

EXPLANATORY STATEMENT

Select Legislative Instrument No. 123, 2015

Subject - *Aviation Transport Security Act 2004*

*Aviation Transport Security Amendment (2015 Measures No. 1)
Regulation 2015*

The *Aviation Transport Security Act 2004* (the Act) and the *Aviation Transport Security Regulations 2005* (the Principal Regulations) establish a regulatory framework to safeguard against unlawful interference with civil aviation in Australia. The legislation achieves this purpose by establishing a regulatory framework for preventative security and setting out mandated minimum standards for persons engaged in civil aviation-related activities.

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 Amendment (2015 Measures No. 1) Regulation 2015* (Regulation) amends the Principal Regulations to:

- streamline transport security programs for certain aviation industry participants;
- improve the security program amendment processes for accredited air cargo agents;
- remove Hobart Airport from the definition of designated airport; and
- insert a provision stating that the purpose of examining air cargo is to detect explosives.

Transport Security Programs (TSPs)

The Act requires certain aviation industry participants to develop, and comply with, transport security programs (TSP). A TSP is a document that demonstrates that the participant is, amongst other things, aware of its general responsibility to contribute to the maintenance of aviation security and is aware of, and has the capacity to meet, the specific obligations imposed on the participant under the Act and Principal Regulations. The TSP also sets out the measures and procedures that the aviation industry participant will implement to reduce the risk of terrorism and other acts of unlawful interference with civil aviation.

Mandatory content for TSPs is set out in the Act, and the Principal Regulations prescribe a number of other matters that are also to be dealt with in each TSP or each TSP for a particular kind of aviation industry participant (for example, airport operators, aircraft operators and regulated air cargo agents). A recent review of these regulatory requirements, undertaken in consultation with the aviation industry, identified a number of obligations that impose an unnecessary burden on industry.

The amendments to the Principal Regulations reduce the administrative and compliance costs associated with preparing and maintaining a TSP, without reducing security outcomes or regulatory assurance.

Accredited Air Cargo Agents (AACAs)

The Act provides that, for the purposes of safeguarding against unlawful interference with aviation, the Principal Regulations may establish a scheme under which certain persons that carry on a business that includes the handling, or making arrangements for the transport, of cargo are accredited as accredited air cargo agents (AACAs).

An AACA must operate in accordance with an AACA security program issued by the Secretary of the Department of Infrastructure and Regional Development (the Secretary). The AACA security program does not have an expiration date and it was not possible, under the Principal Regulations, for the AACA security program to be amended or updated to reflect a change in the security environment, the AACA's operating environment, or business structure, after the AACA had been accredited.

The amendments to the Principal Regulations allow AACA security programs to be varied by either the Secretary or the AACA. In the latter case, the AACA-initiated revision requires the Secretary's approval before it takes effect.

Designated airports

One focus of the regulatory framework established by the legislation is to ensure that the security measures in place at airports are commensurate with the risk of unlawful interference with aviation. To this end the definition of 'designated airport' is intended to reflect those airports that have the highest security risk. Designated airports are subject to certain additional requirements over and above those imposed on other security controlled airports.

A comparative risk analysis of Australia's security controlled airports has determined that Hobart Airport is not one of Australia's highest risk airports and, therefore, no longer needs to be a designated airport. The amendment to the Principal Regulations removes Hobart Airport from the definition of designated airport.

Air Cargo Examination

The Act provides that the transportation of air cargo may be restricted to cargo that has received clearance. In most cases, cargo must be examined to receive clearance. In accordance with paragraph 44C(2)(e) of the Act, the regulations may prescribe the things to be detected by the examination of cargo. To make it clear that the aim is to detect explosives (which pose a significant risk to aviation security) the amendment to the Principal Regulations states that the purpose of examining cargo is to detect explosives.

Consultation

The Department consulted industry on these measures through the Aviation Security Advisory Forum, Regional Industry Consultative Meeting and the Cargo Working Group. The regulatory amendments received positive feedback. Engagement and consultation with industry participants through these industry forums will continue during the implementation phase.

The Office of Best Practice Regulation (OBPR) was consulted in relation to the making of the Regulation. The OBPR advised that a Regulation Impact Statement was not required as

the changes do not have more than a minor regulatory impact on business, community organisations or individuals and are machinery of government in nature.

A Statement of Compatibility with Human Rights is set out at Attachment A.

The Act does not specify any conditions that need to be satisfied before the power to make the Regulation is exercised.

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

Sections 1 to 4 and anything in the Regulation not dealt with in the commencement table and Schedule 3 commence the day after the Regulation is registered. Schedules 1 and 2 of the Regulation commence on 1 September 2015.

Details of the Regulation are set out at Attachment B.

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

Statement of Compatibility with Human Rights

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

Aviation Transport Security Amendment (2015 Measures No. 1) Regulation 2015

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 Legislative Instrument amends the Principal Regulations to:

- streamline transport security programs for airport operators, aircraft operators and regulated air cargo agents;
- improve the security program amendment processes for accredited air cargo agents;
- remove Hobart Airport from the definition of designated airport;
- insert a provision specifying that the things to be detected by the examination of cargo are explosives.

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.

WARREN TRUSS
Minister for Infrastructure and Regional Development

ATTACHMENT B

Details of the *Aviation Transport Security Amendment (2015 Measures No. 1) Regulation 2015*

Section 1 – Name of Regulation

This section provides that the name of the Regulation is the *Aviation Transport Security Amendment (2015 Measures No. 1) Regulation 2015*.

Section 2 – Commencement

This section provides that sections 1 to 4 of the Regulation (and anything in the instrument not elsewhere covered by the commencement table) and Schedule 3 of the Regulation commence the day after the instrument is registered.

This section also provides that Schedules 1 and 2 of the Regulation commence on 1 September 2015.

This section also provides that information about the date of commencement may be inserted into column 3 of the commencement table at any time (but the information does not form a part of the instrument).

Section 3 – Authority

This section provides that the Regulation is made under the *Aviation Transport Security Act 2004*.

Section 4 – Schedules

This section provides that the *Aviation Transport Security Regulations 2005* are amended as set out in the Schedules to the Regulation.

Schedule 1 – Transport security programs etc.

