignity, than is necessary and reasonable to effect the vehicle's removal and must take all reasonable efforts to avoid damaging the vehicle.

**Item 18 - After paragraph 311CD(j); Item 19 - After paragraph 311CE(g); Item 20 - After paragraph 311CF(g)); Item 21 - Paragraph 311CG(d) & Item 22 - Paragraph 311CH(d)**

Items 18-22 outlines a number of further amendments (to the *Air Navigation Regulations 1947*) that are consequential to the ASIC trespass scheme. These consequential amendments are implemented within existing Division 5 ("Categorised airports") of Part XVIA. Currently, Division 5 (regulations 311CD-311CKA) contains the prescribed security requirements for Australia's categorised airports.

The effect of the consequential amendments under items 18-22 is to insert a requirement for operators of security categorised airports to implement measures and resources in order to:

- \* ensure that persons and vehicles entering the airside controlled area of the airport are identified; and
- \* prevent the unauthorised access of persons and vehicles into the airside controlled area of the airport.

**Item 23 - Subregulation 311CN(2)**

Item 23 is a consequential amendment to item 9.

Item 9 (amongst other matters) provides a new location for the existing definitions of the terms "primary identification document", "secondary identification document" and "tertiary identification document". Item 23 deletes these definitions from their current location under subregulation 311CN(2).

**Item 24 - Regulation 311CP**

Item 24 is a consequential amendment to:

- \* items 11 and 12 - moving regulations 311, 311A and 311B from Division 4 to Division 1 of Part XVIA. These provisions provide for the appointment of "authorised officers" granted statutory audit powers; and
- \* the related movement of the definition for the term "authorised officer" under item 9.

Existing regulation 311CP also uses the term "authorised officer" - for the unrelated purpose of collecting information on an airport's uniformed security force. In order to retain the current effect of regulation 311CP, item 24 replaces the term "authorised officer" with "authorised person".

## **Item 25 - Part XVIA**

Item 25 inserts a new Division (Division 7 - Access to security restricted areas of airports) into Part XVIA (Aviation Security) of the *Air Navigation Regulations 1947*.

New Division 7 comprises the main body of the specialised AM trespass provisions, for Australia's major airports, under the Regulations.

Details of Division 7 are as follows.

New regulation 311CRA - Definitions for Division 7

New regulation 311CRA establishes the central definitions provision for new Division 7. As such, this provision defines those terms that are commonly used throughout the ASIC scheme. The terms comprise "ASIC", "aviation security identification card", "ASIC program", "program purposes", "holder", "issuing body" and "unlawful non-citizen".

New regulation 311CRA also provides that ASICs are divided into two types of identification cards:

(1) security identification cards, which provide a holder with unescorted

access to a security restricted area of an airport. The holder must pass

an identity check and a criminal background check and must be

entering the security restricted area for the purposes of his or her

employment. As such, the holders of security identification cards

comprise the main body of industry staff members who need day-to-day

access to the airport; and

(2) visitor identification cards, which provide a holder with escorted access

to a security restricted area of an airport. That is, the holder of a visitor

identification card may enter a security sensitive area of an airport - but

only when escorted or under the supervision of the holder of a security

identification card. The holder of a visitor identification card is not

subject to an identity or a criminal background check. However, the

holder must be entering the security restricted area of the airport for a

lawful purpose. As such, the holders of visitor identification cards

comprise those persons who temporarily visit the airport.

Finally, new regulation 311CRA provides a "legislative short cut" by defining that an ASIC "applies to a place" if the ASIC authorises the holder to be in the place. This definition ensures that ASICs issued for a particular place (eg, a specified airport or a specified part of a security restricted area) may only be validly used to gain access to that place. The ASIC may not be lawfully used to gain access to other security areas.

New regulation 311CRB - Meaning and extended meaning of "valid ASIC"

New regulation 311CRB establishes a definition for the term "valid ASIC". The term is used throughout the Regulations.

New regulation 311CRC - Offences of strict liability

New regulation 311CRC is a technical legal provision that confirms (for the purposes of the Regulations) the meaning of a "strict" offence. The provision adopts the standard Commonwealth definition.

As a further limit on the application of strict offences, the Regulations specify in each case - when an offence is intended as a strict offence.

New regulation 311CRD - What an ASIC program is

New regulation 311CRD establishes the minimum standards of an ASIC program.

ASIC programs are not formally "approved" by the Secretary. However, before the Secretary may authorise a person as an issuing body, the Secretary must be satisfied that the person holds an adequate ASIC program (under new regulation 311CRF). In addition, all issuing bodies are required to implement their ASIC programs (under new regulation 311CRI).

In particular, new regulation 311CRD provides that an ASIC program must set out the resources to be used and the procedures to be followed by the holder of the program to achieve the specified purposes (the "program purposes").

