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Security procedures at airports

Introduction

6.1   The security procedures at regulated airports in Australia are underpinned by legislation and associated regulations. Aviation participants, however, are able to introduce more stringent procedures than those stipulated by the Government.

6.2   Until the passage of the *Aviation Transport Security Act 2004* in March 2004, aviation security was governed by Parts 3 and 3A of the *Air Navigation Act 1920* and its regulations.[1]

6.3   The new legislation repealed Parts 3 and 3A of the *Air Navigation Act 1920* and replaced them with specific aviation security legislation. The *Aviation Transport Security Act 2004* focuses on:

- transport security programs (Part 2);

- airport areas and zones (Part 3);

- other security measures (Part 4);

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1   Part 3 covered: the screening of passengers and baggage (Division 1); the reporting of unlawful interference with aviation (Division 2); aviation security programs (Division 3); airport security programs (Division 4); the security measures to be applied to the various categories of airports (Division 5) ; and miscellaneous provisions dealing with the removal of people and the surrendering of weapons to an aircraft operator (Division 6). Part 3A, added in December 2002, covered information gathering for aviation security purposes.

■ powers of officials (Part 5);

■ reporting aviation security incidents (Part 6);

■ information gathering (Part 7); and

■ enforcement (Part 8).

6.4   Although the new legislation has been enacted, its associated regulations have yet to be promulgated. The Committee has, however, received an April 2004 draft of the new regulations.

Legislated requirements

Airport security committees

6.5   As noted in Chapter 5, the *Air Navigation Act 1920* and its regulations stipulated the existence, function, membership and meeting frequency of ASCs. In submissions to the Committee both APAM and Qantas have called for the role of ASCs to be strengthened and their profile increased.[2]

6.6   Paradoxically, the provisions of the *Aviation Transport Security Act 2004* and its draft regulations no longer contain references to ASCs. The Committee has considered whether this represents a weakening of the role of ASCs.

6.7   While the new legislation makes no specific mention of ASCs, it requires aviation participants to have approved security programs. Part 2, Division 4, Section 16 (2), states that the security program should include:

■ how the participant will manage and co-ordinate aviation security activities within the participant's operation;

■ how the participant will co-ordinate the management of aviation security with other parties (including Commonwealth agencies) who have responsibilities for, or are connected with, aviation; …

■ the other industry participants who are covered by, or operating under, the program;

■ the consultation that was undertaken, in preparing the program, by the participant with the other aviation industry participants who are covered by, or operating under, the program.[3]

2   APAM, *Submission No. 19,* p. 131; Qantas, *Submission No. 17,* p. 108.
3   Subclauses (a), (b), (f), and (g), p. 19.

6.8   DoTaRS defended the lack of specific reference to ASCs in the legislation. It advised the Committee that it was currently 'preparing guidance material to assist airport operators to identify relevant risks and develop security programs.'[4] These guidelines would detail the:

> … requirement for airports to have an ASC, as well as their role and composition … unless these guidelines are adhered to, the Department will not approve an industry participant's program.

> … The fact that ASC requirements are no longer housed under principal legislation means that they can be more easily altered as the aviation environment changes. In this way, the Aviation Transport Security Bill 2003 provides greater scope for an increased ASC role than does the existing legislation.[5]

6.9   The Committee asked both APAM and Qantas whether they considered the non-inclusion of ASCs in the new legislation to represent a downgrading of the importance of ASCs.

6.10   APAM responded that it did not consider this to be the case. It added:

> The new legislation is intended to focus on risk based security outcomes rather than taking a prescriptive approach. … Melbourne Airport will certainly be including the requirement for an Airport Security committee within its Airport Security Program.[6]

6.11   Qantas on the other hand reiterated its view that despite DoTaRS' explanation, 'the formation, performance and objective of the [ASC] is best outlined in regulation rather than security programs.'[7]

Committee comment

6.12   The Committee accepts DoTaRS' argument that there needs to be flexibility to address a potentially rapidly changing aviation security environment. The removal of the requirement for ASCs from the *Aviation Transport Security Act 2004* is therefore supported. The issue is whether sufficient flexibility can be achieved by defining the requirements for ASCs in the Regulations or DoTaRS' transport security program guidelines.

6.13   Notwithstanding DoTaRS' statement that an airport operator's aviation security program will not be approved unless it includes details of an

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4   DoTaRS, *Submission No. 79,* p. 431.
5   DoTaRS, *Submission No. 79,* pp. 439.
6   APAM, *Submission No. 75,* p. 414.
7   Qantas, *Submission No. 77,* pp. 424–5.

ASC, guidelines are just that, **guidelines**—which depend on interpretation and rigor of application. On the other hand, regulations specify **requirements**.

