



Air Navigation Regulations 1947

Statutory Rules 1947 No. 112 as amended

made under the

Air Navigation Act 1920

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taking into account amendments up to SR 2003 No. 97

This document has been split into two volumes
Volume 1 contains regulations 1 to 150, and
Volume 2 contains Schedules 1 and 2, and the Notes
Each volume has its own Table of Contents

**[Note: Regulation 9 in Table A ceases to have effect either at the end
of 31 December 2007 or at a time the Security Council so declares]**

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Part 1 Preliminary

1 Name of Regulations [see Note 1]

These Regulations are the *Air Navigation Regulations 1947*.

2 Commencement

These Regulations shall come into operation on the tenth day of August, 1947.

3 Definitions for regulations

(1) In these Regulations, unless the contrary intention appears:

agreement means the Air Transit Agreement or another agreement or arrangement referred to in subsection 12 (2) of the Act.

airline means the operator of a regular public transport service.

approved means approved by the Secretary.

approved timetable means:

- (a) a timetable approved under paragraph 21 (1) (a) or (b); or
- (b) if a timetable referred to in paragraph (a) is varied under subregulation 22 (1) or (3) — the timetable as varied.

authorized means authorized by the Secretary or by a person, or a person included in a class of persons, appointed by the Secretary to give the authority concerned.

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authorized person, for the purposes of a provision in which that expression occurs, means:

- (a) a person appointed under regulation 7 to be an authorized person for the purposes of that first-mentioned provision; or
- (b) a person included in a class of persons appointed under regulation 7 to be authorized persons for the purposes of that first-mentioned provision.

cargo means property carried on board an aircraft other than stores, baggage or carry-on luggage.

carry-on luggage means an article or possession of an aircraft passenger or crew member that is intended to be accessible to the passenger or crew member while the aircraft is in flight.

Commonwealth aircraft means an aircraft, other than a military aircraft, that is in the possession or under the control of the Commonwealth or an authority of the Commonwealth or is being used wholly or principally for a purpose of the Commonwealth.

constable has the same meaning as in the *Crimes Act 1914*.

Director means the holder, from time to time, of the office of Director of Air Safety Investigation in the Department.

foreign aircraft means an aircraft registered:

- (a) in a Contracting State or in a foreign country other than a Contracting State; or
- (b) under a joint registration plan or an international registration plan.

foreign country, in relation to an airline, means any country:

- (a) in which the airline is incorporated; or
- (b) in which the airline has its place of business; or
- (c) in which any aircraft belonging to the airline is registered; or
- (d) the government of which directly or indirectly controls the airline; or
- (e) of which the airline is a designated airline for the purposes of the relevant agreement.

grant, in relation to a licence, means grant of the licence, either by way of initial issue or by renewal from time to time.

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holder, in relation to a licence granted or issued under these Regulations, means a person to whom the licence has been granted or issued.

infringement notice means a notice issued under regulation 133.

infringement notice offence means an offence that is declared by a provision of these Regulations to be an infringement notice offence.

licensed means licensed under these Regulations.

licensed international airline means an airline holding a licence referred to in section 12 of the Act.

private aircraft means an aircraft employed in private operations.

private operation means an operation of an aircraft that is not:

- (a) a regular public transport operation; or
- (b) a charter operation.

public transport service means a service for the carriage of persons or cargo for hire or reward.

registered means registered under the *Civil Aviation Regulations 1988*.

relevant agreement, in relation to a particular scheduled international air service, means an agreement that governs the service.

scheduled international air service means a series of flights that:

- (a) passes through the air-space over the territory of more than one country; and
- (b) is performed by aircraft for the transport of passengers, mail or cargo for remuneration; and
- (c) is operated so as to serve traffic between the same 2 or more points:
 - (i) according to a published timetable; or
 - (ii) with flights so regular or so frequent that they constitute a recognisable systematic series;

other than a series of flights, between 2 or more points on Australian territory, that passes through the air-space of another country without stopping in that country.

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State includes the Northern Territory.

stores, in relation to an aircraft, means items properly for use, sale or consumption on board the aircraft in flight.

tariff means:

- (a) the price for the carriage of passengers, baggage or cargo, other than mail; and
- (b) the conditions governing the availability of the price.

Territory does not include the Northern Territory.

the Act means the *Air Navigation Act 1920*.

the Convention means the Chicago Convention, as amended by the Protocols referred to in subsection 3A (2) of the Act and includes any Annex to the Convention relating to international standards and recommended practices (being an Annex adopted in accordance with the Convention) and the Air Transit Agreement.

the Council means the Council of the International Civil Aviation Organization.

timetable, in relation to a scheduled international air service, includes:

- (a) the route of the service; and
- (b) the times of departure from, and arrival at, each terminal and intermediate stopping place on the route; and
- (c) the frequency of the service; and
- (d) the capacity on all or part of the route of the service concerned; and
- (e) the type of aircraft operating on all or part of the route of the service concerned.

- (2) Unless the contrary intention appears, any reference in these Regulations to the classification of a particular aircraft shall be read as a reference to the classification of the aircraft, according to function, as a private aircraft, charter aircraft or regular public transport aircraft, as the case may be, and any reference to a division of aircraft into classes shall have a corresponding meaning.
- (3) Any reference in these Regulations to the owner of an aircraft, shall, where under a contract of hire or charter agreement the

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control, maintenance and operation of the aircraft is vested in the hirer, be read as a reference to the hirer.

- (4) For the purposes of these Regulations, any reference to endorsement in a licence or other document shall be read as a reference to endorsement on the document, and matter shall be deemed to be endorsed on a document if it is written on any part of the document.

4 References in documents to renumbered provisions

A reference in a document (including an identification card) to a provision of these Regulations by the number it had immediately before 29 March 1999 is a reference to the provision by its number after renumbering.

5 What is a weapon?

For the purposes of paragraph (b) of the definition of *weapon* in subsection 3 (1) of the Act, except for the purposes of screening and clearing items of checked baggage, a thing described in column 2 of an item in Schedule 1 is a weapon.

6 Application of Regulations [see Note 2]

- (1) Subject to these Regulations, these Regulations apply to and in relation to:
- (a) international air navigation within Australian territory;
 - (b) air navigation in relation to trade and commerce with other countries and among the States;
 - (c) air navigation within the Territories;
 - (d) air navigation to or from the Territories;
 - (e) air navigation in which a Commonwealth aircraft is engaged;
 - (f) on and after such date as is fixed by the Minister for the purposes of this paragraph by notice in the *Gazette*, all air navigation within Australian territory of a kind not specified in paragraph (a), (b), (c), (d) or (e) of this subregulation.

Regulation 6

- (2) Except where otherwise prescribed, the provisions of these Regulations shall apply to and in relation to Australian aircraft engaged in air navigation outside Australian territory.
- (3) Subject to these Regulations, these Regulations do not apply to or in relation to State aircraft or to an airport under the control of any part of the Defence Force.

Part 3 Airports and facilities and services

9 Establishment of airports and air route and airway facilities

- (1) The Minister may:
 - (a) establish, provide, maintain and operate airports; and
 - (b) alter, abolish, remove or add to any airport so established or provided.
- (2) Airports established or provided in pursuance of this regulation shall be under the control and management of the Secretary who may, subject to these Regulations, determine the conditions of the use thereof.
- (3) The Minister may determine whether any airport established in pursuance of this regulation shall be open to public use.

10 Use of airports etc

The Secretary may, in relation to any airport:

- (a) established or provided under this Part;
- (b) licensed or authorized under the *Civil Aviation Regulations 1988*; or
- (c) to which an arrangement under section 20 of the *Civil Aviation Act 1988* applies;

issue such directions as the Secretary considers necessary to ensure compliance with the standards, recommended practices and procedures adopted from time to time in pursuance of the Convention.

