

EXPLANATORY STATEMENT

Select Legislative Instrument 2012 No. 188

Subject - *Airports Act 1996*

Airports Legislation Amendment Regulation 2012 (No. 1)

Airports (Control of On-Airport Activities) Amendment Regulation 2012 (No. 1)

Airports (Environment Protection) Amendment Regulation 2012 (No. 1)

Airports Amendment Regulation 2012 (No. 2)

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 Commonwealth-owned and privately-leased airports. The Act also provides that much of the detail of the regulatory regime can be dealt with in subordinate legislation by providing numerous matters for which regulations may be made.

Due to the large quantity of detail that is included in the regime, a number of pieces of subordinate legislation have been made under the Act, including:

- the *Airports (Control of On-Airport Activities) Regulations 1997*, relating to the control of vehicle movements within specified airports; and
- the *Airports (Environment Protection) Regulations 1997*, relating to environmental standards at airports.

The *Airports Regulations 1997* currently set out the detail of those parts of the airports regulatory regime for which separate regulations are not warranted.

The regulations amend these three sets of Principal Regulations to:

- make them consistent with the *Airports Act 1996*, as amended in 2010;
- make general amendments as required to correct any minor drafting or technical errors, and consequential updates; and
- make incidental amendments arising from the December 2011 amendments to the *Acts Interpretation Act 1901*.

Each federally leased airport was consulted about the amendments in September 2011, and none of these expressed any disagreement to the proposal.

In addition, all Airport Environment Officers (AEOs) were consulted about the changes, as these partially involve the relocation and updating of some substantive

provisions which come within the purview of AEOs' areas of responsibility. No objections were made about the amendments.

Details of the regulations are set out in the *Airports Legislation Amendment Regulation 2012 (No. 1) (Attachment A)*, the *Airports (Control of On-Airport Activities) Amendment Regulation 2012 (No. 1) (Attachment B)*, the *Airports (Environment Protection) Amendment Regulation 2012 (No. 1) (Attachment C)*, and the *Airports Amendment Regulation 2012 (No. 2) (Attachment D)*.

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

The regulations are legislative instruments 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

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Airports Legislation Amendment Regulation 2012 (No. 1)

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The Legislative Instrument provides for minor technical amendments to the Airports Regulations 1997, Airports (Building Control) Regulations 1996, and Airports (Environment Protection) Regulations 1997 (the amended regulations), occasioned by amendments to the *Acts Interpretation Act 1901* (Act) which came into force on 27 December 2011.

The changes that are made reflect updated numbering of parts of the Act due to rearrangement, and updates made to definitions in the Act which are referenced in the amended regulations.

Many of the changes are to “notes”, or non-operative notations within the amended regulations which point to certain definitions in the AIA, and which (after 27 December 2011) have different section numbers.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

ANTHONY ALBANESE

Minister for Infrastructure and Transport

Details of the Airports Legislation Amendment Regulation 2012 (No. 1)

Section 1 – Name of regulation

This section provides the title of the regulation as the *Airports Legislation Amendment Regulation 2012 (No. 1)*.

Section 2 – Commencement

This section provides for the regulation to commence on the day after registration.

Section 3 – Amendment of Airports Regulations 1997, Airports (Building Control) Regulations 1996 and Airports (Environment Protection) Regulations 1997

This section provides that the *Airports Regulations 1997* (the Airports Regulations), the *Airports (Building Control) Regulations 1996* (the Building Control Regulations), and the *Airports (Environment Protection) Regulations 1997* (the Environment Protection Regulations), are amended as set out in Schedule 1.

Schedule - Amendments

Part 1 – Amendment of Airports Regulations 1997

Item [1] – [4] – Subregulations 8.02(1); 8.02(2) (note 2); 8.03(1) (and note); 8.03(2) (and note)

These subregulations make provision for records which must be kept by airport-operator companies and given to the Australian Competition and Consumer Commission in relation to prescribed quality of service reporting (on aspects of airport services and facilities which must be monitored and evaluated as set out in regulation 8.01A). The amendments to the notes to these subregulations note that records may be kept electronically, updating the provisions in line with the *Electronic Transactions Act 1999*.

Part 2 – Amendment of Airports (Building Control) Regulations 1996

Item [1] – Subregulation 1.04(1)

This subregulation previously defined ‘Australian Standard’. This definition is no longer required as the definition in section 2L of the *Acts Interpretation Act 1901* applies to this instrument.

Part 3 – Amendment of Airports (Environment Protection) Regulations 1997

Item [1] – [3] – Subregulation 1.05(1)

This subregulation previously defined ‘Australian Standard’, ‘AS’, and ‘document’. These definitions are no longer required as the definition in section 2L of the *Acts Interpretation Act 1901* applies to this provision.

