

EXPLANATORY STATEMENT

Select Legislative Instrument No. 66, 2014

Subject - *Airports Act 1996*
Airports Amendment (Service Monitoring) Regulation 2014

The *Airports Act 1996* (the Act) establishes a system for regulating Commonwealth owned airports, which are leased to airport lessee companies (ALCs) to manage and operate.

Section 252 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.

Section 155 of the Act gives the Australian Competition and Consumer Commission (ACCC) the function of monitoring and evaluating the quality of the services and facilities provided by ALCs at certain airports. The aspects to be monitored are specified in the *Airports Regulations 1997* (the Principal Regulations) and include services and facilities provided to airport passengers and other airport users such as airlines and transport operators.

Section 156 of the Act provides that the regulations may make provision for and in relation to requiring a person to keep and retain records, where the records are relevant to a quality of service matter, and to give information to the Australian Competition and Consumer Commission (ACCC) that is relevant to a quality of service matter.

The Principal Regulations prescribe the aspects of airport services and facilities to be monitored and evaluated, the records relevant to quality of service matters and obligations for giving information to the ACCC.

The purpose of the Regulation is to amend the Principal Regulations by updating the list of records required to be kept by ALCs and given to the ACCC. The amendments account for changes in technology, market conditions and passenger expectations. The ACCC uses this information to analyse trends in the facilities and services related to airport use and to enhance its broad understanding of the factors influencing the quality of services and facilities at airports. The timeframe within which quality of service monitoring information is to be given to the ACCC by airports is also extended from thirty days to ninety days to align with other reporting requirements under the Principal Regulations.

The ACCC recommended amendments to the Principal Regulations in its Review of Airport Quality of Service Monitoring and the Airport Quality of Service Monitoring Guideline (2013). The review was conducted in response to a Productivity Commission recommendation that the ACCC do so and included consultation with Commonwealth agencies, airports and airport users.

The amendments to the Principal Regulations commence on 1 July 2014 and align the Principal Regulations with the outcomes of the ACCC's review. Details of the Regulation are set out in Attachment B.

The Act specifies no conditions that needed to be satisfied before the power to make the Regulations could be exercised.

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

ATTACHMENT A

Statement of Compatibility with Human Rights

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

Airports Amendment (Service Monitoring) Regulation 2014

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 purpose of the Regulation is to amend the Airports Regulations 1997 (the Principal Regulations) by updating the records required to be kept by Airport Lessee Companies and given to the Australian Competition and Consumer Commission (ACCC). These changes recognise recent trends in the facilities and services related to airport use and enhance broad understanding of the factors influencing the quality of services and facilities at airports. The timeframe within which quality of service monitoring information is to be given to the ACCC by airports is also extended to align with other reporting requirements under the Principal Regulations.

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.

Minister for Infrastructure and Regional Development, the Hon Warren Truss

Details of the Airports Amendment (Service Monitoring) Regulation 2014.

Section 1 – Name of regulation

This section provides that the title of the proposed Regulation is the *Airports Amendment (Service Monitoring) Regulation 2014*.

Section 2 – Commencement

This section provides for the Regulation to commence on 1 July 2014.

Section 3 – Authority

This section provides that the *Airports Act 1996* provides the authority under which the Regulation can be made.

Section 4 – Schedule(s)

This section provides that the changes to the *Airports Regulations 1997* are specified in the Schedule to the proposed Regulation.

Schedule 1 – Amendments

Item [1] – Subregulations 8.03(1) and (2)

These subregulations extend the timeframe within which quality of service monitoring information is to be given to the ACCC from one month to 90 days after the end of the financial year.

This amendment brings the reporting deadline for quality of service monitoring in line with that required by the ACCC for price monitoring information from airports.

Item [2] – Part 2 of Schedule 2 (before table item 1)

This item adds details for the matters about which airport-operator companies must keep records with regard to airport access facilities (that is, taxi facilities and kerbside space for pick-up and drop-off).

This addition enables monitoring of the level of access provided by airports for transport options that compete directly with the airport operators' on-airport car parking services.

Item [3] – Part 2 of Schedule 2 (cell in table item 3, column headed “Matters about which airport-operator companies must keep records”)

This item includes the number of bag-drop and check in kiosk facilities (in addition to check-in desks) as objective indicators of check-in service. It also removes the use of the number and percentage of hours when check-in desks were in use.

These amendments reflect the variety of check in options being made available through the implementation of new technologies.

Item [4] – Part 2 of Schedule 2 (cell in table item 6, column headed “Aspects of airport services and facilities to which records are relevant”)

This item aligns the terminology used to describe the “aspect of airport services and facilities to which records are relevant” with the terminology used at regulation 8.01A to describe the “aspects of airport services and facilities to be monitored and evaluated”.

Item [5] – Part 2 of Schedule 2 (after table item 8)

This item adds the number of washrooms on 30 June as a matter about which airport-operator companies must keep records.

This additional record requirement establishes an objective measure to complement subjective data already collected in relation to public areas in terminals.

Item [6] – Part 2 of Schedule 2 (after table item 10)

This item adds square metre measurements of aprons and runways as new matters about which airport-operator companies must keep records to provide an objective measure for monitoring and evaluating airport services and facilities.

This addition complements the use of subjective measures of services and facilities in relation to runways, taxiways and aprons.

Item [7] – Part 2 of Schedule 2 (cell in table item 11, column headed “Matters about which airport-operator companies must keep records”)

This item requires all aircraft bays to be included when calculating aircraft parking bay areas, rather than just designated aircraft bays.