

## **EXPLANATORY STATEMENT**

Issued by authority of the Secretary of the Department of Home Affairs

*Aviation Transport Security Act 2004*

### ***Aviation Transport Security (Screening Officer Requirements) Determination 2022***

The *Aviation Transport Security Act 2004* (the Aviation Act) establishes a regulatory framework to safeguard against unlawful interference with aviation and to prevent the use of aviation in connection with serious crime. To achieve these purposes, the Aviation Act establishes minimum security requirements for civil aviation in Australia by imposing obligations on persons engaged in civil aviation related activities.

Consistent with these purposes, the *Aviation Transport Security (Screening Officer Requirements) Determination 2022* (the Determination) determines qualifications, training, continuing professional development, use of identity card and uniforms requirements for specified screening officers, as well as record keeping requirements for screening authorities.

#### **Legislative authority**

The Determination is made under section 94A of the Aviation Act. Paragraph 94A(a) provides that the Secretary of the Department of Home Affairs (the Secretary) may determine, by a legislative instrument, the training and qualification requirements, and any other requirements, for specified screening officers relating to the exercise or performance of a specified power under Division 5 of Part 5 of the Aviation Act, or a specified screening function. Paragraph 94A(b) provides that the Secretary may, by legislative instrument, determine for specified screening officers requirements in relation to use of identity cards or in relation to uniforms.

#### **Purpose**

The purpose of the Determination is to determine certain requirements for specified screening officers to establish a national standard of competency, which will strengthen the performance of security screening activities undertaken at Australian security controlled airports and help ensure all screening officers in Australia are equipped to respond to current and emerging threats.

The Determination introduces new training and professional development obligations for screening officers to ensure screening officers obtain and continue to have the knowledge and ability to maintain the Australian aviation security environment in accordance with current international aviation security standards.

Broadly, the following is determined in relation to requirements for specified screening officers:

- a screening officer engaged or employed on or after 16 January 2022 is required to hold a Certificate II in Transport Security Protection or a qualification the Secretary is satisfied will enable the holder to carry out the duties of a screening officer under the Aviation Act.
- screening officers engaged or employed prior to 16 January 2022 are required to hold a Certificate II in Transport Security Protection, or a Certificate II in Security Operations, or a qualification that the Secretary is satisfied is equivalent to a Certificate II in Security Operations, as long as they have not ceased, or do not cease,

to be engaged or employed as a screening officer for a continuous period of more than 24 months from 16 June 2020.

- screening officers (regardless of when they first were engaged or employed as a screening officer) must not make an ***independent screening decision*** (as defined in the Determination) unless a supervisor has assessed them as competent.
- screening officers first engaged or employed as a screening officer on or after 1 July 2022 need to complete 40 hours of on-the-job training prior to being assessed as competent by their supervisor. However, this requirement does not apply to a person who was previously engaged or employed prior to 1 July 2022 as a screening officer by a port facility operator or regulated Australian ship under the *Maritime Transport and Offshore Facilities Security Act 2003* (Maritime Act) or an instrument made under that act.
- from 1 July 2022, all screening officers must complete at least 12 hours of continuing professional development specific to their role each calendar year.
- screening officers must continue to hold and properly display an Aviation Security Identification Card (ASIC) at all times while on duty and wear a distinctive and recognisable uniform.

The Determination introduces new record keeping obligations which require screening authorities to make electronic records of information relating to screening officers engaged or employed by the screening authority relating to, among other things, those officers' training, qualifications and continuing professional development. These records must be kept by the screening authority for two years after the cessation of the screening officer's employment or engagement, even if the screening authority ceases to be a screening authority during that time.

Where a screening authority has engaged or employed a person as an aviation screening officer prior to 16 January 2022 (in relation to subsection 6(2)) or 1 July 2022 (in relation to subsection 7(3)), and that person was previously employed as an aviation screening officer by a screening authority or as a maritime screening officer under the Maritime Act, the screening authority must keep a record of any evidence relied on to determine if a person would be required to hold a Certificate II in Transport Security Protection or Certificate II in Security Operations, or whether they are required to do 40 hours of on-the-job training prior to being assessed as competent as a screening officer by a supervisor. This evidence can include records of qualifications held or any other information demonstrating that a person was employed or engaged by a port facility operator, regulated Australian ship, or other screening authority.

The purpose of these record-keeping requirements is for screening authorities to be able to demonstrate that they have employed or engaged screening officers who meet the qualification, training, continuing professional development and other requirements in the Determination. This will enable the Department to assess the effectiveness of the screening officer legislative framework to safeguard against unlawful interference with aviation and prevent the use of aviation in connection with serious crime.