Item [4] – Subregulation 1.06

This subregulation previously made references to ‘AS’ and an identifying number as referring to the relevant Australian Standard as in force or existing from time to time. This item substitutes a shorter provision which incorporates the newer definitions set out in the *Acts Interpretation Act 1901*, and includes a note that definitions can be found in section 2L of the *Acts Interpretation Act 1901*.

Item [5] – Schedule 1 and Schedule 4

These Schedules set out technical guidelines on acceptable limits and measurement of certain pollutants at airports. This item expands the acronyms previously used for ‘Australian Standard’, ‘National Institute for Occupational Safety and Health’, and ‘British Standard’ to assist readers who are unfamiliar with these regulations in understanding which standards are applicable to any particular definition or term.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Airports (Control of On-Airport Activities) Amendment Regulation 2012 (No. 1)

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The Legislative Instrument provides for minor and technical amendments to the Airports (Control of On-Airport Activities) Regulations 1997.

The amendments include updates to references made to Australian Road Rules, and state and territory legislation dealing with shop trading, and liquor control.

Other minor changes made in these Amendment Regulations include updating the drafting of incorporated or replaced provisions in state and territory liquor control legislation, to improve readability and understanding.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

ANTHONY ALBANESE

Minister for Infrastructure and Transport

Details of the Airports (Control of On-Airport Activities) Regulation 2012 (No. 1)

Section 1 – Name of regulation

This section provides the title of the regulation as the *Airports (Control of On-Airport Activities) Amendment Regulation 2012 (No. 1)*.

Section 2 – Commencement

This section provides for the regulation to commence on the day after registration.

Section 3 – Amendment of *Airports Regulations 1997*

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

Schedule 1 – Amendments

Items [1] – [2] – Subregulation 3

A replacement note will simplify the reference for readers of where infringement notice matters can be found in the Regulations, and remove unclear references to Part 11, which are best located under the definition for ‘Part 11 airport’.

The new note under the definition of ‘Part 11 airport’ clarifies the matters dealt with in relation to certain airports in Part 11, whereas this had previously been located beneath the wrong definition (ie. of ‘infringement notice offence’).

Item [3] – Regulation 4

This item corrects a typographical mistake in the provision. The reference to paragraph ‘169(b)’, should be to ‘169(1)(b)’.

Item [4] – Regulation 22

This item corrects a typographical/formatting mistake in the way the name of the *Liquor Control Reform Act 1990* is set out.

Item [5] - Regulation 26

This item removes the reference to the now defunct Ansett Airlines Limited.

Item [6] – Regulation 36

Regulation 36 is a transitional provision, and is omitted as it now has no effect on any transitional groups.

Items [7]-[17] below relates to Part 2, Division 4 of the *Airports (Control of On-Airport Activities) Regulations 1997*

Part 2 Division 4 of the *Airports (Control of On-Airport Activities) Regulations 1997* sets out amendments to the *Liquor Act 1992* (Qld) which modifies the operation of that Act at Gold Coast Airport and Townsville Airport.

Item [7] – Regulation 40

This provision is amended to correct a typographical error in the numbering of the existing subregulations, and adding a note for clarity. The correction of a reference to ‘Part 9 of that Schedule’ is also corrected to a reference to ‘Part 3 of Schedule 1’ in the new provision.

Items [8] – [9] – Paragraphs 47(2)(a) – (b)

These two items update references to certain licences, as the names of ‘club liquor’ and ‘general liquor’ licences have changed, in the *Liquor Act 1992* (Qld), to ‘community club’ and ‘commercial other’ licences, respectively.

Item [10] – Subregulation 48(1)

Regulation 48 of the *Airports (Control of On-Airport Activities) Regulations 1997* sets out transitional arrangements regarding authority to sell liquor in the terminal of Gold Coast Airport. This item updates references to a certain licence, as the name of ‘special facility liquor licence’ has changed in the *Liquor Act 1992* (Qld), to ‘commercial special facility licence’.

Item [11] – Subregulation 48(3)(b)

This item updates the reference to the *Liquor Act 1992* (Qld) from subsection 152(3) to correct a typographical error.

Item [12] – Subregulation 49(1)

Regulation 49 of the *Airports (Control of On-Airport Activities) Regulations 1997* sets out transitional arrangements regarding existing authorities to sell liquor at Gold Coast Airport. This item updates references to ‘club liquor licence’ to reflect that this term has changed in the *Liquor Act 1992* (Qld), to ‘community club licence’.

Item [13] – Subregulation 50(1)

Regulation 50 of the *Airports (Control of On-Airport Activities) Regulations 1997* sets out transitional arrangements regarding authority to sell liquor in the terminal of Townsville Airport. This item updates references to ‘special facility liquor licence’ to reflect that this term has changed in the *Liquor Act 1992* (Qld), to ‘commercial special facility licence’.