Item [1] – subregulation 2.02(2)

Subregulation 2.02(2) of the Principal Regulations provides that an aviation industry participant that is required to have a TSP must appoint a security contact officer who has the knowledge, skills, training, qualifications and other requirements that are set out in that TSP. Subregulation 2.02(2) no longer requires the TSP to set out how the security officer is to be appointed and is consequential on the amendments to regulation 2.22 (see Item 41), regulation 2.45 (see Item 76) and regulation 2.58 (see Item 98).

Item [2] – regulation 2.10 (heading)

The amendment to the heading to regulation 2.10 of the Principal Regulations clarifies that regulation 2.10 deals with more than just an outline of the objectives of the TSP by adding “etc.”.

Item [3] – regulation 2.10

Regulation 2.10 of the Principal Regulations provides that the matters listed in paragraphs 2.10(a) to (c) must be set out in the actual TSP. Regulation 2.10 removes any ambiguity about the meaning of the term “an accompanying document” and makes it clear that the information in such a document does form a part of the TSP.

Item [4] – paragraph 2.11(1)(b)

Paragraph 2.11(1)(b) of the Principal Regulations provides that an airport operator’s TSP must set out the procedures for managing security at the airport, including the roles and responsibilities of security contact officers, security staff and contractors. Paragraph 2.11(1)(b) removes the requirement for the TSP to cover the roles and responsibilities of responding agencies (police, fire brigade etc).

Item [5] – paragraph 2.11(1)(c)

The grammatical amendment to paragraph 2.11(1)(c) of the Principal Regulations is consequential on the repeal of paragraph 2.11(1)(d) (see Item 6).

Item [6] – paragraph 2.11(1)(d)

Paragraph 2.11(1)(d) of the Principal Regulations requires an airport operator’s TSP to set out the procedures for managing security at the airport including the roles and responsibilities of other Commonwealth, State and Territory agencies, and local authorities, with security duties at the airport. The amendment repeals paragraph 2.11(1)(d) as the Government no longer requires this level of information to be set out in the TSP.

Item [7] – subregulation 2.11(2)

Subregulation 2.11(2) of the Principal Regulations requires an airport operator’s TSP to set out a mechanism for consultation between the operator and its employees, and between the operator and relevant third parties. The amendment to subregulation 2.11(2) removes the requirement for the TSP to set out the mechanism for consultation with employees, and removes any implication that the listed third parties are the only ones to be consulted.

Item [8] – at the end of subregulation 2.11(2)

The Note at the end of subregulation 2.11(2) of the Principal Regulations lists examples of what are “relevant third parties” for the purpose of the TSP setting out mechanisms for consultation between the operator and such parties.

Item [9] – subregulation 2.11(3)

Subregulation 2.11(3) of the Principal Regulations requires the TSP to set out information in relation to a security committee or other consultative arrangements established to coordinate security activities. The amendment repeals subregulation 2.11(3) as the Government no longer requires this level of information to be set out in the TSP.

Item [10] – paragraph 2.12(1)(a)

Paragraph 2.12(1)(a) of the Principal Regulations requires an airport operator's TSP to set out quality control procedures including a schedule of audits. The amendment to paragraph 2.12(1)(a) provides that the TSP must set out quality control procedures including how audits are scheduled, rather than the actual schedule of audits.

Item [11] – paragraph 2.12(1)(b)

Paragraph 2.12(1)(b) of the Principal Regulations requires an airport operator's TSP to set out quality control procedures including procedures for carrying out an audit and the process for selecting auditors. The amendment to paragraph 2.12(1)(b) removes the requirement for the TSP to set out a process for selecting auditors.

Item [12] – subregulation 2.12(2)

Subregulation 2.12(2) of the Principal Regulations provides that the TSP for an airport operator must set out the requirement for retaining certain records in relation to audits and reviews for specified periods. The amendment to subregulation 2.12(2) removes the requirement for the TSP to include this information and places the obligation on the airport operator itself.

Item [13] – subregulations 2.13(1)

Subregulation 2.13(1) of the Principal Regulations requires an airport operator's TSP to set out information in relation to the description of the airport including, for example, the hours during which the airport normally operates. As the information is in the actual TSP, any change to the information becomes an amendment to the TSP which must be approved by the Secretary of the Department of Infrastructure and Regional Development (the Secretary) in accordance with the Act. The amendment to subregulation 2.13(1) of the Principal Regulations limits the information that must be set out in the actual TSP to that which is of operational significance.

The information that is not required to be set out in the TSP is still important and still needs to be relayed to the Secretary. Therefore, the new subregulation 2.13(1A) of the Principal Regulations requires that the listed information be set out in a document that accompanies, but does not form a part of, the TSP. As the document does not form a part of the TSP, any change to the information in the document does not require the approval of the Secretary.

Item [14] – subregulation 2.13(2)

Subregulation 2.13(2) of the Principal Regulations is ambiguous in relation to which aviation industry participants must be identified in the airport operator's TSP. The amendment to subregulation 2.13(2) clarifies that the TSP for an airport operator must identify all aviation industry participants that have a facility at, or are located within, the airport that are required to have a TSP *or* are covered by another TSP.

Item [15] - subregulation 2.13(3)

Subregulation 2.13(3) of the Principal Regulations provides that the airport operator must notify the Secretary within 7 working days after becoming aware of a change to any of the information mentioned in subregulations 2.13(1) or (2). The amendment to subregulation 2.13(3) adds the same notification requirement in relation to the information set out in subregulation 2.13(1A) consequential on the addition of this subregulation to the Principal Regulations (see Item 13).

Item [16] – subregulation 2.13(9)

Subregulation 2.13(9) of the Principal Regulations provides that if an airport operator's TSP covers another aviation industry participant, the operator's TSP must be accompanied by a document that sets out the contact information for each participant. The amendment repeals subregulation 2.13(9) as the Government no longer requires this level of information to be set out in the TSP.

Item [17] – regulation 2.14 (heading)

The heading to regulation 2.14 of the Principal Regulations indicates that the airport operator's TSP must contain information about proposed security zones. As this information is removed from the TSP (see Items 18, 19 and 20) there is a consequential amendment to the heading to remove the reference to the TSP.

Item [18] – subregulation 2.14(1)

The amendment to regulation 2.14 of the Principal Regulations omits the numeral (1) as a consequence of the repeal of subregulations 2.14(2) and (3) (see Item 20).