The Department of Home Affairs consulted with transport industry stakeholders on the development and implementation of the Determination. An exposure draft of the Determination was provided to aviation industry stakeholders for their review and comment. Following the exposure, amendments were made to the Determination in response to industry feedback. Aviation industry stakeholders were supportive of the Determination, as amended following the consultation period.

The Office of Best Practice Regulation (OBPR) was consulted prior to making the Determination. OBPR noted that the Determination was unlikely to have more than a minor regulatory impact and that a Regulation Impact Statement for this Determination was not required (OBPR: 22344).

A Statement of Compatibility with Human Rights in accordance with the *Human Rights (Parliamentary Scrutiny) Act 2011* is included at Attachment A. The overall assessment is that the Determination is compatible with human rights.

Details of the Determination are set out in Attachment B.

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

The whole of the Determination commences on 1 July 2022 and revokes the *Aviation Transport Security (Screening Officer Requirements) Determination 2021*.

## ATTACHMENT A

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

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

#### **Aviation Transport Security (Screening Officer Requirements) Determination 2022**

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 *Aviation Transport Security Act 2004* (the Aviation Act) establishes a regulatory framework to safeguard against unlawful interference with aviation and to prevent the use of aviation in connection with serious crime. To achieve these purposes, the Aviation Act establishes minimum security requirements for civil aviation in Australia by imposing obligations on persons engaged in civil aviation related activities.

Consistent with these purposes, the *Aviation Transport Security (Screening Officer Requirements) Determination 2022* (the Determination) maintains screening officer qualification, identity card and uniform requirements however establishes new definitions for screening officers and new requirements for screening officer training and continuing professional development. The Determination also establishes new record keeping requirements for screening authorities”

The Determination is made under section 94A of the Aviation Act, which provides that the Secretary of the Department of Home Affairs may, by legislative instrument, determine the training and qualification requirements, and any other requirements, for specified screening officers relating to the exercise or performance of a specified power under Division 5 of Part 5 of the Aviation Act, or a specified screening function. It also provides that the Secretary may, by legislative instrument, determine for specified screening officers requirements in relation to the use of identity cards or in relation to uniforms.

The Determination no longer defines *new* screening officers and *existing* screening officers and instead applies to all screening officers, with certain exceptions for persons who were employed prior to the commencement of the Determination. The approach is consistent with, and builds on, the previous Determination and enables certain existing screening officers to continue in their role by meeting training and qualification requirements which more closely align with those established prior to the commencement of this Determination. The Determination also allows for certain existing screening officers in the maritime sector the ability to transition to aviation without requiring a new qualification or additional on the job training. This allows greater flexibility in the transport security sector more broadly and assists in retention across the screening officer workforce.

The purpose of new training and professional development obligations for screening officers is to ensure screening officers have the knowledge and ability to maintain the Australian aviation security environment in accordance with current international aviation security standards.

Broadly, the following is determined in relation to requirements for specified screening officers:

- a screening officer engaged or employed on or after 16 January 2022 is required to hold a Certificate II in Transport Security Protection or a qualification the Secretary is satisfied will enable the holder to carry out the duties of a screening officer under the Aviation Act.
- screening officers engaged or employed prior to 16 January 2022 are required to hold a Certificate II in Transport Security Protection, or a Certificate II in Security Operations or a qualification that the Secretary is satisfied is equivalent to a Certificate II in Security Operations, as long as they have not ceased, or do not cease, to be engaged or employed as a screening officer for a continuous period of more than 24 months from 16 June 2020.
- screening officers (regardless of when they first were engaged or employed as a screening officer) must not make an ***independent screening decision*** (as defined in the Determination) unless a supervisor has assessed them as competent.
- screening officers first engaged or employed as a screening officer on or after 1 July 2022 need to complete 40 hours of on-the-job training prior to being assessed as competent by their supervisor. However, this requirement does not apply to a person who was previously engaged or employed prior to 1 July 2022 as a screening officer by a port facility operator or regulated Australian ship under the *Maritime Transport and Offshore Facilities Security Act 2003* (Maritime Act) or an instrument made under that act.
- from 1 July 2022 all screening officers must complete at least 12 hours of continuing professional development specific to their role each calendar year.
- screening officers must continue to hold and properly display an Aviation Security Identification Card (ASIC) at all times while on duty and wear a distinctive and recognisable uniform.

