

EXPLANATORY STATEMENT

(Issued by the Authority of the Minister for Infrastructure and Transport)

Subject — *Aviation Transport Security Act 2004*

Aviation Transport Security Amendment (Airside Security-2017 Measures No. 1) Regulations 2017

The *Aviation Transport Security Act 2004* (the Act) and the Aviation Transport Security Regulations 2005 (the Principal Regulations) establish a regulatory framework to safeguard against unlawful interference with civil aviation in Australia.

Subsection 133(1) of 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.

Section 31 of the Act specifies that the Principal Regulations may prescribe different types of airside security zones that the Secretary of the Department administering the Act (the Secretary) may establish under Section 30. Section 36 of the Act prescribes the types of security requirements the Regulations may prescribe for the airside security zones, including screening, access and other security controls.

Sections 12, 13 and 14 of the Act require certain aviation industry participants (AIPs) to develop and comply with a transport security program (TSP). Subsection 16(3) of the Act provides that regulations may prescribe matters to be dealt with in a TSP for each AIP.

The purpose of the *Aviation Transport Security Amendment (Airside Security-2017 Measures No. 1) Regulations 2017* (the Regulations) is to introduce strengthened airside security measures at Australia's major international airports (Adelaide, Brisbane, Cairns, Canberra, Darwin, Gold Coast (Coolangatta), Melbourne, Perth and Sydney). These airports are defined in regulation 1.03 of the Principal Regulations as designated airports. These strengthened measures will mitigate the security risk posed by aviation insiders working at these airports who could use their specialist knowledge and access to facilitate a terrorist attack against Australian aviation.

The Regulations amends the Principal Regulations to introduce three key security requirements:

- introduce requirements for the random screening of people, vehicles and accompanying goods entering and within a security restricted area (SRA) at a designated airport to detect unauthorised weapons, in accordance with an Aviation Screening Notice;
- ensure that a person or vehicle, can only enter the SRA at a designated airport if the person and their vehicle are authorised to do so; and
- prescribe security awareness training for airport and airline workers, including contractors, who regularly work within an SRA at a designated airport.

The Regulations will help to prevent an act of unlawful interference with aviation by reducing the risk of unauthorised weapons being carried or placed on board a high capacity aircraft by an aviation insider, someone posing as an insider, or someone who has been

assisted by an insider. Such an attack could result in loss of life, severe economic consequences, public loss of confidence in both the Government and the aviation sector, and damage Australia's reputation as a safe and secure destination for international air travel.

The Regulations will also assist Australia to meet its obligations under Annex 17 (Security) to the Convention on International Civil Aviation (the Chicago Convention) by achieving compliance with Annex 17 Standards 4.2.6 (non-passenger screening) and 4.2.7 (vehicle screening). Compliance is important as it would enable Australia to maintain, and strengthen, its role as a global aviation security leader, particularly in the Asia-Pacific region.

Consultation

The Department of Infrastructure and Regional Development undertook extensive consultation with industry and government stakeholders through the Aviation Security Advisory Forum Airside Security Sub-Group. Membership included key aviation security stakeholders, including Australia's two major airline operators, Qantas Airways and Virgin Australia; airport operators from the nine designated airports; industry peak bodies, including the Board of Airline Representatives Australia and the Australian Airports Association; and the Australian Federal Police, Australian Border Force and Department of Agriculture and Water Resources.

The group was consulted throughout development of the policy and were provided two consultation drafts of the Regulations for comment. The second consultation draft was agreed by the group.

Employee consultative groups representing airport workers that are affected by the changes were also provided with the second consultation draft for consideration. These included the Transport Workers Union, United Voice and the Australian Airline Pilots' Association (representing both the Australian and International Pilots' Association and the Australian Federation of Air Pilots).

The Office of Best Practice Regulation (OBPR) confirmed, on 20 September 2017, that the Regulation Impact Statement for this proposal meets Government requirements and is consistent with best practice on 20 September 2017 (OBPR reference: 20691).

A Statement of Compatibility with Human Rights is set out in Attachment A.

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

The Regulations is a legislative instrument for the purposes of the *Legislation Act 2003*.

Schedule 1 and 3 of the Regulations will commence on the day after this instrument is registered. Schedule 2 will commence the day after the end of the period of 3 months beginning on the day the instrument is registered.

Details of the Regulations are set out in Attachment B.

Authority: Subsection 133(1) of the *Aviation Transport Security Act 2004*

Statement of Compatibility with Human Rights

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

Aviation Transport Security Amendment (Airside Security-2017 Measures No. 1) Regulations 2017

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 amends the Principal Regulations to:

- introduce requirements for the random screening of people, vehicles and accompanying goods entering a security restricted area (SRA) at a designated airport to detect unauthorised weapons, in accordance with an Aviation Screening Notice;
- ensure that a person or vehicle, can only enter the SRA at a designated airport if the person and their vehicle are authorised to do so; and
- prescribe security awareness training for airport and airline employees, including contractors, who regularly work within an SRA at designated airports.

Human rights implications

This Legislative Instrument engages the following human rights:

Privacy and reputation

The protection of an individual's privacy engages Article 17 of the International Covenant on Civil and Political Rights. The Government has carefully considered how the introduction of airport staff screening will impact the privacy of people working in airport security restricted areas (SRAs), and has ensured privacy safeguards are in place.

Aviation workers subject to security screening under the new arrangements will be afforded the same protections as passengers to ensure they are not subject to racial or religious discrimination and that their privacy is protected.

All screening procedures will be undertaken by trained screening officers in accordance with requirements established by a notice issued under the Aviation Transport Security Regulations 2005.

The screening techniques being applied, including explosive trace detection and metal detection, are non-invasive. Frisk searches may occasionally be used to resolve alarms or when a technological equivalent is not available. In cases where a frisk search is necessary the individual may request that procedure to occur in a private room or within a screened area. A frisk search will always be undertaken by someone of the same gender as the person being searched.

Rights of Equality and Non-discrimination

The right of equality and non-discrimination is protected by Articles 2, 16, and 26 of the International Covenant on Civil and Political Rights. All people have the right to be treated equally. In keeping with Australia's egalitarian screening regime applied to aviation passengers, selection of airport and airline workers, visitors and contractors for screening on entry to the SRAs of designated airports will be conducted on a random basis in accordance with a documented methodology. Individuals will not be selected according to their race, religion, gender, or any other personal characteristic.

Rights to work

The right to work and rights in work is protected by the International Covenant of Economic, Social and Cultural Rights (ICESCR). Article 6 of ICESCR requires that State Parties must recognise the right to work, including the right of everyone to have the opportunity to gain their living by work which they freely choose or accept and take appropriate steps to safeguard this right.

The introduction of requirements to screen airport and airline workers, visitors and contractors entering the SRAs of certain airports will mean that, if a person refuses to be screened, or if they are found to have a prohibited weapon in their possession, they will be excluded from the area for a period of 24 hours. This may mean that they are unable to fulfil their employment obligations for that period of time. This risk will be partially mitigated by the new requirement for airport and airline employees and their contractors who regularly work within airport SRAs to undergo security awareness training that informs their obligations while working in an SRA and the security reasons behind why those obligations are imposed.

