



Aviation Transport Security Amendment Regulations 2009 (No. 5)¹

Select Legislative Instrument 2009 No. 377

I, QUENTIN BRYCE, 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 14 December 2009

QUENTIN BRYCE
Governor-General

By Her Excellency's Command

ANTHONY ALBANESE
Minister for Infrastructure, Transport, Regional Development
and Local Government

1 Name of Regulations

These Regulations are the *Aviation Transport Security Amendment Regulations 2009 (No. 5)*.

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] Regulation 1.03, after definition of *air security officer*

insert

air traffic control has the same meaning as in the *Civil Aviation Regulations 1988*.

[2] Subparagraph 2.38 (a) (ii)

after

flight

insert

(other than a passenger who does not re-board, or remain on board, a flight following diversion of the flight from its scheduled destination to an alternative destination in a circumstance specified in regulation 4.21A)

[3] Paragraph 4.21 (4) (c)

omit

connect

insert

match

[4] Paragraph 4.21 (7) (b)

omit

departed.

insert

departed; or

[5] After paragraph 4.21 (7) (b)

insert

- (c) a passenger who does not re-board, or remain on board, the aircraft following diversion of the flight from its scheduled destination to an alternative destination in a circumstance specified in regulation 4.21A.

[6] After regulation 4.21

insert

4.21A Circumstances relating to diversion of flights

- (1) For subparagraph 2.38 (a) (ii) and paragraph 4.21 (7) (c), each of the following paragraphs specifies a circumstance for the diversion of a flight of an aircraft from its scheduled destination to an alternative destination:
- (a) the pilot in command of the aircraft was required to divert the aircraft because of:
- (i) the meteorological conditions at the scheduled destination or on the way to the scheduled destination; or

- (ii) an emergency or other event at the scheduled destination that made the scheduled destination unsuitable for landing of the aircraft; or
 - (iii) curfew restrictions at the scheduled destination; or
 - (iv) concerns about the aircraft's remaining fuel supply; or
 - (v) a malfunction of the aircraft, or aircraft equipment; or
 - (vi) an instruction or direction given by air traffic control, CASA or the Secretary;
- (b) all of the following apply:
- (i) the pilot in command of the aircraft diverted the aircraft to the alternative destination for a reason not mentioned in paragraph (a);
 - (ii) an item of checked baggage on board the aircraft is matched to a passenger who does not re-board, or remain on board, the aircraft following the diversion;
 - (iii) before the aircraft departs from the alternative destination, the Secretary gives an approval for the item of checked baggage to remain on board the aircraft when it departs from the alternative destination;
- (c) all of the following apply:
- (i) the pilot in command of the aircraft diverted the aircraft to the alternative destination for a reason not mentioned in paragraph (a);
 - (ii) an item of checked baggage on board the aircraft is matched to a passenger who does not re-board, or remain on board, the aircraft following the diversion;
 - (iii) the alternative destination does not have appropriate equipment for unloading that kind of aircraft.
- (2) The Secretary may give an approval under subparagraph (1) (b) (iii) if the Secretary is satisfied that the approval will not adversely affect the safety or security of the aircraft.

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- (3) If an approval under subparagraph (1) (b) (iii) is not given in writing, the Secretary must make a written record of the approval as soon as practicable after giving the approval.
- (4) The record must include:
- (a) the date and time the approval was given; and
 - (b) the reasons for giving the approval.

Note

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