Aviation Transport Security Amendment Bill 2006

No. , 2006

(Transport and Regional Services)

A Bill for an Act to amend the Aviation Transport Security Act 2004, and for related purposes
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A Bill for an Act to amend the Aviation Transport Security Act 2004, and for related purposes

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the Aviation Transport Security Amendment Act 2006.

2 Commencement

(1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.
## Commencement information

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
<th>Column 3</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Provision(s)</strong></td>
<td><strong>Commencement</strong></td>
<td><strong>Date/Details</strong></td>
</tr>
<tr>
<td>1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table</td>
<td>The day on which this Act receives the Royal Assent.</td>
<td></td>
</tr>
<tr>
<td>2. Schedule 1, items 1 to 19</td>
<td>A single day to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of 6 months beginning on the day on which this Act receives the Royal Assent, they commence on the first day after the end of that period.</td>
<td></td>
</tr>
<tr>
<td>3. Schedule 1, item 20</td>
<td>At the same time as the provision(s) covered by table item 2. However, the provision(s) do not commence at all if item 27 of Schedule 2 has commenced on or before that time.</td>
<td></td>
</tr>
<tr>
<td>4. Schedule 1, items 21 to 35</td>
<td>A single day to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of 6 months beginning on the day on which this Act receives the Royal Assent, they commence on the first day after the end of that period.</td>
<td></td>
</tr>
<tr>
<td>5. Schedule 2, items 1 to 33</td>
<td>A single day to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of 12 months beginning on the day on which this Act receives the Royal Assent, they commence on the first day after the end of that period.</td>
<td></td>
</tr>
<tr>
<td>6. Schedule 2, item 34</td>
<td>The day on which this Act receives the Royal Assent.</td>
<td></td>
</tr>
<tr>
<td>7. Schedule 2, Part 2</td>
<td>The later of: (a) immediately after the commencement of the provision(s) covered by table item 2; and (b) immediately after the commencement of the provision(s) covered by table item 5.</td>
<td></td>
</tr>
</tbody>
</table>
### Commencement information

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<th>Provision(s)</th>
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<th>Date/Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>8. Schedules 3 and 4</td>
<td>The day on which this Act receives the Royal Assent.</td>
<td></td>
</tr>
</tbody>
</table>

1. Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

2. (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

3. **Schedule(s)**

4. Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.
Schedule 1—Amendments relating to zones

Aviation Transport Security Act 2004

1 Section 4

Omit “and security zones”, substitute “, security zones and event zones”.

2 Section 9 (definition of airside area)

After “zone”, insert “, and any airside event zone,”.

3 Section 9

Insert:

airside event zone means an airside event zone established under subsection 31A(1).

4 Section 9 (definition of landside area)

After “zone”, insert “, and any landside event zone,”.

5 Section 9

Insert:

landside event zone means a landside event zone established under subsection 33A(1).

6 Section 27

Repeal the section, substitute:

27 Simplified overview of Part

The Secretary may designate an airport as a security controlled airport. A security controlled airport has an airside area and a landside area.

Airside security zones and airside event zones may be established within an airside area, and landside security zones and landside event zones within a landside area.
Regulations under Division 3 will detail the requirements applying to airside areas, airside security zones and airside event zones.

Regulations under Division 4 will detail the requirements applying to landside areas, landside security zones and landside event zones.

7 After subsection 30(2)

Insert:

(2A) A notice commences:
(a) when the Secretary gives the notice to the airport operator; or
(b) if a time is specified in the notice—at that time.
The time specified must not be earlier than the time the notice is given.

(2B) Each airport security zone is in force from the commencement of the notice that establishes it.

8 Application
An airside security zone established by a notice given under subsection 30(1) of the Aviation Transport Security Act 2004 before the commencement of item 7 of this Schedule is taken to have been in force from the time the notice was given.

