

# **Air Navigation Amendment Regulations 2000 (No. 3) 2000 No. 360**

## **EXPLANATORY STATEMENT**

### **STATUTORY RULES 2000 No. 360**

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

*Air Navigation Act 1920*

Air Navigation Amendment Regulations 2000 (No. 3)

The *Air Navigation Act 1920* ("the Act") provides for the regulation of civil aviation to, from and within Australia. Under subsection 26(1) of the Act, the Governor-General may make regulations for the purposes of the Act. Paragraph 26(1)(b) of the Act provides for the Governor-General to make regulations for the purpose of carrying out and giving effect to the Chicago Convention. Article 6 of the Chicago Convention provides that no scheduled international air service may be operated over or into the territory of a contracting State, except with the special permission or other authorisation of that State, and in accordance with the terms of that permission or authorisation. Paragraph 26(1)(d) provides for the Governor-General to make regulations in relation to air navigation with respect to trade and commerce with other countries.

These regulations amend the Air Navigation Regulations 1947 to facilitate implementation of Government policy to minimise interference with the market price of airline fares and prices (tariffs) other than through the general provisions of competition law. To bring the policy fully into effect will also require changes to current bilateral arrangements. Negotiation of these changes is an objective of Australia's ongoing program of bilateral air services consultations.

Previous tariff regulations were outdated, complex and contained provisions that were inconsistent with Government initiatives to further liberalise Australia's international aviation sector. They required the holder of a licence to operate a scheduled international air service to submit its tariff of charges for approval.

These regulations provide for voluntary submission of tariffs, and approval is automatic if, seven days after the date the tariff was submitted, the Secretary of the Department of Transport and Regional Services has not notified the applicant of either disapproval or approval with conditions.

The Secretary retains a reserve power under Regulation 19 to direct the holder of an international airline licence to submit its tariff for approval where there are concerns about public and consumer interests and provisions of relevant international air service agreements. The Secretary is also able to request further information about a tariff. The regulations also added a short definition of the term 'tariff' to existing definitions in Regulation 3.

The regulations significantly simplify the process for filing and obtaining Australian Government approval of tariffs for all international airlines serving Australia while providing for the minimum level of regulation consistent with Australia's air service treaty obligations.

There are no specific penalties included in the regulations. Existing general penalties for offences against the Regulations that are detailed in Regulation 121 apply to offences against the provisions of Regulation 19.

The regulations have beneficial effects for international airlines serving Australia in that the current requirement for lodging all tariffs for approval has been removed. Many airlines will save on administrative costs in lodging details of tariffs where bilateral arrangements do not require approval of tariffs from both Governments.

The regulations permit electronic filing of tariffs. The Government's administrative costs associated with administering tariff regulations will also be reduced.

Many of Australia's bilateral partners still require airlines designated under their air services agreements to obtain the approval of both parties before a tariff enters the market. Airlines needing to lodge tariffs to fulfil treaty obligations will benefit as a result of the automatic approval process that applies in the vast majority of cases.

All international airlines serving Australia were consulted directly in relation to the drafting of these regulations separately to the original RIS process.

The Regulations commenced on gazettal.