New regulation 311CRE - Application for authorisation to issue ASICs

New regulation 311CRE is a preliminary provision to the authorisation of ASIC "issuing bodies". The regulation provides that an airport operator, an aircraft operator or any other person may apply in writing to the Secretary to be authorised to issue ASICs to persons. Such applications must be accompanied by a statement setting out the applicant's proposed ASIC program.

New regulation 311CRF - Decision on an application

New regulation 311CRF is the provision by which issuing bodies are to be authorised by the Secretary. The provision also establishes guidelines as to who the Secretary may authorise as an issuing body.

Finally, regulation 311CRF provides that it is an offence for a person, not authorised by the Secretary, to issue an ASIC or a card purporting to be an ASIC. The maximum penalty for the offence is 45 penalty units. The offence is a strict offence.

New regulation 311CRG - Direction to vary ASIC program

New regulation 311CRG outlines the procedure allowing the Secretary to vary the terms of an issuing body's ASIC program.

Under subregulation (1), the Secretary may give a written notice to the issuing body to vary its ASIC program. The Secretary may give such a notice if the program is not adequate to give effect to the program purposes (the minimum standards for an ASIC program, under regulation 311CRD).

There is no offence for an issuing body failing to comply with a direction of the Secretary. However, under new regulation 311CRJ, the Secretary may revoke the authorisation of an issuing body who fails to comply with such a direction.

New regulation 311CRH - Variation of ASIC program by issuing body

New regulation 311CRH outlines the procedure allowing the issuing body to vary the terms of its own ASIC program.

An issuing body may apply to the Secretary (at any time) to vary its ASIC program. The Secretary must either

- \* if the program (as varied) is adequate to give effect to the program purposes (the minimum standards for an ASIC program, under regulation 311CRD) - approve the variation and give written notice of the decision; or
- \* otherwise - refuse to approve the variation, and give reasons for the refusal (as part of the written notice); within 30 days after receiving an application.

New regulation 311CRI - Issuing body to give effect to ASIC program unless exempted

New regulation 311CRI provides that it is an offence for an issuing body to fail to implement its ASIC program. The maximum penalty for the offence is 45 penalty units. The offence is a strict offence.

As an alternative to prosecution (or in addition to prosecution) - under new regulation 311 M the Secretary may also revoke the authorisation of an issuing body who fails to implement its ASIC program.

The Secretary may also give an exemption to an issuing body from the requirement to implement its ASIC program.

New regulation 311CRJ - Secretary may revoke issuing body's authorisation

New regulation 311 M - in tandem with new regulation 311CRK -Outlines the procedure allowing the Secretary to revoke an issuing body's authorisation to issue ASICs (authorisations are granted under new regulation 311CRF).

Revocation of an authorisation is provided under the Regulations as an administrative alternative to (or an administrative process in addition to) the prosecution of the issuing body.

That is, in the event that an issuing body fails to comply with the statutory minimum standards of the ASIC scheme (eg, by providing unauthorised access into an airport's security restricted areas), the Secretary has the ability to remove the issuing body from the operation of the ASIC scheme as soon as possible. This ensures that the security of the ASIC scheme overall can be

maintained, even in the event that a participant to the ASIC scheme fails to comply with its obligations under the scheme.

Revocation of an issuing body's authorisation has the following effect:

- \* the issuing body may no longer issue ASICs to persons; and
- \* the ASICs (issued by the issuing body) may be administered under new regulation 311CSM. (For example, a new body can be authorised to take over administration of these pre-existing ASICs. If necessary, ASICs that have been issued in breach of the Regulations may be cancelled.)

If the Secretary decides to revoke an issuing body's authorisation, the Secretary must give written notice of the revocation and the reasons for it to the issuing body as soon as practicable. Revocation takes effect when the written notice is given to the person.

New regulation 311CRK - Revocation of authorisation at request of holder

New regulation 311CRK provides a further mechanism for the Secretary to revoke an issuing body's authorisation to issue ASICs - in the event that the issuing body requests the revocation. (This provision is additional to the revocation provisions of new regulation 311CRJ.)

The Secretary must revoke the authorisation of an issuing body if the issuing body requests the Secretary to do so. Revocation takes effect on the date of the issuing body's request.

New regulation 311CRL - Re-applying for authorisation

New regulation 311CRL confirms that a person, whose authorisation to issue ASICs has been revoked, may apply for a new authorisation (under new regulation 311CRF) at any time.

New regulation 311CRM - Definitions for Subdivision 3

New regulation 311CRM establishes definitions for three new terms ("conviction", "sentence" and "Subdivision 3 offence") used in the ASIC criminal background check under new subregulation 311CRO(3).

The term "conviction" is defined to have the standard Commonwealth meaning. This meaning is established under subsection 85ZM(1) of the Crimes Act 1914. In particular, the term "conviction" harmonises with the Spent Convictions Scheme established under Part VIIC of the Crimes Act 1914.

New regulation 311CRN - Issue of ASICs-issuing body

New regulation 311CRN outlines a preliminary provision on the issue of ASICs by issuing bodies.