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11 Protection of certain rights

Nothing in these Regulations shall be construed as conferring on any aircraft, as against the owner of any land or any person interested therein, the right to alight on that land, or as prejudicing the rights or remedies of any person in respect of any injury to persons or property caused by the aircraft.

Part 4 Statistical returns

12 Statistical returns

- (1) The holder of the certificate of registration of an aircraft under the *Civil Aviation Regulations 1988*, or the operator of an aircraft, must give to the Secretary, or to an authorised officer, statistical returns or other information that the Secretary requests:
 - (a) relating to:
 - (i) the aircraft; or
 - (ii) passengers or goods carried on the aircraft; or
 - (iii) work performed using the aircraft; or
 - (iv) flights made by the aircraft; and
 - (b) that the holder or the operator:
 - (i) has in his, her or its possession; or
 - (ii) is reasonably able to obtain.
- (2) An airline, or the owner of an aircraft engaged in a public transport service, which uses any airport maintained and operated by the Minister in pursuance of regulation 9 shall furnish to the Secretary, or to an authorized officer, such traffic reports, cost statistics and financial statements, showing, amongst other things, all receipts and the sources thereof as the Secretary from time to time requires.
- (3) The Secretary or any other person shall not divulge or communicate any information furnished under subregulation (1) or (2) that discloses particulars of the business or financial dealings or position of any person or organization whose name or title is stated in or can be inferred from the information divulged or communicated, except:
 - (a) in the course of duty to another person performing duties under these Regulations;
 - (b) with the consent of the person who has given the Secretary the information; or
 - (c) under subregulation (4).

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- (4) In accordance with Article 67 of the Convention, the Secretary shall transmit to the Council of the International Civil Aviation Organization such of the particulars supplied in accordance with subregulation (2) as relate to the international operations of Australian airlines engaged in such operations.
- (5) The operator of an aircraft must give to the Secretary, or to an authorised officer, the statistical returns or other information that:
- (a) the Secretary requests about items detected during screening; and
 - (b) the operator:
 - (i) has in his, her or its possession; or
 - (ii) is reasonably able to obtain.
- (6) An airport operator must give to the Secretary, or to an authorised officer, the statistical returns or other information that:
- (a) the Secretary requests about aviation security at the airport; and
 - (b) the operator:
 - (i) has in his, her or its possession; or
 - (ii) is reasonably able to obtain.
- (7) A person who is required to give information under this regulation to the Secretary or an authorised officer must not give false or misleading information to the Secretary or authorised officer for the purposes of the provision.

Penalty: 10 penalty units.

- (8) A person who is required to give information under this regulation to the Secretary or an authorised officer must give the information:
- (a) within the period set out in the request for the information; or
 - (b) if a period is not set out in the request— within a reasonable period after the person receives the request.

Penalty for a contravention of this subregulation: 1 penalty unit.

Part 5 Conditions of flight

Division 1 General

13 Ticket to be produced on demand

A passenger on an aircraft arriving in, or departing from, Australian territory shall, on demand by an authorized person, produce his ticket for inspection by the authorized person.

14 Carriage and use of photographic apparatus

- (1) The Minister may, by order published in the *Gazette*, prohibit the carriage or use of cameras or other photographic apparatus or material in aircraft, or in aircraft included in a specified class of aircraft, while flying over Australian territory or an area of Australian territory specified by reference to its boundaries:
 - (a) either absolutely; or
 - (b) unless the camera or other photographic apparatus or material is so carried that passengers do not have access to it during flight.
- (2) A person shall not have in his possession, carry or use a camera or other photographic apparatus or material in contravention of an order issued under subregulation (1).
- (3) The pilot in command of an aircraft shall ensure that a camera or other photographic apparatus or material is not carried or used in contravention of an order issued under subregulation (1).

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Part 6 Air service operations

Division 1 Licensing of operations

15 International airline licences

- (1) A person may apply to the Secretary for the issue of an international airline licence.
- (2) An applicant for a licence shall furnish such information as the Secretary reasonably requires for a proper consideration of the application.
- (3) Subject to the Act, the Secretary may issue an international airline licence to a person in relation to the operation of a specified scheduled international air service and may include in the licence such terms as the Secretary thinks fit.

16 Form and consolidation of licences

A licence under this Division shall be in the approved form and, if the Secretary considers it convenient, he or she may grant to an international airline operating more than one service a licence in consolidated form in respect of those services.

17 Duration and variation of licences

- (1) A licence issued under this Division remains in force until it is cancelled or suspended in accordance with the Act or these Regulations.
- (2) The Secretary may vary the terms of a licence issued under this Division if:
 - (a) the licence holder applies for the terms of the licence to be varied; or
 - (b) the airline operates a service otherwise than in accordance with the approved timetable, or otherwise than in accordance with a condition subject to which the timetable is approved;

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- (c) the airline fails to operate a service in accordance with the approved timetable or in accordance with a condition subject to which the timetable is approved; or
- (d) in the opinion of the Secretary, the airline, or the government or an authority of a foreign country in relation to the airline:
 - (i) has impeded or limited an Australian airline in, or prevented an Australian airline from, providing a scheduled international air service; or
 - (ii) has engaged in unfair, discriminatory or restrictive practices in relation to a scheduled international air service provided by an Australian airline; or
 - (iii) has denied an Australian airline fair and equal opportunity in the provision of a scheduled international air service; or
- (e) the airline, or the government or an authority of a foreign country in relation to the airline, has contravened the relevant agreement; or
- (f) there has been a substantial change in any of the matters to which the Secretary has had regard under subregulation 21 (2); or
- (g) it is in the public interest to vary the terms of the licence.

18 Restriction of advertising

A person shall not give any public notice, by newspaper advertisement, broadcast statement or any other means of public announcement, to the effect that a person is willing to undertake any operations referred to in this Division unless the last-mentioned person has obtained a licence authorizing the conduct of those operations.

Division 2 Tariffs

19 Submitting tariffs for approval

- (1) The holder of an international airline licence issued under this Part may submit a tariff to the Secretary for approval.

Regulation 19A

- (2) The Secretary may, by notice in writing, direct the holder of an international airline licence to submit its tariff, or part of its tariff, to the Secretary for approval.
- (3) A notice under subregulation (2):
 - (a) must state a period, not shorter than 14 days, within which the licence holder must submit its tariff to the Secretary for approval; and
 - (b) may state a form in which the tariff must be submitted.
- (4) If the Secretary gives a direction to a licence holder under subregulation (2), the licence holder must comply with the direction.

19A Approval of tariffs

- (1) If a licence holder submits a tariff to the Secretary under regulation 19, the Secretary may:
 - (a) approve the tariff; or
 - (b) approve the tariff subject to conditions; or
 - (c) refuse to approve the tariff.
- (2) In making a decision under subregulation (1), the Secretary must take into account:
 - (a) the public interest; and
 - (b) any relevant agreement or arrangement relating to or including international air services; and
 - (c) the need for public air transport services to operate on a satisfactory economic basis in an environment where there is due regard for the interests of consumers of those services.
- (3) If the Secretary makes a decision under subregulation (1) about a tariff, the Secretary must give to the licence holder who submitted the tariff a notice setting out:
 - (a) the decision; and
 - (b) reasons for the decision.
- (4) If the Secretary does not make a decision under subregulation (1) about a tariff within 7 days after the tariff is submitted to

Regulation 20

the Secretary under regulation 19, the tariff is taken to have been approved under paragraph (1) (a) at the end of that period.

19B Additional information

- (1) The Secretary may, in writing, ask a licence holder who has submitted a tariff under regulation 19 to give the Secretary additional information to assist the Secretary to make a decision under regulation 19A.
- (2) If the Secretary makes a request under subregulation (1) in relation to a tariff, the period mentioned in subregulation 19A (4) in relation to the tariff is suspended from the day when the request is made until the end of the day when the Secretary receives the information.