6.14   In the Committee's view, if there is a need for rapid change, new regulations can be promulgated almost as quickly as new departmental guidelines. The advantage of including non-negotiable aspects of security programs in the regulations is that these requirements will be transparent and open to scrutiny by the Parliament and the people. Aviation security is currently a national issue of public interest so it is important that all Australians can be assured that security programs are of a high standard.

Recommendation 2

6.15   **The requirement for airport security committees and other essential requirements for aviation security programs should be defined in the Aviation Transport Security Regulations 2004**

Airport areas and security zones

Landside and airside areas and their security zones

6.16   The *Aviation Transport Security Act 2004* extends the areas of airports which come under security controls. The previous legislation focused on protecting aircraft, that is the airport apron; the new legislation extends this to cover the movement of people and important infrastructure.[8]

6.17   The new legislation no longer refers to 'sterile areas' within airports, but instead refers to landside and airside areas. Within these areas are security zones which:

> … will have tighter or more specialised access control arrangements … to reflect the particular risk to aviation security presented by that part of the airport. … This system is designed to promote flexibility within and across airports to focus on getting the right security measures operating in the right areas.[9]

6.18   The landside area would in general comprise the bulk of the airport terminal building and areas outside which are freely accessible to the public. Security zones would be declared within the landside area to ensure the security of:

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8   Dr Andy Turner, *Transcript,* 24 November 2003, p. 27.
9   *Aviation Transport Security Bill 2003, Explanatory Memorandum,* pp. 34, 35.

- control towers;

- fuel storage areas;

- general aviation areas;

- cargo and baggage handling facilities; navigational aids; and

- critical facilities and critical structures.[10]

6.19   The Explanatory Memorandum provided the following explanation:

> While landside areas have traditionally been considered freely accessible to the general public, provision has been made … to designate a landside security zone should the need arise. For example, in the future, it may be necessary to act quickly to restrict entry into the terminal building to include passengers and aviation industry participants only. The establishment of a landside security zone would allow this to occur without having to amend the Act.[11]

6.20   The new system has been criticised by BARA on two grounds:

- as departing from the internationally accepted definitions;[12] and

- because the existing sterile areas in the airport terminal would be reclassified as 'airside' thereby ignoring 'the actual workings of domestic terminals.'[13]

6.21   BARA suggested that several problems could arise from reclassifying sterile areas as airside. These included:

- it could be an offence for 'meeters and greeters' to enter the area;

- aviation security identification cards (ASICs) would have to be issued to all employees such as retail concession staff working in the area; and

- the inconsistency of meeters and greeters not having to have ASICs— BARA assumed they would continue to have access to the area.[14]

Committee comment

6.22   The Committee does not share BARA's concerns because:

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10   *Aviation Transport Security Bill 2003, Part 3, Division 2, Section 34.*
11   *Aviation Transport Security Bill 2003, Explanatory Memorandum*, p. 38.
12   Mr Warren Bennett, *Transcript,* 2 October 2003, p. 56.
13   BARA, *Submission No. 3,* p. 17.
14   BARA, *Submission No. 3,* p. 17.

- the issue appeared not to be of major concern to the airport operators participating in the inquiry;

- the new legislation allows different security measures to be applied to different security zones;[15]

- April 2004 Draft Regulation 3.36 (2) allows 'persons welcoming or farewelling intending passengers' to be in cleared zones without an ASIC provided they are 'generally supervised';[16] and

- the *Aviation Transport Security Act 2004* requires DoTaRS to 'have regard to the purpose of the area or zone' and take into account the views of the airport operator and existing physical and operational features of the airport.[17]

6.23   In addition, the Committee does not consider it inappropriate for DoTaRS to strive to become a world leader in redefining and expanding airport security terminology—provided that is, the definitions which are used are clear and understood by aviation participants.

Access to security zones

6.24   The April 2004 Draft Regulations specify three types of security passes which permit access to security zones:

- ASICs—issued to people 'who requires access, for the purposes of his or her employment, to a secure area';

- temporary ASICs—issued to ASIC holders when the ASIC is lost or stolen; and

- visitor identification cards—issued to people needing to visit a secure area who will be 'supervised by the holder of a valid ASIC while in the area.'[18]

Aviation security identification cards

6.25   ASICs are issued by airport operators and other industry participants authorised by DoTaRS. Proposed regulation 3.04 requires ASIC issuing bodies to have an approved ASIC program in place.

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15   April 2004 Draft Regulations 3.48–3.51, provide separate additional security measures for apron, airside cargo areas, airside fuel areas, and airside control tower zones.