First, the regulation provides that an issuing body may issue an ASIC to a person in accordance with its ASIC program.

Second, the regulation provides that the issuing body may issue the ASIC subject to a condition. When issuing a security identification card, the notice of the condition must be in writing.

In contrast, when issuing a visitor identification card subject to a condition, the condition may be given orally. This is because visitor identification cards are usually issued on a temporary basis

only - the vast majority of visitor identification cards are issued for a period of one day or less. In addition, visitors are escorted whilst they are in a security restricted area.

New regulation 311CRO - Security identification cards-issue by issuing body

New regulation 311CRO outlines the procedures for the issue of security identification cards by issuing bodies (including the criminal background check).

Subregulation (1) is a preliminary provision, providing that an issuing body may issue a security identification card to a person to authorise access in relation to:

- \* all or part of a security restricted area;
- \* one or more security restricted areas; and
- \* security restricted areas at one or more airports.

Subregulation (2) outlines those procedures (other than the criminal background check) for issuing a security identification card. Under this provision, an issuing body may issue a security identification card to a person only if..

- \* the person requires access to the security restricted area for the purposes of his or her employment;
- \* the person is not an "unlawful non-citizen" (under the terms of the *Migration Act 1958*);
- \* the person has verified his or her identity by means of a "primary identification document" plus one of the following: a further "primary identification document"; a "secondary identification document"; or two "tertiary identification documents"; and
- \* the issue of the card would not pose a significant threat to aviation security.

It is an offence for an issuing body to fail to comply with subregulation (2). The maximum penalty for the offence is 45 penalty units. The offence is a strict offence.

Subregulation (3) outlines the ASIC criminal background check. Under this provision, an issuing body must not issue a security identification card to a person if:

- \* the person was convicted of a Subdivision 3 offence;
- \* the person was convicted during the relation-back period; and
- \* as a result of the conviction', the person was sentenced to imprisonment for more than 7 days for the offence;
- \* unless the Secretary approves the issue of the security identification card to the person under new regulation 311CRQ.

It is an offence for an issuing body to fail to comply with subregulation (3). The maximum penalty for the offence is 45 penalty units. The offence is a strict offence.

New regulation 311CRP - Relation-back period

New regulation 311CRP provides a definition for the term "relation-back period" used in the criminal background check for the issue of a security identification card under new subregulation 311CRO(3).

That is, the regulation defines the time period - during which time a person must not have been convicted of a Subdivision 3 offence - in order for the person to satisfy the criminal background check. In doing so, the regulation:

- \* ensures that the criminal background check harmonises with the Spent Conviction Scheme under the Crimes Act 1914; and
- \* introduces the first transitional arrangement of the Regulations outlining how the ASIC criminal background check applies to existing ASIC holders.

The general rule is provided under subregulations (1)-(2). In order for a person to satisfy the criminal background check, a person must not have been:

- \* convicted, as a minor, at any time up to 5 years prior to the proposed day of issue of the security identification card; and
- \* convicted, as an adult, at any time up to 10 years prior to the proposed day of issue of the security identification card.

The transitional arrangement for existing ASIC holders is provided under subregulations (3)-(5). While the Regulations codify the ASIC scheme (and, in particular, provide for codified trespass powers), the ASIC scheme itself has been in operation for some time. As such, a number of industry staff members already hold ASICs and are already authorised for access to security sensitive areas of airports. The transitional provisions of subregulations (3)-(5) preserve these arrangements for current ASIC holders.

In relation to new staff members (and other persons issued for the first time with an ASIC) - the criminal background check applies for the full 5 110 year period prior to issue. In relation to existing ASIC holders - the criminal background check applies to convictions occurring only after the date of commencement of the Regulations.

That is, existing ASIC holders are put "on notice" that a conviction of a Subdivision 3 offence (with a sentence of imprisonment of more than 7 days) will result in the loss of their ASIC.

New regulation 311CRQ - Security identification cards-Secretary's approval of issue

New regulation 311CRQ outlines arrangements for persons to be issued with a security identification card, with the approval of the Secretary, notwithstanding that the persons fail to satisfy the criminal background check under new subregulation 311CRO(3) and have been convicted of a Subdivision 3 offence within the appropriate time period.

If a person is not eligible to be issued With a security identification card only because the person fails the criminal background check, the relevant issuing body may apply to the Secretary for approval to issue a security identification card to the person. The Secretary may ask the issuing body for further information in support of the application.

The Secretary may approve, or refuse to approve, the application within 30 days after receiving the application. In addition, the Secretary must advise the issuing body in writing, including the reasons for a refusal.

### New regulation 311CRR - Visitor identification cards

New regulation 311CRR outlines the procedures for the issue of visitor identification cards by issuing bodies.

Subregulation (1) is a preliminary provision, providing that an issuing body may issue a visitor identification card to a person to authorise access in relation to all, or part, of a security restricted area. In particular, visitor identification cards are airport-specific. A visitor identification card may not be issued in relation to more than one airport. Subregulation (2) outlines the procedures for issuing a visitor identification card.