19C Application of tariffs

- (1) If the Secretary refuses to approve a tariff under subregulation 19A (1) (c), the licence holder who submitted the tariff must not apply the tariff or allow the tariff to be applied.
- (2) If the Secretary approves a tariff subject to conditions under subregulation 19A (1) (b), the licence holder who submitted the tariff must not apply the tariff or allow the tariff to be applied unless the conditions are met.

Division 3 Timetables

20 Approval of timetables — applications

- (1) A licensed international airline must apply to the Secretary for approval of a proposed timetable for each of its scheduled international air services to or from Australian territory.
- (2) An application under subregulation (1) must:
 - (a) if the Secretary directs, be in an approved form; and
 - (b) specify:
 - (i) the date on which the airline proposes to start operating the service; and

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- (ii) if known, the date on which the airline proposes to stop operating the service; and
 - (c) include, in relation to the service, details of the matters referred to in the definition of *timetable* in regulation 3.
- (3) An application must be lodged with the Secretary:
 - (a) not less than 35 days before the date on which the licensed international airline proposes to start operating the service; or
 - (b) within any lesser period allowed by the Secretary.
- (4) If further information is necessary to enable the Secretary to determine an application:
 - (a) the Secretary may, by notice in writing, require the licensed international airline to provide it; and
 - (b) the Secretary is not bound to consider the application further, or to determine it, until he or she receives the information.

21 Approval of timetables

- (1) If the Secretary receives an application under regulation 20, the Secretary may:
 - (a) approve the timetable to which the application relates in accordance with the application; or
 - (b) approve the timetable:
 - (i) with specified variations; or
 - (ii) subject to specified conditions; or
 - (c) reject the timetable.
- (2) When exercising his or her powers under this regulation the Secretary may have regard to:
 - (a) the relevant agreement; and
 - (b) the matters referred to in the definition of *timetable* in regulation 3; and
 - (c) the likely type, proportion or amount of traffic, or the origin or destination of traffic, that may be carried on all or part of the route of the service concerned; and
 - (d) any approved timetable of:

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- (i) the same licensed international airline; or
 - (ii) another airline from the same country as the applicant; or
 - (iii) an airline of a country in which a terminal or intermediate stopping place on the route of the service to which the application relates is situated; and
 - (e) whether, in the opinion of the Secretary, the airline, or the government or an authority of a foreign country in relation to the airline:
 - (i) has impeded or limited an Australian airline in, or prevented an Australian airline from, providing an international air service; or
 - (ii) has engaged in unfair, discriminatory or restrictive practices in relation to an international air service provided by an Australian airline; or
 - (iii) has denied an Australian airline fair and equal opportunity in the provision of an international air service; and
 - (f) whether, in the opinion of the Secretary, the airline, or the government or an authority of a foreign country in relation to the airline, has contravened the relevant agreement; and
 - (g) the public interest; and
 - (h) any other relevant matter.
- (3) An approval under subregulation (1) has effect for the period, not exceeding 12 months, specified by the Secretary in the approval.
- (4) The Secretary must, if practicable, notify a licensed international airline that has applied for approval of a timetable, before the date on which the airline proposes to start operating the service, of his or her decision under subregulation (1).
- (5) Notification under subregulation (4) must:
- (a) be in writing; and
 - (b) if the timetable is approved — state the period for which the timetable is approved; and

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- (c) if the timetable is approved subject to variations — state the details of, and the reasons for, the variations; and
- (d) if the timetable is approved subject to conditions — state the details of, and the reasons for imposing, the conditions; and
- (e) if the timetable is rejected — state the reasons for the rejection.

22 Variation, suspension and cancellation of approved timetables

- (1) The Secretary may vary, suspend or cancel an approved timetable, or vary, suspend or remove a condition in relation to an approved timetable, or impose a further condition in relation to an approved timetable, if:
 - (a) the airline operates a service otherwise than in accordance with the approved timetable, or otherwise than in accordance with a condition subject to which the timetable is approved; or
 - (b) the airline fails to operate a service in accordance with the approved timetable or in accordance with a condition subject to which the timetable is approved; or
 - (c) in the opinion of the Secretary, the airline, or the government or an authority of a foreign country in relation to the airline:
 - (i) has impeded or limited an Australian airline in, or prevented an Australian airline from, providing a scheduled international air service; or
 - (ii) has engaged in unfair, discriminatory or restrictive practices in relation to a scheduled international air service provided by an Australian airline; or
 - (iii) has denied an Australian airline fair and equal opportunity in the provision of a scheduled international air service; or
 - (d) in the opinion of the Secretary, the airline, or the government or an authority of a foreign country in relation to the airline, has contravened the relevant agreement; or

Regulation 22

- (e) there has been a substantial change in any of the matters to which the Secretary has had regard under subregulation 21 (2); or
 - (f) it is in the public interest to vary, suspend or cancel the timetable or to vary, suspend or remove the condition, or impose a further condition in relation to the approved timetable, as the case may be.
- (2) A licensed international airline may apply to the Secretary for a variation of an approved timetable, or the variation or removal of a condition imposed by the Secretary in relation to an approved timetable, in relation to a scheduled international air service that it operates.
- (3) If the Secretary receives an application under subregulation (2), the Secretary may, having regard to the matters referred to in subregulation (1):
- (a) vary the approved timetable to which the application relates in accordance with the application; or
 - (b) vary the approved timetable with alterations, or subject to conditions, determined by the Secretary; or
 - (c) vary or remove a condition imposed by the Secretary in relation to the approved timetable; or
 - (d) refuse to vary the timetable, or vary or remove the condition, as the case requires.
- (4) If the Secretary varies, suspends or cancels an approved timetable or varies, suspends or cancels or removes a condition imposed by the Secretary in relation to an approved timetable, or imposes a further condition in relation to an approved timetable, he or she must, as soon as practicable, notify the airline concerned in writing of:
- (a) the reasons for his or her decision; and
 - (b) in the case of a variation:
 - (i) the details of the variation; and
 - (ii) the date of its effect; and
 - (c) in the case of a suspension — the duration of the suspension; and
 - (d) in the case of a removal or cancellation — the date of its effect.

Regulation 23

23 Conditions that may be imposed in relation to timetables

- (1) Without limiting the conditions that may be imposed under regulation 21 or 22 in relation to a timetable, a condition may relate to:
- (a) the proportion or amount of:
 - (i) traffic; or
 - (ii) a type of traffic;
that may be carried on all or part of the route of the service concerned; or
 - (b) whether advertising is permitted, the manner of advertising, or the content of advertisements, in Australia, by or on behalf of the licensed international airline, in relation to:
 - (i) the service concerned; or
 - (ii) any service operated by the airline to, from or through any point situated on the route of the service concerned.
- (2) For the purposes of subregulation (1):
traffic includes a passenger or an item of mail or cargo.
type of traffic includes traffic identified by reference to its earliest origin or intended ultimate destination, whether or not that origin or destination is on the route of the service concerned.

24 Offences relating to timetables

- (1) A licensed international airline must not operate a scheduled international air service to or from Australian territory unless the service is operated in accordance with:
- (a) an approved timetable; and
 - (b) any conditions imposed by the Secretary in relation to the approved timetable.
- Penalty: 50 penalty units.
- (2) A licensed international airline or any other person must not advertise that it operates, or that it will operate, a scheduled

Regulation 26

- (4) Subregulations (1), (2) and (3) apply in relation to air navigation generally.
- (5) The notice required by subregulation (2) must be:
 - (a) legible; and
 - (b) displayed in a conspicuous place in the aircraft.
- (6) In this regulation:
 - Australian international carriage* has the meaning given by subsection 27 (2) of the Act.
 - open-use charter aircraft* means an aircraft that is engaged in a charter operation, except:
 - (a) an aircraft that is engaged in an operation for the purpose of a service described in paragraph (c) of the definition of *charter operation* in subsection 3 (1) of the Act; or
 - (b) an aircraft that is chartered for the purpose of an operation for which tickets are not available for purchase by the general public.
 - prescribed aircraft* means an aircraft that:
 - (a) is a regular public transport aircraft, or an open-use charter aircraft; and
 - (b) is engaged in:
 - (i) the carriage of passengers between airports in Australian territory; or
 - (ii) Australian international carriage (except the carriage of freight only).

