Aviation Transport Security Amendment Regulations 2007 (No. 4)'

Select Legislative Instrument 2007 No. 317

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 26 September 2007

P. M. JEFFERY
Governor-General

By His Excellency’s Command

MARK ANTHONY JAMES VAILE
Minister for Transport and Regional Services
1 Name of Regulations
These Regulations are the Aviation Transport Security Amendment Regulations 2007 (No. 4).

2 Commencement
These Regulations commence on 30 September 2007.

3 Amendment of Aviation Transport Security Regulations 2005
Schedule 1 amends the Aviation Transport Security Regulations 2005.

Schedule 1 Amendments
(regulation 3)

[1] Regulation 1.03, after definition of ASIC
insert
Australia means the Commonwealth of Australia and, when used in a geographical sense, includes:
(a) the Territory of Christmas Island; and
(b) the Territory of Cocos (Keeling) Island; and
(c) the Territory of Norfolk Island.

[2] Regulation 1.03, after definition of domestic air service
insert
exempt country means New Zealand or the United States of America.
exempt duty free item, in relation to a passenger who will arrive in Australia on an aircraft operating an inbound international air service, means a duty free item that:

(a) is collected by the passenger at the boarding gate before boarding the aircraft for departure from the last port of call before reaching Australia; and

(b) is in a sealed plastic bag with proof of purchase by the passenger affixed to the bag, or enclosed in the bag, so that proof of purchase is visible.

exempt LAG item has the meaning given in regulation 4.22B.

[3] Regulation 1.03, after definition of jet

insert

LAG product has the meaning given in regulation 4.22C.

LAGs bag means a transparent plastic bag that:

(a) may be sealed and unsealed using a resealing mechanism that is a part of the bag; and

(b) has an area enclosed by the sealing mechanism that has, when the bag is laid flat, a perimeter of 80 cm or less.

LAGs cleared area means an area of a security controlled airport that is entered through a LAGs screening point.

LAGs container means a container that has a capacity of 100 ml or less.

LAGs screening point means a screening point at a security controlled airport at which passengers travelling on an international air service (including any domestic sectors of such a service) are screened for LAG products.

[4] Regulation 1.03, after definition of Migration Act

insert

non-exempt country means a country that is not an exempt country.

insert

Note See Subdivision 4.1.1A for the requirements for screening for the detection of LAG products.

[6] After Subdivision 4.1.1

insert

Subdivision 4.1.1A Liquid, aerosol and gel products

4.22A Definitions

In this Subdivision:

*exempt person* means:

(a) a person who may pass through a screening point without being screened under regulation 4.10; or

(b) an aviation security inspector, or a representative of the screening authority, who is lawfully testing the screening system.

*international air service* does not include a closed charter service.

4.22B Meaning of exempt LAG item

A LAG product (including a duty free item or an item supplied by the aircraft operator) is an *exempt LAG item*, if:

(a) the LAG product is in the possession of a passenger travelling on an aircraft that is operating an inbound international air service to Australia from an airport in an exempt country; and

(b) the passenger passed through a screening point for international passengers at the airport in the exempt country before boarding the aircraft; and

(c) the passenger obtained the LAG product after he or she passed through the screening point and before he or she boarded the aircraft; and
(d) the passenger did not disembark and reboard the aircraft in a non-exempt country during the international air service, unless the passenger did so as the result of an unscheduled stop.

4.22C **Meaning of LAG product**

(1) Subject to subregulations (2) to (5) a *LAG product* means any of the following things:

(a) a substance that is a liquid when at room temperature;

(b) an aerosol;

(c) a gel;

(d) a cream;

(e) a paste.

(2) The following things, in relation to a person travelling on an international air service, are not *LAG products*:

(a) if the person is an infant or toddler — a baby product that is in a quantity that is reasonable having regard to the duration of the flight;

(b) a medical product for the person;

(c) a therapeutic product for the person in a quantity that is reasonable having regard to the duration of the flight;

(d) the contents of a bag being used to manage a medical condition of the person (such as a colostomy bag);

(e) biological tissues, blood products, blood cultures, samples and substances used for medical research or reproductive health.

(3) A thing mentioned in subregulation (1) that is taken through a LAGs screening point by a person is not a LAG product if:

(a) the thing is to be used by the person in the course of, or for the purposes of, carrying on a business in a landside security zone; and

(b) the thing is not for the personal use of the person.
(4) A thing mentioned in subregulation (1) that is taken through a LAGs screening point is not a LAG product if:
   (a) the thing is taken by a person specified in an item in column 2 of the table in regulation 4.62; and
   (b) the thing is a tool of trade for that person.

(5) A thing mentioned in subregulation (1) that is taken through a LAGs screening point is taken not to be a LAG product if the thing is the subject of a notice by the Secretary under regulation 4.22Q.