It is an offence for an issuing body to fail to comply with subregulation (2). The maximum penalty for the offence is 45 penalty units. The offence is a strict offence.

### New regulation 311CRS - Issue of ASICs-Secretary

New regulation 311CRS outlines the procedures for the issue of ASICs (including both security identification cards and visitor identification cards) by the Secretary.

The Secretary may issue a security identification card to a Departmental officer. The Secretary may also issue a visitor identification card to any person.

Finally, the procedures for the issue of an ASIC (such as the conduct of the criminal background check) by an issuing body (as outlined under new regulations 311CRM311CRP) apply equally to the issue of an ASIC by the Secretary.

### New regulation 311CRT - ASICs-period of issue and expiry

New regulation 311CRT establishes a 5 year maximum period of validity of ASICs. In summary, the rules on card expiry (under new regulation 311CRT) ensure that the holder is informed of the card's period of validity.

### New regulation 311CRU - Transitional-cards issued before this Division commences

New regulation 311CRU introduces the second transitional arrangement of the Regulations - confirming that security identification cards issued prior to the commencement of the Regulations continue to be regarded as valid security identification cards.

While the Regulations codify the ASIC scheme (and, in particular, provide for codified trespass powers), the ASIC scheme itself has been in operation for some time. As such, a number of industry staff members already hold ASICs and are already authorised for access to security sensitive areas of airports. The transitional provisions of new regulation 311CRU preserve these arrangements for current ASIC holders.

Subregulation (1) is a preliminary provision, defining the term "superseded card". Subregulation (2) sets out the terms of the transitional arrangement. Upon commencement of the Regulations, a superseded card is deemed to:

- \* be a security identification card; and
- \* continue to operate under its original terms and conditions of issue;

until such time as the card expires, is cancelled or otherwise ceases to have effect under its original terms and conditions.

There is no need to provide a similar transitional provision for visitor identification cards, as the vast majority of visitor identification cards are issued for a period of one day or less.

#### New regulation 311CRV - Cancellation of ASICs by issuing body

New regulation 311CRV - in tandem with new regulation 311CRW - outlines arrangements for the cancellation of ASICs by issuing bodies. Under these arrangements, however, issuing bodies may only cancel ASICs that they themselves issue.

Subregulation (1) establishes those circumstances in which the issuing body must cancel an ASIC. In summary, the effect of subregulation (1) is that, in the event that any of the minimum procedures for the issue of an ASIC cease to exist as outlined under new regulations 311CRO-311CRR the ASIC must be cancelled.

Subregulation (2) establishes those circumstances in which the issuing body may cancel an ASIC.

The remainder of new regulation 311CRV covers the mechanical aspects of an ASIC cancellation. As soon as practicable after cancelling an ASIC, the issuing body must inform the holder of the cancellation. Cancellation takes effect when the holder is so informed. In particular, where a security identification card is being cancelled, the issuing body must inform the holder in writing.

Advice on the cancellation of a visitor identification card may be made verbally. This is because the issue of a visitor card is a more informal and temporary arrangement, compared to the issue of a security identification card. In addition, visitors are supervised at all times whilst in the security restricted area.

#### New regulation 311CRW - Cancellation of ASICs by issuing body at holder's request

New regulation 311CRW outlines a further circumstance in which the issuing body must cancel an ASIC (in addition to those circumstances outlined under new regulation 311CRV).

An issuing body must cancel an ASIC if requested to do so by the holder. That is, an ASIC holder may elect -at any time - to return the ASIC. It is not compulsory for an ASIC holder to continue to hold the ASIC. Such a cancellation takes effect from the date of the holder's request.

#### New regulation 311CRX - Cancellation of ASICs by the Secretary

New regulation 311CRX - in tandem with new regulation 311CRY - outlines arrangements for the cancellation of ASICs by the Secretary. Under these arrangements, however, the Secretary may only cancel an ASIC that the Secretary him or herself issues.

New regulation 311CRX provides that the procedures for the cancellation of an ASIC by an issuing body (as outlined under new regulation 311CRV) apply equally to the cancellation of an ASIC by the Secretary.

#### New regulation 311CRY - Cancellation of ASIC by Secretary at holder's request

New regulation 311CRY outlines a further circumstance in which the Secretary must cancel an ASIC (in addition to those circumstances outlined under new regulation 311CRX).

New regulation 311CRY provides that the procedures for the cancellation of an ASIC by an issuing body at the holder's request (as outlined under new regulation 311CRW) apply equally to the cancellation of an ASIC by the Secretary at the holder's request.

New regulation 311CRZ - security identification card holder convicted of Subdivision 3 offence

New regulation 311CRZ places an obligation upon the holder of a security identification card - to inform the relevant issuing body, in the event that the holder becomes convicted of a Subdivision 3 offence. This provision mirrors the criminal background check conducted (prior to the issue of the card) under new subregulation 311CRO(3).