Item [14] – Subregulation 50(3)(b)

This item updates the reference to the *Liquor Act 1992* (Qld) from subsection 152(3) to subsection 153(3), to fix a typographical error.

Item [15] – Subregulation 51(1)

Regulation 51 of the *Airports (Control of On-Airport Activities) Regulations 1997* sets out transitional arrangements regarding existing authorities to sell liquor at Townsville Airport. This item updates references to ‘club liquor licence’ to reflect that this term has changed in the *Liquor Act 1992* (Qld), to ‘community club licence’.

Item [16] – Subregulation 52(1)

Regulation 52 of the *Airports (Control of On-Airport Activities) Regulations 1997* sets out transitional arrangements for when liquor licences cease. This item updates references to ‘special facility licence’ to reflect that this term has changed in the *Liquor Act 1992* (Qld), to ‘commercial special facility licence’.

Item [17] – Subregulation 52(2)(b)

This item corrects a reference erroneously made to the LCR Act, to the Liquor Act, as the latter term is defined in this Division of the Regulations.

Item [18] below relates to Part 2, Division 5 of the *Airports (Control of On-Airport Activities) Regulations 1997*

Part 2 Division 5 of the *Airports (Control of On-Airport Activities) Regulations 1997* sets out amendments to the *Liquor Licensing Act 1997* of South Australia which modifies the operation of that Act at Adelaide Airport and Parafield Airport.

Item [18] – Subregulation 58(5)

This item corrects a reference erroneously made to the ‘Liquor Act’, to the ‘Liquor Licensing Act’, as the latter term is defined in this Division of the Regulations.

Items [19]-[20] below relate to Part 2, Division 6 of the *Airports (Control of On-Airport Activities) Regulations 1997*

Part 2 Division 6 of the *Airports (Control of On-Airport Activities) Regulations 1997* sets out amendments to the *Liquor Control Act 1998* of Western Australia which modifies the operation of that Act at Perth Airport and Jandakot Airport.

Item [19] – Regulation 63

This item inserts a definition of ‘commission’ which was previously undefined in this Division of the Regulations.

Item [20] – Regulation 63

This item substitutes a definition for an abbreviation of the *Liquor Licensing Act 1988* of WA, for a definition for an abbreviation of the new name of that Act, the *Liquor Control Act 1988* of Western Australia.

Items [21]-[23] below relate to Part 2, Division 7 of the *Airports (Control of On-Airport Activities) Regulations 1997*

Part 2 Division 7 of the *Airports (Control of On-Airport Activities) Regulations 1997* sets out amendments to the *Liquor Licensing Act 1990* of Tasmania which modifies the operation of that Act at Hobart Airport and Launceston Airport.

Item [21] – Regulation 76

This item substitutes the abbreviation of the *Liquor and Accommodation Act 1990* of Tasmania, for an abbreviation of the new name of the relevant Act, the *Liquor Licensing Act 1990* of Tasmania.’

Item [22] – Regulation 78(2)(a)

Regulation 78 of the *Airports (Control of On-Airport Activities) Regulations 1997* sets out transitional arrangements for existing authorities to sell liquor. This item updates references to ‘club liquor licence’ to reflect that this name has changed in the *Liquor Licensing Act 1990* (Tas), to ‘club licence’.

Item [23] – Regulation 78(2)(b)

Regulation 78 of the *Airports (Control of On-Airport Activities) Regulations 1997* sets out transitional arrangements for existing authorities to sell liquor. This item updates references to ‘special liquor licence’ to reflect that this name has changed in the *Liquor Licensing Act 1990* (Tas), to ‘special licence’.

Items [24]-[29] below relate to Part 2, Division 8 of the *Airports (Control of On-Airport Activities) Regulations 1997*

Part 2 Division 8 of the *Airports (Control of On-Airport Activities) Regulations 1997* sets out amendments to the *Liquor Act 2010* of the Australian Capital Territory which modifies the operation of that Act at Canberra Airport.

Item [24] – Regulation 83

This item substitutes an abbreviation of the *Liquor Act 1975* of the Australian Capital Territory, for a definition for an abbreviation of the new name of the relevant Act, the *Liquor Act 2010* of the Australian Capital Territory.

Item [25] – Regulation 83

This item inserts an abbreviation of the *Liquor Regulation 2010* of the Australian Capital Territory, which came into force after the commencement of the *Airports (Control of On-Airport Activities) Regulations 1997*.

Item [26] – Regulation 84

This item updates the heading to Regulation 84 to add a reference to the new *Liquor Regulation 2010* (ACT).

Item [27] – Subregulation 84(2)

This item updates Regulation 84 with reference to the application of the liquor legislation relevant to the terminal area at Canberra Airport by adding a reference to the *Liquor Regulation 2010* (ACT).