The Determination includes record keeping obligations which require screening authorities to make electronic records of information relating to screening officers engaged or employed by the screening authority relating to, among other things, those officers' training, qualifications and continuing professional development. These records must be kept by the screening authority for two years after the cessation of the screening officer's employment or engagement, even if the screening authority ceases to be a screening authority during that time.

Where a screening authority has engaged or employed a person as an aviation screening officer prior to 16 January 2022 (in relation to subsection 6(2)) or 1 July 2022 (in relation to subsection 7(3)), and that person was previously employed as an aviation screening officer by a screening authority or as a maritime screening officer under the Maritime Act, the screening authority must keep a record of any evidence relied on to determine if a person would be required to hold a Certificate II in Transport Security Protection or Certificate II in Security Operations, or whether they are required to do 40 hours of on-the-job training prior to being assessed as competent as a screening officer by a supervisor. This evidence can

include records of qualifications held or any other information demonstrating that a person was employed or engaged by a port facility operator, regulated Australian ship, or other screening authority.

The purpose of these record-keeping requirements is for screening authorities to be able to demonstrate that they have employed or engaged screening officers who meet the qualification, training, continuing professional development and other requirements in the Determination. This will enable the Department to assess the effectiveness of the screening officer legislative framework to safeguard against unlawful interference with aviation and prevent the use of aviation in connection with serious crime.

## **Human rights implications**

This Disallowable Legislative Instrument will engage the following human rights:

- the right to freedom from discrimination under Article 2(2) of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) and Article 26 of the *International Covenant on Civil and Political Rights* (ICCPR)
- the right to work under Article 6 of ICESCR

### *The right to work and non-discrimination*

Article 6(1) of the ICESCR provides that:

*The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.*

Article 6 of the ICESCR is a right to the opportunity for a person to gain work of their choosing. The right to work does not equate to a guarantee to particular employment. The United Nations Committee on Economic Social and Cultural Rights has stated that this protection includes the right to not be unfairly deprived of work. Any limitations need to be reasonable, necessary and proportionate to the legitimate objective sought to be achieved.

Article 2(2) of the ICESCR provides:

*The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.*

Article 26 of the ICCPR provides:

*All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee, to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.*

In its General Comment 18, the UN Human Rights Committee stated that:

*The Committee observes that not every differentiation of treatment will constitute discrimination, if the criteria for such differentiation are reasonable and objective and if the aim is to achieve a purpose which is legitimate under the Covenant.*

Similarly, in its General Comment on Article 2 of the ICESCR (E/C.12/GC/20), UNCESCR has stated (at 13) that:

*Differential treatment based on prohibited grounds will be viewed as discriminatory unless the justification for differentiation is reasonable and objective. This will include an assessment as to whether the aim and effects of the measures or omissions are legitimate, compatible with the nature of the Covenant rights and solely for the purpose of promoting the general welfare in a democratic society. In addition, there must be a clear and reasonable relationship of proportionality between the aim sought to be realized and the measures or omissions and their effects.*

The Disallowable Legislative Instrument may promote the right to work in Article 6 of the ICESCR by:

- a. extending the date by which a person is to have been employed or engaged as a screening officer, thereby satisfying prior qualification requirements; and
- b. extending the date by which a person is to have been engaged or employed as a screening officer, thereby satisfying prior training requirements; and

in both instances, making similar provisions for maritime screening officers who wish to transfer to aviation screening officer roles.

These changes promote the work rights of screening officers by providing that existing maritime and aviation screening officers are not required to undertake further training in circumstances where they fulfil all other obligations and are assessed as already having the requisite skills, knowledge and qualifications to carry out their roles effectively. This avoids disrupting existing aviation screening officers and provides maritime officers the flexibility to transition to aviation. The Disallowable Legislative Instrument promotes the right to work by supporting screening officers to obtain and remain in employment of their choosing and with requirements and conditions that reflect their existing skills, knowledge and experience.

However, to the extent that the new measures may prevent a person from obtaining, or remaining in, employment as a screening officer, the Disallowable Legislative Instrument may limit the right to work and the right to non-discrimination in Article 2 of the ICESCR and Article 26 of the ICCPR by imposing new training and continuing professional development obligations on screening officers. This limitation however is reasonable, necessary and proportionate in achieving the legitimate aim of safeguarding against interference with aviation. The Australian aviation security environment is a highly sensitive environment, the consequences of unlawful interference with aviation are significant, and it is reasonable to impose necessary training and continuing professional development requirements on persons working in, or wishing to work, in this environment.