Item [19] – subregulation 2.14(1)

Subregulation 2.14(1) of the Principal Regulations provides that the TSP for an airport operator must be accompanied by a document that sets out the matters listed in paragraphs 2.14(1)(a) to (d). The amendment to subregulation 2.14(1) removes the requirement for the matters to be set out in the actual TSP.

Item [20] – subregulations 2.14(2) and (3)

Subregulation 2.14(2) of the Principal Regulations provides that the TSP for an airport operator must set out security procedures to monitor and control access to landside and airside security zones, including measures and procedures to detect and deter unauthorised access to those zones. The amendment repeals subregulation 2.14(2) and merges its subject matter into subregulation 2.16(2) (see Item 25).

Subregulation 2.14(3) of the Principal Regulations provides that if an enhanced inspection area has been established at the airport, the airport operator's TSP must set out information about the surveillance measures and procedures used to deter and detect unauthorised access to such an area. As this information is also required under regulation 3.16C of the Principal Regulations, the amendment repeals subregulation 2.14(3) to avoid duplication.

Item [21] – subregulation 2.15(1)

Subregulation 2.15(1) of the Principal Regulations provides that the TSP for an airport operator must include a map in a certain format. The amendment to subregulation 2.15(1) clarifies that the map accompanies the TSP and does not form a part of the TSP. This makes the Principal Regulations consistent with paragraph 17(2)(a) of the Act.

Item [22] – paragraph 2.15(1)(d)

Paragraph 2.15(1)(d) of the Principal Regulations provides that the map that is included in the TSP must be in black or white, with limited shading. The amendment to paragraph 2.15(1)(d) enables maps that accompany the TSP to be in colour where this is relevant.

Item [23] – subregulations 2.15(2) and (3)

Subregulations 2.15(2) and (3) of the Principal Regulations both refer to the TSP including a map showing various things. The amendments to subregulations 2.15(2) and (3) provide that the TSP must be accompanied by a map with the result that the map does not form a part of the actual TSP.

Item [24] – subregulation 2.15(4)

Subregulation 2.15(4) of the Principal Regulations provides that the airport operator's TSP must be accompanied by a document that contains a description and map of the apron or aprons for the airport if a screened air service operates from the airport. The amendment to subregulation 2.15(4) clarifies that the map accompanies the TSP and does not form a part of the TSP.

Item [25] – after paragraph 2.16(1)(a)

Paragraph 2.16(1)(aa) of the Principal Regulations provides that the TSP for an airport operator must set out security measures and procedures to be used within the airport, including measures and procedures to monitor and control access to landside and airside security zones. Paragraph 2.16(1)(aa) is consequential on the repeal of subregulation 2.14(2) (see Item 20).

Item [26] – subregulation 2.16(2)

Subregulation 2.16(2) of the Principal Regulations provides that the airport operator's TSP must specify which of the security measures and procedures listed in subregulation 2.16(1) of the Principal Regulations have been implemented and a timetable for implementation of measures and procedures that have not been implemented.

The amendment to subregulation 2.16(2) of the Principal Regulations continues the requirement for the TSP to specify the security measures and procedures that have been implemented within the airport, but removes the requirement for the TSP itself to set out the implementation timetable. The amendment enables the TSP to be accompanied by a document that sets out a timetable for the implementation of any measures or procedures that have not been implemented rather than this information being in the TSP itself.

Item [27] – subregulation 2.17(1)

Subregulation 2.17(1) of the Principal Regulations provides that if a screened air service operates from the airport, the TSP must set out certain matters with respect to screening and clearing of persons and baggage. The amendment to subregulation 2.17(1) removes the requirement for the TSP to deal with equipment and the names of the screening authorities as both matters are dealt with in Division 4.1 of the Principal Regulations.

Item [28] – paragraphs 2.17(2)(b), (c) and (d)

The matters dealt with in paragraphs 2.17(2)(b), (c) and (d) of the Principal Regulations (for example, the equipment to be used for screening and the names of screening authorities) are dealt with in Division 4.1 of the Principal Regulations. The amendment repeals paragraphs 2.17(2)(b), (c) and (d) to remove duplication.

Item [29] – subregulation 2.18(1)

The amendment to regulation 2.18 of the Principal Regulations omits the numeral (1) consequential on the repeal of subregulation 2.18(2) of the Principal Regulations (see Item 31).

Item [30] – paragraph 2.18(1)(a)

Paragraph 2.18(1)(a) of the Principal Regulations provides that the airport operator's TSP must include measures and procedures to carry out screening of checked baggage (where it does so itself), including details of the locations where screening is undertaken. The amendment to paragraph 2.18(1)(a) removes references to matters that are dealt with in other provisions of the Principal Regulations (i.e. the equipment to be used for screening and the names of screening authorities which are dealt with in Division 4.1 of the Principal Regulations).

Item [31] – subregulation 2.18(2)

The matter dealt with in subregulation 2.18(2) (i.e. details of the screening authority conducting screening on behalf of the airport operator) is addressed in Division 4.1 of the Principal Regulations. The repeal of subregulation 2.18(2) removes duplication.

Item [32] – paragraph 2.18A(1)(b)

Paragraph 2.18A(1)(b) of the Principal Regulations identifies Alice Springs Airport as an airport at which an enhanced inspection area may be established. As there is no longer a requirement to be able to establish an enhanced inspection area at Alice Springs Airport, the amendment repeals paragraph 2.18A(1)(b).

Item [33] – paragraph 2.18A(1)(h)

Paragraph 2.18A(1)(h) of the Principal Regulations identifies Hobart Airport as an airport at which an enhanced inspection area may be established. As there is no longer a requirement to be able to establish an enhanced inspection area at Hobart Airport, the amendment repeals paragraph 2.18A(1)(h).

Item [34] – subregulation 2.18A(2)

The amendment to subregulation 2.18A(2) of the Principal Regulations clarifies that the requirements set out in subregulation 2.18A(2) only apply to an airport listed in subregulation 2.18A(1) at which an enhanced inspection area has been established.