Item [28] – Subregulation 85(1)

Regulation 85 of the *Airports (Control of On-Airport Activities) Regulations 1997* sets out transitional arrangements for existing authorities to sell liquor. This item updates references to section numbers in the previous *Liquor Act 1975* (ACT), to the current relevant section in the *Liquor Act 2010* (ACT), which provides for ‘special liquor licences’.

Item [29] – Subregulation 89(1)

Regulation 89 of the *Airports (Control of On-Airport Activities) Regulations 1997* sets out transitional arrangements relating to requirements for persons taken to hold liquor licences to give copies of plans. This item updates the reference to ‘Registrar’ from the *Liquor Act 1975* (ACT) to the new appropriate person, ‘commissioner’, under the *Liquor Act 2010* (ACT).

Item [30] below relates to Part 2, Division 9 of the *Airports (Control of On-Airport Activities) Regulations 1997*

Part 2 Division 9 of the *Airports (Control of On-Airport Activities) Regulations 1997* sets out amendments to the *Liquor Act* of the Northern Territory which modifies the operation of that Act at Darwin Airport and Alice Springs Airport.

Item [30] – Regulation 90

This item simplifies the definition of ‘Commission’, by incorporating the definition set out in the *Liquor Act* (NT).

Items [31]-[33] below relate to Part 3 of the *Airports (Control of On-Airport Activities) Regulations 1997*

Part 3 of the *Airports (Control of On-Airport Activities) Regulations 1997* sets out modifications to State and Territory commercial trading legislation in relation to its operation at airports to which Part 11 of the *Airports Act 1996* applies.

Item [31] – Regulation 97

This item updates the reference to the *Trade Practices Act 1974* to the *Competition and Consumer Act 2010*, which is the name the former Act took on in 2010.

Item [32] – Regulations 99 and 100

This item updates the reference to the repealed *Factories, Shops and Industries Act 1962* (NSW) with its successor, the *Retail Trading Act 2008* (NSW).

Item [33] – Regulation 101

This item updates references to the *Shop Trading Reform Act 1996* of Victoria, by correcting internal references in the current provision. The drafting of the modification is also simplified to assist readers.

Items [34]-[40] below relate to Part 4 of the *Airports (Control of On-Airport Activities) Regulations 1997*

Part 4 of the *Airports (Control of On-Airport Activities) Regulations 1997* sets out modifications to State and Territory vehicles legislation in relation to its operation at airports to which Part 11 of the *Airports Act 1996* applies.

Item [34] – Regulation 106

This item updates the definition of ‘Australian Road Rules’ to account for the fact that the rules have been updated and now include new provisions.

Item [35] – Regulation 106

This item incorporates certain new rules within the Australian Road Rules which are to be applied to vehicle parking at airports, as per item [39] of the *Airports (Control of On-Airport Activities) Amendment Regulation 2012 (No. 1)*.

Item [36] – Regulation 106

This item updates the typographical style of *Road Safety (Vehicles) Regulations 2009* in line with modern drafting practice.

Item [37] – Regulation 106

This item corrects the reference to the *Transport Operations (Road Use Management – Vehicle Standards and Safety Regulations 1999*, to insert *Transport Operations (Road Use Management – Vehicle Standards and Safety Regulations 2010*, which is where the definition of “public bus” in these Regulations, for airports in Queensland is now imported.

Item [38] – Subregulation 106E(1)

This item will correct a typographical error, and punctuation.

Item [39] – Subregulation 106E(1)

This item incorporates certain rules from the Australian Road Rules (which were created after the commencement of the Regulations) applicable at the landside of airports. The rules added are 203A, 205A and 208A: ‘stopping in a slip lane’, ‘parking outside times indicated’, and ‘parallel parking in a road-related area (except in a median strip parking area)’, respectively. The item also rearranges the table in subregulation 106E(1) to put the rule numbers in ascending number order.

Item [40] – Subregulation 106E(1)

This item removes unnecessary detail from a note and replaces it with a reference to the Australian Road Rules.

Item [41] – Regulation 156

This item removes the note immediately after Regulation 156. The removal of this note will reduce the overall length of the Regulations by some 13 pages, and will make the Regulations clearer.

Item [42] relates to Schedule 1 of the *Airports (Control of On-Airport Activities) Regulations 1997*

Schedule 1 of the *Airports (Control of On-Airport Activities) Regulations 1997* sets out specific modifications of State and Territory liquor legislation, as required for the particular operation of the Regulations, at airports to which Part 11 of the *Airports Act 1996* applies.

This item reorganises and updates references made to State and Territory legislation in the relevant modification provisions in the Regulations. The updates will also have the effect of bringing the numbering into a more coherent form, and bringing the drafting of the Schedule in line with modern drafting practice.

