

**Senate Rural and Regional Affairs and Transport Legislation
Committee**

**Public hearing into the Aviation Transport Security
Amendment (Security Controlled Airports) Regulations 2019**

Response to a question taken on notice at a public hearing

Canberra, 7 May 2020

Witness: Department of Home Affairs

Response received 11 May 2020

Question 1:

Proof Committee Hansard, p. 25

Senator SHELDON: First of all, we've just talked about the moving of the goalposts, on how we deal with what is a higher risk danger from a weight perspective, to 40 people. These are serious changes to airport security more generally as well as that matter in particular. After all, the role of the inspector is to investigate, as I understand it, a systematic failure or possible weakness of aviation or maritime transport security regulatory systems in order to strengthen transport security. Given there is a disallowance motion, and Senator Patrick just mentioned it, wouldn't it be prudent for the government to release the [Inspector of Transport Security's] report to provide the Australian people and the parliament with certainty about why these regulations are required?

Mr Feakes: The release of the report, as you said, would be a question for the government.

Senator PATRICK: A redacted report even?

Senator SHELDON: A redacted report? The other option is a private meeting of the committee.

Mr Feakes: I can take the question of a redacted report on notice.

Answer:

The report of the Inspector of Transport Security (ITS), entitled 'Review into Security at Australia's Security Regulated Airports' contains information which is protected under the Inspector of Transport Security Act 2006.

Protected information under the ITS Act includes information or document obtained or generated in the course of exercising powers or performing functions under the ITS Act. Release of the ITS report would have a substantial adverse effect on the proper and efficient conduct of the operations of the Department of Home Affairs. The Inspector also recommended that the report not be made public.

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Question 2:

Proof Committee Hansard, p. 25

Senator SHELDON: ...Is there a possibility of releasing the report via a private meeting of this committee, so we can properly assess why you made this decision of the change? It is a fundamental question about the security arrangements moving to 40 people. Are you able to have a private meeting with this committee?

Mr Feakes: It would need to be done in camera. We'd also need to—

Senator SHELDON: I'd be seeking for that to occur as well—

Mr Feakes: consult the Inspector of Transport Security. It's his report, commissioned by the government.

CHAIR: Senator Sheldon, do you want to allow that question to go through on notice or does the committee want to have an in camera session?

Senator SHELDON: Sorry, I didn't hear that.

CHAIR: I asked if you would like the department officials to take that question on notice or would you like to move to an in camera session?

Senator SHELDON: It seems that it's extremely important that we get this information—in camera would be one of the ways of doing it as would a private meeting of this committee—so if you can take it on notice. It does seem extraordinary that that was not considered prior to coming to this hearing, because that has been a regular request in the short period that I've been in the Senate. At various inquiries that's been asked. It is disappointing that we haven't got a clear answer to that right now. You can take it on notice.

Mr Feakes: I'm happy to take it on notice

Answer:

The report of the Inspector of Transport Security (ITS), entitled 'Review into Security at Australia's Security Regulated Airports' (the ITS report) contains information which is protected under the *Inspector of Transport Security Act 2006* (the ITS Act). Protected information under the ITS Act includes information or documents obtained or generated in the course of exercising powers or performing functions under the ITS Act.

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Question 3:

Proof Committee Hansard, p. 26

Senator SHELDON: I want to say further: you say the government is implementing the inspector's recommendations and I understand that's from your earlier statement. Are you implementing the recommendations from that report in full?

Mr Feakes: I would need to check the government's response to the ITS's review, so if I could take that on notice.

Senator SHELDON: You can't tell us whether the inspector's report recommendations are being implemented in full?

Mr Feakes: There were a number of recommendations. I'd need to take that on notice to avoid misleading the committee.

Senator SHELDON: I'm not asking you at this point how many have or haven't been; I'm asking—you're giving evidence to a Senate inquiry—are you able to tell us that all those recommendations in that report have been implemented or not?

Mr Pedler: If I may, I'm saying that the government accepted a number of the recommendations and noted a number of others.