Conclusion

This Legislative Instrument is compatible with human rights because it provides measures to further strengthen Australia's aviation security and where it may limit some human rights, those limitations are reasonable, necessary and proportionate. As outlined above, appropriate safeguards have been developed to minimise the impact and instances of infringement on human rights.

DARREN CHESTER
Minister for Infrastructure and Transport

Details of the *Aviation Transport Security Amendment (Airside Security-2017 Measures No. 1) Regulations 2017*

Section 1 – Name of Regulation

This section provides that the name of the Regulation is the *Aviation Transport Security Amendment (Airside Security-2017 Measures No. 1) Regulations 2017* (the Regulations).

Section 2 – Commencement

This section provides that Schedule 1 and 3 of the Regulations will commence on the day after this instrument is registered. Schedule 2 will commence the day after the end of the period of three months beginning on the day the instrument is registered.

Section 3 – Authority

This section provides that the Regulations is made under the *Aviation Transport Security Act 2004* (the Act).

Section 4 – Schedules

This section provides for the *Aviation Transport Security Regulations 2005* (the Principal Regulations) to be amended as set out in the Schedules to the Regulations.

Schedule 1 – Amendments commencing day after registration

Item [1] – Regulation 1.03

This item inserts the definition of the Australian Border Force, being the part of the Immigration Department known as such into regulation 1.03 of the Principal Regulations.

This item also insert a definition of a security restricted area (SRA) into regulation 1.03 of the Principal Regulations. This definition means a type of airside security zone that is prescribed by regulation 3.01.

Item [2] – Regulation 2.18A

Item 2 repeals regulation 2.18A from the Principal Regulations as it refers to enhanced inspection areas, which the Regulations repeals as a concept, and replace with requirements for the SRA set out in schedule 2.

Item [3] – Subregulations 2.32(3) and (4)

Item 3 repeals subregulations 2.32(3) and (4) of the Principal Regulations as they relate to requirements for enhanced inspection areas, which are repealed as a concept.

Item [4] – Regulation 2.35A

Item 4 repeals regulation 2.35A of the Principal Regulations as it relates to requirements for enhanced inspection areas, which are repealed as a concept.

Regulation 2.35A is substituted in Schedule 2 of this Regulation, which imposes TSP requirements in relation to the access control and screening requirements for SRAs at designated airports.

Item [5] – Regulation 3.01

Item 5 repeals an enhanced inspection area as a type of airside security zone from regulation 3.01 of the Principal Regulations leaving the SRA as the remaining type of security zone. An SRA is an airside security zone, the type of which are prescribed under Section 31 of the Act. The purpose of zones include, but is not limited to, controlling the movement of persons, vehicles and goods within airside areas, restricting access to airside security zones within airside areas and preventing interference with aircraft.

Item [6] – Regulation 3.13

Item 6 inserts the meaning of an entry exempt person into the list of definitions in regulation 3.13 of the Principal Regulations. This inserted definition is used in Division 3.3 of the Principal Regulations, and applies to existing and new airside areas and security zones following the commencement of Schedule 1 of the Regulations.

The persons listed by this meaning includes and expands on the repealed list of exempt persons in the Principal Regulations.

The additional persons included as entry exempt persons reflect classes of persons for whom new access control and screening requirements in Schedule 2 would be operationally or otherwise impractical to comply with.

The list of entry exempt persons inserted into the definitions in regulation 3.13 of the Principal Regulations is applied in inserted Items 10 and 11 of Schedule 1 of the Regulations and more broadly in subdivision 3.3.3 – Additional requirements for security restricted areas at designated airports, as inserted in Item 9 of Schedule 2 of the Regulations.

Item [7] – Regulation 3.13

Item 7 repeals the definition of exempt goods, exempt persons and exempt vehicles from the list of definitions in regulation 3.1.3 of the Principal Regulations. The repeal applies to existing and new airside areas and security zones following the commencement of Schedule 1 of the Regulations.

The definition of exempt persons is replaced by the concept of an entry exempt person in Item 6.

The repealed definitions of exempt vehicles and exempt goods will be replaced by the inserted definitions of exempt vehicles and exempt goods in Item 4 of Schedule 2 of the Regulations. These inserted definitions apply to the SRA at designated airports, not to airside areas or SRAs at airports that are not designated airports. These definitions are only used in the Principal Regulations in the context of enhanced inspection areas and are only required from the commencement of Schedule 2.

Item [8] – Regulation 3.14

Item 8 amends regulation 3.14 of the Principal Regulations to omit references to enhanced inspection areas, which are repealed as a concept, so that the Regulations only refers to common boundaries of airside areas and SRAs.

Item [9] – Paragraph 3.15(3)(a)

Item 9 amends paragraph 3.15(3)(a) to ensure that persons who enter the area, are only required to properly display an ASIC if they are required to do so under subdivision 3.2.1 of the Principal Regulations.

This corrects an inconsistency in the Regulations so that a responsible aviation industry participant for the airside area is no longer be required to ensure that persons entering a zone are displaying an ASIC if they are exempt from displaying an ASIC under subdivision 3.2.1, such as children on a school excursion.

Item [10] – Paragraphs 3.15(3)(b), (c), (d) and (e)

Item 10 repeals paragraphs 3.15(3)(b), (c), (d) and (e) of the Principal Regulations and substitutes paragraphs 3.15(3)(b) and (c) into the Regulations.

The repeal of paragraph 3.15(3)(b) from the Principal Regulations, is consequential to the repeal of an exempt person from the list of definitions made by Item 6 of Schedule 1 of the Regulations. The substitution of paragraph 3.15(3)(b) in the Regulations means that the responsible aviation industry participant for an airside area can allow an entry exempt person to enter such an area.

Paragraphs 3.15(3)(d) and (e) of the Principal Regulations, which refer to supervised passengers boarding or disembarking from an aircraft through the airside area, are repealed and these supervised passengers are captured by paragraph (j) in the meaning of an entry exempt person as inserted by Item 6 of Schedule 1 of the Regulations.

The repeal of paragraph 3.15(3)(c) from the Principal Regulations, is consequential to the repeal of an exempt person from the list of definitions made by Item 6 of Schedule 1 of the Regulations. The substitution of paragraph 3.15(3)(c) in the Regulations means that the responsible aviation industry participant for an airside area can only allow a vehicle to enter the area that is driven by an entry exempt person or an authorised person who is properly displaying identification as required by paragraph 3.1.5(3)(a) of Schedule 1 of the Regulations.

Item [11] – Paragraph 3.16(3)(a)

Item 11 amends requirements about who may enter the SRA, so that requirements in relation to display of ASICs are moved to a new subregulation (3A), as set out in item 14.

Item [12] – Paragraph 3.16(3) (penalty)

Item 12 amends the penalty for the requirements in relation to SRAs, so that there is no longer a different penalty applied to an offender that is a person other than an airport or

aircraft operator. This change has been made to reflect the fact that only these types of industry participant are responsible for SRAs.

Item [13] – Paragraph 3.16(3) (note)

Item 13 repeals the note referring to the definition of properly displaying from regulation 3.16 of the Principal Regulations as the regulation as amended includes a cross reference to subdivision 3.2.1.

