

EXPLANATORY STATEMENT

Select Legislative Instrument 2012 No. 184

Subject - *Airports Act 1996*

Airports Amendment Regulation 2012 (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 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.

Adelaide Airport is currently subject to mandatory price and quality of service monitoring along with Sydney, Brisbane, Melbourne and Perth airports.

In 2011 the Productivity Commission undertook an Inquiry into the Economic Regulation of Airport Services. The Commission recommended Adelaide Airport be excluded from annual mandatory price and quality of service monitoring because of the reduced level of market power held by Adelaide Airport after the finalisation of long term commercial agreements. The Government agreed with this recommendation, subject to Adelaide Airport agreeing to participate in the second tier airport price and quality of service reporting process established by the National Aviation Policy White Paper of December 2009. Adelaide Airport has agreed to this.

These amendments to the *Airports Regulations 1997* would exclude Adelaide Airport from mandatory price and quality of service monitoring.

Details of the proposed Regulation are at Attachment A.

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

The Regulation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Regulation is taken to have commenced on 1 July 2012. Retrospective commencement is sought so as to remove the obligation for Adelaide Airport to keep records related to mandatory price and quality of service monitoring for the period between 1 July 2012 and the date of Royal Assent for these amendments. Pursuant to subsection 12(2) of the *Legislative Instruments Act 2003*, the retrospective commencement does not disadvantage, nor impose liabilities, on any person.

Adelaide Airport was consulted on the proposed amendments and did not object.

Authority: Section 252 of the
Airports Act 1996

ATTACHMENT A

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. 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*. The changes reflect the recommendation of the Productivity Commission inquiry into the Economic Regulation of Airport Services to remove Adelaide Airport from mandatory price and quality of service reporting.

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. 1)

Section 1 – Name of Regulation

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

Section 2 – Commencement

This section provides for the Regulation to commence retrospectively as of 1 July 2012.

Section 3 – Amendment of *Airports Regulations 1997*

Schedule 1 amends the *Airports Regulations 1997*.

Schedule - Amendments

Items [1] – [2] – Paragraphs 7.02B(a) and 8.01(a)

Both paragraphs 7.02B(a) and 8.01(a) previously contained the words Adelaide Airport. The omission of these paragraphs gives effect to removing Adelaide Airport from the mandatory monitoring scheme.