26 Carriage of examiners

- (1) The Secretary may, for the purposes of aviation security, authorize officers of the Department to undertake examinations, inspections or checks of the ground organisation provided by the operator of an aircraft for use by aircraft.
- (2) The operator of an aircraft must allow an authorised officer to travel, without charge, on a flight of the aircraft if the authorised officer gives the operator notice, at least 7 days before the flight is to occur, that the officer wants to travel on the flight.

- (3) The operator of an aircraft must allow an authorised officer to travel, without charge, on a flight of the aircraft if:
- (a) the authorised officer gives the operator notice, less than 7 days before the flight is to occur, that the officer wants to travel on the flight; and
 - (b) the carriage of the authorised officer would not require the disembarkation of a passenger, or the unloading of cargo, from the aircraft.
- (4) The operator of an aircraft must allow an authorised officer to travel, without charge, on a flight of the aircraft if:
- (a) the authorised officer gives the operator notice, less than 7 days before the flight is to occur, that the officer wants to travel on the flight; and
 - (b) if the carriage of the authorised officer requires the disembarkation of a passenger, or the unloading of cargo, from the aircraft — the authorised officer advises the operator that the circumstances requiring the officer to travel on the aircraft justify the disembarkation or the unloading.
- (5) If an operator:
- (a) allows an authorised officer to travel on a flight in compliance with subregulation (2) or (4); and
 - (b) loses revenue by allowing the officer to travel on the flight;
- the Secretary must pay the operator an amount that is equal to the amount of the loss.

Part 7 Aviation security

Division 1 General

27 Definitions for Part 7

In this Part:

authorised officer means an officer appointed under regulation 34 for this Part.

operational means:

- (a) when used of an airport — that part of the airport is being used:
 - (i) to embark passengers on, or disembark passengers from, a passenger aircraft; or
 - (ii) to load cargo on, or unload cargo from, a passenger aircraft; or
- (b) when used of a passenger terminal building — that part of the building is being used to move passengers to or from an aircraft; or
- (c) when used of a screening point — that the screening point is ready for use.

photograph of somebody includes a digital or computerised image of him or her.

primary identification document means a document that meets the criteria in subregulation 28 (2).

secondary identification document means a document that meets the criteria in subregulation 28 (3).

security officer for an airport means:

- (a) a member or special member of the Australian Federal Police; or
- (b) a police officer for the State or Territory in which the airport is situated; or
- (c) an authorised officer for this Part; or

Note For ***authorised officer***, see regulation 34.

- (d) a member of a uniformed security force for the airport; or

- (e) a person employed by an issuing body (within the meaning of Division 7) for airport security at the airport.

tertiary identification document means a document that meets the criteria in subregulation 28 (5).

28 Kinds of identification document

- (1) This regulation sets out the criteria that a document must meet to qualify as a primary, secondary or tertiary identification document for somebody.
- (2) The criterion for a primary identification document for somebody is that it is:
- (a) a certified copy (that is, a copy certified by a Registrar of Births or similar officer to be a correct copy), or an extract, of the entry in a register of births of his or her birth; or
 - (b) a copy (certified under section 44 of the *Australian Citizenship Act 1948*) of a citizenship certificate granted to him or her; or
 - (c) a document issued to him or her under the law of another country that is evidence, under that law, that he or she is a citizen of that country; or
 - (d) a passport issued to him or her.
- (3) The criteria for a secondary identification document for somebody (the ***identified person***) are:
- (a) that it has on it a recent photograph of him or her, or his or her signature; and
 - (b) that it is:
 - (i) a licence (for example, a driver's licence) issued to him or her under a law of the Commonwealth or a State or Territory; or
 - (ii) a government employee identification document issued to him or her; or
 - (iii) an Australian student identification document issued to him or her; or
 - (iv) a verifiable reference.

Regulation 28

- (4) In subregulation (3):

Australian student identification document means a card or document issued to a student at a tertiary education institution in Australia to identify him or her as a student at the institution.

government employee identification document means a document issued by or for the Commonwealth or a State or Territory to somebody employed by or for the Commonwealth or the State or Territory.

verifiable reference about somebody (the *identified person*) means a reference from:

- (a) a bank or similar financial institution; or
- (b) somebody whose identity has been verified by means of:
 - (i) 2 primary identification documents; or
 - (ii) a primary identification document and a secondary identification document; or
 - (iii) a primary identification document and 2 tertiary identification documents; or
- (c) a referee acceptable to the person or body that requires the identification of the identified person;

that:

- (d) identifies the identified person by name; and
- (e) certifies that the person who signed the reference has known the identified person by that name for at least 12 months; and
- (f) is signed by or for the referee and by the identified person.

- (5) The criteria for a tertiary identification document for somebody are:

- (a) that it sets out his or her name and address; and
- (b) that it is:
 - (i) a signed statement by his or her employer or former employer about that employment; or
 - (ii) a copy (certified by a Registrar of Titles or similar officer to be a correct copy) of a record issued under a law about land titles; or
 - (iii) a document issued by a rating authority from its records about land ownership or occupation; or

- (iv) a document issued by a bank or similar financial institution from its records about a mortgage or other security that he or she gave to the bank or institution; or
- (v) an extract from the electoral roll compiled by the Australian Electoral Office; or
- (vi) a record issued under a law in force in Australia other than a law about land titles.

29 Private and charter operators to comply with directions of airport operators

The operator of a private aircraft or charter aircraft at a categorised airport must comply with any reasonable direction of the operator of the airport that is a direction:

- (a) for the purposes of aviation security at the airport; and
- (b) in accordance with the airport security program (if any) in relation to the airport.

30 Authorised vehicles

A person must not drive or ride a vehicle in a security restricted area unless:

- (a) the operator of the airport; or
- (b) if a lease or licence has been granted in respect of that area — the lessee or licensee;

authorises the use of the vehicle in that area.

31 Aviation security signs

- (1) The Secretary may require the operator of a categorised airport to display a sign in a specified part of the airport, setting out any of the following matters:
 - (a) obligations imposed by the Act or these Regulations in relation to aviation security;
 - (b) a direction given by the Secretary under section 22ZV of the Act;
 - (c) procedures to be followed in accordance with the airport security program (if any) in relation to the airport;

Regulation 32

- (d) warnings in respect of the effect that aviation security measures may have on persons and their possessions in specified circumstances.
- (2) The operator of a categorised airport may require:
 - (a) the operator of an aircraft that is at the airport; or
 - (b) a person to whom a lease or licence has been granted in respect of land within the airport; or
 - (c) a person, other than the Corporation, to whom a right has been granted to use an area or a building, or a part of a building, at the airport; or
 - (d) a person, other than Airservices Australia, to which a right to use an airport or part of the airport has been given; to display a sign in a specified part of the airport, setting out any of the following matters:
 - (e) a matter specified in paragraph (1) (a), (b) or (d); or
 - (f) procedures to be followed in accordance with an aviation security program.
- (3) A person, other than:
 - (a) an authorised person; or
 - (b) the operator of a categorised airport; or
 - (c) a person who, under subregulation (1) or (2), displays a sign; must not:
 - (d) display a sign; or
 - (e) remove, damage or otherwise interfere with a sign; of the kind referred to in this regulation.

32 Passenger restraining equipment

- (1) The operator of:
 - (a) a regular public transport aircraft; or
 - (b) a charter aircraft; that has a configuration that gives accommodation to 38 or more passengers must equip the aircraft with restraining devices:
 - (c) of a kind approved by the Secretary; and

- (d) in such quantity as the Secretary directs.
- (2) Restraining devices carried on an aircraft must be kept in a place that is:
 - (a) secure but readily accessible to the crew of the aircraft; and
 - (b) not visible or accessible to passengers on the aircraft.