Item [14] – After subregulation 3.16(3)

Item 14 reinserts at subregulation (3A) the requirement on the responsible aviation industry to ensure an SRA may only be entered by a person displaying a valid red ASIC, or who is escorted and displaying a VIC, TAC or grey ASIC, which was removed in item 11. The provision is amended so it is clear that the requirement does not apply for persons not required to display an ASIC under subdivision 3.2.1, such as children on a school excursion. This corrects an inconsistency in the Principal Regulations.

Item [15] – Subdivision 3.3.3

Item 15 repeals subdivision 3.3.3, which relates to requirements for enhanced inspection areas that the Regulations removes as a concept. Subdivision 3.3.3 will be replaced in Schedule 2, and include new requirements in relation to the SRA.

Item [16] – Regulations 3.17A, 3.17B and 3.17C

Item 16 repeals regulations 3.17A, 3.17B and 3.17C of the Principal Regulations that all relate to enhanced inspection areas, which are removed as a concept by the Regulations.

Item [17] – Paragraph 4.04(2)(b)

Item 17 amends paragraph 4.04(2)(b) of the Principal Regulations to reflect the repeal of the paragraph that follows, paragraph 4.04(2)(c), under item 18.

Item [18] – Paragraph 4.04(2)(c)

Item 18 repeals paragraph 4.04(2)(c), which relates to enhanced inspection areas that no longer exist as a concept.

Item [19] – Subregulation 4.09(2)

Item 19 amends regulation 4.09(2) to remove the reference to enhanced inspection areas, which are removed as a concept.

Item [20] – Subregulation 4.09(3)

Item 20 removes a reference to enhanced inspection areas, which are removed as a concept.

Item [21] – Paragraph 4.10(a)

Item 21 amends regulation 4.10 of the Principal Regulations so that only non-uniformed law enforcement officers are required to display their identity card as a law enforcement officer. This reflects the fact that only non-uniformed Australian Federal Police officers are required to carry a warrant card identifying them as a law enforcement officer.

Item [22] – Subregulation 4.11(1) (heading)

Item 22 updates the subheading to refer to LAGs cleared areas that are referred to in the subregulation, as well as sterile areas.

Item [23] – Subregulation 4.11(2) (heading)

Item 23 removes reference to enhanced inspection areas in the heading for subregulation 4.11(2) of the Principal Regulations, in line with the removal of enhanced inspection areas as a concept.

Item [24] – Subregulation 4.11(3) (heading)

Item 24 removes reference to enhanced inspection areas from the heading for subregulation 4.11(3) of the Principal Regulations, in line with the removal of enhanced inspection areas as a concept.

Item [25] – Subregulation 4.11(3)

Item 25 removes reference to enhanced inspection areas from subregulation 4.11(3) of the Principal Regulations.

Item [26] – Paragraph 4.11(3)(d)

Item 26 amends regulation 4.11 of the Principal Regulations so that only non-uniformed law enforcement officers are required to display their identity card as a law enforcement officer.

This reflects the fact that only non-uniformed Australian Federal Police officers are required to carry a warrant card.

Item [27] After regulation 4.12A

Item 27 inserts a provision for section 41(4) of the Act that sets out the supervision and control requirements for a person to remain cleared when not in a cleared area or cleared zone. Under this provision a person may remain cleared, so long as they are contained in an area or vehicle that is either cleared or exempt from being cleared, are escorted by a red ASIC-holder and do not co-mingle with persons that have not been cleared.

This clarifies the status of existing arrangements where cleared passengers being transferred between terminals on a bus remain cleared.

Item [28] – After regulation 4.53(1)

Item 28 adds aviation security inspectors or representatives of screening authorities who are lawfully testing the screening system to the list of persons authorised to carry weapons in secure areas, which includes the airside area as well as landside and airside security zones.

This is necessary to ensure that aviation security inspectors can conduct systems tests for airside screening points. Testing is integral to ensure that screening points are adequately performing their function to detect unauthorised weapons.

Item [29] – Paragraph 4.54(1)(b)

Item 29 amends the provision allowing private security contractors escorting armoured vehicles to carry weapons to remove the requirement for the security contractor to be in uniform. In some cases plain clothes staff perform such a security function. The Regulations also provides that either direct employees or contractors who perform a security function are permitted to carry weapons.

Item [30] – Paragraph 4.54(1)(b)(i)

Item 30 amends the paragraph to remove the requirement for an armoured vehicle (or accompanying vehicle) to display the contractor’s livery, as there are cases where unmarked vehicles are used for this purpose.

Item [31] – Paragraph 4.54(1)(b)(iv)

Item 31 amends regulation 4.54 of the Principal Regulations to replace ‘1A security guard licence’ with ‘security guard licence (however described)’. This corrects an error in the Principal Regulations which refer to a category of licence that is not used in all states and territories.

Item [32] – Paragraph 4.54(1)(b)(v)

Item 32 omits the requirement for staff members accompanying an armoured vehicle to be uniformed in order to be a person authorised to have a firearm in the airside area.

Item [33] – After paragraph 4.54(1)(d)

Item 33 inserts a provision allowing aviation security inspectors, or representatives of a screening authority, who is lawfully testing the screening system to carry a firearm (which includes a replica firearm) in the airside area. This is necessary to allow inspectors to conduct systems testing of SRA screening points, which is integral to ensuring they effectively perform their function of detecting unauthorised weapons.

Item [34] – Subregulation 4.54(2)

Item 34 adds an aviation security inspector and representative of the screening authority who are permitted to carry out a screening systems test as people who are not required to display a firearms licence on demand. This supports the covert nature of systems testing, which is necessary to ensure the system is effective.

Schedule 2 – Amendments commencing 3 months after registration

Item [1] – Regulation 1.03

Item 1 of Schedule 2 inserts a definition of an access control point: a point of entry into the security restricted area at a designated airport, so that is identified in the Transport Security

Program of the airport operator. Setting out access control points in a security program enables the Department to have a clear understanding of where access checks for the SRA are conducted and assurance that screening measures adequately capture all people and vehicles entering the SRA.

Item [2] – After regulation 2.18

Regulation 2.18A introduces several new elements that must be included in the TSP of an airport operator. These requirements relate to supporting procedures and details in relation to the new requirements for managing security at SRAs at designated airports in Subdivision 3.3.3. Detailing these supporting procedures is necessary for the Department to confirm, in its approval of the TSP, that they are adequate to meet the requirements of the Regulations and to facilitate compliance activity against those requirements.

Subregulation 2.18A(2) sets out matters relating to access control that must be included in an airport operator's TSP. The TSP must set out each point of entry that is to be an access control point at the airport, including points of entry that are operated, on a day-to-day basis, by another entity. These may be located on both the airside and landside boundary. Most people entering the SRA will be required to enter the zone through an access control point for regulation 3.16B of the Regulations.