16   This provision was absent from the September 2003 version of the Draft Regulations—BARA made its submission in July 2003.

17   Part 3, Division 2, Section 34, p. 30.

18   April 2004 Draft Regulations 3.15, 3.18, 3.31, pp. 21, 24, 32.

6.26   DoTaRS told the Committee that a scheme had been introduced on 1 November 2003 to reissue ASICs. Checks now included one for politically motivated violence as well as the police record check. ASICs had also been redesigned to make them harder to forge and were colour-coded to indicate areas which could be accessed.[19] DoTaRS emphasised that possession of a particular coloured ASIC did not provide automatic access to a security area:

> You have to have the identification card and a legitimate reason to be there. For example, you may have an ASIC which has the right colour and, if challenged, you could say that you have a legitimate reason for being there today. You may have the same ASIC tomorrow but you may not have a legitimate reason for being there. The colour of the card in and of itself is not conclusive proof that you can be there. [20]

6.27   DoTaRS also drew attention to the extension of the ASIC system to cover 'employees at all airports servicing passengers and freight aircraft by 1 July 2004.'[21]

Return of aviation security identification cards

6.28   The previous and proposed regulations require lost or stolen ASICs to be reported, and expired ASICs to be returned. The proposed regulations require the ASIC to be returned 'as soon as practicable, but within 7 days.' The penalties for the non-return of an expired ASIC, previously 5 penalty units, is to be increased to 10 penalty units.[22] (This is equivalent to $1 100 for an individual.[23])

6.29   Despite the regulations, the Committee has discovered that a significant percentage of expired ASICs have not been returned. DoTaRS told the Committee that an audit of Melbourne Airport, prompted by evidence to the Committee, revealed that 'around 15 or 16 per cent' of expired cards were not returned. DoTaRS commented that this was 'much higher than we would like it, to put it mildly.' (For active ASICs the figure was less than two per cent—a level which did not cause DoTaRS concern.)[24]

6.30   The Committee asked DoTaRS whether there should be incentives, such as a refundable bond, to promote the return of expired ASICs. DoTaRS responded:

19   Dr Andy Turner, *Transcript,* 24 November 2003, pp. 26–7, 28.
20   Dr Andy Turner, *Transcript,* 24 November 2003, p. 29.
21   DoTaRS, *Submission No. 79,* p. 456.
22   April 2004 Draft Regulations 3.41, p. 37.
23   DoTaRS, *Submission No. 79,* p. 436.
24   Dr Andy Turner, *Transcript,* 24 November 2003, p. 28.

> The proposed regulations are outcomes-based and focus on making the ASIC issuing body responsible for the cards that they issue. As the regulator, DOTARS must approve the programs of the ASIC issuing body, and as such it is required to be satisfied that they have sufficient mechanisms in place to ensure that cards are returned and accounted for. … the return of ASICs issue will be addressed in these programs. DOTARS will also be auditing against these approved programs.

> Discussions with industry resulted in a number of approaches to achieving this outcome, all of which can be accommodated in the ASIC programs. SACL, for instance, favours requiring a bond for an ASIC and the Department supports this. Qantas, however, does not favour a bond system, and will demonstrate their mechanism for ASIC accountability through conditions of employment.

Committee comment

6.31   Although in theory an expired ASICs can not be used, the high percentage of non-returned cards is of concern to the Committee. The reissue of ASICs and remodelling of ASIC programs will assist DoTaRS to respond to this issue. The Committee notes DoTaRS' advice that it will require ASIC programs to include mechanisms for ensuring the return of ASICs, and that the department will audit the performance of ASIC issuing bodies.

6.32   The Committee accepts that different ASIC issuing bodies should be able to determine the mechanisms to promote the return of expired ASICs which best suit their culture and operations. Notwithstanding this flexibility, if DoTaRS' audits reveal that the mechanism for the return of ASICs is inadequate, the issuing body should be required to change its procedures to address the problem.

Recommendation 3

6.33   **The Department of Transport and Regional Services should set a performance standard for the return of expired aviation security identification cards (ASICs) for each card issuing body. If this standard is not met, the department should review the mechanisms for ASIC return in the issuing body's ASIC program and require change if considered necessary.**

6.34   During the inquiry, the Committee received other evidence *in camera* concerning the issuing of security passes, visitor passes and other access issues at a particular airport. The Committee has advised the authorities of any concerns that have arisen.