It is an offence for a card holder to fail to notify the relevant issuing body. The maximum penalty for the offence is 5 penalty units.

New regulation 311CSA - What "properly displaying" means

New regulation 311CSA is a preliminary provision, defining when an ASIC is being "properly displayed". This expression is used within Subdivisions 4 and 5.

New regulation 311CSB - Persons required to display ASICs

New regulations 311CSB-311CSF jointly establish the specialised trespass provisions for ASICs. These provisions are expressed in terms of the creation of a legislative requirement for persons within a security restricted area of a categorised airport to hold and display a valid ASIC. New regulation 311CSB is the central element to this overall requirement - establishing the trespass offence.

New regulation 311CSB outlines the terms of the offence. Under subregulation (1), it is an offence for a person in a security restricted area to fail to properly display a valid ASIC. The maximum penalty for the offence is 5 penalty units. The offence is a strict offence. In addition, subregulation (3) provides that the offence under subregulation (1) is also an "infringement notice offence".

New regulation 311CSC - Police officer in uniform

New regulation 311CSC outlines the first exemption to the legislative requirement, under new regulation 311CSB, for a person in a security restricted area to properly display a valid ASIC.

Under new regulation 311CSC, a police officer in uniform and on duty is not required to hold or display an ASIC whilst in a security restricted area.

New regulation 311CSD - Aircrew of foreign and state aircraft

New regulation 311CSD outlines the second exemption to the legislative requirement, under new regulation 311CSD, for persons in a security restricted area to properly display a valid ASIC.

The exemption covers two classes of persons. The first class of persons, outlined under paragraph (a), covers the crew members (who are on duty, in uniform and displaying appropriate identification) of foreign aircraft engaged in commercial (ie, regular public transport or charter) services.

The second class of persons, outlined under paragraph (b), covers the crew members (who are on duty, in uniform and displaying appropriate identification) of State aircraft.

New regulation 311CSE - Intending passengers on RPT, state and foreign aircraft

New regulation 311CSE outlines the third exemption to the legislative requirement, under new regulation 311CSB, for persons in a security restricted area to properly display a valid ASIC. In general terms, the exemption covers supervised passengers.

Subregulation (3) also establishes the complementary requirement for the airline to supervise their passengers while the passengers are in a security restricted area. To this end, subregulation (3) maintains the effect of existing regulation 297J, but within the context and terminology of the ASIC scheme. Existing regulation 297J is deleted under item 10.

Under subregulation (3), an aircraft operator must ensure that its intending passengers do not enter or remain in a security restricted area unless the passenger

- \* is the holder of a valid security identification card; or

- \* is directed to enter the area and is supervised at all times while in the security restricted area.

It is an offence for an aircraft operator to fail to comply with subregulation (3). The maximum penalty for the offence is 10 penalty units. The offence is a strict offence.

New regulation 311CSF - Secretary may give exemption from requirement to display ASIC

New regulation 311CSF outlines the fourth exemption to the legislative requirement, under new regulation 311CSB, for persons in a security restricted area to properly display a valid ASIC.

In general terms, the provision recognises that certain classes of persons from time-to-time may be authorised for access into the security restricted area (eg, by the airport operator) but it may not be feasible or appropriate to issue an ASIC to the person. As a result, the provision allows the Secretary to exempt the person from the need to hold and display a valid ASIC when in a security restricted area. This arrangement is set out under subregulation (1).

New regulation 311CSG - Other cards not to be used as ASICs

New regulation 311CSG outlines a related offence to the central trespass provision under new regulation 311CSB. In particular, new regulation 311CSG outlines the more serious offence of fraudulently gaining unauthorised access to a security restricted area. As such, the offence under new regulation 311CSG carries with it a higher maximum penalty.

Under subregulation (1), it is an offence for a person to intentionally use a card, that the person knows is not an ASIC, to gain access to a security restricted area. The maximum penalty for the offence under subregulation (1) is 10 penalty units.

Subregulation (2) provides that the offence under subregulation (1) is also an "infringement notice offence".

New regulation 311CSH - Use of ASIC by holder

New regulation 311CSH outlines two further supporting offences to the central trespass provision under new regulation 311CSB. In summary, new regulation 311CSH ensures that ASIC holders continue to access a security restricted area only when authorised to do so. As such, the provision reflects the minimum standards for the issue of an ASIC as outlined under new

subregulation 311CRO(2) (for security identification cards) and new subregulation 311CRR(2) (for visitor identification cards).

Under subregulation (1), the holder of a security identification card must not enter or remain in a security restricted area other than for the purposes of his or her employment.

Under subregulation (2), the holder of a visitor identification card must not enter or remain in a security restricted area other than for a lawful purpose and while supervised by the holder of a security identification card.

It is an offence for a person to fail to comply with subregulations (1) or (2). The maximum penalty for the offence is 5 penalty units. The offence is a strict offence.