Operators must include details of the procedures that will be used to confirm the identity and authorisation of persons and vehicles entering the SRA at a designated airport through an access control point that they control. The procedures must also confirm that persons hold a valid red ASIC, VIC, TAC or grey ASIC (if required under subdivision 3.2.1 of the Principal Regulations) and are escorted if required. If the checks are to be performed at a place other than at an access control point (for subregulation 3.16D(5)), the TSP must also include the location of that place.

Under these access control arrangements it is not sufficient to control access to the SRA by limiting access through a physical door lock, proximity card access control system or similar as such means do not confirm the identity of a person entering the SRA. Checks of a person's identity and authorisation to enter the SRA must include physical inspection of photographic identification (usually an ASIC) to confirm the identity of the person, or electronic access controls incorporating a biometric component.

The TSP must also include procedures to ensure that persons who are allowed to enter the SRA other than through an access control point do not bring unauthorised weapons into the zone. This provision applies to persons who are moving to the SRA from another SRA or are moving continuously in and out of the zone (provided for under subregulations 3.16B(4)-(5)). This may include (but is not limited to) measures such as CCTV monitoring of such persons while outside of a zone, limitations on what a person may do while outside of a zone (such as mingling with other persons), or placing access limitations on those places outside of the zone which they pass through.

Subregulation 2.18A (3) requires the airport operator to submit an accompanying document setting out the entity (or entities jointly) responsible for each security restricted area, or part thereof. This does not directly impose an obligation on other industry participants. Rather, it should reflect where the airport operator and another entity have mutually agreed that the other party should take on responsibility for a zone or part of that zone. The accompanying

document should also set out the entity (or entities jointly) responsible for managing security at each access control point.

Subregulation 2.18A(4) sets out the TSP requirements in relation to screening for the SRA. This includes the measures and procedures used to conduct screening and the details of the locations and (if screening is conducted within the zone) general areas where screening will take place. The locations and general areas set out in the TSP should provide sufficient detail to demonstrate that the industry participant will comply with paragraph 3.16E(1)(a) – that they are able to screen any person entering the zone through an access control point.

Item [3] – After regulation 2.35

Regulation 2.35A includes similar requirements for the TSP of an aircraft operator to those for an airport operator in 2.18A. This includes requirements to set out the procedures to be used to confirm identity and authorisation at access control points controlled by the operator, including checking ASICs, VICs, TACs and supervision if required.

For aircraft operators that control an SRA or part of an SRA, they must also set out the classes of persons exempt from entering the SRA through an access control point and the security measures that will be applied to such persons to ensure they do not bring unauthorised weapons into the SRA.

If an aircraft operator controls an SRA, or part thereof, their TSP must be accompanied by a document specifying the entities responsible for maintaining the security of access points into that SRA.

Aircraft operators have the same requirements for a TSP in relation to SRA screening as airport operators. These include setting out the measures and procedures to carry out screening of persons, vehicles and goods, and the details of locations and general areas (in the case of in-zone screening) that screening will take place.

As for airport operators, inclusion of procedures that support screening and access requirements in a TSP is necessary so that the Department can confirm through the approval process that the procedures are adequate to meet the requirements of the Regulations and to facilitate activities that ensure compliance with the regulations.

Item [4] – Regulation 3.13

Item 4 inserts definitions of exempt goods, exempt vehicles, and screening exempt persons in relation to an SRA at a designated airport into regulation 3.13. Exempt goods, vehicles and screening exempt persons are not subject to SRA screening. Exempt vehicles are also not subject to authorisation checks on entry to the SRA other than reasonable checks to confirm they are an exempt vehicle.

The definition of exempt goods includes baggage, cargo, aircraft stores and duty free and provides that screening is not required for these items, as they are subject to alternative security arrangements. Aircraft stores must be supplied under an agreement with an aviation industry participant and must be protected from unauthorised access until loaded onto the aircraft. This may involve (but is not limited to) guarding, monitoring or the use of tamper evident seals. Duty free items must be intended for supply at the airport or on an aircraft, with the agreement of the relevant airport or aircraft operator.

Other items captured by the exempt goods definition are included on the basis that screening them would be impractical. These include law enforcement and Australian Border Force (ABF) dogs, items seized under Commonwealth law and fuel and combustible substances required for operational reasons in the SRA (other than explosives).

Goods carried by screening exempt persons or in screening exempt vehicles, or goods exempted by the Secretary of the Department by written notice, are also exempt.

Exempt vehicles include vehicles that it would not be operational practical to screen, including armoured vehicles, driverless vehicles under the control of an airport or aircraft operator or vehicles carrying passengers boarding or disembarking from a vehicle. Vehicles may also be exempt if they are driven by an entry exempt person or are specified in a written notice by the Secretary of the Department.

Screening exempt persons include persons for whom screening would cause unreasonable operational disruption, including screening officers managing screening points, ABF officers performing law enforcement activity that would be compromised by screening or responding to an emergency and drivers of vehicles transporting crew and passengers. All entry exempt persons are also screening exempt. Additional classes of person may be made screening exempt by Secretary's notice.

Item [5] – After regulation 3.14

Item 5 inserts subdivision 3.3.1A that covers requirements for airside areas at all security controlled airports. This additional category will aid with ease of reading.

Item [6] – Subdivision 3.3.2 (heading)

Item 6 amends the subdivision heading so that subdivision 3.3.2 only applies to security restricted areas at non-designated areas. As noted in item 9 of Schedule 2, Subdivision 3.3.3 applies separate and additional requirements for SRAs at designated airports.

Item [7] – Regulation 3.16 (heading)

Item 7 amends the heading of regulation 3.16 to make clear that the regulation only applies to non-designated airports, distinct from the separate and additional requirements for SRAs at designated airports that are set out in Subdivision 3.3.3.

Item [8] – Subregulation 3.16(1)

Item 8 amends regulation 3.16 to clarify that the regulation only applies to non-designated airports. The requirements for designated airports are set out separately in subdivision 3.3.3, as described in item 9 below.

Item [9] – After Subdivision 3.3.2

Item 9 inserts Subdivision 3.3.3 – Additional Requirements for security restricted areas at designated airports, after Subdivision 3.3.2.

The new requirements in this subdivision require aviation industry participants to implement enhanced access controls, screening and security awareness training. These measures are intended to protect against an act of unlawful interference facilitated by a person working in the SRA. The measures also reflect an international requirement under Annex 17 (Security) to the International Convention on Civil Aviation to conduct screening of airport workers, and to implement additional controls if the screening doesn't capture 100% of workers.

The inserted Regulation 3.16A sets out the purpose of subdivision 3.3.3, to set out additional requirements that apply to SRAs at designated airports. These replace existing requirements in regulation 3.16 of the Principal Regulations.

Regulation 3.16B prohibits persons from entering the SRA other than through an access control point. An offence of 50 penalty units applies for a person who does not comply with this regulation. This requirement is to ensure that all persons entering the SRA are subject to access controls wherever operationally practical.

The Regulations also sets out a range of exceptions. None of these exceptions exempt persons from being subject to access control checks or screening where they are passing through an access control point or are selected for screening. However, the offence does not apply to entry exempt persons (Regulation 3.13, as amended in Schedule 1) as they are not subject to access checks (under regulation 3.16D) or on-entry screening (under regulation 3.16E) in any case.