33 Persons in lawful custody on an aircraft

- (1) In this regulation:
 - aircraft* does not include:
 - (a) an aircraft chartered or operated by the Australian Federal Police or by the police force of a State or Territory; or
 - (b) a private aircraft.
 - person in lawful custody* means a person who:
 - (a) is in the custody, or under the supervision, of an officer within the meaning of the *Migration Act 1958*, for the purpose of ensuring that the person:
 - (i) is removed from Australia under that Act; or
 - (ii) is deported from Australia under that Act; or
 - (iii) leaves Australia, whether with or without a bridging visa given under that Act; or
 - (b) not being a person referred to in paragraph (a) — is compelled to be taken from one place to another, in accordance with a law of Australia.
- (2) A person intending to cause a person to be carried in lawful custody on an aircraft must give notice of that intention to the operator of the aircraft:
 - (a) as soon as is practicable; and
 - (b) before the person in lawful custody boards the aircraft.
- (3) An operator on whose aircraft a person in lawful custody is intended to be carried, may refuse to allow the person to be carried on the aircraft.
- (4) The operator of an aircraft on which a person in lawful custody is to be carried, must notify the pilot in command of the aircraft, as soon as is practicable before the flight:

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- (a) the name of the person in lawful custody; and
 - (b) the name of that person's escort (if any); and
 - (c) the grounds on which the person is in lawful custody.
- (5) The operator and pilot in command of an aircraft on which a person in lawful custody is to be carried must not allow the person to board or remain in the aircraft unless:
- (a) the person is escorted by a person who is not:
 - (i) a person in lawful custody; or
 - (ii) a member of the crew of the aircraft; or
 - (b) the Secretary has authorised the carriage in an aircraft of:
 - (i) that person; or
 - (ii) a class of persons that includes that person.
- (6) An authorisation under paragraph (5) (b):
- (a) must be in writing; and
 - (b) is subject to any condition that:
 - (i) the Secretary considers is necessary in the interests of aviation security; and
 - (ii) is specified in the authorisation.
- (7) Passengers on an aircraft must not include more than 2 persons in lawful custody, other than persons referred to in paragraph (5) (b).

34 Authorised officers — appointment

- (1) The Secretary may appoint, in writing, an officer of the Department to be an authorised officer for this Part.
- (2) The Secretary must issue to an authorised officer an identity card that:
 - (a) shows a recent photograph of the officer; and
 - (b) says that the holder of the card is an authorised officer for this Part.
- (3) If, immediately before this subregulation commenced, an officer was an authorised officer for Division 4, the officer is taken to be an authorised officer for this Part until the authorisation is revoked.

35 Return of authorised officer's identity card

A person who ceases to be an authorised officer must return his or her identity card to the Secretary.

Penalty: 1 penalty unit.

36 Proof of authorised officer's authority

An authorised officer is not entitled to exercise a power under this Part in relation to a person unless the authorised officer first shows the person his or her identity card.

Note An authorised officer must also properly display a valid ASIC: see regulation 103.

Division 2 Pre-flight security check

37 Interpretation

In this Division:

originating flight, in relation to a relevant aircraft, means the first flight of the aircraft:

- (a) since returning to service after undergoing maintenance at a place away from a passenger terminal building or a cargo terminal building; or
- (b) since the previous flight, if the aircraft:
 - (i) has not been sealed for the purpose of preventing unauthorised access to the aircraft; or
 - (ii) has not been placed under the continuous surveillance of at least 1 person, being a person authorised by the aircraft operator for the purpose of preventing unauthorised access to the aircraft.

Note An example of when an aircraft may not be under surveillance is when the aircraft is on an overnight stop.

pre-flight security check, in relation to a relevant aircraft, means a check of the aircraft conducted by the aircraft operator for the purpose of ensuring that there are no weapons, explosives or incendiary devices located in areas reasonably accessible to passengers or crew.

Regulation 38

relevant aircraft means:

- (a) an aircraft that is used in an international air service that is a regular public transport operation; or
- (b) an aircraft that:
 - (i) is used in an international air service that is a charter operation; and
 - (ii) is fitted to carry at least 38 passengers.

38 Aircraft operator to conduct pre-flight security check

- (1) Before the start of an originating flight by a relevant aircraft, the aircraft operator must conduct a pre-flight security check of the aircraft, in accordance with subregulation (2).
- (2) A check of a relevant aircraft must include:
 - (a) an inspection of the flight deck, passenger cabin, toilets, crew rest stations and the catering and food preparation areas, of the aircraft; and
 - (b) an inspection of the storage facilities in those areas of the aircraft (including cupboards, passenger lockers, crew lockers and equipment lockers); and
 - (c) an inspection of the exterior of the aircraft (including wheel wells) for signs of tampering.
- (3) Except with reasonable excuse, an aircraft operator must not contravene subregulation (1).

Penalty: 50 penalty units.

Note The flight of an aircraft is taken to start:

- (a) when the last external door is closed in preparation for the first movement of the aircraft for the purpose of taking off on the flight; or
- (b) if the aircraft moves, before all external doors are closed, for the purpose of taking off on the flight — when it first so moves. (See s 3AB of the Act.)

39 Procedure after pre-flight security check

- (1) On completion of a pre-flight security check of a relevant aircraft before an originating flight, and until the start of the flight, the aircraft operator must:

- (a) seal the aircraft for the purpose of preventing unauthorised access to the aircraft; or
 - (b) place the aircraft under the continuous surveillance of at least 1 person, being a person authorised by the operator for the purpose of preventing unauthorised access to the aircraft.
- (2) Except with reasonable excuse, an aircraft operator must not contravene subregulation (1).

Penalty: 50 penalty units.

Note See the Note to Regulation 38 as to when the flight of an aircraft is taken to start.

Division 3 International cargo

40 Interpretation

In this Division:

air cargo agent means a person who carries on the business of handling international cargo.

handle, in relation to international cargo, includes store and transport.

international cargo means cargo intended for carriage by a relevant aircraft from a place in Australian territory to a place outside Australian territory.

international cargo security program has the meaning given by regulation 43.

list means the list of air cargo agents referred to in regulation 41.

regulated agent means an air cargo agent included in the list.

relevant aircraft means an aircraft that is a regular public transport aircraft or a charter aircraft.

41 Secretary to maintain list

The Secretary must maintain a list of air cargo agents that sets out the names and other particulars of agents who are included in the list under regulation 44.

Regulation 42

42 Application for inclusion in the list

- (1) An air cargo agent may apply, in writing, to the Secretary to be included in the list.
- (2) An application must set out the following particulars:
 - (a) if the applicant is a company:
 - (i) the name of the company; and
 - (ii) if the applicant's trading name is different from the company name — the applicant's trading name;
 - (b) if the applicant is a partnership:
 - (i) the name of the partnership; and
 - (ii) the full name of each partner; and
 - (iii) if the applicant's trading name is different from the partnership name — the applicant's trading name;
 - (c) if the applicant is an unincorporated association:
 - (i) the name of the association; and
 - (ii) the full name of each member of the association; and
 - (iii) if the applicant's trading name is different from the association name — the applicant's trading name;
 - (d) in any other case:
 - (i) the applicant's full name; and
 - (ii) if the applicant's trading name is different from the applicant's full name — the applicant's trading name;
 - (e) the postal address, telephone number and facsimile number (if any) of the applicant's principal office in Australia;
 - (f) the street address, telephone number and facsimile number (if any) of each of the applicant's places for handling international cargo in Australia;
 - (g) the applicant's proposed international cargo security program;
 - (h) if the applicant has an Australian Business Number — that Australian Business Number;
 - (i) if the applicant has a registered business name (however described) under the law of a State or Territory — that business name.