New regulation 311CSI - Return of security identification card that has expired etc

New regulation 311CSB outlines a further supporting offence to the central trespass provision under new regulation 311CSB. In summary, new regulation 311CSI ensures that holders of security identification cards return the cards after their period of use and that the cards are not available for mis-use.

It is an offence for a person to fail to comply with subregulation (1). The maximum penalty for the offences is 5 penalty units. The offence is a strict offence.

The offence under new regulation 311CSH does not apply to holders of visitor identification cards. This is because many visitor cards are disposable in nature and are only issued for short periods of time, usually for a day or less. Once the visit comes to an end, and the visitor is escorted out of the security restricted area, the holder merely disposes of the visitor identification card.

New regulation 311CSJ - Notification of lost etc security identification cards

New regulation 311CSJ outlines a final supporting offence to the central trespass provision under new regulation 311CSB. The intention of this provision is to ensure that issuing bodies are aware of any cards that cannot be accounted for - and hence are in a position to assess the overall security of the ASIC scheme.

Under subregulation (1), a holder of a security identification card must notify the issuing body (or, in the case of a card issued by the Secretary, notify the Secretary) as soon as practicable once the holder becomes aware that the card has been lost, stolen or destroyed (other than by the issuing body or the Secretary).

It is an offence for a person to fail to comply with subregulation (1). The maximum penalty for the offence is 5 penalty units. The offence is a strict offence.

The offence under subregulation (1) does not apply to holders of visitor identification cards. This is because many visitor cards are disposable in nature and are only issued for short periods of time, usually for a day or less. Once the visit comes to an end, and the visitor is escorted out of the security restricted area, the holder merely disposes of the visitor identification card.

New regulation 311CSK - Power to tell person to show valid ASIC

New regulation 311CSK outlines the first (of three) specialised ASIC powers for the handling of trespassers in security restricted areas of airports. In particular, new regulation 311CSK covers

the power of security officers to require people in security restricted areas to properly display their ASICs.

Subregulation (1) is a preliminary provision, defining the term "exempt person". Subregulation (2) is the central provision of new regulation 311CSK. Under subregulation (2), a security officer may tell a person in a security restricted area to properly display a valid ASIC, if.

- \* the security officer knows, or has reason to believe, that the person is not properly displaying a valid ASIC; and
- \* the security officer does not know the person as an exempt person (in relation to the security restricted area).

It is an offence for a person to fail to comply with a direction of a security officer under subregulation (2). The maximum penalty for the offence is 10 penalty units. In addition, subregulation (6) provides that the offence is also an infringement notice offence".

The offence under new regulation 311CSK is intended as a more serious offence compared to the similar requirement, under new regulation 311CSB, to properly display a valid ASIC. New regulation 311CSB has a lesser maximum penalty of 5 penalty units. The offence under regulation 311CSB covers those people who hold an ASIC but fail to display the ASIC for identification purposes - for example, where the person holds the ASIC in his or her pocket. In contrast, the offence under regulation 311CSK covers those people who enter a security restricted area and do not have an ASIC in their possession (eg, trespassers).

New regulation 311CSL - Power to demand surrender of false ASIC, etc

New regulation 311CSL outlines the second (of three) specialised ASIC powers for the handling of trespassers in security restricted areas of airports. In particular, new regulation 311CSL covers the power of security officers to demand the surrender of forged or invalid, etc. ASICs. ,

Under subregulations (1) and (2), a security officer may demand that a person, in a security restricted area, surrender a card to the officer, if:

- \* the person is displaying the card and, while the card appears to be an ASIC, the security officer has reason to believe that the card is not a valid ASIC; or
- \* the person's card is a valid ASIC but the security officer has reason to believe that the person is using the card in contravention of the Regulations or of a condition of the card.

It is an offence for a person to fail to comply with a direction of a security officer to surrender a card. The maximum penalty for the offence is 10 penalty units.

New regulation 311CSK also outlines a related additional offence. Under subregulation (7), after a person surrenders a card, the person must immediately leave the area. The maximum penalty for a person failing to leave the area is 10 penalty units.

Finally, subregulations (5) and (8) provide that the above two offences are also "infringement notice offences".

New regulation 311CSM - Power to remove persons from security restricted area

New regulation 311CSM outlines the third (of three) specialised ASIC powers for the handling of trespassers in security restricted areas of airports. In particular, new regulation 311CSM covers the power of security officers to remove trespassers from the security restricted area.

Under new regulation 311CSM, a security officer may physically remove a person from a security restricted area, if:

- \* the security officer has directed the person to leave the area because of the officer's reasonable belief that the person has contravened the Regulations or a condition of his or her ASIC;
- \* the security officer has shown the person an identity card of the officer (or other appropriate form of identification); and
- \* the person does not leave the area at once.

However, under subregulation (5), a security officer - in removing a person must not use more force, or subject the person to greater indignity, than is necessary and reasonable to effect the person's removal.