The offence also does not apply to persons entering from cleared areas, as screening requirements for the cleared area are higher than for the SRA. Likewise, persons entering from an area that can only be accessed from an SRA or cleared area, including aerobridges, are also exempt. This would also include an area that is adjacent to the SRA but is enclosed by physical barriers such as walls or fences (without doors or gates) on all sides other than to the SRA.

Persons entering the SRA, who have come directly from another SRA or another part of the same SRA via the airside area to perform work in the area also do not commit the offence, so long as they are moving reasonably directly to the area. A person would not be moving reasonably directly if they stopped at a facility or area outside of an SRA. The intent of this limitation is that a person should not have an opportunity to gain access to unauthorised weapons while outside the area.

Subregulation 3.16B(5) provides that people continually moving back and forth across the boundary of the SRA for operational reasons may do so without repeatedly being subject to access control measures. The provision allows people in this circumstance to be considered to be continually within the zone – provided they entered the SRA through an access control point in the first instance. The exception may apply to people who either remain in the vicinity of the boundary, or are moving back and forth between the SRA and a nearby facility.

In each case, the movement must be for the purposes of performing work and the classes of people and any facilities covered by this exception must be specified in the TSP of the responsible aviation industry participant for the zone. If a person leaves the area to take a break, or another reason not directly related to their work, they are no longer, under this provision, be considered to remain within the zone and must re-enter the SRA through an access control point as if they were entering in the first instance.

Subregulation 3.16B(5) could, for example, apply to a person mowing the grass in the airside area, where they are moving back and forth across the SRA boundary. It could also apply to baggage handlers re-entering the SRA from landside via a bypass door to carry oversized baggage items into the baggage makeup area. In the case of a facility, it could include fuel trucks moving back and forth between the SRA and the fuel storage facility or a wildlife officer moving between the SRA and their office located in the airside area.

Regulation 3.16C requires responsible aviation industry participants for the SRA at a designated airport to ensure that the SRA can only be entered by persons and vehicles that are authorised to do so. This mirrors the entry restrictions in regulation 3.16 of the Principal Regulations (noting this regulation is amended in Schedule 1 to apply only to non-designated airports). In the context of designated airports, persons who are not authorised includes persons entering the SRA other than through an access control point where not permitted to do so under these Regulations.

Regulation 3.16D sets out the checks that must be performed for persons and vehicles entering the SRA at a designated airport through an access control point. The purpose of the checks is to confirm that only authorised persons are entering the SRA. An offence of 200 penalty units applies if an airport operator or aircraft operator fail to comply with these requirements.

For another type of aviation industry participant who fails to comply with the requirements under regulation 3.16D, the offence is 100 penalty units. This includes any kind of business that controls an access point into the security restricted area other than from a cleared (sterile) area. Examples of these businesses are: airport operators, aircraft operators, regulated air cargo agents, ground handling operators, catering providers, government agencies, charter operators or any other airport tenant. It is not limited to entities that hold a security program.

A business will generally be considered to control an access control point into the SRA if that access control point forms a part of a facility that they operate, unless another party agrees to have control of the point. However, contracting the function of conducting checks to a security provider does not transfer control of the access control point for the purposes of these Regulations.

These checks must be conducted at an access control point or at another place where a person is prevented from passing through the access control point without also passing through that place, which must be specified in the security program of an airport operator, aircraft operator or regulated air cargo agent.

Checks must confirm the identity of a person and that persons and vehicles are authorised to enter. The checks must also confirm that persons are displaying a valid red ASIC, VIC, TAC or Grey ASIC and are under supervision if required, unless exempt under Subdivision 3.2.1.

Note that restricting access to persons who hold an electronic access pass or key is not sufficient to meet the confirmation of identity requirement. Confirmation of identity may occur either through checking of photographic identification (including an ASIC) by a guard or employee or through the use of biometric access control systems. This is to ensure that a person cannot gain access to the area through the use of a borrowed or stolen key or access credential.

For aviation industry participants who are security program holders, the checks must occur in accordance with procedures set out in the program. For non-security program holders checks must include an employee (which may include a contractor) conducting a visual inspection of a person's ASIC. Note that the employee may also need to ask questions and view company identification, authorisation to drive airside or other documentation in order to satisfy themselves that a person and/or is authorised to enter.

Instead of a face-to-ASIC check by an employee, non-security program holders may agree alternative procedures with the responsible aviation industry participant for the zone, which are recorded in that entity's TSP.

Regulation 3.16E requires a responsible aviation industry participant for an SRA at a designated airport to conduct screening of non-exempt persons, vehicles and goods entering and/or within a zone. The purpose of the screening is to detect weapons that may be carried into the SRA to conduct an act of unlawful interference. An aircraft operator or airport operator that fails to meet this requirement incurs an offence of 200 penalty units.

Screening must be conducted by a screening authority and is only for the purpose of detecting unauthorised weapons.

Screening must occur at all times during traffic periods, or as otherwise prescribed in an aviation screening notice issued under regulation 4.17.

An access control point must operate at every access control point into the SRA in accordance with paragraph 3.16E(1)(b). Alternatively, a screening point may be located in the vicinity of the access control point, at a location specified in the TSP of the responsible aviation industry participant for the SRA, where it is not possible to enter the SRA through the access control point without also passing through the screening point. This provides flexibility for screening to occur at a place that is most operationally viable for that airport. For example, the design of an airport, and access from the surrounding areas, may create traffic bottlenecks unless the screening occurs within the SRA.

Finally, a screening point may operate at another location where prescribed in an aviation screening notice. This is intended to capture screening that takes place within a zone (in-zone screening, for regulation 3.16E(4), as described below).

For in-zone screening, screening locations must collectively be able to capture persons entering the zone through any access control point, to meet the requirement of paragraph 3.16E(1)(a). Where in-zone screening occurs, each person selected for screening must also be subject to authorisation checks that meet regulation 3.16D.

Subregulation 3.16E(5) provides that screening of all non-exempt goods, persons and vehicles must be conducted unless a notice issued by the Secretary under regulation 4.17 applies. For example, a notice allows screening to occur on a random and unpredictable basis – so that a percentage of goods, vehicles or persons in the zone may be randomly subject to screening. However, the notice may need to be revoked if a heightened threat scenario requires more scrutiny to be applied.

Regulation 3.16F sets out two offences related to the screening requirements under regulation 3.16E.

Under subregulation 3.16F(1) an offence applies to a non-exempt person entering the SRA within 24 hours of having refused screening. The offence is of 50 penalty units. This provision is intended to deter persons from attempting to circumvent random and unpredictable screening arrangements under an aviation screening notice.

An offence, under subregulation 3.16F(2), applies if a screening authority fails to ensure that persons who are required to be screened undergo that screening or are not allowed to enter, or remain in, the SRA.

Regulation 3.16G mirrors the existing signage requirement that applies to SRAs under Regulation 3.16 of the Principal Regulations.

Regulation 3.16H imposes a requirement on aviation industry participants to ensure that employees regularly working in a security restricted area undergo airside security awareness training. The purpose of training is to make airside workers aware of their role in maintaining the security of the airport and encourage them to report potential security risks that they identify in the course of their work.