Item [35] – paragraph 2.18A(2)(a)

Paragraph 2.18A(2)(a) of the Principal Regulations provides that, for an airport where an enhanced inspection area has been established, the airport operator's TSP must include measures and procedures to carry out screening for the area, including details of the locations where screening is undertaken. The amendment to paragraph 2.18A(2)(a) removes references to matters (e.g. details of screening equipment and screening officers) that are dealt with in Division 4.1 of the Principal Regulations.

Item [36] – subregulation 2.18A(3)

The amendment to subregulation 2.18A(3) corrects a drafting error and substitutes references to "5.06(1)(d)" with references to "5.06(d)".

Item [37] – subregulation 2.18A(4)

The matter dealt with in subregulation 2.18A(4) of the Principal Regulations (i.e. details of the screening authority conducting screening on behalf of the airport operator for an enhanced inspection area) is dealt with in Division 4.1 of the Principal Regulations. The repeal of subregulation 2.18A(4) therefore removes duplication.

Item [38] – regulation 2.21 (heading)

The heading to regulation 2.21 of the Principal Regulations indicates that the airport operator's TSP must contain information about measures for a heightened security alert. The amendment to the heading is consequential on the amendment to regulation 2.21 to remove this information from the TSP (see Item 39).

Item [39] – subregulation 2.21(1)

Subregulation 2.21(1) of the Principal Regulations requires an airport operator's TSP to set out, in an accompanying document, additional security measures and procedures available in the event of a heightened security alert. As this information is in the actual TSP, any change to the information becomes an amendment to the TSP which must be approved by the Secretary in accordance with the Act. The amendment to subregulation 2.21(1) of the Principal Regulations clarifies that the TSP must be accompanied by a document that sets out this information rather than the information being in the actual TSP.

Item [40] – paragraph 2.21(2)(b)

Paragraph 2.21(2)(b) of the Principal Regulations provides that the TSP for an airport operator must be accompanied by a document that sets out procedures for reporting aviation security breaches. The amendment to paragraph 2.21(2)(b) removes the requirement for the

document to set out procedures for reporting aviation security incidents as those reporting requirements are set out in Part 6 of the Act.

Item [41] – regulation 2.22

Regulation 2.22 of the Principal Regulations updates the information that an airport operator must set out in its TSP in relation to personnel with particular security roles. The amendment removes the requirement to provide security awareness training to relevant staff from the TSP and places the obligation directly on airport operators. The amendment to regulation 2.22 introduces a degree of flexibility and removes the requirement for the TSP to set out the criteria for selecting security contact officers and the requirement for the TSP to specify which other positions have been assigned particular security roles and responsibilities.

Item [42] – regulation 2.23

Regulation 2.23 of the Principal Regulations addresses the requirements for barriers at designated airports. As barriers are also dealt with in regulation 3.15 of the Principal Regulations, the repeal of regulation 2.23 removes duplication. Regulation 3.15 is amended so that the requirements in relation to barriers apply to all security controlled airports (see Item 101).

Item [43] – regulation 2.28 (heading)

The amendment to the heading to regulation 2.28 of the Principal Regulations clarifies that regulation 2.28 deals with more than just an outline of the objectives of the TSP by adding “etc.”.

Item [44] – regulation 2.28

Regulation 2.28 of the Principal Regulations provides that the matters listed in paragraphs 2.28(a) to (c) must be set out in the actual TSP. The amendment to regulation 2.28 removes the reference to “an accompanying document” to clarify that the information forms part of the TSP and is not in a separate document.

Item [45] – paragraph 2.29(1)(b)

Paragraph 2.29(1)(b) of the Principal Regulations provides that an aircraft operator’s TSP must set out the procedures for managing security at the airport, including the roles and responsibilities of security contact officers, security staff and contractors. The amendment to paragraph 2.29(1)(b) removes the requirement for the TSP to cover the roles and responsibilities of responding agencies (police, fire brigade etc).

Item [46] – paragraph 2.29(1)(c)

The grammatical amendment to paragraph 2.29(1)(c) of the Principal Regulations is consequential on the repeal of paragraph 2.29(1)(d) (see Item 47).

Item [47] – paragraph 2.29(1)(d)

Paragraph 2.29(1)(d) of the Principal Regulations requires an aircraft operator's TSP to set out the procedures for managing security at the operator's facilities including the roles and responsibilities of other Commonwealth, State and Territory agencies, and local authorities, with security duties at the facility. The amendment repeals paragraph 2.29(1)(d) as the Government no longer requires this level of information.

Item [48] – paragraph 2.29(2)(b)

Paragraph 2.29(2)(b) of the Principal Regulations requires an aircraft operator's TSP to set out a mechanism for consultation between the operator and its employees regarding security measures and procedures. The amendment repeals paragraph 2.29(2)(b) as the Government no longer requires this level of information.

Item [49] – paragraph 2.29(2)(c)

Paragraph 2.29(2)(c) of the Principal Regulations provides that an aircraft operator's TSP must set out a mechanism for consultation between the operators and relevant third parties. The amendment to paragraph 2.29(2)(c) omits the reference to "such as police, tenants and lessees". This removes any implication that these are the only relevant third parties that need to be consulted.

Item [50] – at the end of subregulation 2.29(2)

The Note at the end of subregulation 2.29(2) of the Principal Regulations lists examples of what are "relevant third parties" for the purpose of the TSP setting out mechanisms for consultation between the operator and such parties.

Item [51] – paragraph 2.30(1)(a)

Paragraph 2.30(1)(a) of the Principal Regulations requires an aircraft operator's TSP to set out quality control procedures including a schedule of audits. The amendment to paragraph 2.30(1)(a) provides that the TSP must set out quality control procedures including how audits are scheduled rather than the actual schedule of audits.

Item [52] – paragraph 2.30(1)(b)

Paragraph 2.30(1)(b) of the Principal Regulations requires an aircraft operator's TSP to set out quality control procedures including procedures for carrying out an audit and the process for selecting auditors. The amendment to paragraph 2.30(1)(b) removes the requirement for the TSP to set out a process for selecting auditors.

Item [53] – subregulation 2.30(2)

Subregulation 2.30(2) of the Principal Regulations provides that the TSP for an aircraft operator must set out the requirement for retaining certain records in relation to audits and reviews for specified periods. The amendment to subregulation 2.30(2) removes the requirement for the TSP to include this information and places the obligation on the airport operator itself.