New regulation 311CSN - What happens if issuing body ceases to exist etc

New regulation 311CSN outlines a procedure for approved persons to "step in the shoes" of an issuing body (ie, to authorise a person to perform the functions and exercise the powers of an issuing body).

Subregulation (2) confirms that an ASIC, issued by the original issuing body, remains valid notwithstanding that:

- \* the issuing body ceases to exist; or
- \* a person is authorised to "stand in the shoes of the original issuing body under subregulation (1).

Finally, subregulation (3) confirms that, in the event that a person is authorised to "stand in the shoes of" an issuing body under subregulation (1), the person is not to be held responsible for the past actions or omissions of the original issuing body.

New regulation 311CSO - Notice in writing-how given

New regulation 311CSO outlines that a written notice, given under the terms of the Regulations, may be: given to a person personally; posted to the postal address last notified by the person; or sent to the fax address last notified by the person.

New regulation 311CSP - Review of decisions under this Division

New regulation 311CSP specifies the statutory decisions, made from time-to-time under the ASIC scheme, that are reviewable by the Administrative Appeals Tribunal.

Reviewable decisions include not only the statutory decisions of the Secretary (in administering the ASIC scheme) but also statutory decisions of private issuing bodies (such as airlines and airports) in issuing, or refusing to issue, ASICs to individuals.

## **Item 26 - Subregulation 316B(2)**

Item 26 updates an existing reference to an item of Commonwealth regulation. The reference is contained under subregulation 315B(2) of the *Air Navigation Regulations 1947*. In particular, the reference to *Civil Aviation Regulations* is replaced with *Civil Aviation Regulations 1988*. This revised model for the naming of regulations has recently been introduced as a standard Commonwealth practice.

## **Item 27 - Part XVII**

Item 27 inserts a new Division (Division 3 - Infringement notices) into existing Part XVII (Penal provisions and prosecutions) of the *Air Navigation Regulations 1947*.

New Division 3 establishes the legal infrastructure for an "infringement notice" (ie, an on-the-spot fine) compliance scheme - for those trespass provisions outlined under the Regulations. The infringement notice scheme under new Division 3 complies with the standard Commonwealth model for an on-the-spot fine system. As such, the use of an infringement notice represents an alternative to normal prosecution.

Details of new Division 3 are as follows.

New regulation 319A - Purpose and effect of Division

New regulation 319A is an introductory provision to the infringement notice scheme. Subregulation (1) states that the purpose of the scheme is to act as an alternative to prosecution. Subregulation (2) confirms the standard Commonwealth elements of the scheme.

New regulation 31913 - Meaning of "penalty" for Division 3

New regulation 319B is a preliminary provision to the infringement notice scheme, by defining the term "penalty".

New regulation 319C - Authorised person may give infringement notice

New regulation 319C establishes when - and by whom - an infringement notice may be issued. Under new regulation 319C, an "authorised person" may issue an infringement notice to a person if the authorised person has reason to believe that the person has committed an infringement notice offence. "Authorised persons" are appointed by the Secretary under existing regulation 9.

New regulation 319D - Contents of infringement notice

New regulation 319D outlines the standard Commonwealth elements of an infringement notice.

New regulation 319E - Service of infringement notices

New regulation 319E outlines the need for an infringement notice to be served on the person committing the offence. Service is an essential element to any infringement notice. If a notice is not served on the person to whom it is issued, the notice is not a valid infringement notice.

Subregulations (2) and (3) outline how service may be achieved. In particular, the rules of service depend on whether the notice is being served on an individual or on a corporation.

#### New regulation 319F - Time for payment of penal

New regulation 319F outlines the time for payment of an infringement notice penalty. Ordinarily, the time for payment is within 28 days after service of the notice. In addition, new regulation 319F also harmonises with:

- \* the ability for a person to apply for an extension of time for payment, under new regulation 319G; and
- \* the ability for a person to apply for the withdrawal of an infringement notice, under new regulation 319I.

#### New regulation 319G - Extension of time to pay penalty

New regulation 319G provides a mechanism for the granting of a further 28 day period (additional to the standard 28 day period outlined under new regulation 319F) for a person to pay an infringement notice penalty.

Under subregulation (1), a person (to whom an infringement notice is issued) may apply (within the original 28 day period) to the authorised person (who issued the notice) for a further 28 day period to pay the penalty.

#### New regulation 319H - Effect of payment of infringement notice penalty

New regulation 319H outlines the effect of a person (issued with an infringement notice) paying the penalty. Payment of the penalty (within time) means that the person is discharged from any liability for the offence, will not be prosecuted for the offence and will not be taken to have been convicted of the offence.

#### New regulation 319I -Withdrawal of infringement notice

New regulation 319I is part of an overall mechanism (provided under new regulations 319I, 319J and 319K) allowing the Secretary to withdraw an infringement notice after the notice has been issued and served. In particular, an infringement notice may be withdrawn even after the infringement notice penalty has been paid. For example, one reason why an infringement notice may be withdrawn is to allow for the normal prosecution of the person issued with the notice.