43 International cargo security programs

For the purposes of this Division, an international cargo security program of an air cargo agent is a program that:

- (a) describes the equipment to be used by the agent; and
- (b) sets out the procedures to be followed by the agent;
for the following purposes in relation to international cargo handled by the agent:
- (c) preventing the international cargo from containing explosives or incendiary devices that could result in an unlawful interference with aviation;
- (d) preventing a person from having unlawful access to the international cargo, from the time it is dealt with in accordance with the security measures set out in the agent's security program to the time it is delivered to an operator of a relevant aircraft or to another air cargo agent;
- (e) ensuring that accurate records are kept of:
 - (i) the details of the international cargo; and
 - (ii) the security measures adopted in relation to it.

Note The acts that amount to an *unlawful interference with aviation* are set out in section 3AE of the Act.

44 Decision on an application

- (1) Within 30 days after receiving an application, the Secretary must:
 - (a) decide whether to include the applicant in the list; and
 - (b) notify the applicant, in writing, of:
 - (i) the decision; and
 - (ii) if the decision is to refuse to include the applicant in the list — the reasons for that decision.
- (2) The Secretary must include the applicant in the list if:
 - (a) the Secretary is reasonably satisfied that:
 - (i) the applicant is a legal entity; and
 - (ii) the applicant is an air cargo agent; and
 - (iii) the applicant's proposed international cargo security program complies with regulation 43; and

Regulation 45

- (iv) the inclusion of the applicant in the list does not pose a significant threat to aviation security; and
- (b) the applicant has agreed, in writing, to advise the Secretary, within 30 days, of a material change in a matter in respect of which information has been given under any of paragraphs 42 (2) (a) to (f).

45 Amendment of program

- (1) If the Secretary is reasonably satisfied that a regulated agent's international cargo security program is not adequate for any one or more of the purposes set out in regulation 43, the Secretary may direct the agent to appropriately amend the program, by giving written notice to the agent.
- (2) The notice must:
 - (a) indicate the change required; and
 - (b) specify the date before which the agent must submit an appropriately amended program to the Secretary.
- (3) A regulated agent must comply with a direction of the Secretary.
- (4) An agent must not contravene subregulation (3) intentionally or recklessly.

46 Review of program by regulated agent

- (1) A regulated agent may:
 - (a) review the agent's international cargo security program at any time; and
 - (b) if the agent considers it necessary — prepare, and submit to the Secretary for approval, a written amendment of the program.
- (2) Within 30 days after receiving a written amendment, the Secretary must:
 - (a) decide whether to approve the amendment; and
 - (b) notify the applicant, in writing, of:
 - (i) the decision; and

Regulation 48

- (ii) if the decision is to refuse to approve the amendment — the reasons for that decision.
- (3) The Secretary must approve the amendment if he or she is reasonably satisfied that the program, as amended, will:
 - (a) be adequate for the purposes set out in regulation 43; or
 - (b) be significantly more effective for those purposes.

47 Regulated agent to give effect to program

- (1) A regulated agent must give effect to the agent's international cargo security program.
- (2) An agent must not contravene subregulation (1) intentionally or recklessly.

Penalty: 50 penalty units.

- (3) A regulated agent may apply, in writing, to the Secretary for an exemption from the requirement to comply with subregulation (1) in a specified respect in relation to an item, or class of items, of international cargo.
- (4) The Secretary may:
 - (a) on receiving an application under subregulation (3) — give an agent a written exemption on the conditions that the Secretary reasonably thinks fit; or
 - (b) without the need for an application under subregulation (3) — give an agent, or a class of agents, a written exemption, on the conditions that the Secretary reasonably thinks fit, from the requirement to comply with subregulation (1) in a specified respect in relation to an item, or class of items, of international cargo.

48 Secretary may remove regulated agent's name from the list

- (1) The Secretary may remove a regulated agent's name from the list if:
 - (a) any information given under regulation 42 is false in a material respect; or

Regulation 49

- (b) the Secretary is no longer satisfied as to a matter referred to in paragraph 44 (2) (a); or
 - (c) a material change has occurred that the agent has not advised in accordance with paragraph 44 (2) (b); or
 - (d) the agent has intentionally or recklessly failed to comply with a direction of the Secretary in contravention of subregulation 45 (4); or
 - (e) unless given an exemption under subregulation 47 (4) — the agent has not given effect to his or her international cargo security program in accordance with subregulation 47 (1); or
 - (f) the agent has intentionally or recklessly failed to comply with a direction of the Secretary in contravention of subregulation 49 (3); or
 - (g) the agent has asked, in writing, to be removed from the list; or
 - (h) the Secretary is reasonably satisfied that the inclusion of the agent in the list poses a significant threat to aviation security.
- (2) If the Secretary decides to remove an agent from the list, he or she must notify the agent, in writing, of the decision, and the reasons for it, within 14 days.
- (3) An agent whose name is removed from the list may apply for inclusion in the list, in accordance with regulation 42, at any time.
- (4) The Secretary must include the applicant in the list if:
- (a) the requirements of subregulation 44 (2) are met; and
 - (b) the Secretary is reasonably satisfied that the circumstance resulting in the agent's name being removed no longer applies.

49 Secretary may give directions to regulated agent

- (1) The Secretary may give written directions to a regulated agent about the measures and resources to be used by the agent in responding to a threat of an unlawful interference with aviation in relation to:

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- (a) an aircraft; or
- (b) an airport.

Note The acts that amount to an *unlawful interference with aviation* are set out in section 3AE of the Act.

- (2) A regulated agent must comply with a direction of the Secretary.
- (3) An agent must not intentionally or recklessly contravene subregulation (2).

Penalty: 50 penalty units.

50 Notice in writing

A notice required or permitted to be given to a person under this Division may:

- (a) be given to the person personally; or
- (b) be posted to the person at the postal address last notified to the Secretary; or
- (c) be faxed to the person at the fax number (if any) last notified to the Secretary.

51 Review by Tribunal of decisions under Division 3 of Part 7

Application may be made under the *Administrative Appeals Tribunal Act 1975* to the Administrative Appeals Tribunal for review of a decision of the Secretary:

- (a) to refuse to include an air cargo agent on the list under regulation 44; or
- (b) to direct an amendment of an international cargo security program under regulation 45; or
- (c) to refuse to approve an amendment of an international cargo security program under regulation 46; or
- (d) to remove a regulated agent's name from the list under regulation 48; or
- (e) to give directions to a regulated agent under subregulation 49 (1).

Regulation 52

Division 4 Powers of officers to enter and inspect etc

52 Protective services officers may enter categorised airports

A protective service officer, while exercising powers or performing functions under the *Australian Protective Service Act 1987*, may enter and remain in, any part of a categorised airport.

53 Powers of authorised officers — general

- (1) An authorised officer may exercise a power specified in subregulation (3) in relation to a person specified in subregulation (2) for the purpose of determining whether the person is complying with:
 - (a) a provision of the Act or these Regulations; or
 - (b) an instrument made under the Act or these Regulations.
- (2) This regulation applies to the following persons:
 - (a) an airport operator;
 - (b) an aircraft operator;
 - (c) a regulated agent (within the meaning of Division 3);
 - (d) an issuing body (within the meaning of Division 7).
- (3) For the purposes of subregulation (1), the powers are:
 - (a) to enter and inspect:
 - (i) a categorised airport; or
 - (ii) any area, building (except a domicile) or vehicle under the control of a person referred to in subregulation (2); and
 - (b) to inspect equipment in that airport, area, building or vehicle; and
 - (c) to observe operating procedures implemented by a person referred to in subregulation (2); and
 - (d) to discuss the procedures with employees of the person; and

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- (e) to inspect a document or record made or kept by the person; and
 - (f) at no expense to the person — to take copies or photographs of a document or record referred to in paragraph (e).
- (4) An authorised officer may exercise a power under subregulation (1):
- (a) in relation to a categorised airport, or an area, a building or a vehicle within that airport — at any time and without notice; or
 - (b) in any other case — at any reasonable time after giving notice to the relevant person.
- (5) The powers given to an authorised officer by this regulation are in addition to, and are not intended to affect, any power given to an authorised officer by any other provision in this Part.
- (6) Except with reasonable excuse, a person referred to in subregulation (2) must allow an authorised officer to exercise a power given to the officer by subregulation (3).