9 Paragraph 31(2)(b)
Before “zones”, insert “airside security”.

10 After section 31
Insert:

31A Airside event zones

Establishing airside event zones

(1) The Secretary may, by written notice given to the operator of a security controlled airport, establish one or more airside event zones within the airside area of the airport. Each zone must be of a type prescribed under section 31B.
(2) The notice must include a map of the airport that shows the boundaries of each airside event zone.

(3) For each airside event zone, the notice may specify the period (or periods) during which the zone is in force. If no period is specified, the zone is in force from the commencement of the notice.

(4) A notice commences:
   (a) when the Secretary gives the notice to the airport operator; or
   (b) if a time is specified in the notice—at that time.

The time specified must not be earlier than the time the notice is given.

Purpose of airside event zones

(5) Subject to subsection (6), the purpose of airside event zones is to subject those zones, within the airside area of a security controlled airport, to controls some or all of which are different from those applying generally to the airside area.

(6) If the whole or a part of an airside event zone is within an airside security zone, the purpose of the airside event zone is to subject the zone to controls some or all of which are different from:
   (a) controls applying generally to the airside security zone; and
   (b) controls applying generally to the airside area.

Requirements applying in airside event zones

(7) The following requirements do not apply in relation to an airside event zone while the zone is in force:
   (a) the requirements prescribed in relation to the airside area;
   (b) if the whole or a part of the zone is within an airside security zone—the requirements prescribed in relation to the airside security zone.

(8) To avoid doubt, if an airside event zone ceases to be in force at a particular time, the area previously within the airside event zone is, from that time, subject to controls that apply generally to that area.

31B Types of airside event zones

(1) The regulations may prescribe different types of airside event zones.
(2) The purposes for which different types of airside event zones may be prescribed include, but are not limited to, the following:

(a) managing different types of events within airside areas;
(b) controlling the movement of people, vehicles and goods within airside areas;
(c) restricting access to airside event zones within airside areas;
(d) providing cleared zones;
(e) preventing interference with aircraft (including unattended aircraft);
(f) ensuring the security of the following:
   (i) air traffic control facilities;
   (ii) fuel storage areas;
   (iii) general aviation areas;
   (iv) cargo and baggage handling facilities;
   (v) navigational aids;
   (vi) fire stations and other emergency service facilities;
   (vii) critical facilities and critical structures.

11 After subsection 32(2)

   Insert:

   (2A) A notice commences:
   (a) when the Secretary gives the notice to the airport operator; or
   (b) at the time specified in the notice.

   The time specified in the notice must not be earlier than the time the notice is given.

   (2B) Each landside security zone is in force from the commencement of the notice that establishes it.

12 Application

   A landside security zone established by a notice given under subsection 32(1) of the Aviation Transport Security Act 2004 before the commencement of item 11 of this Schedule is taken to have been in force from the time the notice was given.

13 Paragraph 33(2)(b)

   Before “zones”, insert “landside security”.

Aviation Transport Security Amendment Bill 2006 No. , 2006 7
14 After section 33

Insert:

33A Landside event zones

Establishing landside event zones

(1) The Secretary may, by written notice given to the operator of a security controlled airport, establish one or more landside event zones within the landside area of the airport. Each zone must be of a type prescribed under section 33B.

(2) The notice must include a map of the airport that shows the boundaries of the landside event zones.

(3) For each landside event zone, the notice may specify the period (or periods) during which the zone is in force. If no period is specified, the zone is in force from the commencement of the notice.

(4) A notice commences:
   (a) when the Secretary gives the notice to the airport operator; or
   (b) if a time is specified in the notice—at that time.

The time specified must not be earlier than the time the notice is given.

Purpose of landside event zones

(5) Subject to subsection (6), the purpose of landside event zones is to subject those zones, within the landside area of a security controlled airport, to controls some or all of which are different from those applying generally to the landside area.

(6) If the whole or a part of a landside event zone is within a landside security zone, the purpose of the landside event zone is to subject the zone to controls some or all of which are different from:
   (a) controls applying generally to the landside security zone; and
   (b) controls applying generally to the landside area.