The new requirements also align Australia with international aviation security standards, and implement recommendations of the Inspector of Transport Security's *Inquiry into Aviation and Maritime Transport Security Education and Training in Australia*. To the extent that the measures limit the opportunity for an individual to gain, or remain in, employment of their choosing, the measures are proportionate and least rights restrictive, as the level of knowledge, skill and experience required for employment as a screening officer is

appropriately directed to the role. The right to work in Article 6 of ICESCR may be engaged where a screening officer is unable to complete the relevant continuing professional development and/or training and is therefore unable to be employed as a screening officer. However Article 6 does not guarantee an individual employment in a particular position and it is reasonable and necessary to impose continuing professional development and training requirements to safeguard against interference with the aviation industry.

To the extent that the Disallowable Legislative Instrument limits the right to non-discrimination and the right to work, the limitations are reasonable, necessary and proportionate in achieving a legitimate objective.

### **Conclusion**

The Disallowable Legislative Instrument is compatible with human rights because it will assist to maintain the integrity of Australia's aviation security. To the extent that the Disallowable Legislative Instrument may limit human rights, those limitations are reasonable, necessary and proportionate.





**Details of the Aviation Transport Security (Screening Officer Requirements) Determination 2022**

**Section 1 – Name**

This section provides that the title of this instrument is *Aviation Transport Security (Screening Officer Requirements) Determination 2022* (the Determination).

**Section 2 – Commencement**

This section provides that the Determination commences on 1 July 2022.

**Section 3 – Revocation**

The effect of this section is that, on commencement of the Determination, the *Aviation Transport Security (Screening Officer Requirements) Determination 2021* is revoked.

**Section 4 – Definitions**

Section 4 provides various definitions for the purpose of the Determination.

*Note 1*

Note 1 to section 4 notes that certain terms used in the Determination are defined in the *Aviation Transport Security Act 2004* (the Aviation Act). Those terms include *baggage*, *checked baggage*, *screening authority* and *screening officer*.

*Note 2*

Note 2 to section 4 notes that certain terms used in the Determination are defined in the *Aviation Transport Security Regulations 2005* (the Aviation Regulations). Those terms include *ASIC* and *properly displaying*.

*Definitions*

The definition of the term *Act* provides that the term means the *Aviation Transport Security Act 2004*.

The definition of the term *independent screening decision* provides that the term means a decision whether to allow a person, personal effects, carry-on and checked baggage, goods or a vehicle to pass through a screening point, without prompting or guidance from a supervising officer. This definition is relevant to the training requirements determined in section 7 of the Determination.

**Section 5 – Application**

This section has the effect that the Determination determines requirements under section 94A of the Act, for specified screening officers. Section 94A provides that the Secretary of the Department of Home Affairs may, by legislative instrument, determine the training and qualification requirements, and any other requirements, for specified screening officers relating to the exercise or performance of a specified power under Division 5 of Part 5 of the Act, or a specified screening function. It also provides that the Secretary may, by legislative instrument, determine for specified screening officers requirements in relation to the use of identity cards and uniforms.

## Section 6 – Qualifications

This section sets out the qualification requirements for specified screening officers. The purpose of these requirements is to provide a consistent standard of qualification for specified screening officers to meet. The effect is that, if the screening officer does not meet the qualification requirement, then they are unable to perform the role of a screening officer.

Subsection 6(1) has the effect that screening officers who are engaged or employed as a screening officer on or after 16 January 2022 must hold either a Certification II in Transport Security Protection or a qualification that the Secretary is satisfied will enable the holder to carry out the duties of a screening officer under the Act.

Together, subsections 6(2) and (3) constitute an exception to the requirement in subsection 6(1). These subsections have the effect that a person who was engaged or employed as a screening officer prior to 16 January 2022 by either a screening authority (under the Aviation Act) or by a port facility operator or regulated Australian ship under the *Maritime Transport and Offshore Facilities Security Act 2003* (Maritime Act), must hold a Certificate II in Security Operations or a qualification that the Secretary is satisfied is equivalent to a Certificate II in Security Operations or a Certification II in Transport Security Protection.

The exception covered by subsections 6(2) and 6(3) applies to those screening officers identified in subsection 6(2) unless that person:

- ceased to be engaged or employed as a screening officer by a screening authority, port facility operator or regulated Australian ship for a continuous period of more than 24 months at any time from 16 June 2020; or
- ceases to be engaged or employed as a screening officer by a screening authority, port facility operator or regulated Australian ship for a continuous period of more than 24 months at any time from 1 July 2022.