Modifications of the *Liquor Control Reform Act 1998* of Victoria (LCRA) that apply at all Part 11 airports in Victoria

The new Part 1 of Schedule 1 replaces the existing Part 6, and additionally:

- updates a reference to the substitution of ‘*Planning and Environment Act 1987*’ with ‘*Airports Act 1996* of the Commonwealth’, in subsection 9(3) of the LCRA, with the updated subsection 16(1); and
- updates the substituted paragraph in paragraph 29(3)(c) to include new instances under the amended LCRA in which applications do not need to be accompanied by the prescribed variation fee.

Modifications of the *Liquor Control Reform Act 1998* of Victoria (LCRA) that apply only at Melbourne (Tullamarine) Airport

The new Part 2 of Schedule 1 replaces the existing Part 7, and additionally:

- updates the indenting of the substitution made in paragraph 18(2)(b) of the LCRA, and amends the reference to ‘corporation’ to ‘body corporate’ in line with modern terminology;
- updates a reference within a substitution made in subsection 33(2) of the LCRA to pinpoint the meaning of airport-lessee company in subsection 5(1) of the *Airports Act 1996*, whereas the previous substitution was more general;
- updates the typographical font of the heading substituted for section 40 of the LCRA;
- updates a substitution made to subsection 40(1) reflecting a new subsection 40(1A) in the amended LCRA which provides new grounds under which the airport-lessee company of Melbourne (Tullamarine) Airport may object;

- updates the typographical font, indenting and drafting style of the insertion made as section 54A of the LCRA;
- includes a substitution for subsection 68(2) which sets out the grounds under which a licensing inspector may object to an application (as the relevant grounds listed in section 41 do not apply, given that section is omitted from the LCRA by this Part of the Regulations);
- updates the substitution previously made to subparagraphs 90(2)(c) and (d), to amend subparagraphs 91(1)(b)(ii) and (iii), and paragraphs 95(2)(b) and (c) of the LCRA; to now amend subparagraphs 94(2)(b)(ii) and (iii), and 97A(2)(a)(ii) and (iii) of the LCRA, in line with recent amendments to the Victorian Act;
- updates the substitution made within paragraph 103(3)(c) of the LCRA, to reflect that that paragraph is no longer in the LCRA. Instead new paragraphs 103 (c) and (d) are inserted and consequentially amend the term ‘corporation’ to read ‘body corporate’ in line with modern terminology;
- updates the drafting of the substitution made to subsection 141(1) of the LCRA (from sub-section to subsection in line with current drafting practice), and likewise make such a change for a new substitution of ‘subsection (2)’ to ‘subsection (2) or (3)’ to a new subsection (141(1AA) of the amended LCRA) which came into effect after the commencement of the Regulations; and
- amends the drafting of the insertion to clarify a long paragraph of text.

Modifications of the *Liquor Act 1992* of Queensland (LA) that apply only in terminal areas of Gold Coast and Townsville Airports

The new Part 3 of Schedule 1 replaces the existing Part 9, and additionally:

- updates the indenting of the insertion made to section 4 of the LA, removes unnecessary and confusing extraneous numbering, and pinpoints the subsection of the *Airports Act 1996* (ss 5(1)) which the definition is drawn from;
- updates the drafting style of the insertion made after paragraph 105(1)(c), and eliminates unnecessary and confusing extraneous numbering;
- updates the drafting style of the substitution made to paragraph 110(4)(a), and eliminates unnecessary and confusing extraneous numbering;
- removes the insertion after paragraph 116(4)(c) of the amended LA on the basis that subsection 116(4) of the amended LA no longer accomplishes the same purpose as the original section 116, and because the airport-operator company may already comment on the reasonable requirements of the public in the locality, or object to the grant of the relevant application on the grounds that the amenity, quiet, or good order of the locality would be lessened under subsection 177(2) of the LA, as modified by this Part of Schedule 1 of the Regulations;
- updates the drafting style (ie. substituting the word ‘situated’ with ‘located’) in the substitution made to paragraph 117(1)(a) of the LA;
- updates the drafting style of the substitution made to subsection 117(2);
- updates the numbering and drafting style of the substitution made to section 119 of the LA;
- updates the substitution made to paragraph 121(1)(c) of the LA, to reflect that section 121 had been amended, and an insertion is required to apply the same

modification in relation to matters the chief executive must have regard to (ie. including comments from the airport-operator company for the airport on which the licensed premises are located); and

- repeals the substitution for section 121A as section 121A is repealed in the amended LA.