Requirements applying in landside event zones

(7) The following requirements do not apply in relation to a landside event zone while the zone is in force:
Amendments relating to zones

Schedule 1

(a) the requirements prescribed in relation to the landside area;
(b) if the whole or a part of the zone is within a landside security zone—the requirements prescribed in relation to the landside security zone.

(8) To avoid doubt, if a landside event zone ceases to be in force at a particular time, the area previously within the landside event zone is, from that time, subject to controls that apply generally to that area.

33B Types of landside event zones

(1) The regulations may prescribe different types of landside event zones.

(2) The purposes for which different types of landside event zones may be prescribed include, but are not limited to, the following:
   (a) managing different types of events within landside areas;
   (b) controlling the movement of people, vehicles and goods within landside areas;
   (c) restricting access to landside event zones within landside areas;
   (d) providing cleared zones;
   (e) preventing interference with aircraft (including unattended aircraft);
   (f) ensuring the security of the following:
      (i) air traffic control facilities;
      (ii) fuel storage areas;
      (iii) general aviation areas;
      (iv) cargo and baggage handling facilities;
      (v) navigational aids;
      (vi) fire stations and other emergency service facilities;
      (vii) critical facilities and critical structures.

15 At the end of Division 3 of Part 3

Add:
Schedule 1 Amendments relating to zones

36A Requirements for airside event zones

(1) The regulations may, for the purposes of safeguarding against unlawful interference with aviation, prescribe requirements in relation to each type of airside event zone.

(2) Without limiting the matters that may be dealt with by regulations made under subsection (1), the regulations may deal with the following:

(a) access to airside event zones (including conditions of entry, the issue and use of security passes and other identification systems);
(b) the patrolling of airside event zones;
(c) the provision of lighting, fencing and storage facilities;
(d) the identification or marking of airside event zones;
(e) the approval of building works within, or adjacent to, airside event zones;
(f) the screening of people, vehicles or goods for entry to airside event zones;
(g) the security checking (including background checking) of persons who have access to airside event zones;
(h) the movement, management or operation of aircraft, vehicles and other machinery in airside event zones;
(i) the maintenance of the integrity of airside event zones;
(j) access to aircraft (including unattended aircraft) from airside event zones;
(k) the management of people and goods (including the management of unaccompanied, unidentified or suspicious goods) in airside event zones;
(l) the management (including the sale or disposal) of vehicles or goods abandoned in airside event zones.

(3) Regulations made under this section may prescribe penalties for offences against those regulations. The penalties must not exceed:

(a) for an offence committed by an airport operator or an aircraft operator—200 penalty units; or
(b) for an offence committed by an aviation industry participant, other than a participant covered by paragraph (a)—100 penalty units; or
(c) for an offence committed by any other person—50 penalty units.

Note: If a body corporate is convicted of an offence against regulations made under this section, subsection 4B(3) of the Crimes Act 1914 allows a court to impose fines of up to 5 times the penalties stated above.

16 At the end of Division 4 of Part 3
Add:

38A Requirements for landside event zones

(1) The regulations may, for the purposes of safeguarding against unlawful interference with aviation, prescribe requirements in relation to each type of landside event zone.

(2) Without limiting the matters that may be dealt with by regulations made under subsection (1), the regulations may deal with the following:

(a) access to landside event zones (including conditions of entry, the issue and use of security passes and other identification systems);

(b) the patrolling of landside event zones;

(c) the provision of lighting, fencing and storage facilities;

(d) the identification or marking of landside event zones;

(e) the approval of building works within, or adjacent to, landside event zones;

(f) the screening of people, vehicles or goods for entry to landside event zones;

(g) the security checking (including background checking) of persons who have access to landside event zones;

(h) the movement, management or operation of aircraft, vehicles and other machinery in landside event zones;

(i) the maintenance of the integrity of landside event zones;

(j) access to aircraft (including unattended aircraft) from landside event zones;

(k) the management of people and goods (including the management of unaccompanied, unidentified or suspicious goods) in landside event zones;
(l) the management (including the sale or disposal) of vehicles or goods abandoned in landside event zones.