The training requirement applies to airport operators, aircraft operators, and contracted businesses that provide services to them. Contracted businesses may include (but are not limited to) ground handling agents, security contractors, catering services, refuellers and maintenance providers.

Aviation industry participants will have two years to ensure that all employees, who were employed by them prior to the commencement of the Regulations, are trained in accordance with the training for regulation 3.16H. Employees engaged after the commencement of the Regulations must be trained within three months of their commencement of duties that requires regular access into the SRA at a designated airport. All employees will need to repeat the training each 24 months thereafter. An offence of 20 penalty units applies if a person does not complete the training in accordance with requirements in this regulation.

Regulated air cargo providers, including Regulated Air Cargo Agents, Accredited Air Cargo Agents and Known Consignors are specifically exempt from this training requirement, as they are subject to separate security awareness training requirements. This regulation is also not intended to cover businesses that may be airport tenants but do not provide services to, or on behalf of an airport or airline operator.

Regulation 3.16J requires aviation industry participants to keep certain records for the purpose of demonstrating compliance with subdivision 3.3.3. This allows the Department to ensure compliance with these Regulations.

In relation to access control, industry participants must keep records about the number of people (or estimated number of people) that pass through access points they control and provide them, on request to the responsible aviation industry participant for the zone. The intent of this provision is to allow the responsible aviation industry participant to calculate a screening target, where a screening notice prescribes that a percentage of persons and vehicles are screened, based on the number of entries into the zone. The provision does not apply to airport operators as they are always responsible aviation industry participants.

In relation to screening, responsible aviation industry participants must keep sufficient records to demonstrate compliance with a screening notice. It is intended that screening

notices will be issued that prescribe that a percentage of persons and vehicles are screened, based on the number of entries into the zone, on a random and unpredictable basis. In this case, the records must include a compiled estimate of the number of entries into the zone at each access control point (and in aggregate), the screening target for that period, and a detailed explanation of the participant's strategy for meeting the target. The latter may include details of when and where screening points will operate, the percentage of persons and vehicles that will be screened while they are in operation and the number of persons that are expected to be screened at each point.

Subregulation 3.16J(5) requires that aviation industry participants that are required to ensure their employees undergo airside security awareness training in accordance with regulation 3.16H keep records of each employee's training. This may be a simple list of regular employees (as defined in 3.16H) with the date each person was last trained, and how the training was provided. Where training is conducted within the organisation, details of the content of the training package should also be retained.

Access control records are required to be kept for six months, while screening and training records are required to be kept for a period of two years. An offence of 20 penalty units applies for failure to comply with any of the record keeping requirements.

Item [10] – After regulation 3.17

Item 10 amends the heading of subdivision 3.3.4 to make clear that offences covered under the subdivision relate to airside areas and zones of all security controlled airports.

Item [11] – At the end of subregulation 4.04(2)

Item 11 amends regulation 4.04 to specify weapons as things to be detected by screening for an SRA at a designated airport.

Item [12] – Subregulation 4.18(1)

Item 12 amends the screening point signage requirement in 4.18(1) so it does not apply to the text on signage at SRA screening points.

Item [13] – After subregulation 4.18(1)

Item 13 inserts a subregulation (4.18(1A)) into regulation 4.18, that sets out the signage requirement for an SRA screening point. Unlike passenger screening points, the signage only refers to weapons, and not prohibited items. This reflects the screening being for the purpose of detecting weapons, as defined in the Principle Regulations and not prohibited items, as defined in the Aviation Transport Security (Prohibited Items) Instrument 2012.

Item [14] – Subregulation 4.18(2)

Item 14 amends the subregulation to be applicable to either passenger or SRA screening points. This allows flexibility for the signage to be relevant to the measures as they are applied at each designated airport.

Item [15] – Subregulation 4.18A(1)

Item 15 amends 4.18A(1) so it does not apply to signage at SRA screening points. Similar signage requirements for SRA screening points are set out in item 16 that are applicable to the SRA at designated airports.

Item [16] – After subregulation 4.18A(1)

Item 16 adds subregulation (1A) that prescribes signage applicable to SRA screening points. The sign refers to a person being prohibited from entering the SRA for a period of 24 hours after refusing screening. This sign refers to the offence provision in regulation 3.16F(1).

Item [17] – Subregulation 4.18A(2)

Item 17 amends the subregulation 4.18A(2) to apply to both passenger and SRA screening points. This allows flexibility for the signage to be relevant to the measures as they are applied at each designated airport.

Item [18] – Regulation 4.18B

Item 18 provides that the existing content of regulation 4.18B is set out as subregulations. This is required due to the insertion of subregulation 4.18B(2) in item 19.

Item [19] – At the end of regulation 4.18B

Item 19 adds subregulation 4.18B(2), setting out an optional combined form of signage applying to SRA screening points that combines the two signs set out in 4.18(1A) and 4.18A(1A). This allows flexibility for the signage to be relevant to the measures as they are applied at each designated airport and reduce the number of signs required.

Item [20] – After paragraph 4.46(2)(f)

Item 20 introduces a requirement for RACA security programs (under inserted subregulation 4.46(2)(fa)) to detail the information for access points required under subregulation 4.46(2A) as detailed in item 23 below. This applies only to RACAs that control an access control point into an SRA at a designated airport.

Setting out the procedures in a security program for a RACA allows them flexibility in how they control access while facilitating the Department's ability to ensure compliance with those procedures.

Item [21] – Paragraph 4.46(2)(g)

Item 21 adds the words “in any case” to paragraph (g) of 4.46(2), to make clear that paragraph 4.46(2)(g) does not just apply to RACAs controlling an access point at a designated airport.

Item [22] – At the end of subregulation 4.46(2)

Item 22 adds a note to clarify that access control points are certain points of entry that are specified in the TSP of an airport operator.

Item [23] – After subregulation 4.46(2)

Item 23 inserts subregulation 4.46(2A), which sets out the specific requirements for the security program of a RACA that controls an access control point into the SRA at a designated airport. The program must include the measures and procedures to confirm the identity of persons entering the SRA and that they are authorised to enter. The procedures should also cover measures to confirm that each person holds a valid red ASIC, or holds a valid VIC, TAC or grey ASIC and is being escorted by a red ASIC-holder that is authorised to enter the SRA at a designated airport. This does not apply if a person is not required to display an ASIC in the airside area under subdivision 3.2.1, such as a child on a school excursion.

As with the TSP requirement for airport and aircraft operators, it is not sufficient to control access by means of an electronic swipe or key access control system, as this does not meet the identity check component of the requirement. Physical verification of photo identification (an ASIC is sufficient) or use of a biometric access control system is required to meet this requirement.

If identity, authorisation and ASIC checks are to be conducted at a place other than at the access control point, the security program must set out the location of that place. As per regulation 3.16D, the place must be such that a person must not be able to pass through any other place.

Item [24] – Regulation 4.55 (heading)

Item 24 changes the heading of regulation 4.55 to make clear that the regulation applies to both passenger and SRA screening points.