Modifications of the *Liquor Licensing Act 1997* of South Australia (LLA)

The new Part 4 of Schedule 1 replaces the existing Part 10, and additionally:

- updates the Part by removing unnecessary and confusing Part numbering;
- updates the indenting of the insertion made to paragraph 52(2)(b) of the LLA, and pinpoints the subsection of the *Airports Act 1996* (subsection 5(1)) from which the definition is drawn;
- clarifies the substitution made to subsection 76(2) of the LLA, by pinpointing the subsection of the *Airports Act 1996* (subsection 5(1)) from which the relevant definition is drawn;

Modifications of the *Liquor Control Act 1988* of Western Australia (LCA)

The new Part 5 of Schedule 1 replaces the existing Part 11, and additionally:

- updates the Part by correcting the name of the relevant WA Act to the LCA, and removing unnecessary and confusing Part numbering;
- removes substitutions of parts of section 69 as subsection 69(2) of the LCA has been repealed;
- inserts a new substitution provision to restructure and update the drafting of subsection 69(4) of the LCA to assist readability; and
- inserts an omission provision to modify new sections 98-98H in the LCA, which specifies permitted trading hours, so that the no such limit will apply at Part 11 airports.

Modifications of the *Liquor Licensing Act 1990* of Tasmania (LLAT)

The new Part 6 of Schedule 1 replaces the existing Part 12, and additionally:

- updates the Part by removing unnecessary and confusing Part numbering; and
- repeals the insertion at the end of section 17 of the LLAT, as section 17 has been repealed, and the same matters are now included in new sections 23(3) and (4), which are also omitted under this Part of Schedule 1.

Modifications of the *Liquor Act 2010* of the Australian Capital Territory (LAACT) that apply at Canberra Airport generally

The new Part 7 of Schedule 1 replaces the existing Part 13, and additionally:

- updates the Part by correcting the name of the relevant ACT Act to the LAACT, and removing unnecessary and confusing Part numbering;

- reinstates the applicability of sections 18, and 24 of the previous Act, the *Liquor Act 1975* (ACT), as the LAACT has no similar provisions; and
- includes a substitution for paragraph 39(2)(b) of the LAACT, as this is the equivalent of the *Liquor Act 1975* (ACT) provision – section 56(2)(b).

Modifications of the *Liquor Act 2010* of the Australian Capital Territory (LAACT) that apply only in the terminal area of Canberra Airport

The new Part 8 of Schedule 1 replaces the existing Part 13, and additionally:

- updates the substitution of section 44 of the *Liquor Control Act 1975* (ACT), with a substitution of the new analogous section 176 of the LAACT; and
- reinstates the applicability of the definition of ‘non-trading day’ in section 66E of the *Liquor Control Act 1975* (ACT) as there is no similar provision in the LAACT. Likewise, as there are no similar provisions to sections 67 and 68 of the *Liquor Control Act 1975* (ACT) in the LAACT, modifications to section 67 and 68 are to be repealed.

Modifications of the *Liquor Regulation 2010* of the Australian Capital Territory (LRACT) that apply only at Canberra Airport generally

The new Part 9 of Schedule 1 is a new insertion, as the *Liquor Control Act 1975* (ACT) had no analogous regulations. To maintain consistency with the policy related to modifications made by the *Airports (Control of On-Airport Activities) Regulations 1997* to the LAACT, the new Part, in relation to the LRACT, omits paragraphs and sections that are unnecessary in the context of some of the same matters being included in the Liquor Licensing Standards Manual (2004).

These include provisions regulating procedures for ensuring compliance with the occupancy loading for each public area, young peoples’ events, prohibited promotional activity, as well as some definitions, and provisions relating to examination of identification documents and the provision of telephones.

Modifications of the *Liquor Act* of the Northern Territory (LANT) that apply at Part 11 airports in the Northern Territory

The new Part 10 of Schedule 1 replaces the existing Part 15, and additionally:

- updates the Part by removing unnecessary and confusing Part numbering; and
- updates the drafting style of the substitutions made to section 119 of the LANT in line with current practice.

Modifications of the *Liquor Act* of the Northern Territory (LANT) that apply only in the terminal area of an airport in the Northern Territory

The new Part 11 of Schedule 1 replaces the existing Part 16, and additionally:

- updates the Part by removing unnecessary and confusing Part numbering;

- removes substitutions of subsection 48(1) and (2) as these have been repealed and replaced by sections 47F-47J of the LANT;
- includes substitutions of subsections 47F(1), 47F(3), 47H, 47I, and 47J in relation to modifications which only inspectors, police officers, or the airport-operator company for the airport can make an objection to certain applications, in line with the policy for the previous modifications to section 48(1) and (2); and
- omits Parts of the amended LANT which relate to the Commission being able to declare that specified areas are restricted areas (VIII A and VIII A), in line with the policy which supports omission of Part VIII of the LANT.

Items [43]-[44]

These items insert rows into the table in item 1 of Schedule 1 of the Regulations relating to the relevant penalties applicable for the new offence provisions added to the Regulations as a result of updates to the Australian Road Rules, since the Regulations commenced (ie. ‘stopping in a slip lane’, and ‘parallel parking on a road-related area [except in a median strip parking area]’).