(3) Regulations made under this section may prescribe penalties for offences against those regulations. The penalties must not exceed:

(a) for an offence committed by an airport operator or an aircraft operator—200 penalty units; or

(b) for an offence committed by an aviation industry participant, other than a participant covered by paragraph (a)—100 penalty units; or

(c) for an offence committed by any other person—50 penalty units.

Note: If a body corporate is convicted of an offence against regulations made under this section, subsection 4B(3) of the Crimes Act 1914 allows a court to impose fines of up to 5 times the penalties stated above.

17 Subparagraph 44(2)(d)(ii)

Repeal the subparagraph, substitute:

(ii) enter a landside security zone, a landside event zone, an airside area, an airside security zone or an airside event zone;

18 Subparagraph 44(2)(e)(ii)

Repeal the subparagraph, substitute:

(ii) into a landside security zone, a landside event zone, an airside area, an airside security zone or an airside event zone;

19 Subparagraph 44(2)(f)(ii)

Repeal the subparagraph, substitute:

(ii) into a landside security zone, a landside event zone, an airside area, an airside security zone or an airside event zone;

20 Subparagraph 44(2)(g)(ii)

Repeal the subparagraph, substitute:

(ii) into a landside security zone, a landside event zone, an airside area, an airside security zone or an airside event zone;
21 **Subparagraph 44(2)(h)(ii)**

   Repeal the subparagraph, substitute:

   (ii) into a landside security zone, a landside event zone, an
   airside area, an airside security zone or an airside event
   zone;

22 **Section 45**

   Omit “and landside security zones”, substitute “, landside security zones
   and landside event zones”.

23 **Paragraph 46(1)(a)**

   Omit “or a landside security zone”, substitute “, a landside security zone
   or a landside event zone”.

   Note: The heading to section 46 is altered by omitting “and landside security zones” and
   substituting “, landside security zones and landside event zones”.

24 **Subparagraph 46(1)(c)(iii)**

   Omit “or landside security zone”, substitute “, landside security zone or
   landside event zone”.

25 **Paragraph 46(3)(a)**

   Omit “or a landside security zone”, substitute “, a landside security zone
   or a landside event zone”.

26 **Subparagraph 46(3)(c)(iii)**

   Omit “or landside security zone”, substitute “, landside security zone or
   landside event zone”.

27 **Paragraph 52(2)(a)**

   Omit “or a landside security zone”, substitute “, an airside event zone, a
   landside security zone or a landside event zone”.

28 **Paragraph 54(1)(a)**

   Omit “or a landside security zone”, substitute “, an airside event zone, a
   landside security zone or a landside event zone”.

   Note: The heading to section 54 is replaced by the heading “Prohibited items in airside
   security zones, airside event zones, landside security zones and landside event
   zones”.

29 **Paragraph 54(1)(aa)**
Schedule 1  Amendments relating to zones

Omit “or landside security zone”, substitute “, airside event zone, landside security zone or landside event zone”.

30 Subparagraph 54(1)(c)(iii)
Omit “or landside security zone”, substitute “, airside event zone, landside security zone or landside event zone”.

31 Paragraph 54(3)(a)
Omit “or a landside security zone”, substitute “, an airside event zone, a landside security zone or a landside event zone”.

32 Paragraph 54(3)(aa)
Omit “or landside security zone”, substitute “, airside event zone, landside security zone or landside event zone”.

33 Subparagraph 54(3)(c)(iii)
Omit “or landside security zone”, substitute “, airside event zone, landside security zone or landside event zone”.

34 Paragraph 60(2)(a)
Omit “or a landside security zone”, substitute “, an airside event zone, a landside security zone or a landside event zone”.