Penalty: 50 penalty units.

54 Powers of authorised officers — aircraft

- (1) In addition to his or her powers under regulation 53, an authorised officer may exercise a power mentioned in subregulation (2), in relation to an aircraft operator's aircraft at a categorised airport, at any reasonable time after giving notice to the operator, to ensure that the operator is complying with:
- (a) the Act or these Regulations; or
 - (b) an instrument made under the Act or these Regulations.
- Note* An authorised officer must properly display a valid ASIC: see regulation 103.
- (2) For the purposes of subregulation (1), the powers are:
- (a) to enter and inspect the aircraft; and
 - (b) to inspect equipment in the aircraft; and

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- (c) to observe operating procedures for the aircraft that are carried out by its crew or by other employees of the operator; and
 - (d) to discuss the procedures with the crew or other employees of the operator; and
 - (e) to inspect a document or record, held by the operator in the aircraft, that relates to a passenger or intending passenger, or an item of international cargo within the meaning of regulation 40; and
 - (f) at no expense to the operator — to take copies or photographs of a document or record referred to in paragraph (e).
- (3) Except with reasonable excuse, an aircraft operator must allow an authorised officer to exercise a power under this regulation.

Penalty: 50 penalty units.

55 Powers of authorised officers etc — to require identification

- (1) In this regulation:
security officer means:
- (a) an authorised officer; or
 - (b) a member of a uniformed security force; or
 - (c) a person employed by the operator of a categorised airport for the purpose of airport security.
- (2) If, in relation to a categorised airport, a security officer reasonably believes that an individual:
- (a) has committed; or
 - (b) is committing; or
 - (c) may commit;
- an offence under the Act or these Regulations, the officer may request that individual to identify himself or herself.
- (3) Before making a request of a person, a security officer described in paragraph (1) (b) or (c) must first produce his or her identification card, or another appropriate form of identification, for the person's inspection.

Note Regulation 36 requires an authorised officer to show his or her identity card to a person before exercising a power under this Part in relation to the person.

- (4) A person to whom a request is made must not:
- (a) refuse to identify himself or herself to the security officer who made the request, except with reasonable excuse; or
 - (b) intentionally or recklessly provide false identification to that security officer.

Penalty: 10 penalty units.

Division 5 Categorised airports

Subdivision 1 Preliminary

56 Definitions for Division 5

In this Division:

airside controlled area of an airport means:

- (a) the parts of the airport (including runways, taxiways, aircraft movement areas, aircraft parking areas and aircraft maintenance areas) used for taking-off, landing, moving, parking and storing of aircraft to which section 20 of the Act applies; and
- (b) any part of the airport that is adjacent to a part of the airport mentioned in paragraph (a), and into which a member of the public is not generally allowed to go unescorted, but not including:
 - (i) a building or part of a building; or
 - (ii) an area separated from an area referred to in paragraph (a) by a wall, fence or other barrier; and
- (c) any building or enclosed area that is entirely inside an area described in paragraph (a) or (b).

Note Subsection 20 (1) of the Act is as follows:

20 Screening of passengers and their possessions

- (1) This section applies to an aircraft that is:
 - (a) a regular public transport aircraft that:

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- (i) is fitted to carry 100 or more passengers; and
- (ii) is not engaged in an international flight; or
- (b) a regular public transport aircraft that is engaged in an international flight; or
- (c) a charter aircraft that:
 - (i) is fitted to carry 100 or more passengers; and
 - (ii) is not engaged in an international flight; or
- (d) a charter aircraft that:
 - (i) is fitted to carry 38 or more passengers; and
 - (ii) is engaged in an international flight.’.

security officer, for an airport, includes a member of a security service for the airport.

security service, for an airport, means a group of persons:

- (a) who are made available by a body to be engaged by the operator of the airport to patrol the airport in accordance with the directions of the operator of the airport; and
- (b) each of whom, while patrolling the airport:
 - (i) wears a uniform; and
 - (ii) carries a transceiver that enables him or her to communicate with other members of the body, the airport operator or the police force of the State or Territory in which the airport is located; and
- (c) each of whom satisfies the requirements of regulation 71A.

special event period means a period declared under regulation 56A to be a special event period.

56A Special event periods

- (1) The Minister may declare a period to be a special event period.
- (2) A declaration under subregulation (1) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

Subdivision 2 Entry to categorised airports

57 Definition for Subdivision

In this Subdivision:

security sensitive area of a categorised airport means:

- (a) the airside controlled area of the airport; or
- (b) a sterile area of the airport.

Note For the meaning of *sterile area*, see section 21 of the Act.

58 Meaning of person in charge of an area

For this Subdivision, a person is taken to be in charge of an area of a categorised airport if the person is authorised by the Secretary as a person in charge of the area.

59 Entry to certain parts of categorised airports prohibited

- (1) Except with lawful excuse, a person must not enter a security sensitive area, or a part of such an area, of a categorised airport, without the permission of a person in charge of the area or part.

Penalty: 10 penalty units.

- (2) Except with lawful excuse, a person must not stay in a security sensitive area, or a part of such an area, of a categorised airport after being asked by a person in charge of the area or part to leave the area or part.

Penalty: 10 penalty units.

- (2A) During a special event period, a person must not intentionally or recklessly enter an area of a categorised airport if the person has been directed not to enter the area by a person in charge of the area.

Penalty: 10 penalty units.

- (2B) During a special event period, a person must not intentionally or recklessly remain in an area of a categorised airport if the

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person has been directed to leave the area by a person in charge of the area.

Penalty: 10 penalty units.

- (2C) A direction under subregulation (2A) or (2B) may be given orally or by means of a sign or written communication.
- (3) A contravention of subregulation (1), (2), (2A) or (2B) is an infringement notice offence, and if an infringement notice is issued for such a contravention, the penalty payable under the notice is 1 penalty unit.

60 Taking vehicles into certain parts of categorised airports prohibited

- (1) Except with lawful excuse, a person must not take a vehicle into a security sensitive area, or a part of such an area, of a categorised airport, without the permission of a person in charge of the area or part.

Penalty: 10 penalty units.

- (2) Except with lawful excuse, a person must not leave a vehicle in a security sensitive area, or a part of such an area, of a categorised airport after being asked by a person in charge of the area or part to remove the vehicle from the area or part.

Penalty: 10 penalty units.

- (2A) During a special event period, a person must not intentionally or recklessly take a vehicle into an area of a categorised airport if the person has been directed not to take the vehicle into the area by a person in charge of the area.

Penalty: 10 penalty units.

- (2B) During a special event period, a person must not intentionally or recklessly leave a vehicle in an area of a categorised airport if the person has been directed to remove the vehicle from the area by a person in charge of the area.

Penalty: 10 penalty units.

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- (2C) A direction under subregulation (2A) or (2B) may be given orally or by means of a sign or written communication.
- (3) A contravention of subregulation (1), (2), (2A) or (2B) is an infringement notice offence, and if an infringement notice is issued for such a contravention, the penalty payable under the notice is 1 penalty unit.

61 Security officer may remove person from certain areas

- (1) A security officer for a categorised airport may remove a person from an area of the airport, including a security sensitive area or a part of such an area, if the person:
 - (a) is asked by the security officer, or a person in charge of the area or part, to leave the area or part; and
 - (b) does not leave the area or part at once.
- (2) However, in removing somebody, the security officer must not use more force, or subject him or her to greater indignity, than is necessary and reasonable.
- (3) Before removing somebody from the area or part of the area, a security officer who is not an authorised officer must show him or her:
 - (a) an identity card that displays a recent photograph of the officer; or
 - (b) another appropriate form of identification.

Note Regulation 36 requires an authorised officer to show his or her identity card to a person before exercising a power under this Part in relation to the person.

