

## **EXPLANATORY STATEMENT**

Minute No. 61 of 2021 - Minister for Infrastructure, Transport and Regional Development

Subject - *Air Navigation Act 1920*

*Air Navigation (Essendon Fields Airport) Amendment (2021 Measures No. 1) Regulations 2021*

### **INTRODUCTION**

The *Air Navigation Act 1920* (the Act) gives effect to the International Convention on Civil Aviation (the Chicago Convention) which regulates all aspects of international air transport.

Section 26 of the Act provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed.

### **OUTLINE**

The purpose of the *Air Navigation (Essendon Fields Airport) Amendment (2021 Measures No. 1) Regulations 2021* (the Regulations), is to make minor amendments to the Air Navigation (Essendon Fields Airport) Regulations 2018 (the 2018 Regulations) to ensure that all current permitted aircraft operations can continue to operate at Essendon Fields Airport.

The Civil Aviation Safety Authority (CASA) amended the definition of “regular public transport operation” to “scheduled air transport operation” in their Civil Aviation Safety Regulation (CASR) Dictionary which is part of the Civil Aviation Safety Regulations (CAR).

The CASA amendment will unintentionally prohibit certain charter operators from being permitted to operate at Essendon Fields Airport.

The Regulations are amended to insert the definition of “regular public transport operation” at section 5 of the Regulations to preserve the existing operations. The Regulations also amend subparagraph 6(2)(b)(iii) to refer to the definition at section 5 of the Regulations.

### **Regulatory impact analysis**

The regulatory impact was assessed using the Preliminary Assessment tool approved by the Office of Best Practice Regulation (OBPR). The OBPR considered that the Regulations could be expected to have a minor impact on business and the community. Therefore, a Regulation Impact Statement was not required for these Regulations (OBPR ID 44776).

### **Consultation before making**

A public consultation process was not undertaken as this is a minor administrative amendment involving a definition change to ensure it remains applicable to Essendon Fields Airports operations.

Details of the Regulations are set out in Attachment A.

A Statement of Compatibility with Human Rights is set out in Attachment B prepared in accordance with section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

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

The Regulations are a legislative instrument for the purpose of the *Legislation Act 2003*.

The Regulations commenced on the day after registration.

## ATTACHMENT A

### Details of the *Air Navigation (Essendon Fields Airport) Amendment (2021 Measures No. 1) Regulations 2021*

#### Section 1 – Name of Regulation

This section provides that the title of the Regulation is the *Air Navigation (Essendon Fields Airport) Amendment (2021 Measures No. 1) Regulations 2021*.

#### Section 2 – Commencement

This instrument commences on the day after registration.

#### Section 3 – Authority

This section is made under the *Air Navigation Act 1920*.

#### Section 4 – Schedule

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

#### Schedule 1 – Amendments

##### Item 1 – Section 5

Section 5 is amended to insert a definition for regular public transport operation referred to at subparagraph 6(2)(b)(iii) of the Regulations. The definition ensures that all current permitted aircraft operations can continue to operate at Essendon Fields Airport.

##### Item 2 – Subparagraph 6(2)(b)(iii)

Subparagraph 6(2)(b)(iii) is amended to refer to the definition of regular public transport operation at section 5.

## **Statement of Compatibility with Human Rights**

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

### **Air Navigation (Essendon Fields Airport) Amendment (2021 Measures No. 1) Regulations 2021**

This Disallowable 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 Air Navigation (Essendon Fields Airport) Amendment (2021 Measures No. 1) Regulations 2021 (the Regulations), make a minor amendment to the Air Navigation (Essendon Fields Airport) Regulations 2018 (the 2018 Regulations).

The Civil Aviation Safety Authority (CASA) amended the definition of “regular public transport operation” to “scheduled air transport operation” in their Civil Aviation Safety Regulation (CASR) Dictionary which is part of the Civil Aviation Safety Regulations (CAR).

The CASA amendment will unintentionally prohibit certain charter operators from being permitted to operate at Essendon Fields Airport.

The Regulations are amended to insert the definition of “regular public transport operation” at section 5 of the Regulations to preserve the existing operations. The Regulations also amend subparagraph 6(2)(b)(iii) to refer to the definition at section 5 of the Regulations.

The amendments do not alter any of the substantive provisions which previously applied.

#### **Human rights implications**

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

#### **Conclusion**

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

**Deputy Prime Minister and Minister for Infrastructure, Transport and Regional Development, the Hon Barnaby Joyce MP**