Item [54] – subregulation 2.31(1)

Subregulation 2.31(1) of the Principal Regulations requires an aircraft operator's TSP (either in the TSP or in an accompanying document) to set out information in relation to the operator's name and operations. As the information is in the actual TSP, any change to the information becomes an amendment to the TSP which must be approved by the Secretary in accordance with the Act. The amendment to subregulation 2.31(1) limits the information that must be set out in the actual TSP to that which is of operational significance.

The information that is not required to be set out in the TSP is still important and still needs to be relayed to the Secretary. Therefore, subregulation 2.31(1A) of the Principal Regulations requires that the listed information be set out in a document that accompanies, but does not form a part of, the TSP. As it the document does not form a part of the TSP, any change to the information in the document does not require the approval of the Secretary.

Item [55] – subregulations 2.31(2)

Subregulation 2.31(2) of the Principal Regulations provides that the airport operator must notify the Secretary within 7 working days after becoming aware of a change in any of the information mentioned in subregulation 2.31(1). The amendment to subregulation 2.31(2) adds the same notification requirement in relation to the information set out in subregulation 2.31(1A) consequential on the addition of this subregulation to the Principal Regulations (see Item 54).

Item [56] – subregulation 2.31(6)

Subregulation 2.31(6) of the Principal Regulations provides that the operator of a prescribed air service (i.e. an aircraft operator) must give the airport operator of each security controlled airport at which the aircraft operator has a facility, contact details for the facility, including contact details for the aircraft operator's security contact officer. The amendment to subregulation 2.31(6) removes the requirement for the aircraft operator to give the airport operator information about the procedures for making known the location of security zones and for checking the identity of persons who are authorised to have access to those zones as these matters are dealt with in Division 3.3 of the Principal Regulations.

Item [57] – subregulation 2.32(2)

Subregulation 2.32(2) of the Principal Regulations provides that the aircraft operator's TSP must specify which of the security measures and procedures listed in subregulation 2.32(1) of the Principal Regulations have been implemented and a timetable for implementation of measures and procedures that have not been implemented.

The amendment to subregulation 2.32(2) of the Principal Regulations continues the requirement for the TSP to specify the security measures and procedures that have been implemented within each of the operator's facilities, but removes the requirement for the TSP itself to set out the implementation timetable. The amendment enables the TSP to be accompanied by a document that sets out a timetable for the implementation of any measures or procedures that have not been implemented rather than this information being in the TSP itself.

Item [58] – paragraph 2.33(1)(d)

Paragraph 2.33(1)(d) of the Principal Regulations requires an aircraft operator's TSP to include measures and procedures for carrying firearms and other weapons on board a prescribed aircraft (other than by an air security officer). As the carriage of weapons on aircraft is dealt with in Division 4.1 of the Principal Regulations, the amendment to repeal paragraph 2.33(1)(d) removes duplication.

Item [59] – subregulation 2.35(1)

The amendment to regulation 2.35 of the Principal Regulations omits the numeral (1) as a consequence of the repeal of subregulation 2.35(2) of the Principal Regulations (see Item 62).

Item [60] – paragraph 2.35(1)(a)

Paragraph 2.35(1)(a) of the Principal Regulations provides that the aircraft operator's TSP must include measures and procedures to carry out screening of passengers or crew (where it does so itself), including details of the locations where screening is undertaken. The amendment to paragraph 2.35(1)(a) of the Principal Regulations removes references to matters (such as details of screening equipment and the person operating that equipment) that are dealt with in Division 4.1 of the Principal Regulations to remove duplication.

Item [61] – paragraph 2.35(1)(c)

Paragraph 2.35(1)(c) of the Principal Regulations provides that the aircraft operator's TSP must include measures and procedures to carry out screening and clearing of carry-on baggage (where the aircraft operator screens passengers and crew itself), including details of the locations where screening is undertaken. The amendment to paragraph 2.35(1)(c) of the Principal Regulations removes references to matters (such as screening and clearing carry-on baggage) that are dealt with in Division 4.1 of the Principal Regulations to remove duplication.

Item [62] – subregulation 2.35(2)

The matter dealt with in subregulation 2.35(2) of the Principal Regulations (i.e. specifying screening authorities that carry out screening on behalf of the aircraft operator) is dealt with in Division 4.1 of the Principal Regulations. Therefore, the repeal of subregulation 2.35(2) removes duplication.

Item [63] – paragraph 2.35A(1)(a)

Paragraph 2.35A(1)(a) of the Principal Regulations provides that if an aircraft operator carries out screening for an enhanced inspection area, the aircraft operator's TSP must include measures and procedures to carry out screening for the area, including details of the locations where screening is undertaken. The amendment to paragraph 2.35A(1)(a) of the Principal Regulations removes references to matters (such as details of the equipment used for screening and details of the screening officers) that are dealt with in Division 4.1 of the Principal Regulations.

Item [64] – subregulation 2.35A(2)

The amendment to subregulation 2.35A(2) corrects a drafting error and substitutes references to “5.06(1)(d)” with references to “5.06(d)”.

Item [65] – subregulation 2.37(1)

The amendment to subregulation 2.37(1) of the Principal Regulations omits the numeral (1), consequential on the repeal of subregulation 2.37(2) of the Principal Regulations (see Item 67).

Item [66] – paragraphs 2.37(1)(a) and (b)

Paragraph 2.37(1)(a) of the Principal Regulations provides that if an aircraft operator carries out checked baggage screening itself, the aircraft operator’s TSP must include measures and procedures to carry out that screening, including details of the locations where screening is undertaken. The amendment to paragraph 2.37(1)(a) removes the need for the TSP to include other matters relating to screening, which are dealt with in Division 4.1 of the Principal Regulations.

Item [67] – subregulation 2.37(2)

As the matter dealt with in subregulation 2.37(2) of the Principal Regulations (specifying the screening authorities that carry out checked baggage screening on behalf of the aircraft operators) is addressed in Division 4.1 of the Principal Regulations, the repeal of subregulation 2.37(2) removes duplication.