Item [45] – various further amendments

This item will update the references in the Regulations to the newly updated and numbered Parts of Schedule 1; remove any unintentional discretionary language in drafting; correct references to new abbreviations where certain legislation has changed name, and update references to airport names where these have changed.

ATTACHMENT C

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Airports (Environment Protection) Amendment Regulation 2012 (No. 1)

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The Legislative Instrument provides for amendments to the Airports (Environment Protection) Regulations 1997, which are consequential to amendments made to the *Airports Act 1996* (Act) in 2010.

The 2010 Act amendments implemented reforms which were outlined in the *National Aviation Policy White Paper* (2009). These included making airport Environment Strategies, which used to be stand-alone documents, part of airport Master Plans. This required regulations in the Airports (Environment Protection) Regulations 1997, which dealt with the contents of Environment Strategies, to be moved to the Airports Regulations 1997 (because the latter sets out the other prescribed content requirements for airport Master Plans). The substantive content requirements for Environment Strategies did not change.

Other minor changes made in these Amendment Regulations include some minor technical amendments to ease readability, and to update references where relevant legislation has been updated (eg, references to the *Endangered Species Act 1992*, which has been repealed, were replaced as appropriate).

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

ANTHONY ALBANESE

Minister for Infrastructure and Transport

Details of the Airports (Environment Protection) Regulation 2012 (No. 1)

Section 1 – Name of regulation

This section provides the title of the regulation as the *Airports (Environment Protection) Regulation 2012 (No. 1)*.

Section 2 – Commencement

This section provides for the regulation to commence on the day after registration.

Section 3 – Amendment of Airports (Environment Protection) Regulations 1997

This section provides that the *Airports (Environment Protection) Regulations 1997* (Regulations), are amended as set out in Schedule 1.

Schedule 1 – Amendments

Item [1] – Regulation 1.03A

This item corrects a typographical error in the reference to paragraph 131A(1)(b) of the *Airports Act 1996*.

Item [2]-[3] – Subregulation 1.05(1)

The definition of ‘site of indigenous significance’ is omitted from the Regulations as the Part which deals with this matter in the context of airport environment strategies has moved to the *Airports Regulations 1997*, along with the relevant definition. This change is directly as a result of the amendments to the *Airports Act 1996*, as made in 2010, which incorporates environment strategies into the Master Plans for federally leased airports. As such, the concept of an environment strategy as a stand alone document is now no longer relevant, and the most appropriate place for this prescribed content is with the prescribed content of Master Plans within the *Airports Regulations 1997* [see below].

Additionally, a note is inserted at the end of regulation 1.05 (Definitions) to assist readers understand that several words and expressions used in the Regulations have the meaning given by section 5 of the *Airports Act 1996*.

Item [4] – Part 3 (Environmental strategies)

Item [4] omits this Part from the *Airports (Environment Protection) Regulations 1997* in order to allow for the content to be redrafted as appropriate to reflect the changed location of environment strategies (ie. within airport Master Plans under section 71(2)(h) of the *Airports Act 1996*).

Item [5] – Paragraphs 4.04(1)(b) and (c)

Part 4, Division 2 of the *Airports (Environment Protection) Regulations 1997* sets out matters dealing with the duties of operators of undertakings at airports, in relation to preservation of habitat etc.

This item updates the language and terminology in these paragraphs to reflect that the *Endangered Species Act 1992* of the Commonwealth was repealed in 1999, after the commencement of the Regulations, and that a new Act, the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth, now deals with the matters previously set out in the 1992 Act. Accordingly, the item replaces terms such as ‘endangered’ and ‘vulnerable’ with ‘listed as threatened under the *Environment Protection and Biodiversity Conservation Act 1999*’.

Item [6] – Paragraphs 4.04(2)

This item also reflects that the *Endangered Species Act 1992* has been repealed by allowing expressions used in paragraphs 4.04(1) to have the same meanings they have under the *Environment Protection and Biodiversity Conservation Act 1999*.

Item [7] – Paragraphs 5.04(2)(c) and 5.09(2)(g)

Part 5 of the *Airports (Environment Protection) Regulations 1997* sets out matters dealing with local standards and individual authorisations.

These items omit references to ‘draft’ or ‘final’ environment strategy making them all uniformly ‘environment strategy’. This assists in reflecting the amendments to section 71 of the *Airports Act 1996* in the *Airports Amendment Act 2010* in relation to airport Master Plans.

Items [8]-[9] – Paragraphs 6.02(2)(a) and 6.02(2)(b)

Part 6 of the *Airports (Environment Protection) Regulations 1997* sets out matters dealing with monitoring, reporting and remedial action.

