

EXPLANATORY STATEMENT

AVIATION TRANSPORT SECURITY (PROHIBITED CARGO – TURKEY) INSTRUMENT 2017

Aviation Transport Security Act 2004

The *Aviation Transport Security Act 2004* (the Act) establishes a regulatory framework to safeguard against unlawful interference with civil aviation in Australia. The Act gives effect to Australia's obligations under Annex 17 to the Convention on International Civil Aviation (Chicago Convention) by establishing a regulatory framework to safeguard against unlawful interference with aviation in Australia. The Act establishes minimum security requirements for civil aviation in Australia by imposing obligations on persons engaged in civil aviation-related activities, including activities related to the handling and transport of air cargo.

In May 2013, the Act was amended to enable the Minister to prohibit the carriage of certain cargo into Australian territory on an aircraft through the use of a disallowable instrument.

Subsection 65B(1) of the Act allows the Minister to prohibit the entry of specified kinds of cargo into Australian territory for the purposes of safeguarding against unlawful interference with aviation.

Subsection 65B(2) specifies that, without limiting subsection 65B(1), an instrument made under that subsection may relate to all or any of the following:

- (a) some or all of a class of persons to whom the Act applies;
- (b) cargo originating from a particular country;
- (c) cargo transiting through a particular country;
- (d) cargo packaged in a particular way;
- (e) cargo that meets, or is more or less than, a specified weight; and
- (f) cargo that comes within a specified weight range.

The purpose of the Aviation Transport Security (Prohibited Cargo –Turkey) Instrument 2017 is to impose a prohibition on electromechanical devices over one kilogram in weight transported by air originating from, or transiting through, Turkey into Australia. In addition to an electromechanical device originating in Turkey, the prohibition will also cover an electromechanical device that arrives in Turkey on a transiting aircraft and departs on the same aircraft, is transferred from one aircraft to another aircraft in Turkish territory, or is transferred to an aircraft from another mode of transport, such as via ship, in Turkish territory.

An electromechanical device for the purpose of the prohibition includes any good that incorporates an electric motor.

An electromechanical device includes a whole device or separate components shipped together that, when assembled, constitute an electromechanical device.

Manufactured goods that incorporate an electric motor in their construction, such as an electric powered sewing machine, would be considered to be an electromechanical device. Manufactured goods that do not incorporate an electric motor in their construction,

such as a hand cranked pasta making machine, are not considered to be an electromechanical device.

This instrument applies to aviation industry participants as defined in the Act.
Failure to comply with this instrument is an offence under section 65C of the Act.

This instrument is a legislative Instrument for the purpose of the *Legislation Act 2003*.

This instrument commences on the day after registration.

Consultation

The Minister for Infrastructure and Transport has consulted with the Foreign Affairs Minister and the Trade Minister. Other consultations were not undertaken as this legislative instrument is required as a matter of urgency and because of an issue of national security, which satisfies the requirement in paragraph 15J(2)(e) of the *Legislation Act 2003*.

Authority:
Subsection 65B(1) of the
Aviation Transport Security Act 2004

Statement of Compatibility with Human Rights

Prepared in accordance with Section 9 of the Human Rights (Parliamentary Scrutiny) Act 2011

Aviation Transport Security (Prohibited Cargo –Turkey) Instrument 2017

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

This Legislative Instrument prohibits cargo consisting of an electromechanical device originating from, or transiting through, the Republic of Turkey from entry into Australian territory.

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.

Darren Chester
Minister for Infrastructure and Transport