Item [68] – regulation 2.38

Regulation 2.38 of the Principal Regulations lists matters that the aircraft operator’s TSP must include in relation to passenger and checked baggage reconciliation. This includes measures and procedures to ensure that checked baggage transported on an aircraft belongs to passengers on the flight. The amendment to regulation 2.38 removes the requirement for the TSP to set out procedures to identify unaccompanied baggage and any additional security measures to be applied to such baggage as this issue is dealt with in Division 4.1 of the Principal Regulations.

Item [69] – paragraph 2.39(a)

Paragraph 2.39(a) of the Principal Regulations provides that the aircraft operator’s TSP must set out measures and procedures to prevent the unlawful carriage of firearms, including the procedures to respond to the detection of a firearm, another weapon or a prohibited item. The amendment to paragraph 2.39(a) removes the requirement for the TSP to set out measures and procedures for pre-flight security checks required under Part 4 of the Principal Regulations, and measures and procedures to ensure the security of an aircraft after a pre-flight security check, as this information is dealt with in Division 4.1 of the Principal Regulations.

Item [70] – subregulation 2.41(1)

Subregulation 2.41(1) of the Principal Regulations requires an aircraft operator's TSP to set out the methods, techniques and equipment to be used for the examination of cargo if the operator operates a prescribed air service in certain circumstances. As the information in relation to methods, techniques and equipment for the examination of cargo is also set out in the Secretary's notice made pursuant to regulation 4.41J of the Principal Regulations, the repeal of subregulation 2.41(1) removes duplication.

Item [71] – regulation 2.43 (heading)

The heading to regulation 2.43 of the Principal Regulations indicates that the aircraft operator's TSP must contain information about measures for a heightened security alert. As a consequence of the amendment to regulation 2.43 to remove this information from the TSP (see Items 72 and 73) the heading to regulation 2.43 is also amended.

Item [72] – subregulation 2.43(1)

Subregulation 2.43(1) of the Principal Regulations requires an aircraft operator's TSP to set out, in an accompanying document, additional security measures and procedures available in the event of a heightened security alert. As this information is in the actual TSP, any change to the information becomes an amendment to the TSP which must be approved by the Secretary in accordance with the Act. The amendment to subregulation 2.43(1) of the Principal Regulations clarifies that the TSP must be accompanied by a document that sets out this information rather than the information being in the actual TSP.

Item [73] – subregulation 2.43(2)

Subregulation 2.43(2) of the Principal Regulations identifies the measures and procedures that are available in the event of a heightened security alert. The amendment to subregulation 2.43(2) is linked to the amendment to subregulation 2.43(1) (see Item 72) and sets out what measures and procedures must be set out in the document that accompanies the TSP.

Item [74] – paragraph 2.43(2)(b)

Paragraph 2.43(2)(b) of the Principal Regulations provides that the TSP for an aircraft operator must be accompanied by a document that sets out procedures for reporting aviation security breaches. The amendment to paragraph 2.43(2)(b) removes the requirement for the document to set out procedures for reporting aviation security incidents as those reporting requirements are set out in Part 6 of the Act.

Item [75] – regulation 2.44

Regulation 2.44 of the Principal Regulations requires an aircraft operator's TSP to describe procedures relating to the aircraft operator passing compliance control directions and incident control directions to pilots. As the Government no longer requires this level of detail the amendment repeals regulation 2.44.

Item [76] – regulation 2.45

Regulation 2.45 of the Principal Regulations updates the information that an aircraft operator must set out in its TSP in relation to personnel with particular security roles. The amendment removes the requirement to provide security awareness training to relevant staff from the TSP and places the obligation directly on aircraft operators. The amendment to regulation 2.45 introduces a degree of flexibility and removes the requirement for the TSP to set out the criteria for selecting security contact officers and the requirement for the TSP to specify which other positions have been assigned particular security roles and responsibilities.

Item [77] – regulation 2.49 (heading)

The amendment to the heading to regulation 2.49 of the Principal Regulations clarifies that the regulation deals with more than just an outline of the objectives of the TSP by adding “etc.”.

Item [78] – regulation 2.49

Regulation 2.49 of the Principal Regulations provides that the matters listed in paragraphs 2.49(a) to (c) must be set out in the actual TSP. The amendment to regulation 2.49 removes any ambiguity about the meaning of the term “an accompanying document” and makes it clear that the information in such a document does form a part of the TSP.

Item [79] – regulation 2.50

Regulation 2.50 of the Principal Regulations provides a general description of three matters that are to be included in a regulated air cargo agent’s (RACA’s) TSP. The amendment repeals regulation 2.50 as the matters listed are either dealt with in another provision or can be combined with the more specific provision (see, for example, Items 80 and 85).

Item [80] – subregulation 2.51(2)

Subregulation 2.51(2) of the Principal Regulations provides that a RACA’s TSP must set out measures and procedures to ensure the security of cargo at all times. The amendment provides that the TSP must also include the methods to be used to prevent unauthorised people from having access to cargo while the cargo is in the possession of the RACA. The amendment combines subregulation 2.51(2) of the Principal Regulations with paragraph 2.50(b) (which is repealed – see Item 79).

Item [81] – paragraph 2.52(1)(b)

Paragraph 2.52(1)(b) of the Principal Regulations provides that a RACA’s TSP must set out the procedures for managing security at each of its facilities, including the roles and responsibilities of security contact officers, security staff and contractors. The amendment to paragraph 2.52(1)(b) removes the requirement for the TSP to cover the roles and responsibilities of responding agencies (police, fire brigade etc).

Item [82] – paragraph 2.52(1)(c)

The grammatical amendment to paragraph 2.52(1)(c) of the Principal Regulations is consequential on the repeal of paragraph 2.52(1)(d) (see Item 83).

Item [83] – paragraph 2.52(1)(d)

Paragraph 2.52(1)(d) of the Principal Regulations requires a RACA's TSP to set out the procedures for managing security at each of its facilities including the roles and responsibilities of other Commonwealth, State and Territory agencies, and local authorities, with security duties at the facility. The amendment repeals paragraph 2.52(1)(d) as the Government no longer requires this level of information.

Item [84] – paragraph 2.52(2)(c)

Paragraph 2.52(2)(c) of the Principal Regulations requires a RACA's TSP to set out a mechanism for consultation between the RACA and its employees regarding security measures and procedures. The amendment repeals paragraph 2.52(2)(c) as the Government no longer requires this level of information.