These provisions are intended to continue existing arrangements in the *Aviation Transport Security (Screening Officer Requirements) Determination 2021*, and are consistent with the information provided to industry during consultation.

The discretionary powers available to the Secretary in paragraph 94A(a) of the Aviation Act permit the Secretary to determine, in paragraphs 6(1)(b) and 6(3)(b) of the Determination, a mandatory qualification for a screening officer (in accordance with the date they were engaged or employed), and to include a qualification that the Secretary is satisfied will enable the holder to carry out the duties of a screening officer under the Aviation Act. The effect of paragraphs 6(1)(b) and 6(3)(b) is that the main criterion against which the Secretary would be ‘satisfied’ in this context is the relevance of the qualification to the role of a screening officer, and their ability to carry out their various duties as a screening officer under the Aviation Act.

While replicating many of requirements included in the 2021 Determination, the Determination does not define *new* screening officers or *existing* screening officers. The Determination instead applies to all screening officers, with certain exceptions for persons who were employed prior to the commencement of the Determination. The approach is consistent with, and builds on, the 2021 Determination. The Determination enables certain current screening officers to continue in their role by meeting training and qualification requirements which align with those established prior to the commencement of this Determination. The Determination also gives certain current screening officers in the maritime sector the ability to transition to an aviation screening officer role without requiring

a new qualification or additional on the job training. This allows greater flexibility in the transport security sector more broadly and assists in retention across the screening officer workforce.

Subsection 6(4) has two functions: the first is to carry over the purpose and effect of the definition of *existing screening officer* specified in the *2021 Determination*, and the second is to recognise the qualifications of a screening officer who has transferred from the maritime sector to the aviation sector.

Paragraph 6(4)(a) operates to replicate the intention of the definition of existing screening officer previously specified in the *2021 Determination* and the way affected industry participants interpreted the commencement of the 24 month ‘clock’ in paragraph (b) of that definition. Paragraph 6(4)(b) operates to recognise the existing qualifications of a screening officer who ceases to be engaged or employed as a screening officer for a continuous period of less than 24 months from 1 July 2022.

Subsection 6(4) has a beneficial effect for screening officers who were furloughed for an extended period during the global COVID-19 pandemic. It expressly allows those screening officers to rely on their existing Certificate II qualification, without requiring any screening officer who did not hold a Certificate II in Transport Security Protection at the time they were furloughed to obtain one. This subsection also recognises the skills and experience of screening officers who have transferred from the maritime sector to the aviation sector, provided that those officers have not ceased to be engaged or employed as a screening officer for a continuous period of 24 months or more, from particular points in time.

The guiding note to section 6 is a reminder that the Secretary can, under section 94B of the Aviation Act, exempt a class of screening officers from one or more of the requirements determined under paragraph 94A(a), if the Secretary is satisfied that there are exceptional circumstances.

### Section 7 – Training

This section sets out the training requirements for screening officers. The purpose of these requirements is to provide a consistent standard of training for specified screening officers engaged or employed on or after 1 July 2022 to meet, while also recognising the skills and experience of screening officers who have been engaged or employed as screening officers prior to the commencement of this Determination. The effect is that if the screening officer does not meet the training requirement then they are unable to make *independent screening decisions* (as defined in the Determination).

Subsection 7(1) has the effect that screening officers must not make an *independent screening decision* unless a supervisor has assessed them as competent as a screening officer. Up to that point, the person must be supervised by a screening officer who is capable of making an *independent screening decision*.

Subsection 7(2) has the effect that, once the supervisor is satisfied that a person is competent as a screening officer, the officer may make *independent screening decisions*. However, if the supervisor is not so satisfied, the person must undertake additional on-the-job supervised training until the supervisor is satisfied as to the person’s competency.

The requirements in subsections 7(1) and 7(2) apply to all screening officers.

Paragraph 7(3)(a) has the effect that a screening officer first engaged or employed on or after 1 July 2022 is required to complete at least 40 hours of on-the-job training specific to their

role before being assessed for competency, unless the person was previously engaged or employed prior to 1 July 2022 as a screening officer by a port facility operator or regulated Australian ship under the Maritime Act or an instrument made under that act.

This means that, if a person was engaged or employed as a screening officer under the Aviation Act or under the Maritime Act (or an instrument made under either of those acts) before 1 July 2022, they will not be required to undergo on-the-job training. The rationale behind this is that if they were engaged or employed as a screening officer prior to 1 July 2022, they would have either already been assessed as competent to make independent screening decisions or were engaged or employed on the understanding that was the only training requirement as provided for in the *Aviation Transport Security (Screening Officer Requirements) Determination 2021*.