Item [25] – After regulation 4.55

Item 25 inserts regulation 4.55A that sets out persons that may lawfully carry weapons through an SRA screening point, including people with tools of trade, certain ABF officers, wildlife control officers and security guards accompanying armoured vehicles. Each of these classes of person has a specific operational reasons that requires them to carry a weapon in the SRA.

Any person may carry a weapon (other than a firearm) through a screening point if it is a tool of trade. A weapon is a tool of trade if the person requires it for the lawful purpose for which they are in the SRA. For example, a worker may be conducting maintenance on equipment in the SRA using a blow torch, and would lawfully be able to carry the blow torch through a screening point. However, they would not be allowed to carry it through the screening point if they did not require it for the work they were performing in the area.

Counter-terrorism Unit officers of the ABF that are performing duties in the SRA may carry firearms through a screening point provided that they are in uniform and displaying their identification as a member of that unit. Note that other weapons may also be carried as tools of trade.

Other ABF officers may lawfully carry a weapon through a screening point if that item has been seized during law enforcement activity in the course of their duties.

Wildlife control officers and personnel escorting armoured vehicles require firearms to perform their duties in the area and may lawfully carry them through a screening point. However, both must carry and display on request a valid firearms licence issued under the law of the state or territory in which the airport is located. Wildlife control officers must also, if required by state or territory law, carry a licence or permit for wildlife control. Security guards escorting armoured vehicles must, if required by state or territory law, carry a valid security guard licence issued under the laws of the relevant jurisdiction. In either case, they are only authorised to carry the firearm through the screening point in the course of carrying out their duties and with the consent of the airport operator.

Schedule 3 – Applications, savings and transitional provisions

Item [1] – In the appropriate position in Part 10

Item 1 sets out savings and transitional arrangements for the items in Schedule 1 and 2 of the Regulations. Several of the requirements set out in these regulations are complex and will require operational changes to implement, including planning, capital works training of staff and negotiation of certain commercial arrangements. This item allows for a phased implementation of these new requirements over the period of 15 months after the commencement of the Regulations, potentially with further extensions.

10.24 Definitions

This regulation inserts definitions for the terms *amending regulations*, *implementation day* and *implementation plan* used in Division 10 – Amendments made by the Aviation Transport Security Amendment (Airside Security – 2017 Measures No. 1) Regulations 2017. The definitions in this item clarify the transition arrangements from the Principal Regulations to the new arrangements set out in the amending regulations.

10.25 TSPs – requirements about enhanced inspection areas

This regulation provides that the repeal of TSP provisions in relation to enhanced inspection areas, set out in Schedule 1, has immediate effect from the commencement of that schedule for the purpose of any approval of a new or varied TSP. This applies regardless of whether the TSP was submitted on or before the commencement of Schedule 1.

10.26 Saving provisions – security restricted areas already in force

This regulation provides that the repeal and substitution of regulation 3.01 made to the Principal Regulations by Schedule 1 does not affect SRAs already in force before the commencement of Schedule 1. Item 5 provides that an enhanced inspection area is no longer a prescribed type of airside security zone under regulation 3.01 of the Principal Regulations and that an SRA is the only type of prescribed airside security zone. Regulation 10.26 provides that existing SRAs continuing to be in force as if the regulation that changes the prescribed airside security zones had not happened.

10.27 Implementation day for aviation industry participants

Further to the definition of an implementation day in regulation 10.24, this regulation provides an implementation day for the new arrangements based upon the type of aviation

industry participant and, if relevant, whether an implementation plan is submitted in accordance with regulation 10.30.

Item 1 of the table applies if an aviation industry participant is an airport operator or aircraft operator that has given the Secretary an implementation plan for the SRA at a designated airport in accordance with subregulation 10.30(2), which has not been subsequently cancelled under 10.30(7). Under these circumstances the implementation day is the first day after a period of 12 months following the commencement of Schedule 2 of the Regulations or the day an implementation plan is given to the Secretary, whichever is the later. For example, if an airport operator or aircraft operator has given an implementation plan to the Secretary prior to the beginning of Schedule 2, then the implementation day will be the first day after the period of 12 months following commencement of Schedule 2.

However, the Secretary by written notice, may agree that an airport operator or aircraft operator can submit an implementation plan for the SRA at a designated airport up to three months after the beginning of Schedule 2. In these circumstances, the implementation day will be the first day after the period of 12 months following the day the implementation plan was required to be provided to the Secretary. This extension is intended to be used in circumstances such as where one operator's implementation plan is dependent on the finalisation of another operator's implementation plan. This provides the dependent operator extra time to submit a plan and allows the implementation day to be the day after 12 months following the submission of their plan.

Once the implementation day occurs for an airport operator or aircraft operator under the circumstances prescribed in Item 1, they will be required to implement Schedule 2 in full, as it relates to them, from that day.

Item 2 of the table applies if an airport or aircraft operator has their implementation plan cancelled by the Secretary under subregulation 10.30(7). Their implementation day becomes the day after they are given the notice.

Item 3 of the table applies if an aviation industry participant is an airport or aircraft operator, and is required by written notice by the Secretary to submit an implementation plan for the SRA at a designated airport up to three months after the beginning of Schedule 2, in accordance with subregulation 10.30(2)(b)(ii), and does not. In these circumstances, the implementation day for the airport operator or aircraft operator to implement the requirements in Schedule 2 of the Regulations is the first day after the end of the period specified in the written notice provided by the Secretary.

Item 4 applies to an aviation industry participant that is an airport operator or aircraft operator not covered in Items 1, 2 or 3 of the table. The implementation day for these participants will be the day Schedule 2 commences, which is the day after the period of three months after the Regulations are registered. In these circumstances an airport or aircraft operator that does not submit an implementation plan for the SRA at a designated airport, will be required to implement Schedule 2 on its commencement.

Item 5 applies to aviation industry participants that are not airport operators or aircraft operators. This includes regulated businesses such as a RACA or non-regulated businesses such as a ground handling agents, catering services, refuellers and maintenance providers. The implementation day for these participants is the first day after a period of six months following the commencement of Schedule 2 of the Regulations.

10.28 Security programs – requirements about security restricted areas at designated airports

TSPs for airport operators and aircraft operators

Subregulation 10.28(1) provides that regulations 2.18A and 2.35A inserted in Schedule 2 of the Regulations apply to the approval of, or proposed alterations to, a TSP for an airport operator or aircraft operator that relates to SRA at a designated airport. This applies if the airport operator's or aircraft operator's TSP is given under the Act or if the same participants request to revise or alter a TSP under the Act, on or after their implementation day. It may also apply at a later day if the Secretary determines, by written notice, that such a day is more appropriate to the airport operator or aircraft operator.

Subregulation 10.28(2) provides that if an airport operator's or aircraft operator's TSP is given under the Act or if the same participants request to revise or alter a TSP under the Act, before their implementation day, or a later day provided for in writing by the Secretary in accordance with subregulation 10.28(1)(d), and the TSP or the proposed alterations complies with regulations 2.18A and 2.35A in Schedule 2 of the Regulations, then the requirements of these regulations apply to the approval of, or to proposed alterations to, the TSP.

