

EXPLANATORY STATEMENT

STATUTORY RULES 1989 NO. 192

Issued by Authority of the Minister for
Telecommunications and Aviation Support

Civil Aviation Act 1988

Civil Aviation (Buildings Control) Regulations (Amendment)

Subsection 98(1) of the Civil Aviation Act 1988 (the Act) provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing matters which by the Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Paragraph 98(3)(g) of the Act provides that the power to make regulations provided for in subsection 98(1) includes the power to make regulations for and in relation to the prohibition of the construction of buildings, structures or

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objects, the restriction of the dimensions of buildings, structures or objects, and the removal in whole or in part or the marking or lighting of buildings, structures or objects (including trees or other natural obstacles) that constitute or may constitute obstructions, hazards or potential hazards to aircraft flying in the vicinity of an aerodrome, and such other measures as are necessary to ensure the safety of aircraft using an aerodrome or flying in the vicinity of an aerodrome.

The Civil Aviation (Buildings Control) Regulations (the Regulations) provide for the removal or marking of buildings, structures or objects that constitute or may constitute a hazard to aircraft flying in the vicinity of the following aerodromes:

- . Sydney (Kingsford Smith) Airport
- . Bankstown Airport
- . Moorabbin Airport
- . Adelaide Airport
- . Melbourne Airport
- . Essendon Airport

The amending Regulations give effect to two commitments given to the Senate Standing Committee on Regulations and Ordinances by the former Minister for Telecommunications and Aviation Support. Those commitments were to amend regulation 14 of the Regulations to provide criteria for the determination of the way in which compensation is to be paid under that regulation and to amend regulation 15 to provide that a person authorised for the purposes of that regulation should be required to carry an identity card.

The previous regulation 14 provided that where, under the Regulations, a building, structure or object had been removed from any land or had been marked and a person suffered loss or damage, or incurred expense as a result of that removal or marking, then that person was entitled to be paid compensation by the Civil Aviation Authority (the Authority).

Amending regulation 4 repealed the previous regulation 14 and replaced it with a new regulation 14 to provide that the amount of compensation payable to a person who has suffered loss or damage or has incurred expense is such reasonable amount as is agreed between the person and the Authority. Where there is no agreement, the amount shall be determined by a court of competent jurisdiction.

Regulation 15 of the Regulations provides that a person authorised by the Authority may enter upon any land for the

purpose of ascertaining whether the provisions of the Regulations are being complied with. Amending regulation 5 amends regulation 15 to require an authorised person to carry an identification card issued by the Authority. When entering upon any land, the authorised person will be required to produce his or her identification card if asked to do so by the owner or occupier of the land.

The amending Regulations also make drafting changes to regulation 8 which provides for the granting of approval of buildings in the vicinity of an aerodrome to which the Regulations apply and to regulation 11 which provides for the removal, marking or lighting of hazards to air navigation.

The purpose of the amendments to regulations 8 and 11 is to conform with the words of paragraph 98(1)(g) of the Act which specifically provides for 'the marking or lighting' of buildings. The reference in regulation 8 to 'marking' was changed to 'marking or lighting'. The reference in paragraph 11(1)(f) to 'marking, whether by lights or otherwise' was changed to 'marking or lighting'.

The Regulations commenced on the date of their notification in the Gazette.

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