6.35   DoTaRS told the Committee that it was responding to the issues that were raised.[25]

Trial of additional security procedures

6.36   The aviation security framework, underpinned by the legislation, permits aviation operators to introduce additional security measures. For example, Newcastle Airport Ltd (NAL) provided details of its trial of additional security measures for outbound domestic travellers. These measures require departing passengers to present photo identification together with their boarding passes at the screening point. Various provisions were also in place to enable adults and children without photo identification to transit the screening point. NAL estimated that the additional check took some 15 to 20 seconds if passengers were pre-warned of the requirements.[26]

6.37   NAL commented:

> NAL has devised this system to be simple, effective and easily implemented with the benefit of enhancing security at Newcastle Airport beyond that mandated by government regulations.
>
> The system has only minor implications for airline staff and only a small increase in workload applies to security screeners. Passengers have been overwhelmingly supportive of the initiative.[27]

6.38   DoTaRS advised the Committee that it had been monitoring the trial and had observed no adverse affect on mandated security outcomes. It noted that while people awaiting arrivals were unaffected, those farewelling departing passengers were not permitted into the sterile areas/departure lounge. DoTaRS added:

> Such restrictions as access to sterile areas were not adopted as part of the enhanced aviation security package announced in December 2003 and the Department has no proposals at this time to mandate

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25   Dr Andy Turner, *Transcript,* 24 November 2003, p. 28.

26   NAL, *Submission No. 16,* pp. 93–4.

27   NAL, *Submission No. 16,* p. 94.

such measures, although all aspects of aviation security are under constant review.[28]

Committee comment

6.39   Aviation participants should not consider mandated security measures to be all that is required of them. The aviation security framework permits participants to augment the prescribed requirements and participants should take advantage of this flexibility if they consider the additional security measure to be valuable.

6.40   Members of the Committee regularly travel to Newcastle Airport and agree that the additional measures are well received by the travelling public. The Committee commends NAL for its initiative.

Security procedures at non-regulated airports

6.41   Although the Government has extended the coverage of Australia's aviation security regime,[29] many non-regulated airports remain. These airports remained unregulated because they do not service regular passenger aircraft.

6.42   The security at such airports is therefore not mandated, but determined by the airport operator. For example, Bankstown Airport told the Committee that it had installed a 'complete person-proof fence around the aircraft operating areas with appropriate security key pad gates.' This was despite being identified as being a low risk airport by a range of Commonwealth and State agencies.[30]

6.43   Bankstown Airport told the Committee of problems in ensuring security:

> We have in the past had some difficulty in convincing some of the longer standing tenants of the need to maintain that security perimeter, and we had no regulatory power to enforce that. Unfortunately, because we are not security categorised, there is no method under the Airports Act or the Air Navigation Act to enforce that.[31]

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28   DoTaRS, *Submission No. 79,* p. 437.
29   DoTaRS, *Submission No. 79,* pp. 428, 454. A list of the airports to be included in the expanded regulatory system can be found at p. 460.
30   Mr Kimber Ellis, *Transcript,* 2 October 2003, p. 41.
31   Mr Kimber Ellis, *Transcript,* 2 October 2003, p. 41.

6.44   While the problem had been resolved, Bankstown airport recommended that there needs to be 'some form of power for airport owners or for the department of transport to enforce security measures where necessary.'[32]

6.45   DoTaRS responded to this issue with the advice that the matter could be 'addressed through contractual obligations and airport security program requirements.'[33]

Committee comment

6.46   Arising from discussions during its inspection tour, the Committee understands that where regional airports are controlled by the local council, problems arising from uncooperative tenants do not occur. This is because council by-laws and tenancy agreements would ensure compliance with any security requirements.

6.47   Airports such as Bankstown, however, are not controlled by local councils. The Committee considers that DoTaRS' advice on this matter to be unhelpful because the security programs of non-regulated airports are not backed up by legislation.

6.48   It is possible for airports such as Bankstown to join the regulatory regime, but this would be likely to involve significant costs.[34] Alternatively, there may be relief through the provisions of occupational health and safety legislation. This is because security and safety are closely allied and a security measure can often be viewed in terms of maintaining a safe environment.

6.49   More generally, the Committee notes that other recently announced aviation security measures will strengthen security at non-regulated airports. These are:

■ all pilots and trainee pilots will be subject to the same background checking process as used for issuing ASICs;

■ pilots and trainee pilots will be issued with photographic passes from 1 July 2004; and

■ general aviation aircraft will be required to implement anti-theft devices.[35]

6.50   The Committee recognises that these measures will place a financial burden on general aviation, but nevertheless supports this initiative.

32   Mr Kimber Ellis, *Transcript,* 2 October 2003, p. 41.
33   DoTaRS, *Submission No. 79,* p. 432.
34   Mr Andrew Tongue, *Transcript,* 4 September 2003, p. 28.
35   DoTaRS, *Submission No. 79,* p. 444.