

## **SUPPLEMENTARY 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 2023*

### **Purpose of the supplementary explanatory statement**

The purpose of this supplementary explanatory statement is to provide additional information about the purpose and exercise of the discretionary powers in subsections 6(1), 6(3) and 8(1) of the Determination. This is done in accordance with paragraph 15J(1)(c) of the *Legislation Act 2003* and is in response to a request from the Senate Scrutiny of Delegated Legislation Committee, as part of their review of the instrument.

### **Amendments to the initial explanatory statement**

*Under ‘Purpose’, after the 5<sup>th</sup> paragraph (which starts with “Broadly, the following is determined...” ), insert the following:*

The Determination provides the Secretary of Home Affairs with discretionary powers to:

- enable a mandatory qualification for a new or existing screening officer to include one that the Secretary is satisfied meets the requirements outlined in the Determination. The purpose of these discretionary powers is to ensure that the Secretary has the flexibility to determine whether certain qualifications, not explicitly specified in the instrument, are suitable for meeting the qualifications requirements;
- approve a test that the Secretary is satisfied is appropriate to test the ability of a screening officer to exercise any of the powers mentioned in Division 5 of Part 5 of the Aviation Act and to perform a screening function. The purpose of this discretionary power is to ensure that screening officers meet a national standard of competency and are able to respond to current and emerging threats.

*Under ‘Attachment B – Details of the Aviation Transport Security (Screening Officer Requirements) Determination 2023’, Section 6 – Qualifications, after the 8<sup>th</sup> paragraph (which starts with “Similar to paragraph 6(1)(b)...”), insert the following:*

The discretionary powers available to the Secretary in subsections 6(1) and (3) of the Determination enable a mandatory qualification for a new or existing screening officer to include one that the Secretary is satisfied will enable the holder to carry out the duties of a screening officer under the Aviation Act (for new screening officers), or one that is equivalent to a Certificate II in Security Operations (for existing screening officers). The intention is that the main criterion against which the Secretary would exercise a discretionary power 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.

*Under ‘Attachment B – Details of the Aviation Transport Security (Screening Officer Requirements) Determination 2023’, Section 8 – Aviation accreditation test, after the 2nd paragraph (which starts with “Division 5 of Part 5 of the Aviation Act...”), insert the following:*

Subsection 8(1) provides the Secretary with flexibility to approve tests that are appropriate to ensure the competency of screening officers. For example, as prohibited items and weapons are regularly updated, new methods for concealing these items can arise and subsequently require aviation accreditation testing to be updated.

The Secretary’s discretion to approve a test is limited to testing powers exercised by screening officers under Division 5 of Part 5 of the Aviation Act, and specified screening functions. The latter includes functions set out in the associated Aviation Regulations and Aviation Screening Notice made under subsection 4.17(1) of the Aviation Regulations for the screening of people, baggage, personal belongings, vehicles and goods entering a sterile area of an airport and/or for uplift onto an aircraft. These functions include the methods, techniques and equipment to screen for prohibited items and weapons as also set out in the Aviation Screening Notice. When considering whether an aviation accreditation test is appropriate, the Secretary must therefore have regard to the particular powers and functions of a screening officer and the current security environment.