Aviation Transport Security Amendment Regulations 2005 (No. 4)

Select Legislative Instrument 2005 No. 289

I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the Aviation Transport Security Act 2004.

Dated 1 December 2005

P. M. JEFFERY
Governor-General

By His Excellency’s Command

WARREN TRUSS
Minister for Transport and Regional Services
1 **Name of Regulations**

These Regulations are the *Aviation Transport Security Amendment Regulations 2005 (No. 4)*.

2 **Commencement**

These Regulations commence on the day after they are registered.

3 **Amendment of *Aviation Transport Security Regulations 2005***

Schedule 1 amends the *Aviation Transport Security Regulations 2005*.

**(Schedule 1 Amendments (regulation 3))**

[1] **Subregulation 3.03 (1)**

*after*

3.07,

*insert*

3.07A,
[2] After regulation 3.07

3.07A Persons attending baggage make-up areas
Despite regulation 3.03, a person need not display an ASIC in a secure area if:
(a) he or she is in the area for the purpose of identifying his or her baggage as part of baggage screening or reconciliation; and
(b) at all times while he or she is in the area, he or she is escorted by a person who is properly displaying a valid ASIC.

[3] Subregulation 3.08 (6), note


substitute

6.39 Default form of VICs

(1) Unless the Secretary approves otherwise, the form of a VIC is as follows:

(2) Unless the Secretary approves otherwise, a VIC must comply with the following requirements:
   (a) the dimensions of the VIC, and of each of its parts, must be as shown in the diagram in subregulation (1);
   (b) where the diagram indicates a particular colour, type-face or type size, that colour, type-face or type size must be used;
(c) the image of the holder (if shown on the card) must be a recent (that is, taken within 6 months before the issue of the VIC) photograph of the holder, showing the holder’s full face and his or her head and shoulders;

(d) the first name and surname (if shown on the card) must be those that the holder normally uses;

(e) the number must be unique among VICs issued by that issuing body;

(f) if the VIC is airport specific, the ICAO 3-letter code for the airport must appear where ‘APT SPECIFIC’ appears on the diagram in subregulation (1);

(g) if the VIC is issued by an agent of an issuing body, the issuing body identifier must be that of the issuing body that authorised the issuing agent to issue the VIC;

(h) the issuing body identifier must be either the issuing body’s logo or:

(i) if the body is an airport operator — the ICAO 3-letter code for the airport; or

(ii) if the body is an aircraft operator — the IATA 2-letter code, or the ICAO 3-letter code, for the operator; or

(iii) if the issuing body is the Australian Customs Service — the letters ‘ACS’; or

(iv) for any other issuing body — as directed by the Secretary;

however, the background to the identifier need not be any particular colour;

(i) the expiry date (if shown on the card) must be in the form

\[ \text{abbreviated month abbreviated year} \]

where \( \text{abbreviated month} \) means the first 3 letters of the name of the month of expiry and \( \text{abbreviated year} \) means the last 2 digits of the number of the year of expiry.

(3) A VIC that is issued to a law enforcement officer or an officer or employee of ASIO may bear the holder’s name on the back of the card (that is, the side other than the side on which the other particulars and things required by subregulation (2) appear).
(4) The Secretary may approve the issue of a VIC showing the holder’s name on the back if the Secretary is satisfied that having the holder’s name on the front would put the holder’s personal security at risk.

(5) Unless the Secretary has approved otherwise, an issuing body or issuing body’s agent must not issue a VIC that does not comply with subregulations (1) to (4).

Penalty: 50 penalty units.

(6) An offence under subregulation (5) is an offence of strict liability.

Note For strict liability, see section 6.1 of the Criminal Code.

(7) The discretionary information area at the bottom of a VIC may be used by the issuing body or agent for its own purposes.

6.39A Secretary’s approval of the issue of VICS in other forms

(1) An issuing body may apply to the Secretary for approval to vary its ASIC program to provide for the issue of VICS in a form other than that set out in regulation 6.39.

(2) The application must be in writing and must set out:

(a) details of the proposed form of VICS to be issued; and
(b) the reasons for the proposed differences; and
(c) if the issuing body’s ASIC program provides for VICS to be issued by an agent, whether VICS issued by its agent or some or all of its agents will also be in the proposed form; and
(d) if only some of its agents will issue VICS in the proposed form, the names of those agents.

(3) If the Secretary needs more information to deal with an application, the Secretary may ask the issuing body, in writing, to provide the information.
(4) Within 30 days after receiving an application (or, if the Secretary has asked for information under subregulation (3), after receiving the information), the Secretary:

(a) must approve, or refuse to approve, in writing, the issue of VICs in the proposed form; and

(b) must notify the body in writing of the decision and, if the decision is a refusal, the reasons for the decision; and

(c) if only some of the issuing body’s agents will issue VICs in the proposed form, must specify those agents in the notice of the decision.

Note Section 27A of the Administrative Appeals Tribunal Act 1975 requires a person who makes a reviewable decision to give a person whose interests are affected by the decision notice of the making of the decision and of the person’s right to have the decision reviewed.

(5) If the Secretary has not approved, or refused to approve, the issue of VICs in the proposed form within the period allowed by subregulation (4), the Secretary is taken to have refused to approve the issue of VICs in the proposed form.

(6) Before approving or refusing to approve the issue of VICs in the proposed form, the Secretary must consider:

(a) the justification offered for the difference; and

(b) the likely effect of the difference on aviation security in Australia generally; and

(c) the likely effect of the difference on aviation security at the airport or airports concerned; and

(d) anything else relevant that the Secretary knows about.

(7) The Secretary may give an approval subject to a condition, but must notify the issuing body in writing what the condition is.

(8) If the Secretary has approved the issue of VICs in a form other than that set out in regulation 6.39, the issuing body concerned, or an agent named in the notice of the approval, must not issue a VIC:

(a) that does not comply with the approval; or

(b) in contravention of any condition of the approval.

Penalty: 50 penalty units.
(9) An offence under subregulation (8) is an offence of strict liability.

Note For strict liability, see section 6.1 of the Criminal Code.

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the Legislative Instruments Act 2003. See www.frli.gov.au.