(6) In this regulation:
   baby product means:
   (a) a product used in the care of an infant or toddler; or
   (b) food for an infant or toddler, including infant formula.
   medical product means a product supplied on prescription to a person.
   therapeutic product means a product, other than a medical product, that is used for the treatment or management of a person’s medical condition.

   Examples
   • Special dietary products
   • Contact lens solution.

4.22D Offence — not establishing LAGs screening point

For paragraph 44 (2) (a) of the Act, a screening authority for a security controlled airport, or an area of a security controlled airport, commits an offence if:
   (a) an international air service operates from the airport, or area of the airport, as the case may be; and
   (b) the screening authority does not establish a LAGs screening point at the airport, or area of the airport.

Penalty: 50 penalty units.
4.22E Offence — operator of inbound flight from exempt country

(1) For paragraph 44 (2) (a) of the Act, the operator of an aircraft that is operating an inbound international air service commits an offence if:

(a) the aircraft is flying to Australia from an airport in an exempt country; and

(b) the aircraft operator does not put in place appropriate procedures to ensure that passengers on the aircraft do not have a LAG product in their possession, at the relevant times, unless the LAG product is:

(i) in a LAGs container that is in a sealed LAGs bag; or

(ii) an exempt LAG item; or

(iii) a LAG product that was supplied to the passenger by the aircraft operator during the flight.

Penalty: 200 penalty units.

(2) In this regulation:

passenger does not include:

(a) a person who is exempt from screening requirements under regulation 4.12; or

(b) a member of the crew of the aircraft.

relevant times, in relation to an aircraft, means:

(a) the time the aircraft departs from its last port of call before it reaches Australia; and

(b) the time the aircraft arrives in Australia.

4.22F Offence — operator of inbound flight from non-exempt country

(1) For paragraph 44 (2) (a) of the Act, the operator of an aircraft that is operating an inbound international air service commits an offence if:

(a) the aircraft is flying to Australia from an airport in a non-exempt country; and
(b) the aircraft operator does not put in place appropriate procedures to ensure that passengers on the aircraft do not have a LAG product in their possession, during the relevant times, unless the LAG product is:

(i) in a LAGs container that is in a sealed LAGs bag; or
(ii) an exempt duty free item; or
(iii) a LAG product that was supplied to the passenger by the aircraft operator during the flight.

Penalty: 200 penalty units.

(2) In this regulation:

passenger does not include:

(a) a person who is exempt from screening requirements under regulation 4.12; or
(b) a member of the crew of the aircraft.

relevant times, in relation to an aircraft, means:

(a) the time the aircraft departs from its last port of call before it reaches Australia; and
(b) the time the aircraft arrives in Australia.

4.22G Offence — LAG product passing through LAGs screening point

(1) For paragraph 44 (2) (aa) of the Act, a person commits an offence if:

(a) the person passes through a LAGs screening point; and
(b) the person is not an exempt person; and
(c) the person has a LAG product in his or her possession; and
(d) the LAG product is not in a LAGs container that is in a sealed LAGs bag.

Penalty: 20 penalty units.

(2) Subregulation (1) is an offence of strict liability.
4.22H Offence — more than 1 LAGs bag

(1) For paragraph 44 (2) (aa) of the Act, a person commits an offence if:
   (a) the person passes through a LAGs screening point; and
   (b) the person is not an exempt person; and
   (c) the person has, in his or her possession, more than 1 sealed LAGs bag that contains LAG products that are in LAGs containers, unless the second or subsequent bags are care bags.

   Penalty:  20 penalty units.

(2) Subregulation (1) is an offence of strict liability.

(3) In this regulation:

   care bag, in relation to a person, means 1 LAGs bag containing LAG products that are in LAGs containers for use by, or for the care of, an infirm person or child who the person is accompanying through a LAGs screening point.

4.22I Things to be detected by screening

(1) For paragraph 44 (2) (b) of the Act, LAG products are things that are to be detected at a LAGs screening point.

   Note Regulation 4.04 sets out the other things that are to be detected by screening under these Regulations.

(2) To avoid doubt, subregulation (1) does not require a screening authority to detect LAG products if it is not technically possible to do so.

   Note 1 Regulation 4.08 sets out when a person must be cleared before boarding an aircraft.

   Note 2 Regulation 4.15 deals with when a person’s carry-on baggage must be cleared.

4.22J Dealing with LAG product surrendered during screening

(1) For paragraph 44 (2) (c) of the Act, a screening authority must put in place procedures for the handling and destruction of LAG products surrendered as a result of screening.
(2) The procedures that the screening authority puts in place for the handling and destruction of LAG products surrendered as a result of screening must be in accordance with any applicable law in the place where screening occurs.

(3) A LAG product surrendered during screening must be handled and destroyed in accordance with the procedures put in place under this regulation.

Penalty: 50 penalty units.