35 Subparagraph 92(1)(b)(ii)
Repeal the subparagraph, substitute:
(ii) maintain the integrity of a landside security zone, a landside event zone, an airside area, an airside security zone or an airside event zone.
Schedule 2—Amendments relating to cargo

Part 1—Main amendments

Aviation Transport Security Act 2004

1 Subsection 3(3)
Repeal the subsection.

2 Section 4
After “screening,”, insert “examination, certification,“.

3 Section 9
Insert:

accredited air cargo agent means a person accredited as an accredited air cargo agent in accordance with regulations made under section 44C.

4 Section 9
Insert:

certified, in relation to cargo, means certified by an aircraft operator for transport by aircraft in accordance with regulations made under section 44C.

5 Section 9 (paragraph (b) of the definition of cleared)
After “goods”, insert “(other than cargo)”.

6 Section 9 (at the end of the definition of cleared)
Add:
; and (d) in relation to cargo, has the meaning given by subsection 44B(3).

7 Section 9 (definition of employee)
Repeal the definition, substitute:

employee means:

(a) in relation to an aviation industry participant—an individual:
Schedule 2  Amendments relating to cargo

Part 1  Main amendments

(i) employed by the aviation industry participant; or
(ii) engaged under a contract for services between the
    individual and the aviation industry participant; and
(b) in relation to an accredited air cargo agent—an individual:
   (i) employed by the accredited air cargo agent; or
   (ii) engaged under a contract for services between the
        individual and the accredited air cargo agent.

8 Section 9
Insert:

examined, in relation to cargo, has the meaning given by
subsection 44B(1).

9 Section 9 (paragraph (b) of the definition of receive clearance)
After “goods”, insert “(other than cargo)”.

10 Section 9 (at the end of the definition of receive clearance)
Add:
; and (d) in relation to cargo, has the meaning given by subsection
44B(2).

11 Section 9 (definition of regulated air cargo agent)
Omit “44”, substitute “44C”.

12 Section 9 (paragraph (b) of the definition of screened)
After “goods”, insert “(other than cargo)”.

13 Paragraph 35(2)(f)
After “goods”, insert “(other than cargo)”.

14 After paragraph 35(2)(f)
Insert:
(fa) requirements relating to the entry of cargo to the airside area;

15 Paragraph 36(2)(f)
After “goods”, insert “(other than cargo)”.

Aviation Transport Security Amendment Bill 2006  No. , 2006
16 After paragraph 36(2)(f)
Insert:
(fa) requirements relating to the entry of cargo to airside security zones;

17 Paragraph 37(2)(f)
After “goods”, insert “(other than cargo)”.

18 After paragraph 37(2)(f)
Insert:
(fa) requirements relating to the entry of cargo to the landside area;

19 Paragraph 38(2)(f)
After “goods”, insert “(other than cargo)”.

20 After paragraph 38(2)(f)
Insert:
(fa) requirements relating to the entry of cargo to landside security zones;

21 Section 39
After paragraph (a), insert:

(aa) examining, certifying and clearing (Division 2A);

22 Section 40
Repeal the section, substitute:

40 Simplified overview of Division
Access to aircraft, areas and zones at an airport may be restricted to persons, goods (other than cargo) and vehicles that have received clearance. Where access is restricted in this way, the aircraft, area or zone is said to be cleared.

In most cases, receiving clearance will require going through a screening process.
Schedule 2  Amendments relating to cargo
Part 1  Main amendments

This Division deals with:

(a) requirements for receiving clearance; and
(b) requirements and procedures for screening.

This Division does not deal with cargo. Cargo is dealt with in Division 2A.

23  Subsection 42(1)
Omit “(including baggage and cargo)”.
Note:  The heading to section 42 is altered by adding at the end “(other than cargo)”.

24  At the end of section 42
Add:

(6) In this section:

   goods includes baggage but does not include cargo.