These provisions confirm that the approval of, or proposed alterations to, the TSP requirements for an airport operator and aircraft operator that relates to an SRA under Regulations 2.18A and 2.35A in Schedule 2 of the Regulations, which are required to be in place on the implementation day for the operator or a later day determined and provided for in writing by the Secretary, are made under the appropriate sections of the Act on or after such a day.

However, if an airport operator or aircraft operator gives, or requests to revise, a TSP under the Act before these dates, then the TSP requirements under regulations 2.18A and 2.35A in Schedule 2 apply when the TSP is approved or altered. This means that if the airport operator or the aircraft operator for a SRA at a designated airport applies to approve or alter a TSP before the implementation day or a later day determined in writing by the Secretary, and the approval or alterations do not relate to the requirements under regulations 2.18A and 2.35A in Schedule 2, then they must make sure that the requirements under regulations 2.18A and 2.35A are not contained in the TSP. The requirements under regulations 2.18A and 2.35A would be detailed in a TSP at a time that aligns with their implementation day.

RACA security programs

Subregulation 10.28(3)(a) provides that subregulation 4.46(2) as amended in Schedule 2 of the Regulations, applies to a person who has been designated as a RACA under regulation 4.43A of the Principal Regulations if they have been designated a RACA on or after the commencement of Schedule 2 of the Regulations. This only applies to RACAs who have direct access to the SRA at a security restricted airport.

Subregulation 10.28(3)(a) provides that subregulation 4.46(2) as amended in Schedule 2 of the Regulations, applies to a variation of a RACA security program on or after the commencement of Schedule 2, even if the security program was in force before that commencement. This means that if the Department issues a varied security program to a RACA that has direct access to the SRA at a designated airport on or after the

commencement of Schedule 2 of the Regulations, then the RACA must ensure the security program includes the access requirements inserted by subregulation 4.46(2A) in Schedule 2 of the Regulations. This applies to programs that were in force before the commencement of Schedule 2. The RACA will need to provide the Secretary with the varied program in accordance with the direction. If a RACA does not vary the program in accordance with the notice of direction, then that is a ground for revocation of the RACA's designation.

10.29 Requirements for security restricted areas at designated airports

This regulation inserts application provisions for the access control, screening, airside security awareness training and record-keeping requirements for the SRA at designated airports as prescribed in Schedule 2 of the Regulations.

Access Control

Subregulation 10.29(1) sets out the application provisions for paragraph 3.16B(5)(d) and (e), which require that certain classes of person or facility must be specified in the TSP of a responsible aviation industry participant to be allowed to enter an SRA other than through an access control point. This provision commences from the later date of the implementation days for responsible aviation industry participants responsible for the zone. This is to ensure that industry participants have had sufficient time to include these classes of person and facility in their TSP.

Subregulation 10.29(2) provides that the requirement that responsible aviation industry participants must ensure the SRA at a designated airport can only be entered by certain persons and vehicles, as inserted by proposed regulation 3.16C, applies from their implementation day. The Secretary could provide an extension by written notice. Industry participants would still have to achieve progressive compliance with this requirement during the period covered by an implementation plan, as per regulation 10.30.

Subregulation 10.29(3) sets out application provisions for proposed regulation 3.16D, for controlling the entry of persons or vehicles into the SRA at designated airport through an access control point. This requirement applies on the aviation industry participant's implementation day or a later day if the Secretary determines by written notice that such a day is more appropriate. Industry participants would still have to achieve progressive compliance with this requirement during the period covered by an implementation plan, as per regulation 10.30.

Screening

Subregulation 10.29(4) provides that the requirements relating to screening in proposed regulation 3.16E, apply on or after the implementation day for the responsible aviation industry participant. The Secretary may grant an extension in writing. Industry participants still have to achieve progressive compliance with this requirement during the period covered by an implementation plan, as per regulation 10.30.

Airside security awareness training

Subregulation 10.29(5) provides that requirements about airside security awareness training in proposed regulation 3.16H, apply on commencement of Schedule 2. The Secretary may provide an extension in writing.

Record-keeping

Subregulation 10.29(7) sets out the application of requirements about record-keeping in regulation 3.16J. Requirements about record keeping for access control apply at the time that regulation 3.16D applies to an industry participant. Requirements about record keeping for screening apply at the same time as regulation 3.16E applies for an industry participant. Requirements about record keeping for training apply at the same time as regulation 3.16H apply for an industry participant.

10.30 Implementation plans

Regulation 10.30 inserts transitional provisions for an airport operator or aircraft operator that submits an implementation plan that meets the timing and content requirements.

Implementation plans allow for progressive implementation by industry, while allowing for a degree of regulatory oversight to ensure that reasonable efforts are being made to comply with the new requirements as soon as practical.

Giving implementation plans

Subregulation 10.30(1) provides that an airport operator or aircraft operator can give the Secretary an implementation plan in relation to the SRA at a designated airport that meets the content requirements specified in subregulation 10.30(3) and (4). This has the effect of extending their implementation day, as set out in regulation 10.27.

Time by which implementation plan is to given

Subregulation 10.30(2) provides that the industry participant must provide the implementation plan to the Secretary before the commencement of Schedule 2. The Secretary may approve an extension of up to three months for the submission timeframe for an implementation plan. Implementation plans cannot be submitted after the commencement of Schedule 2 unless has an extension had already been granted.

Content of implementation plans

Subregulations 10.30(3) and (4) set out the requirements for the content of an implementation plan. An implementation plan must set out how industry participants would achieve progressive compliance with Subdivision 3.3.3. The plan must set out how the operator will achieve compliance as soon as reasonably practical, with due regard for the operational and fiscal circumstances. A document that did not meet these content requirements is not considered an implementation plan for the purposes of determining an industry participant's implementation day.

The requirement to implement as soon as reasonably practical is intended to ensure that operators act in good faith to implement the new arrangements as soon as they are able, without impacting on the airport's operations and without incurring substantial extra costs to accelerate implementation timeframes.

Content of implementation plans – access control points

Under subregulation 10.30(5) an airport operator's implementation plan for the SRA at a designated airport must set out the location of all points of entry into the SRA that are to be access control points for the area. A point is considered an access control point from when the airport operator's implementation plan is given to the Secretary. The implementation plan no longer has effect in determining access control points when a TSP for the airport operator that complies with proposed subregulation 2.18A(2) comes into force. This is relevant in ensuring that persons are able to comply with regulation 3.16B, stipulating that an SRA at a designated airport may only be entered through an access control point.

Varying implementation plans

Under subregulation 10.30(6), the airport operator's or aircraft operator's implementation plan for the SRA at a designated airport may be varied at any time during the implementation plan period, if written agreement is provided by the Secretary. This provision allows the affected operator to change their plan due to circumstances that may lead to them complying with the plan earlier or later than originally anticipated.

Cancelling the effect of implementation plans for non-compliance

Under subregulation 10.30(7), the Secretary may cancel an implementation plan if they are satisfied that the operator has failed to comply with a requirement of their implementation plan.

This enables regulatory action to be taken in the event that an industry participant was misusing the transitional arrangements and failing to act in good faith in order to achieve compliance with the new requirements. It would have the effect that the industry participant would have to immediately comply with all new requirements contained in Schedule 2.