

Air Navigation Amendment Regulations 1999 (No. 1) 1999 No. 351

EXPLANATORY STATEMENT

STATUTORY RULES 1999 No. 351

Issued by the authority of the Minister for Transport and Regional Services

Air Navigation Act 1920

Air Navigation Regulations (Amendment)

Subsection 26(1) of the *Air Navigation Act 1920* provides that the Governor-General may make regulations, *inter alia*, in relation to air navigation with respect to trade and commerce with other countries and among the States, and for any matter which the Parliament has the power to make laws.

In Resolution 1267 (1999), the United Nations Security Council has imposed air sanctions against the Taliban for failing to meet the United Nations' demands to stop providing sanctuary and training for international terrorists. The Resolution requires all States to "deny permission for any aircraft to take off from or land in their territory if it is owned, leased or operated by or on behalf of the Taliban as designated by the Committee established under the Resolution, unless the particular flight has been approved in advance by the Committee on the grounds of humanitarian need, including religious obligation such as the performance of the Haji".

Under Article 25 of the Charter of the United Nations, Australia has an international legal obligation to accept and implement Resolutions of the United Nations Security Council. The amendments to the Air Navigation Regulations implement Resolution 1267 (1999) by inserting regulation 120A, thereby imposing the sanction against the Taliban. The proposed regulation mirrors Air Navigation Regulations 118, 119 and 120 which impose similar UN authorised sanctions against Angola, Iraq and Libya respectively.

Details of the Regulations are as follows:

Regulation 1

Regulation 1 sets out the name of the regulations.

Regulation 2

Regulation 2 provides that the regulations commence on gazettal.

Regulation 3

Regulation 3 provides that the *Air Navigation Regulations 1947* are amended as set out in Schedule 1.

Attachment

Schedule 1

Item 1

This item amends the Regulations by inserting a new regulation 120A, which will prohibit aircraft flying to or from Afghanistan.

The new regulation:

- (a) Prohibits Australian registered aircraft from travelling to and from the territory of Afghanistan without the express approval of the Secretary; and
- (b) Prohibits any aircraft which has come from or is destined for Afghanistan from overflying, landing in or taking off from Australia without the express approval of the Secretary.

In deciding whether to give approval under the regulation, the Secretary is to take into account Australia's relations with other countries and Australia's obligations under international law.