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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

CIVIL AVIATION AMENDMENT BILL 2019

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Infrastructure, Transport and Regional
Development, the Hon Michael McCormack MP)

CIVIL AVIATION AMENDMENT BILL 2019

OUTLINE

The purpose of the Bill is to amend the *Civil Aviation Act 1988* (CA Act) to ensure the Civil Aviation Safety Authority (CASA), in developing and promulgating aviation safety standards, takes into consideration the impacts of costs and the relative risk environment of the different aviation industry sectors.

The Bill incorporates existing regulatory practice into legislation.

The Bill does not alter Section 9A(1) of the CA Act, which instructs that in exercising its powers and performing its functions, CASA must regard the safety of air navigation as the most important consideration.

In making this amendment, the Government reaffirms that safety remains the primary consideration for CASA in exercising its powers and performing its functions.

Consultation was undertaken with the General Aviation Advisory Group, the Australian Airports Association, the Board of Airline Representatives Australia, Qantas and Virgin between November and December 2018. No concerns were raised regarding the intent of the changes.

Financial impact statement

The Bill is not expected to have significant financial impact.

Statement of Compatibility with Human Rights

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

Civil Aviation Amendment Bill 2019

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 Bill

The main object of the Civil Aviation Act 1988 is to establish a regulatory framework for maintaining, enhancing and promoting the safety of civil aviation, with particular emphasis on preventing aviation accidents and incidents.

Section 9A(1) of the Act instructs that in, exercising its powers and performing its functions, the Civil Aviation Safety Authority (CASA) must regard the safety of air navigation as the most important consideration. This bill does not affect the primacy of safety.

The Bill incorporates existing regulatory practice and certain guiding principles from Australian Government's Statement of Expectation issued to the CASA Board on 21 March 2017 into legislation. Subject to section 9A(1), the Bill proposes that in developing and promulgating aviation safety standards, CASA must consider the economic and cost impact on individuals, businesses and the community of such standards; and take into account the differing risks associated with different industry sectors.

The Bill does not create any requirements on individuals or organisations.

Human rights implications

The Regulations engage the right to effective remedy in Article 2(3) of the International Covenant on Civil and Political Rights (ICCPR).

The right to an effective remedy

The introduction of this measure may create a new avenue of legal redress, which may consequently indirectly promote the right to an effective remedy, where a person's human rights have been violated through the creation of an aviation safety standard, which does not appropriately consider cost impacts or relative sector risk.

Conclusion

This Bill is compatible with human rights as it promotes the right to effective remedy.

**Minister for Infrastructure, Transport and Regional Development,
the Hon Michael McCormack MP**

NOTES ON CLAUSES

Clause 1: Short Title

1. Clause 1 is a formal provision that specifies that the Bill, when enacted, will be cited as the *Civil Aviation Amendment Act 2019*.

Clause 2: Commencement

2. Clause 2 specifies that the Act will commence on the day it receives royal assent.

Clause 3: Schedule

3. Clause 3 is the formal enabling provision for the Schedule to the Act, providing that the *Civil Aviation Act 1988* is amended as set out in the schedule.

SCHEDULE 1 - AMENDMENTS

Item 1- At the end of section 9A

This clause adds subsection (3) to Part 9A and will require CASA to take into consideration the economic and cost impact on individuals, businesses and the community and the differing risks associated with different industry sectors when developing and promulgating aviation safety standards.

Whilst the amendments will ensure that CASA considers the particular circumstances of different participants when developing and promulgating aviation safety standards, the safety of air navigation will remain the most important consideration for CASA in exercising its powers and performing its functions.