Item [85] – subregulation 2.52(3)

Subregulation 2.52(3) of the Principal Regulations provides that in addition to a RACA's TSP setting out measures to ensure the TSP and other security information is protected against unauthorised access, amendments and disclosure, the TSP must also set out measures and procedures for keeping accurate records of cargo in the RACA's possession and the security measures adopted in relation to such cargo. The amendment combines subregulation 2.52(3) of the Principal Regulations with paragraph 2.50(c) (which is repealed – see Item 79).

Item [86] – paragraph 2.53(1)(a)

Existing paragraph 2.53(1)(a) of the Principal Regulations requires a RACA's TSP to set out quality control procedures including a schedule of audits. The amendment to paragraph 2.53(1)(a) provides that the TSP must set out quality control procedures including how audits are scheduled, rather than the actual schedule of audits.

Item [87] – paragraph 2.53(1)(b)

Existing paragraph 2.53(1)(b) of the Principal Regulations requires a RACA's TSP to set out quality control procedures including procedures for carrying out an audit and the process for selecting auditors. The amendment to paragraph 2.53(1)(b) removes the requirement for the TSP to set out a process for selecting auditors.

Item [88] – subregulation 2.53(2)

Existing subregulation 2.53(2) of the Principal Regulations provides that the TSP for a RACA must require certain records in relation to audits and reviews to be retained for specified periods. The amendment to subregulation 2.53(2) removes the requirement for the TSP to include this information and places the obligation on the RACA itself.

Item [89] – regulation 2.54 (heading)

The heading to regulation 2.54 of the Principal Regulations indicates that the RACA's TSP must contain the details of the RACA's name and operations. As a consequence of the amendment to regulation 2.54 (see Items 90, 91 and 92) and to remove some of the information from the TSP, the heading to regulation 2.54 is amended so that it does not just refer to what the TSP alone must contain.

Item [90] – subregulations 2.54(1) and (2)

Subregulation 2.54(1) of the Principal Regulations requires a RACA's TSP to set out, in an accompanying document, certain information in relation to all sites that operate on the RACA's behalf and all sites covered by the TSP. Subregulation 2.54(2) of the Principal Regulations then lists that information. As the information is in the actual TSP, any change to the information becomes an amendment to the TSP which must be approved by the Secretary.

The amendments to subregulations 2.54(1) and (2) of the Principal Regulations clarify what information in relation to sites and facilities must be set out in the actual TSP (i.e. what subregulation 2.54(1) now requires) and what information may be set out in a document that accompanies, but does not form a part of, the TSP (i.e. what subregulation 2.54(2) requires). As the latter does not form part of the TSP, any change to this information does not require the approval of the Secretary.

Item [91] – subregulations 2.54(4) and (5)

Subregulation 2.54(4) of the Principal Regulations provides that the RACA's TSP must be accompanied by a document that sets out various administrative matters. As this information is provided in the RACA application form (see Items 103, 104 and 105), subregulation 2.54(4) is repealed.

Subregulation 2.54(5) of the Principal Regulations sets out the timings for the RACA to notify the Secretary of changes to the information set out in subregulation 2.54(4). As subregulation 2.54(4) is repealed, subregulation 2.54(5) is also repealed.

Item [92] – subregulation 2.54(6)

The amendment to subregulation 2.54(6) of the Principal Regulations (to remove "or (5)") is consequential on the repeal of subregulation 2.54(5) of the Principal Regulations (see Item 91).

Item [93] – subregulation 2.55(2)

Subregulation 2.55(2) of the Principal Regulations provides that the RACA's TSP must specify which of the security measures and procedures listed in subregulation 2.55(1) of the Principal Regulations have been implemented and a timetable for the implementation of measures and procedures that have not been implemented.

The amendment to subregulation 2.55(2) of the Principal Regulations continues the requirement for the TSP to specify the security measures and procedures that have been

implemented within each of the RACA's sites, but removes the requirement for the TSP itself to set out the implementation timetable. The amendment enables the TSP to be accompanied by a document that sets out a timetable for the implementation of any measures or procedures that have not been implemented rather than this information being in the TSP itself.

Item [94] – regulation 2.57 (heading)

The heading to regulation 2.57 of the Principal Regulations indicates that the RACA's TSP must contain information about measures for heightened security alert. As a consequence of the amendment to regulation 2.57 to remove this information from the TSP (see Items 95, 96 and 97) the heading to regulation 2.57 is also amended.

Item [95] – subregulation 2.57(1)

Subregulation 2.57(1) of the Principal Regulations requires a RACA's TSP to set out, in an accompanying document, additional security measures and procedures available in the event of a heightened security alert. As this information is in the actual TSP, any change to the information becomes an amendment to the TSP which must be approved by the Secretary in accordance with the Act. The amendment to subregulation 2.57(1) of the Principal Regulations makes it clear that the TSP must be accompanied by a document that sets out this information rather than the information being in the actual TSP.

Item [96] – subregulation 2.57(2)

Subregulation 2.57(2) of the Principal Regulations identifies the measures and procedures that are available in the event of a heightened security alert. The amendment to subregulation 2.57(2) is linked to the amendment to subregulation 2.57(1) (see Item 95) and sets out what measures and procedures must be set out in the document that accompanies the TSP.

Item [97] – paragraph 2.57(2)(b)

Paragraph 2.57(2)(b) of the Principal Regulations provides that the TSP for a RACA must be accompanied by a document that sets out procedures for reporting aviation security breaches. The amendment to paragraph 2.57(2)(b) removes the requirement for the document to set out procedures for reporting aviation security incidents as those reporting requirements are set out in Part 6 of the Act.

Item [98] – regulation 2.58

Regulation 2.58 of the Principal Regulations updates the information that a RACA must set out in its TSP in relation to personnel with particular security roles. The amendment removes the requirement to provide security awareness training to relevant staff from the TSP and places the obligation directly on RACAs. The amendment to regulation 2.58 introduces a degree of flexibility and removes the requirement for the TSP to set out the criteria for selecting security contact officers and the requirement for the TSP to specify which other positions have been assigned particular security roles and responsibilities.

Item [99] – regulation 2.61 (heading)

The heading to regulation 2.61 of the Principal Regulations indicates that the RACA’s TSP must contain information about informing consignors of certain matters. As a consequence of the amendment to regulation 2.61 to remove this information from the TSP (see Item 100) the heading to regulation 2.61 is also amended.

