

Airports (Building Control) Amendment Regulations 2002 (No. 1)

2002 No. 190

EXPLANATORY STATEMENT

STATUTORY RULES 2002 No. 190

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

Airports Act 1996

Airports (Building Control) Amendment Regulations 2002 (No. 1)

Section 252 of the *Airports Act 1996* ('the Act') provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters that by the Act are required or permitted to be described or are necessary or convenient for carrying out or giving effect to the Act.

Section 68 of the Act provides for the *Airports (Building Control) Regulations 1996* ('the Regulations') to apply Part 5 of the Act to leased Federal airports.

Part 5 of the Act authorises the making of regulations for land use, planning and building control at certain Commonwealth-owned airports following their leasing.

Paragraph 100 (1)(d) of the Act states that regulations may make provision for and in relation to fees in respect of applications for such approvals.

The leased Federal airports are Sydney (Kingsford Smith), Bankstown, Camden, Hoxton Park, Melbourne, Moorabbin, Essendon, Brisbane, Archerfield, Perth, Jandakot, Adelaide, Parafield, Canberra, Hobart, Launceston, Darwin, Alice Springs, Townsville and Coolangatta airports.

The previous fees set in the Regulations were an average of the 1996 fees charged by local government in jurisdictions surrounding Melbourne, Perth and Brisbane airports. The fees had not been varied since that time. The fees were previously applied uniformly on a national basis and did not necessarily correlate to fees and charges for building regulatory services in offairport regions in the vicinity of each leased Federal airport. From a competition policy perspective, this arrangement was not 'competition neutral', particularly for airport operators that compete with other land developers in their regions for developments of a non-aeronautical nature.

To overcome the inequities inherent in a national approach, the regulatory amendment has regularised building control fees to the extent practicable with fees charged in each of the local jurisdictions where the airports are located.

The Regulations now incorporate flexibility to allow airport specific fee schedules to be applied at each leased Federal airport that broadly reflect the: quantum of fees being applied by local governments and/or private certifiers from each area surrounding a leased Federal airport and in doing so align the application and compliance costs applicable in adjacent local jurisdictions; and range of tasks and activities which attract those fees, while maintaining Commonwealth jurisdiction for planning and development at the leased Federal airports.

Further details of the proposed amendments to the Regulations appear in the Attachment.

The Amendment to the Regulations commenced upon gazettal.

ATTACHMENT

Item 1 - Name of Regulations

Item 1 provides that the Regulations be called the *Airports (Building Control) Amendment Regulations 2002 (No. 1)*.

Item 2 - Commencement

Item 2 provides that the Regulations will commence on gazettal.

Item 3 - Amendment of *Airports (Building Control) Regulations 1996*

Item 3 provides that Schedule 1 amends the *Airports (Building Control) Regulations 1996*.

Schedule 1 - Amendments

Sub-Item 1 - Subparagraph 2.02(1)(b)(ii)

Sub-item 1 substitutes text so that the fee associated with approval to carry out a building activity relates to Sub-Item 6 (see below) that sets out the fees to apply at particular leased Federal airport sites.

Sub-Item 2 - Subparagraph 2.02(2)

Sub-item 2 deletes the table that outlined the previous generic fees associated with approval to carry out a building activity for all leased Federal airports. These fees were applied uniformly on a national basis and did not necessarily correlate to fees and charges for building regulatory services in off-airport regions in the vicinity of each leased Federal airport.

Sub-Item 3 - Paragraph 2.10(3)(a)

Sub-item 3 substitutes the value of the fee to amend an application from \$200 to \$250. The fee had not been varied since the Regulations were implemented in 1996.

Sub-Item 4 - Paragraph 2.10(4)(b)

Sub-item 4 substitutes the value of the fee to withdraw an application from \$200 to \$250. The fee had not been varied since the Regulations were implemented in 1996.

Sub-Item 5 - Paragraph 2.16(2A)(a)

Sub-item 5 substitutes the value of the fee to vary an approval from \$200 to \$250. The fee had not been varied since the Regulations were implemented in 1996.

Sub-Item 6 - After Part 6

Sub-item 6 outlines the fees payable for building applications in the following groupings:

Part 1 - Adelaide and Parafield Airports

Part 2 - Alice Springs Airport

Part 3 - Brisbane, Archerfield and Coolangatta Airports

Part 4 - Canberra Airport

Part 5 - Darwin Airport

Part 6 - Hobart Airport

Part 7 - Launceston Airport

Part 8 - Melbourne (Tullamarine), Essendon and Moorabbin Airports

Part 9 - Perth and Jandakot Airports

Part 10 - Sydney (Kingsford Smith), Camden, Hoxton Park and Bankstown Airports

Part 11 -Townsville Airport

This mechanism overcomes the inequities inherent in the previous national approach for building activity fees at the regulated leased Federal airports. Building control fees have been regularised to the extent practicable with fees charged in each of the local jurisdictions where the airports are located.