

EXPLANATORY STATEMENT

Select Legislative Instrument 2006 No. 40

Subject: *Aviation Transport Security Act 2004*

Aviation Transport Security Amendment Regulations 2006 (No. 1)

The *Aviation Transport Security Act 2004* (the Act) regulates certain parts of the aviation industry with the object of enhancing security for airline and airport operators and therefore, for travellers.

Subsection 133(1) of 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.

The *Aviation Transport Security Regulations 2005* (the Principal Regulations) prescribe matters necessary or convenient for carrying out or giving effect to the Act.

Regulation 9.01 captures actions as well as words that may be reasonably interpreted as a threat to commit an act of unlawful interference with aviation.

Examples of some types of behaviour that may be captured by the Regulations are included in the notes.

Details of the Regulations are set out in the Attachment.

The Act specifies no conditions that need to be satisfied before the power to make the Regulation may be exercised.

Regulation 9.01 is a legislative instrument for the purpose of the *Legislative Instruments Act 2003*.

The Regulation commences on 27 February 2006.

Authority: Subsection 133(1) of the
*Aviation Transport
Security Act 2004*

ATTACHMENT

Details of the *Aviation Transport Security Amendment Regulations 2006 (No. 1)*

Regulation 1 – Name of Regulations

This regulation provides that the title of the Regulations is the *Aviation Transport Security Amendment Regulations 2006 (No. 1)*

Regulation 2 – Commencement

This regulation commences on 27 February 2006.

Regulation 3 – Amendment of the *Aviation Transport Security Regulations 2005*

This regulation provides that the *Aviation Transport Security Regulations 2005* (“the Principal Regulations”) are amended as set out in the Schedule.

Schedule – Amendment

Item [1] – Regulation 9.01

Section 10 of the *Aviation Transport Security Act 2004*, sets out matters, which, if done without lawful authority, would be an unlawful interference with aviation. In addition, Regulation 9.01 prescribes an offence regarding threats to aviation security. The amendment remakes the existing offence more clearly. This item amends the terms of the existing offence by substituting simpler wording that has been designed to include both words and actions that could be reasonably interpreted as being a threat to commit an act of unlawful interference with aviation.

There are two examples of behaviour that could be considered a threat given in the notes. The first example relates to words. The example highlights that flippant remarks about bombs in baggage or their intention to hijack a plane, even if the person who makes the remark considered it to be a joke, could be considered a threat

The second example relates to actions for example, leaving items (however described) unattended in a way that could be reasonably interpreted as a security threat.

The purpose of this regulation is to deter conduct by the public which causes security incidents that result in unnecessary resources being used and inconvenience to the air travelling public. It is aimed at changing the culture of persons who travel by air and/or frequent airports. The penalty units for this offence remain as 50 penalty units.