Paragraph 7(3)(b) has the effect that, at any time from 1 July 2022, a screening officer who ceases to be a screening officer under the Aviation Act or Maritime Act for more than a continuous period of 24 months would be required to undergo 40 hours of on-the-job training prior to being assessed as competent if they were re-engaged or re-employed as a screening officer after that period.

Subsection 7(3) is intended to continue and build on existing arrangements in the *Aviation Transport Security (Screening Officer Requirements) Determination 2021*, and is consistent with section 6 of this Determination, and consistent with the information provided to industry during consultation.

Given that on-the-job training is a new requirement from 1 July 2022, and to create a more consistent approach to training for aviation screening officers, subsection 7(4) makes clear that on-the-job training may include supervised practice at a screening point (preferably live) or training on any of the following: X-ray image interpretation; specific screening equipment used in the workplace; weapons and prohibited items; maintaining the integrity of sterile areas; methods and techniques for screening; and training designed to ensure familiarity with legislation relevant to screening.

The guiding note under subsection 7(4) is a reminder that the Secretary can, under section 94B of the Aviation Act, exempt a class of screening officers from one or more of the requirements determined under paragraph 94A(a), if the Secretary is satisfied that there are exceptional circumstances

### Section 8 – Continuing professional development

Section 8 has the effect that a screening officer must complete at least 12 hours of continuing professional development specific to their role each calendar year. This training may include training on the topics listed in section 8, namely: X-ray image interpretation software; upgrades to existing equipment; new and emerging threats (or briefs on these) and detection and concealment techniques. The requirement in section 8 applies to all screening officers.

### Section 9 – Aviation Security Identification Cards

Section 9 has the effect that that a screening officer must hold and properly display an ASIC at all times while on duty, or as otherwise required by the Aviation Regulations.

An applicant for an ASIC undergoes a series of background checks as part of the application process, comprising identity confirmation, a criminal history check, a security assessment, and, from 22 June 2022 in accordance with the *Transport Security Legislation Amendment (Serious Crime) Regulations 2022*, any new applicants for an ASIC will also undergo a

criminal intelligence assessment. If applicable, an applicant will also undergo a check to ensure they have the right to work in Australia.

Screening officers perform a vital role in relation to aviation security. The purpose and effect of the requirement to hold an ASIC is to demonstrate that the holder of an ASIC has undergone appropriate background checking prior to working as a screening officer.

The requirement in section 9 applies to all screening officers.

#### Section 10 – Uniforms

Section 10 has the effect that a screening officer must wear a distinctive and recognisable uniform. The phrase ‘distinctive and recognisable’ is not defined in the Determination, the Aviation Act or the Aviation Regulations and should be given its ordinary meaning.

The purpose of this requirement is to ensure that persons performing screening functions are easily identifiable to the public

The requirement in section 10 applies to all screening officers..

#### Section 11 – Record keeping

Section 11 has the effect of specifying record keeping requirements for screening authorities. Under the Determination, screening authorities are required to make electronic records in relation to screening officers engaged or employed by the authority in relation to:

- the date the screening officer commenced their engagement or employment with the screening authority;
- the date a person is assessed as competent as a screening officer and the name of the assessing person,
- the qualifications held by a screening officer in accordance with section 6 the Determination;
- the training undertaken by screening officer in accordance with section 7;
- any activity undertaken by a screening officer in accordance with section 8; and
- the screening officer’s unique ASIC number and when the ASIC ceases to be in effect.

Subsection 11(2) has the effect that, where a screening authority has determined that subsection 6(2) or 7(3) applies to a screening officer, the screening authority must make a record of the documents relied on. The guiding note provides the reader with examples of documents for which electronic records should be kept, including records of qualifications and evidence demonstrating that a person was previously employed by a port facility operator or regulated Australian ship.

Subsection 11(3) has the effect that a screening authority is required to retain the records made under subsection 11(1) or (2) for 2 years after the screening officer ceases to be engaged or employed by the screening authority, even if the screening authority ceases to be a screening authority during that time.

The purpose of these record-keeping requirements is for screening authorities to be able to demonstrate that they have employed or engaged screening officers who meet the qualification, training, continuing professional development and other requirements in the Determination. This will also enable the Department to assess the effectiveness of the screening officer legislative framework, in safeguarding against unlawful interference with aviation and preventing the use of aviation in connection with serious crime.