

EXPLANATORY STATEMENT

Select Legislative Instrument 2009 No. 290

Subject - *Airports Act 1996*

Airports (Control of On-Airport Activities) Amendment Regulations 2009 (No. 1)

Section 252 of the *Airports Act 1996* (the Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The Act provides for a comprehensive regulatory regime for leased federal airports including the regulation of specified activities on airport land. The *Airports (Control of On-Airport Activities) Regulations 1997* (the Principal Regulations) provide for, among other things, the regulation of parking and vehicle operation in the landside area, which is the publicly accessible area at an airport, and the airside area, which is the operational area of the airport that is subject to security controlled access.

The Regulations amend the Principal Regulations to clarify the regulatory provisions in order to aid compliance and increase public awareness of these requirements.

The Regulations provide for:

- a parking signage plan (PSP) to be given to the Secretary of the Department of Infrastructure, Transport, Regional Development and Local Government (the Secretary) and applicable law enforcement agencies within 10 business days after the end of the financial year;
- public notification of the PSP on the relevant airport's website;
- the standard operating procedures concerning landside vehicle parking to be given to the Secretary within 10 business days of the end of the financial year;
- the variation or change to an existing PSP;
- exemptions from penalty and direction for drivers of emergency vehicles in the course of performing their duties; and
- members or special members of the Australian Federal Police (AFP) and contractors to airport-operator companies to be appointed by the Secretary as authorised persons that may undertake actions to enforce the Regulations and the Australian Road Rules at the airport.

Details of the Regulations are set out in the Attachment.

Part 11 of the Act contains provisions relating to the control of certain on-airport activities, including vehicle movements. Section 178 of the Act provides that before regulations are made for the purposes of Part 11, the Minister for Infrastructure, Transport, Regional Development and Local Government (the Minister) must give the airport-operator company at least 30 days notice before such regulations relating to a particular airport are made. That notice must state that there is a proposal to make regulations and invite the company to give

the Minister a submission about the proposed regulations within 30 days after receiving the notice. And if a company gives the Minister a written submission in accordance with the notice, the Minister must have due regard to the submission in dealing with the proposal.

The relevant airport-operator companies were consulted about the Regulations pursuant to section 178 of the Act.

The Act specifies no other conditions that need to be satisfied before the power to make the Regulations may be exercised.

The Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Regulations commence on the day after they are registered on the Federal Register of Legislative Instruments.

Authority: Section 252 of the *Airports Act 1996*

Details of the *Airports (Control of On-Airport Activities) Amendment Regulations 2009*
(No. 1)

Regulation 1 – Name of Regulations

The regulation provides that the title of the Regulations is the *Airports (Control of On-Airport Activities) Amendment Regulations 2009 (No. 1)*.

Regulation 2 – Commencement

The regulation provides for the Regulations to commence on the day after registration.

Regulation 3 – Amendment of *Airports (Control of On-Airport Activities) Regulations 1997*

The regulation provides that the *Airports (Control of On-Airport Activities) Regulations 1997* are amended as set out in Schedule 1.

Schedule 1 – Amendment of *Airports (Control of On-Airport Activities) Regulations 1997*

Items [1] to [3] – Regulation 106BA

Regulation 106BA currently requires an airport-operator company to give the airport's PSP and standard operating procedures to the Secretary. Regulation 106BA is amended to:

- provide that the airport-operator company must give the PSP and the standard operating procedures to the Secretary within 10 business days after the end of each financial year;
- require an airport-operator company to publish its PSP on its website within 10 business days after the end of each financial year; and
- require an airport-operator company to give the PSP to the AFP and the state police force or service in the state in which the airport is situated within 10 business days after the end of each financial year.

The new requirements enable members of the public to obtain notification of parking arrangements on an airport site. Providing a copy of the PSP to the AFP and the state police force will assist these law enforcement agencies in performing their policing responsibilities on an airport site.

Furthermore, the amendments provide greater certainty as a timeframe is provided within which the airport-operator company must give the required information to the Secretary, the AFP, the State police force and the public through the airport's website.

Item [4] – After regulation 106BA

At present, there is no requirement for an airport covered by Division 2, Part 4 of the Principal Regulations to regularly update its PSP which has led to inconsistency between the PSP and the actual parking signs on an airport site. Item 4 inserts new regulation 106BB to allow an airport-operator company to vary a PSP. The airport-operator company will also be required to provide the varied PSP to the Secretary as soon as practicable after the variation was made. The varied PSP will take effect on the day after it is provided to the Secretary. To aid public awareness, the airport-operator company is also required to publish the varied PSP on the airport's website and provide the varied PSP to the AFP and the state police force or service in that state as soon as practicable after the variation has taken effect.

Item [5] – Regulation 107

Existing regulation 107 in the Principal Regulations provides for offences against Australian Road Rules which are applied at an airport by regulation 106E. Regulation 107 is amended to exempt a driver of an emergency vehicle in the course of performing his/her duties from the imposition of penalties for contravening a rule or a subrule of the Australian Road Rules. These penalties are specified in Schedule 2 of the Principal Regulations.

Item [6] – After subregulation 110 (3)

Item 6 inserts new subregulation 110(3A). The item provides that the driver of an emergency vehicle in the course of performing his/her duties is exempted from penalty for a failure to comply with the direction of an authorised person to move the vehicle in accordance with a parking control provision. The exemption aims to assist emergency agencies responding to emergency situations on airport land. The new provision rectifies a perceived inconsistency that while a driver of an emergency vehicle airside at an airport is provided exemption from penalties for contravening a rule or subrule of the Australian Road Rules [see subregulation 119(3B)], a driver of an emergency vehicle landside at an airport was not accorded such exemption.

Items [7] and [8] – Regulation 114

Regulation 114 provides for the persons who may be appointed by the Secretary as an 'authorised person' for purposes of Division 2, Part 4 of the Principal Regulations concerning 'landside vehicle parking'. A new paragraph 114(d) is inserted to enable the Secretary to appoint a member or special member of the AFP to be an authorised person for the purposes of Division 2, Part 4 of the Principal Regulations. This provides authority to all AFP officers eligible to be deployed at airports to enforce the Regulations and the Australian Road Rules at the airport.

Items [9] and [10] – Regulation 121

Regulation 121 provides for the persons who may be appointed by the Secretary as an ‘authorised person’ for the purposes of Division 3, Part 4 of the Principal Regulations. A new paragraph 121(e) is inserted to enable the Secretary to appoint a member or special member of the AFP to be an authorised person for the purposes of Division 3, Part 4 of the Principal Regulations. This provides authority to all AFP officers eligible to be deployed at airports to enforce the Regulations and the Australian Road Rules at the airport.

Items [11] and [12] – Regulation 132

Regulation 132 provides for the persons who may be appointed by the Secretary as an ‘authorised person’ for the purposes of Division 4, Part 4 of the Principal Regulations concerning ‘airside vehicle operation’. New paragraphs 132(d) and 132(e) be inserted to enable the Secretary to appoint as an authorised person for the purposes of Division 4, Part 4 of the Principal Regulations:

- a member or special member of the AFP [paragraph 132(d)]; or
- a contractor to an airport-operator company [paragraph 132(e)].

The amendments provide consistency between regulations 114, 121 and 132 where consistency may be allowed.

Item [13] – Schedule 2

Existing Schedule 2 specifies the penalty units imposed for a contravention of a rule or subrule in the Australian Road Rules as applied by regulation 106E. Amendments to Schedule 2 are housekeeping in nature to provide clarity to the existing provision. The penalty units remain unchanged.