Senator SHELDON: So we've accepted some and some have been noted, which haven't been implemented. Can you tell us which recommendations from the report aren't being implemented and why?

Mr Pedler: No, I don't have that information with me. I'd have to take that on notice.

Answer:

The report of the Inspector of Transport Security (ITS), entitled 'Review into Security at Australia's Security Regulated Airports' (the Report) contains information which is protected under the *Inspector of Transport Security Act 2006*. The Report will not be released in full, or in part.

The Government agreed to, or noted, all of the Inspector of Transport Security's recommendations. The Department is progressing all the recommendations agreed by Government.

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Question 4:

Proof Committee Hansard, p. 26

Senator SHELDON: The inspector specifically recommended a 40-seat threshold? Did he specifically recommend that number or did he recommend a range?

Mr Feakes: My understanding is that it was a 40-seat recommendation.

Senator SHELDON: Sorry, I missed the answer to that—from the inspector?

Mr Feakes: Yes.

Senator SHELDON: There was no proposition about a range being put in place?

Mr Feakes: I'm not aware of any, but I could take that on notice.

Senator SHELDON: Thank you.

Answer:

The seat threshold was a recommendation made by the Inspector of Transport Security. A seat range was not included in the recommendation.

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Question 5:

Proof Committee Hansard, p. 26

Senator SHELDON: This question was raised before, but I want to explore this a bit further about an indication of what seat thresholds are in place around the globe in similar countries to Australia [inaudible]. I want to be really clear. Have you looked at New Zealand, USA and Canada at all or haven't you? I understand you've answered this before. I just want to be really clear. Did you look at the New Zealand, USA or Canada systems for their seat thresholds?

Mr Feakes: I'm not aware that we did, but I can certainly take that on notice for you.
Senator SHELDON: If you can take that on notice.

Answer:

There are a range of models used around the world to determine the threshold for aviation security screening, including those based on aircraft weight, aircraft seats, or on airports regardless of aircraft type.

Some have thresholds higher than the current 20,000kg maximum takeoff weight, or proposed number of seats, while others have lower thresholds.

Each country determines its security settings based on a range of factors, local conditions and threats and risks to determine security settings relevant to their specific operating environments. In determining the proposed seat threshold, the

Government took account of recommendations in the 2017 Inspector for Transport Security's Review.

The Department engages with international partners including the United States, the United Kingdom, Canada, and New Zealand on a regular basis to discuss and manage aviation security related issues and to ensure approaches and assessments are aligned.

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Question 6:

Proof Committee Hansard, p. 27

Senator SHELDON: This goes back to a question that Senator Patrick asked before. I want to present it in a different way. You are assessing risk. You are minimising risk. How many planes going to an airport have fewer than 40 seats and how many have more than 40 seats? That is a matter for a risk assessment. You have not made that risk assessment or you don't know whether that risk assessment was made?

Mr Feakes: I'd need to take that on notice. Risk assessments take account of a number of factors like vulnerabilities on the ground and mitigations that are already in place. I'd need to take on notice the question of aircraft numbers above or below 40-seat capacity.

Senator SHELDON: That's separate to the answer you gave me before. I just want to make it clear: did you do a regional assessment on airports on both planes that have fewer than 40 seats and planes that have more than 40 seats? You're now saying that you have those figures available?

Mr Feakes: The details of risk assessments are not something that I can go into here, beyond saying that risk assessments for this or for other issues take account of a whole range of factors, including, as I said, mitigations that are currently in place at airports and vulnerabilities. Going to your question of how many aircraft have a capacity of 40 seats or more: I can't tell you that; I'd need to take that on notice.

Answer:

As part of its development of new Aviation Transport Security Amendment Regulations, the Department undertook an extensive risk assessment and industry consultation process. The content of those risk assessments, including sensitive security details, are not for public release.

The Inspector of Transport Security (ITS) is an independent appointment and not part of the Department of Home Affairs (The Department). The Department was not privy to the risk assessment methodology, or stakeholder consultation, undertaken by the ITS to inform his report, his consideration of a seat threshold or his recommendations.