Note:  Division 2A deals with the examination and clearance of cargo.

25  Paragraph 44(1)(c)
After “goods”, insert “(other than cargo)”.

26  Paragraph 44(1)(d)
Repeal the paragraph.

27  Paragraph 44(2)(g)
Repeal the paragraph.

28  Paragraph 44(2)(l)
After “goods”, insert “(other than cargo)”.

29  Paragraphs 44(2)(m), (n), (o) and (p)
Repeal the paragraphs.

30  Subsection 44(3)
Omit “, (2)(j) or (2)(m)”, substitute “or (2)(j)”.

18  Aviation Transport Security Amendment Bill 2006  No. , 2006
31 After Division 2 of Part 4

Insert:

Division 2A—Examining, certifying and clearing cargo

44A Simplified overview of Division

The transport of cargo by aircraft may be restricted to cargo that has received clearance.

In most cases, cargo must be examined and certified to receive clearance.

The regulations may provide for cargo to be examined by regulated air cargo agents, accredited air cargo agents and aircraft operators.

This Division deals with:

(a) requirements for receiving clearance; and
(b) requirements and procedures for examination; and
(c) requirements for certification; and
(d) requirements in relation to regulated air cargo agents, accredited air cargo agents and aircraft operators.

44B Examining, certifying and clearing cargo

(1) Cargo is examined when the cargo undergoes examination, before being taken onto an aircraft, in accordance with regulations made under section 44C.

(2) Cargo receives clearance if:
   (a) after being examined, the cargo is certified; or
   (b) the cargo is certified and the regulations provide, or the Secretary by written notice provides, that the cargo may be certified without being examined.

(3) Cargo is cleared at a particular time if:
Schedule 2  Amendments relating to cargo
Part 1  Main amendments

(a) the cargo has received clearance; and
(b) since receiving clearance, the cargo has at all times been
dealt with as required by regulations made under
section 44C.

(4) To avoid doubt, a notice under paragraph (2)(b) may provide that a
class of cargo may be certified.

44C  Requirements for examining, certifying and clearing cargo

(1) For the purposes of safeguarding against unlawful interference
with aviation, the regulations may:
(a) prescribe requirements in relation to one or more of the
following:
(i) examining cargo;
(ii) certifying cargo;
(iii) receiving clearance;
(iv) the circumstances in which cargo is required to be
cleared; and
(b) establish a scheme under which certain persons that carry on
a business that includes the handling, or making
arrangements for the transport, of cargo are designated as
regulated air cargo agents; and
(c) establish a scheme under which certain persons that carry on
a business that includes the handling, or making
arrangements for the transport, of cargo are accredited as
accredited air cargo agents; and
(d) prescribe conditions that must be complied with by:
(i) all regulated air cargo agents, all accredited air cargo
agents or all aircraft operators; or
(ii) one or more specified classes of regulated air cargo
agents, accredited air cargo agents or aircraft operators;
or
(iii) one or more specified regulated air cargo agents,
accredited air cargo agents or aircraft operators; and
(e) require the following persons to report aviation security
incidents of which they become aware:
(i) all accredited air cargo agents;
(ii) one or more specified classes of accredited air cargo
agents;
Amendments relating to cargo  
**Schedule 2**

Main amendments  
**Part 1**

(iii) one or more specified accredited air cargo agents; and
(f) prohibit a person from carrying on a business to the extent that it consists of:
   (i) handling cargo; or
   (ii) making arrangements for the transport of cargo;
   unless the person is a regulated air cargo agent, an accredited air cargo agent or an aircraft operator.