This item reflects that the existing provision in the Regulations relating, in part, to how monitoring must be carried out consistently with specifications in the environment strategy (and not inconsistently with any international agreement relating to environment protection to which Australia is a party), are now found in subregulation 5.02B(5) of the *Airports Regulations 1997*, rather than regulation 3.09 of the *Airports (Environment Protection) Regulations 1997*.

Item [10] – Subregulation 6.02(4)

This item is omitted to reflect that there is now no aspect of ‘environment strategy’ which can be ‘draft’ or ‘final’ in the terms under which these were known in the Regulations prior to the amendments made to the *Airports Act 1996* in the *Airports Amendment Act 2010* in relation to airport Master Plans.

Items [11]-[12] – Paragraph 6.03(1)(a) and 6.07(1)(b)

These items amend references to ‘*paragraph ...*’ to ‘*subregulation ...*’ to reflect current drafting practice.

Item [13] – Schedule 4, paragraphs 2.05(2)(b) and (3)(e) and subparagraphs 4.01(2)(b)(ii)

Schedule 4 of the *Airports (Environment Protection) Regulations 1997* sets out guidelines relating to indicators of noise that is excessive.

This item removes references to ‘final environment strategy’, and insert in its place ‘final master plan’, reflecting amendments made to the *Airports Act 1996* in the *Airports Amendment Act 2010* in relation to airport Master Plans.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Airports Amendment Regulation 2012 (No. 2)

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The Legislative Instrument provides for amendments to the Airports Regulations 1997, which are consequential to amendments made to the *Airports Act 1996* (Act) in 2010.

The 2010 Act amendments implemented reforms which were outlined in the *National Aviation Policy White Paper* (2009). These included making airport Environment Strategies, which used to be stand-alone documents, part of airport Master Plans. To account for this efficiently, regulations in the Airports (Environment Protection) Regulations 1997, which deal with the contents of Environment Strategies, were required to be moved to the Airports Regulations 1997, as the latter sets out the other prescribed content requirements for airport Master Plans. The drafting of these regulations were also updated to the contemporary style. The substantive content requirements for Environment Strategies did not change. These additions to the Airports Regulations 1997 update references to the Act, but do not introduce anything substantively new.

Other minor changes made in this Legislative Instrument include updating a description of a portion of land that comprises part of Adelaide Airport, and minor amendments reflecting changes to airport names that have been made since the Airports Regulations 1997 were last amended.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

ANTHONY ALBANESE

Minister for Infrastructure and Transport

Details of the Airports Amendment Regulation 2012 (No. 2)

Section 1 – Name of regulation

This section provides the title of the regulation as the *Airports Amendment Regulation 2012 (No. 2)*.

Section 2 – Commencement

This section provides for the regulation to commence on the day after registration.

Section 3 – Amendment of Airports Regulations 1997

This section provides that the *Airports Regulations 1997* (Regulations), are amended as set out in Schedule 1.

Schedule 1 – Amendments

Item [1] – Regulation 5.0

Part 5 of the *Airports Regulations 1997* sets out matters prescribed under the *Airports Act 1996* in relation to land use, planning and building controls.

This item inserts the definition of ‘site of indigenous significance’ as required for Part 5, and which is omitted from subregulation 1.05(1) of the *Airports (Environment Protection) Regulations 1997* under item [1] of the *Airports (Environment Protection) Regulation 2012 (No. 2)*.

Item [2] – Regulation 5.02 heading

This item amends the heading to reflect that there are various levels of prescribed content matter for airport Master Plans in these Regulations, some of which are general, and some of which are specific to environment strategies.

Item [3] – New regulations 5.02A and 5.02B

This item inserts specific content requirements for airport Master plans, as prescribed under the *Airports Act 1996* under subsection 71(2)(h), as amended by the *Airports Amendment Act 2010* in relation to the environment strategy component of Master Plans. This particular content was previously located in Part 3 of the *Airports (Environment Protection) Regulations 1997*, which was omitted and is transferred here to the *Airports Regulations 1997* to keep all master plan related content together. The language and drafting style of the original content is to be updated to reflect current drafting practice, and all references to ‘final’ or ‘draft’ environment strategy are removed reflecting that those terms now have no applicability.

This item consequentially updates references to environmental legislation including reflecting that the *Endangered Species Act 1992* has been repealed and replacing that with reference to the *Environment Protection and Biodiversity Conservation Act 1999*.

Item [4] – Schedule 1, Part 1.1

Schedule 1 of the *Airports Regulations 1997* sets out tables which define the airport sites for each federally leased airport, by reference to the folio identifier, that is, the certificate of title volume, folio and description, in each relevant State or Territory's land registry which marks the site of the airport.

This item inserts a row into the table for Adelaide Airport to include a folio identifier which was previously missed in error, in updates to the Regulations.

Item [5] – various further amendments

This item amends the Regulations to reflect name changes to both Hobart Airport and Darwin Airport to Hobart International Airport and Darwin International Airport respectively.