New regulation 319I establishes the power of the Secretary to withdraw an infringement notice - either with or without an application from the person to whom the notice was served.

#### New regulation 319J - Notice of withdrawal of infringement notices

New regulation 319J outlines how a notice of withdrawal must be issued and served. Under subregulation (1), the Secretary must provide written notice - to the person who was originally issued with the infringement notice - of the decision to withdraw the infringement notice.

#### New regulation 319K - Refund of penal

New regulation 319K provides that - in the event that an infringement notice has been withdrawn but the penalty has already been paid - the payment must be refunded by the Commonwealth.

### **SCHEDULE 3 - AMENDMENTS COMMENCING ON 29 MARCH 1999**

Schedule 3:

\* provides for a more modern "decimal" style of numbering, for the whole of the *Air Navigation Regulations* 1947 (please see items 32-43); and

\* re-locates a number of existing regulations, in order to group together regulations that deal with similar subjects.

Details of Schedule 3 (items 28-43) are as follows.

### **Item 28 - After regulation 5**

Item 28 is a consequential amendment to items 32-43. Item 28 inserts a new regulation into the *Air Navigation Regulations* 1947 - regulation 5AA - to ensure that all references to regulations, within external documents, are taken to have been updated with the new numbering system.

### **Item 29 - Part IXA, heading**

Item 29 changes the heading of Part IXA of the *Air Navigation Regulations* 1947 - from "Fares, freights, timetables and statistical returns" to "Statistical returns".

This change of heading is a consequential amendment to item 30, which moves a number of regulations (currently within Part IXA of the *Air Navigation Regulations* 1947) to another Part. Only one regulation remains within Part IXA - dealing with statistical returns received by the Department. As a result, the new heading is more descriptive of the revised arrangements for Part IXA.

### **Item 30 - Part IXA, Divisions 1 and 2**

Existing Divisions 1 and 2 of Part IXA of the *Air Navigation Regulations* 1947 (comprising regulations 106A106F) deal with the approval of timetables, etc. for international air services.

Item 30 moves these regulations to Part XIII (as Divisions 2 and 3), in order so that they may be grouped together with related provisions dealing with the licensing of international air services.

### **Item 31 - Part IXA, Division 3, heading**

Item 31 is a consequential amendment to item 30, which moves a number of regulations (currently within Part IXA of the *Air Navigation Regulations* 1947) to another Part.

With only one regulation remaining within Part IXA, the use of Divisions (to sub-divide the Part) is no longer necessary. As a result, item 31 deletes the existing heading for Division 3 of Part RA.

### **Item 32 - the Parts**

Item 32 provides for Parts to be re-numbered with consecutive arabic numerals (eg, Part 1).

### **Item 33 - The Divisions in a Part**

Item 33 provides for Divisions to be re-numbered with consecutive arabic numerals and including a reference to the Part number (eg, Division 1.1).

#### **Item 34 - The Subdivisions in a Division**

Item 34 provides for Subdivisions to be re-numbered with consecutive arabic numerals and including a reference to the Division and Part number (eg, Subdivision 1.1.1).

#### **Item 35 - The regulations**

Item 35 provides for regulations to be re-numbered with consecutive arabic numerals and including a reference to the Part number (eg, regulation 1.01).

#### **Item 36 - The subregulations in a regulation**

Item 36 provides for subregulations to be re-numbered with consecutive arabic numerals (eg, subregulation 1.01(1)).

#### **Item 37 - The paragraphs in a regulation that is not divided into subregulations, or in a subregulation or definition**

Item 37 provides for paragraphs to be re-numbered with consecutive lower-case letters (eg, paragraph 1.011(1)(a)).

#### **Item 38 - The subparagraphs in a paragraph**

Item 38 provides for subparagraphs to be re-numbered With consecutive lower-case roman numerals (eg, subparagraph 1.01(1)(a)(i)).

#### **Item 39 - The sub-subparagraphs in a subparagraph**

Item 39 provides for sub-subparagraphs to be re-numbered with consecutive uppercase letters (eg, sub-subparagraph 1.01(1)(a)(i)(A)).

#### **Item 40 - The items in Schedule 2**

Item 40 provides for items in Schedules to be re-numbered with consecutive arabic numerals (eg, item 1).

#### **Item 41 - A reference in the regulations to a provision of the regulations**

##### **by number**

Item 41 ensures that all references in the *Air Navigation Regulations 1947* are updated as necessary, under the new numbering system.

#### **Item 42 - A regulation heading containing a reference to a provision of the regulations by number**

Item 42 ensures that all references in headings to the *Air Navigation Regulations 1947* are updated as necessary, under the new numbering system.

Item 43

Item 43 ensures that all references in notes to the *Air Navigation Regulations 1947* are updated as necessary, under the new numbering system.