

EXPLANATORY STATEMENT

Select Legislative Instrument 2012 No. 30

Subject – *Aviation Transport Security Act 2004*
Aviation Transport Security Amendment Regulation 2012 (No. 2)

The *Aviation Transport Security Act 2004* (the Act) establishes a regulatory framework to protect the security of civil aviation in Australia.

Section 133 of the Act provides that the Governor-General may make regulations, not inconsistent with the Act, 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 Air Security Officer (ASO) program involves the placement of armed and specially trained Australian Federal Police (AFP) officers on select Australian domestic and international flights to safeguard Australian registered aircraft from in-flight attack. The Attorney-General's Department has policy carriage of the ASO Program, and the AFP has responsibility for the operation of the program. The Department of Infrastructure and Transport manages some legislative provisions under the Aviation Transport Security Regulations 2005 (the Principal Regulations) affecting the ASO program.

The ASO Program is transitioning from a Protective Service Officer workforce to a sworn AFP police officer workforce. For this to occur, the definition of an ASO under regulation 1.03 of the Principal Regulations need to be amended. The proposed Regulation will expand the definition to also include members and special members of the AFP.

An outline of the proposed Regulation is set out in Attachment A.

Details on the Statement of Compatibility with Human Rights are set out in Attachment B.

The Act does not impose any conditions that need to be satisfied before the power to make the proposed Regulation may be exercised.

The proposed Regulation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The proposed Regulation would commence on the day after it is registered on the Federal Register of Legislative Instruments.

The Department of Infrastructure and Transport consulted with the key stakeholders, the Attorney General's Department and the Australian Federal Police.

Details of the proposed *Aviation Transport Security Regulation 2012 (No. 2)*

Regulation 1 – Name of Regulation

This regulation provides that the title of the Regulations is the *Aviation Transport Security Amendment Regulation 2012 (No. 2)*.

Regulation 2 – Commencement

This regulation provides that the Regulations commence on the day after it is registered.

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

This regulation provides that the Principal Regulations are amended as set out in Schedule 1.

Schedule 1 – Amendments

[1] Regulation 1.03(a), definition of an *Air Security Officer*

This item amends the definition of an Air Security Officer to also include members and special members of the Australian Federal Police to cater for operational changes with the Australian Federal Police.

Statement of Compatibility with Human Rights

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

Aviation Transport Security Amendment Regulation 2012 (No. 2)

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

The Air Security Officer (ASO) program involves the placement of armed and specially trained Australian Federal Police (AFP) officers on select Australian domestic and international flights to safeguard Australian registered aircraft from in-flight attack.

The ASO Program is transitioning from a Protective Service Officer workforce to a sworn AFP police officer workforce. For this to occur, the definition of an ASO under regulation 1.03 of the Principal Regulations needs to be amended. The proposed regulation will expand the definition to also include members and special members of the AFP.

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.

The Hon Anthony Albanese MP
Minister for Infrastructure and Transport