**4.22K Offence — preventing destruction of surrendered LAG products**

For paragraph 44 (2) (c) of the Act, a person commits an offence if:

(a) a screening authority has put in place procedures for the destruction of LAG products; and

(b) a LAG product has been surrendered to the screening authority as a result of screening; and

(c) the person prevents the destruction of the LAG product.

Penalty: 20 penalty units.

**4.22L Offence — not screening passengers before boarding**

For paragraph 44 (2) (d) of the Act, a screening authority for a security controlled airport, or an area of a security controlled airport, commits an offence if:

(a) an international air service operates from the airport, or area of the airport, as the case may be; and

(b) the screening authority has established a LAGs screening point at the airport, or area of the airport; and

(c) the screening authority does not put in place reasonable measures to ensure that persons who pass through the LAGs screening point, to enter a LAGs cleared area, are screened at the screening point.

Penalty: 50 penalty units.
4.22M Offence — not preventing entry to LAGs cleared area

(1) For paragraph 44 (2) (d) of the Act, a screening authority for a security controlled airport, or an area of a security controlled airport, commits an offence if:

(a) an international air service operates from the airport, or area of the airport, as the case may be; and

(b) the screening authority does not put in place reasonable measures to ensure that a person does not enter a LAGs cleared area without being screened, unless the person:

(i) is an exempt person; or

(ii) if the airport is an airport in which the sterile area is the same as the LAGs cleared area — is a person permitted under regulation 4.11 to enter a sterile area other than through a LAGs screening point; or

(iii) has entered the sterile area from an airside area of the airport after disembarking from a LAGs screened air service.

Penalty: 50 penalty units.

(2) In this regulation:

LAGs screened air service means an air service operated by an aircraft that:

(a) departed from a place inside Australia; and

(b) only carried passengers that were screened for LAG products before boarding the service.

4.22N Offence — not screening for LAG products

For paragraph 44 (2) (d) of the Act, a screening authority for a security controlled airport, or an area of a security controlled airport, commits an offence if:

(a) an international air service operates from the airport, or area of the airport, as the case may be; and

(b) the screening authority has established a LAGs screening point at the airport, or area of the airport; and
(c) the screening authority does not put in place appropriate procedures to ensure that a person does not carry a LAG product through the LAGs screening point unless:
   (i) the person is an exempt person; or
   (ii) the LAG product is in a LAGs container that is in a sealed LAGs bag.

Penalty: 50 penalty units.

4.22O Offence — not screening for more than 1 LAGs bag

(1) For paragraph 44 (2) (d) of the Act, a screening authority for a security controlled airport, or an area of a security controlled airport, commits an offence if:
   (a) an international air service operates from the airport, or area of the airport, as the case may be; and
   (b) the screening authority has established a LAGs screening point at the airport, or area of the airport; and
   (c) the screening authority does not put in place appropriate procedures to ensure that a person does not carry more than 1 sealed LAGs bag that contains LAG products in LAGs containers through the LAGs screening point, unless the second or subsequent bags are care bags.

Penalty: 20 penalty units.

(2) Subregulation (1) is an offence of strict liability.

(3) In this regulation:
   care bag, in relation to a person, means 1 LAGs bag containing LAG products that are in LAGs containers for use by, or for the care of, an infirm person or child who the person is accompanying through a LAGs screening point.

4.22P Offence — sign at LAGs screening point

For paragraph 44 (2) (k) of the Act, a screening authority for a security controlled airport, or an area of a security controlled airport, commits an offence if:
   (a) an international air service operates from the airport, or area of the airport, as the case may be; and
(b) the person has established a LAGs screening point at the airport, or area of the airport; and
(c) the person does not display, at the LAGs screening point, a sign that is:
   (i) 0.4 m wide and 0.3 m high; and
   (ii) in the following form:

<table>
<thead>
<tr>
<th>Commonwealth of Australia</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>WARNING!</strong></td>
</tr>
<tr>
<td>International screening point in operation.</td>
</tr>
<tr>
<td>Liquids, aerosols and gels other than those prescribed by, or under, the Regulations must not be taken past this point without authority.</td>
</tr>
<tr>
<td>Maximum penalty exceeds $2000.00</td>
</tr>
</tbody>
</table>

Penalty: 50 penalty units.

**4.22Q Notices**

(1) For subsection 44 (3) of the Act, the Secretary may by written notice provide that a thing, or a class of things, that would, except for this regulation be a LAG product, is taken not to be a LAG product.

(2) For subsection 44 (3) of the Act, the Secretary may by written notice provide that a thing or a class of things, that is not a LAG product under these Regulations, is taken to be a LAG product.

(3) A notice under subregulation (1) or (2) may apply to a thing, or to a class of things, that is carried by a particular person, or class of persons, or that is taken on to a particular flight.

**Note**