(2) Without limiting subsection (1), the following matters may be dealt with by regulations made under that subsection:
(a) the examination of cargo by:
   (i) all regulated air cargo agents, all accredited air cargo agents or all aircraft operators; or
   (ii) one or more specified classes of regulated air cargo agents, accredited air cargo agents or aircraft operators; or
   (iii) one or more specified regulated air cargo agents, accredited air cargo agents or aircraft operators;
(b) the procedures for dealing with cargo examined as mentioned in paragraph (a);
(c) the places where examination is to be conducted;
(d) the methods, techniques and equipment to be used for examination;
(e) the things to be detected by examination;
(f) the procedures for dealing with things detected by examination;
(g) the circumstances in which cargo may be certified by:
   (i) all aircraft operators; or
   (ii) one or more specified classes of aircraft operators; or
   (iii) one or more specified aircraft operators;
(h) the supervision and control measures for dealing with cargo that has received clearance;
(i) the method for designating a person as a regulated air cargo agent;
(j) the method of applying for accreditation as an accredited air cargo agent and how such applications are to be dealt with.

(3) Regulations made under paragraph (2)(a), (b) or (d) may provide that some or all of the matters set out in that paragraph are to be
Schedule 2 Amendments relating to cargo

Part 1 Main amendments

specified in written notices made by the Secretary. Such a notice may provide that the notice is only to be given to the persons, or classes of persons, specified in the notice.

(4) Regulations made under this section may prescribe penalties for offences against those regulations. The penalties must not exceed:

(a) for an offence committed by an aircraft operator—200 penalty units; or

(b) for an offence committed by an aviation industry participant, other than a participant covered by paragraph (a)—100 penalty units; or

(c) for an offence committed by any other person—50 penalty units.

Note: If a body corporate is convicted of an offence against regulations made under this section, subsection 4B(3) of the Crimes Act 1914 allows a court to impose fines of up to 5 times the penalties stated above.

32 Subsection 79(2)

Repeal the section, substitute:

(2) For the purposes set out in subsection (1), an aviation security inspector may:

(a) enter and inspect a security controlled airport; or

(b) enter and inspect:

(i) any area, building (other than a residence) or vehicle under the control of an aviation industry participant; or

(ii) if an aviation industry participant operates from a residence or a part of a residence—the residence or the part of the residence from which the participant operates; or

(c) enter and inspect:

(i) any area, building (other than a residence) or vehicle under the control of an accredited air cargo agent; or

(ii) if an accredited air cargo agent operates from a residence or a part of a residence—the residence or the part of the residence from which the agent operates; or

(d) inspect equipment in a place or vehicle mentioned in paragraph (a), (b) or (c); or

(e) observe the operating procedures of an aviation industry participant; or
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(f) discuss those procedures with an employee of the aviation industry participant or with another aviation industry participant or an accredited air cargo agent; or

(g) observe the operating procedures of an accredited air cargo agent; or

(h) discuss those procedures with an employee of the accredited air cargo agent or with another accredited air cargo agent or an aviation industry participant; or

(i) inspect, photograph or copy a document or record made or kept by an aviation industry participant or an accredited air cargo agent; or

(j) operate equipment at a place mentioned in paragraph (a), (b) or (c) for the purposes of gaining access to a document or record made or kept by an aviation industry participant; or

(k) operate equipment at a place mentioned in paragraph (a), (b) or (c) for the purposes of gaining access to a document or record made or kept by an accredited air cargo agent.

33 Paragraph 79(3)(b)

Omit “participant concerned”, substitute “participant or accredited air cargo agent concerned (or both)”.

34 Regulations

(1) The Governor-General may make regulations prescribing matters:

(a) required or permitted by this Schedule to be prescribed; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Schedule.

(2) In particular, regulations may be made:

(a) providing for regulations made for the purposes of particular provisions of the unamended Act to continue to have effect (with any prescribed alterations) for the purposes of the amended Act; and

(b) for other transitional measures in relation to the transition from the unamended Act to the amended Act.

(3) In this item:

amended Act means the Aviation Transport Security Act 2004 as in force immediately after the commencement of item 31 of this Schedule.
unamended Act means the *Aviation Transport Security Act 2004* as in force immediately before the commencement of item 31 of this Schedule.
Part 2—Amendments consequential on amendments made by Schedule 1

Aviation Transport Security Act 2004

35 Paragraph 36A(2)(f)

After “goods”, insert “(other than cargo)”.  

