

EXPLANATORY STATEMENT

Issued by the authority of the Deputy Prime Minister and Minister for Infrastructure and Transport

Civil Aviation Legislation Amendment Act 1995

Civil Aviation (Transitional – CAA Staff Members' Superannuation) Regulations 2018

The *Civil Aviation Legislation Amendment Act 1995* (the Act) deals with the transitional and savings provisions required to ensure continuity of operations, ownership of assets, responsibility for liabilities, rights and obligations following the abolition of the Civil Aviation Authority (CAA) and the creation of Airservices Australia (AA) and the Civil Aviation Safety Authority (CASA).

Subsection 22(1) of the Act provides that the Governor-General may make regulations prescribing matters required or permitted by this Act to be prescribed; or necessary or convenient to be prescribed for carrying out or giving effect to this Act. Subsection 22(2) of the Act provides that the Governor-General may, in particular, make regulations in relation to transitional matters arising out of the abolition of the CAA and its replacement by AA and CASA, or otherwise arising out of the enactment of the Act or the *Air Services Act 1995*.

The purpose of the Civil Aviation (Transitional – CAA Staff Members' Superannuation) Regulations 2018 (the Regulations) is to repeal the Civil Aviation Legislation Amendment (Transitional Provisions) Regulations 1995 (the 1995 Regulations) which is due to sunset on 1 April 2019 and remake one ongoing transitional matter preserving the rights of CASA and AA staff under the CAA Staff Superannuation Fund (known in 2018 as AvSuper).

Consultation

The Department of Infrastructure, Regional Development and Cities consulted CASA and AA in relation to 1995 Regulations. Both AA and CASA advised that the regulations are spent, except for the need to preserve the rights of CASA and AA staff that are members of AvSuper.

In March 2017, the Department circulated a draft analysis of options to preserve the effect of the superannuation regulation to AA, CASA, the Department of Finance, Attorney-General's Department and the Office of Parliamentary Counsel. In January 2018, the Department consulted with AA, CASA and the AvSuper Fund on the content of the regulations. All agencies support the chosen option and content of the Regulations.

Regulation Impact Statement

The Office of Best Practice Regulation assessed that the proposal amendments will have minor impacts on business, community organisations or individuals and that no further analysis in the form of a Regulation Impact Statement was required (OBPR ID: 22601).

Statement of Compatibility with Human Rights

A Statement of Compatibility with Human Rights is at [Attachment A](#).

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*. Details of the Regulations are set out in [Attachment B](#).

The provisions of the Civil Aviation (Transitional – CAA Staff Members’ Superannuation) Regulations 2018 commence the day after registration on the Federal Register of Legislation.

Authority: Subsection 22 of the
Civil Aviation Legislation Amendment Act 1995

Statement of Compatibility with Human Rights

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

Civil Aviation Legislation Amendment (Transitional Provisions) Regulations 2018

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 Disallowable Legislative Instrument

The legislative instrument repeals the Civil Aviation Legislation Amendment (Transitional Provisions) Regulations 1995 which provided for a number of transitional matters arising out of the abolition of the Civil Aviation Authority (CAA) and its replacement by the Airservices Australia (AA) and the Civil Aviation Safety Authority (CASA). With the exception of the regulations relating to superannuation (regulation 9), all of the regulations have been spent. The legislative instrument preserves the rights of CASA and AA staff under the CAA Staff Superannuation Fund (known as AvSuper in 2018).

The legislative instrument provides that a CASA or Airservices staff member who was a member of the CAA Staff Superannuation Fund is taken not to have ceased to be a member due to the abolition of the CAA.

Human rights implications

This legislative instrument engages the right of everyone to the enjoyment of just and favourable conditions of work in Article 7 of the International Covenant on Economic, Social and Cultural Rights, because it supports membership of, and entitlement to, payment from the superannuation fund.

Conclusion

The legislative instrument is compatible with human rights.

Details of the *Civil Aviation (Transitional – CAA Staff Members’ Superannuation) Regulations 2018*

Section 1 - Name of Regulations

This section provides that the title of the Regulations is the *Civil Aviation (Transitional – CAA Staff Members’ Superannuation) Regulations 2018*.

Section 2 - Commencement

This section provides that the Regulations commence on the day after the instrument is registered on the Federal Register of Legislation.

Section 3 - Authority

This section provides that the Regulations are made under the *Civil Aviation Legislation Act 1995*.

Section 4 - Schedules

This section provides that each instrument that is specified in a Schedule to the instrument will be amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to the instrument will have effect according to its terms.

Section 5 - Definitions

This section provides definitions for a number of terms used in the Regulations.

Section 6 - Superannuation of transferring Civil Aviation Authority staff members

Section 6 preserves the rights of relevant Civil Aviation Safety Authority (CASA) and Airservices Australia (AA) staff under the Civil Aviation Authority Staff Superannuation Fund, known in 2018 as AvSuper.

In particular, it ensures that:

- a staff member's employment is continuous for all purposes related to the Superannuation Fund;
- a staff member's benefits under the Superannuation Fund are unaffected by prior employment with the Civil Aviation Authority (CAA); and
- a staff member's benefits do not crystallise as a result of the abolition of the CAA.

While this section refers to the Trust Deed that established the Superannuation Fund, the regulations do not apply, adopt or incorporate the Trust Deed as in force from time to time, rather the regulations modify the operation of the Trust Deed so that it does not disadvantage employees who transferred from the CAA to AA or CASA when the CAA was abolished.

Schedule 1 – Repeals

Item 1 of the schedule provides for the repeal of the Civil Aviation Legislation Amendment (Transitional Provisions) Regulations 1995.