Item [100] – regulation 2.61

The amendment to regulation 2.61 of the Principal Regulations provides that the RACA must ensure that a consignor is made aware of the matters listed in paragraphs 2.61(a) and (b) of the Principal Regulations. The amendment to regulation 2.61 removes the requirement for the RACA’s TSP to contain information about informing consignors of certain matters and place the obligation directly on the RACA.

Item [101] – subregulation 3.15(2)

Subregulation 3.15(2) of the Principal Regulations provides that the requirement to have a barrier sufficient to delineate the airside area of a security controlled airport (as set out in paragraph 3.15(1)(a) of the Principal Regulations) does not apply to designated airports. The amendment repeals subregulation 3.15(2) of the Principal Regulations thereby making regulation 3.15 of general application.

Item [102] – subregulation 4.02(3)

The amendment to subregulation 4.02(3) of the Principal Regulations provides a new definition of “apron” which cross-refers to the description of the apron set out in the document that accompanies an airport operators TSP (see subregulation 2.15(4) of the Principal Regulations).

Item [103] – after paragraph 4.43(2)(d)

Paragraph 4.43(2)(da) of the Principal Regulations requires a person who applies to become a RACA to include in its application, the name of the applicant’s chief executive officer or manager and the name and telephone number of an alternative contact person. The amendment to add paragraph 4.43(2)(da) is consequential on the repeal of subregulation 2.54(4) (see Item 91).

Item [104] – paragraph 4.43(2)(e)

The amendment to paragraph 4.43(2)(e) of the Principal Regulations requires a person who applies to become a RACA to include in its application, an after-hours telephone number for the applicant’s principal office in Australia and for each of the applicant’s sites. The amendment to paragraph 4.43(2)(e) is consequential on the repeal of subregulation 2.54(4) (see Item 91).

Item [105] – after paragraph 4.43(2)(e)

Paragraph 4.43(2)(ea) of the Principal Regulations requires a person who applies to become a RACA to include in its application, the contact details of the applicant’s security contact

officer. The addition of paragraph 4.43(2)(ea) is consequential on the repeal of subregulation 2.54(4) (see Item 91).

Item [106] – At the end of Part 10

The amendment inserts a new regulation 10.02 into the Principal Regulations. Regulation 10.02 sets out the application of the amendments to the Principal Regulations made by the Regulation. Regulation 10.02 provides that the amendments made by the Regulation apply in relation to the approval of a TSP, or of proposed alterations of a TSP, on or after 1 September 2015. The practical effect is that the amendments made by the Regulation apply in relation to any amendment to a TSP on or after 1 September 2015.

Schedule 2 – Variations of Accredited Air Cargo Agent (AACA) security programs

Item [1] – regulation 4.49 (heading)

The amendment to the heading to regulation 4.49 of the Principal Regulations makes it clear that the regulation applies to security programs for persons applying for accreditation as an AACA. This distinguishes regulation 4.49 from regulation 4.51FA (see Item 7) which applies after accreditation.

Item [2] – regulation 4.50 (heading)

The amendment to the heading to regulation 4.50 of the Principal Regulations makes it clear that the regulation applies to requests to amend a security program before a person is accredited as an AACA. This distinguishes regulation 4.50 from regulations 4.51FB to 4.51FD (see Item 7) which apply after accreditation.

Item [3] – paragraph 4.50(1)(c)

Paragraph 4.50(1)(c) of the Principal Regulations provides that in considering a request to amend an AACA security program before accreditation, the Secretary must take into account, amongst other things, the current use of the AACA security program by a business of a kind carried on by the applicant. The amendment corrects a grammatical error in paragraph 4.50(1)(c).

Item [4] – paragraph 4.50(2)(a)

Paragraph 4.50(2)(a) of the Principal Regulations provides that the Secretary may refuse a request to vary an AACA security program before the AACA is accredited. The amendment ensures consistent use in the Principal Regulations of the term “refuse” rather than “reject”.

Item [5] – subregulation 4.50(3)

The amendment to subregulation 4.50(3) of the Principal Regulation also ensures consistent use of the term “refuse” rather than “reject”.

Item [6] – Subdivision 4.1A.4 of Division 4.1A of Part 4 (heading)

The amendment to the heading to Subdivision 4.1A.4 of Division 4.1A of Part 4 clarifies that the Division deals with variations of AACA security programs as well as the security programs themselves.

Item [7] – at the end of Subdivision 4.1A.4 of Division 4.1A of Part 4

The amendment adds new regulations 4.51FA, 4.51FB, 4.51FC and 4.51FD at the end of Subdivision 4.1A.4 of Division 4.1A of Part 4 of the Principal Regulations. The regulations enable the Secretary to vary an AACA security program after the AACA has been accredited (see regulation 4.51FA) and enable the AACA to request the Secretary to vary its AACA security program after the AACA has been accredited (see regulation 4.51FC). Regulation 4.51FB sets out the matters that the Secretary must take into account in considering a request by the AACA to amend the variation to the security program or the varied security program. Regulation 4.51FD sets out the matters that the Secretary must take into account when considering a request by an AACA to vary an existing AACA security program.

The amendments give industry participants greater flexibility to determine the best way of meeting their regulatory requirements.

Schedule 3 – Other amendments

Item [1] – regulation 1.03 (paragraph (h) of the definition of *designated airport*)

The amendment to regulation 1.03 of the Principal Regulations removes Hobart Airport from the definition of designated airport as it has been determined that Hobart Airport no longer requires the additional security requirements applicable to designated airports.

Item [2] – regulation 4.41B

The amendment to regulation 4.41B of the Principal Regulations (to insert “(1)” at the beginning of the Regulation) is consequential on the addition of subregulation 4.41B(2) to the Principal Regulations (see Item 3).

Item [3] – at the end of regulation 4.41B

Subregulation 4.41B(2) of the Principal Regulations provides a statement that, for the purposes of paragraph 44C(2)(e) of the Act, the things to be detected by the examination of cargo are explosives. The addition of subregulation 4.41B(2) to the Principal Regulation makes it clear that the aim of examining cargo is to detect explosives (which pose a significant risk to aviation security).