36 After paragraph 36A(2)(f)

Insert:

(fa) requirements relating to the entry of cargo to airside event zones;

37 Paragraph 38A(2)(f)

After “goods”, insert “(other than cargo)”.  

38 After paragraph 38A(2)(f)

Insert:

(fa) requirements relating to the entry of cargo to landside event zones;
Schedule 3—Amendments relating to transport security programs

Aviation Transport Security Act 2004

1 After section 23

Insert:

23A Secretary may approve alterations of programs

(1) An aviation industry participant may, in writing, request the Secretary to approve proposed alterations of a transport security program. The request must set out the proposed alterations.

(2) If the Secretary is satisfied:

(a) that it is appropriate to deal with all the proposed alterations under this section; and

(b) that the program as proposed to be altered adequately addresses the relevant requirements under Division 4;

the Secretary must:

(c) approve the alterations; and

(d) give the participant written notice of the approval.

(3) If the Secretary is not satisfied:

(a) that it is appropriate to deal with all the proposed alterations under this section; or

(b) that the program as proposed to be altered adequately addresses the relevant requirements under Division 4;

the Secretary must:

(c) refuse to approve the alterations; and

(d) give the participant written notice of the refusal.

(4) In determining whether the program as proposed to be altered adequately addresses the relevant requirements under Division 4, the Secretary may take account of existing circumstances as they relate to aviation security.

(5) If the Secretary approves alterations of a program, the alterations come into force at the time specified in the notice of approval.
Amendments relating to transport security programs  Schedule 3

(6) However, the alterations come into force when the notice is given if:
   (a) the time specified in the notice is earlier than the time at which the notice was given; or
   (b) no time is specified in the notice as the time when the alterations come into force.

(7) If:
   (a) an aviation industry participant requests the Secretary to approve alterations of a transport security program; and
   (b) the Secretary does not approve, or refuse to approve, the alterations within the period of 60 days after the request was given;

   the Secretary is taken to have refused to approve the alterations.

2 After paragraph 126(1)(c)

   Insert:
   (ca) to refuse to approve alterations of a program under section 23A; or

Aviation Transport Security Amendment Bill 2006  No.  , 2006  27
Schedule 4—Technical amendments

Aviation Transport Security Act 2004

1 Subsection 35(2)
Omit “The following matters may be dealt with by regulations made
under subsection (1)”, substitute “Without limiting the matters that may
be dealt with by regulations made under subsection (1), the regulations
may deal with the following”.

2 Subsection 36(2)
Omit “The following matters may be dealt with by regulations made
under subsection (1)”, substitute “Without limiting the matters that may
be dealt with by regulations made under subsection (1), the regulations
may deal with the following”.

3 Subsection 37(2)
Omit “The following matters may be dealt with by regulations made
under subsection (1)”, substitute “Without limiting the matters that may
be dealt with by regulations made under subsection (1), the regulations
may deal with the following”.

4 Subsection 38(2)
Omit “The following matters may be dealt with by regulations made
under subsection (1)”, substitute “Without limiting the matters that may
be dealt with by regulations made under subsection (1), the regulations
may deal with the following”.

5 Subsection 44(2)
Omit “The following matters may be dealt with by regulations made
under subsection (1)”, substitute “Without limiting the matters that may
be dealt with by regulations made under subsection (1), the regulations
may deal with the following”.

6 Subsection 52(2)
Omit “The following matters may be dealt with by regulations made under subsection (1)”, substitute “Without limiting the matters that may be dealt with by regulations made under subsection (1), the regulations may deal with the following”.

7 Subsection 60(2)

Omit “The following matters may be dealt with by regulations made under subsection (1)”, substitute “Without limiting the matters that may be dealt with by regulations made under subsection (1), the regulations may deal with the following”.