62 Security officer may remove vehicle from certain areas

- (1) A security officer for a categorised airport may remove a vehicle from an area of the airport, including a security sensitive area or a part of such an area, if:
 - (a) the officer, or a person in charge of the area, has asked the person in control of the vehicle to remove the vehicle from the area or part; and

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- (b) the person does not remove it from the area or part at once.
 - (2) Before removing a vehicle from an area or part of an area, a security officer who is not an authorised officer must show the person in control of the vehicle:
 - (a) an identity card that displays a recent photograph of the officer; or
 - (b) another appropriate form of identification.
- Note* Regulation 36 requires an authorised officer to show his or her identity card to a person before exercising a power under this Part in relation to the person.
- (3) Also, a security officer for a categorised airport may remove a vehicle from an area of the airport, including a security sensitive area or a part of such an area, if the officer has made all reasonable efforts to find the person in control of the vehicle, but he or she has not been found.
 - (4) In removing a vehicle under this regulation, the security officer must not use more force, or subject anybody in charge of it to greater indignity, than is necessary and reasonable.
 - (5) Also, the officer must make all reasonable efforts to avoid damaging the vehicle.

62A Owner of vehicle must pay costs of storage etc

- (1) If a vehicle is removed under regulation 62, the owner of the vehicle must pay the airport operator the amount reasonably spent by the operator in moving and storing the vehicle.
- (2) The amount payable is a debt due to the operator recoverable in a court of competent jurisdiction.
- (3) An airport operator is not required to return a vehicle to a person claiming it unless the person pays the amount payable to the operator under this regulation.

62B Airport operator may sell vehicle

- (1) This regulation applies if:
 - (a) a vehicle is removed under regulation 62; and

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- (b) patrolling by members of a uniformed security force at a frequency agreed by the operator of the airport and the Secretary:
 - (i) in the areas of the airport where passenger baggage or other cargo is handled by airline staff, except an area referred to in paragraph (a), at times when passenger baggage or other cargo is being handled; and
 - (ii) at locations in the airport, except in an area referred to in paragraph (a), that provide access by persons or vehicles to areas of the airport that are not public areas;
- (c) the assignment of at least 2 members of a uniformed security force to locations that enable them to make a rapid response to a security emergency at an operational screening point for an international flight;
- (d) the assignment of at least 1 member of a uniformed security force to a location that enables him or her to make a rapid response to a security emergency at an operational screening point for a flight other than an international flight;
- (e) continuous operation of a security control-centre by the airport operator at all times when the airport is in operation;
- (f) continuous deployment of security personnel engaged solely in patrolling a part of the airport used for the surface movement of aircraft and adjacent parts of the airport;
- (g) requiring all persons to identify themselves before entering a security restricted area;
- (h) controlling at all times, vehicle and pedestrian access to a security restricted area of the airport;
- (i) identifying anybody who, and any vehicle that, enters:
 - (i) the airside controlled area of the airport; and
 - (ii) other areas important to the security of the airport;
- (j) preventing unauthorised people or vehicles from entering:
 - (i) the airside controlled area of the airport; and
 - (ii) other areas important to the security of the airport;

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- (k) illumination of an aircraft parking area at the airport when a regular public transport aircraft is parked in that area overnight;
 - (l) erection and maintenance of fencing, in compliance with standards specified in writing by the Secretary, between a part of an airport used for the surface movement of aircraft and an adjacent part of the airport other than a security restricted area;
 - (m) provision of storage that ensures aviation security for baggage and other cargo (including mail) that is intended to be carried in the hold of the aircraft;
 - (n) appointment of an employee of the operator of the airport to coordinate aviation security for the airport;
 - (o) convening of a meeting of the airport security committee for the airport at intervals not greater than 2 months;
 - (p) attendance at the airport by a member of a police force:
 - (i) at times convenient to that police force; or
 - (ii) on request.
- (2) During a special event period, if an airport operator is unable to provide a uniformed security force to implement the measures mentioned in paragraphs (1) (a), (b), (c) and (d), those measures must be implemented as if the words ‘uniformed security force’ in each of those paragraphs were replaced by the words ‘security service’.

Note **Uniformed security force** has the meaning given by section 3AF of the Act.

64 Aviation security: dogs at certain category 1 airports

- (1) For each category 1 airport specified in subregulation (2), the measure specified in subregulation (3), to be implemented by the airport operator, is a prescribed matter for section 22ZL of the Act.
- (2) The airports are:
 - (a) Sydney (Kingsford Smith) Airport; and
 - (b) Melbourne International Airport; and
 - (c) Brisbane International Airport.

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- (3) The measure is the keeping available, by the uniformed security force that provides continuous patrolling at the airport under paragraph 63 (a), of at least 2 dogs that are trained to detect explosives, and a handler for each dog.

65 Aviation security: category 2 airports

- (1) For a category 2 airport, the following measures, to be implemented by the airport operator, are prescribed matters for the purposes of section 22ZM of the Act:
- (a) continuous patrolling by members of a uniformed security force:
 - (i) at all times when a passenger terminal building within the airport is operational — within that terminal building; and
 - (ii) at all times when the airport is operational — at barriers that separate public areas of the airport from security restricted areas of the airport in relation to:
 - (A) movement of passengers to or from aircraft; or
 - (B) loading of aircraft cargo on a passenger aircraft or unloading of aircraft cargo from a passenger aircraft;
 - (b) patrolling by members of a uniformed security force at a frequency agreed by the operator of the airport and the Secretary:
 - (i) in the areas of the airport where passenger baggage or other cargo is handled by airline staff, except an area referred to in paragraph (a), at times when passenger baggage or other cargo is being handled; and
 - (ii) at locations in the airport, except in an area referred to in paragraph (a), that provide access by persons or vehicles to areas of the airport that are not public areas;
 - (c) the assignment of at least 2 members of a uniformed security force to locations that enable them to make a rapid response to a security emergency at an operational screening point for an international flight;

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- (d) the assignment of at least 1 member of a uniformed security force to a location that enables him or her to make a rapid response to a security emergency at an operational screening point for a flight other than an international flight;
- (e) requiring all persons to identify themselves before entering a security restricted area;
- (f) identifying anybody who, and any vehicle that, enters:
 - (i) the airside controlled area of the airport; and
 - (ii) other areas important to the security of the airport;
- (g) preventing unauthorised people or vehicles from entering:
 - (i) the airside controlled area of the airport; and
 - (ii) other areas important to the security of the airport;
- (h) when screening is being conducted — patrolling of the airport, by security personnel who are uniformed and armed, in areas of restricted access specified in writing by the Secretary;
- (i) controlling at all times, vehicle and pedestrian access to a security restricted area of the airport;
- (j) illumination of an aircraft parking area at the airport when a regular public transport aircraft is parked in that area overnight;
- (k) erection and maintenance of fencing, in compliance with standards specified in writing by the Secretary, between a part of an airport used for the surface movement of aircraft and an adjacent part of the airport other than a security restricted area;
- (l) if the Secretary determines that this paragraph applies to an international flight — provision of storage that ensures aviation security for baggage and other cargo (including mail) that is intended to be carried in the hold of the aircraft;
- (m) appointment of an employee of the operator of the airport to coordinate aviation security for the airport;
- (n) convening of a meeting of the airport security committee for the airport at intervals not greater than 3 months;
- (o) attendance at the airport by a member of a police force:
 - (i) at times convenient to that police force; or

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- (ii) on request.
- (2) During a special event period, if an airport operator is unable to provide a uniformed security force to implement the measures mentioned in paragraphs (1)(a), (b), (c) and (d), those measures must be implemented as if the words 'uniformed security force' in each of those paragraphs were replaced by the words 'security service'.

Note **Uniformed security force** has the meaning given by section 3AF of the Act.

66 Aviation security: category 3 airports

- (1) For a category 3 airport, the following measures, to be implemented by the airport operator, are prescribed matters for the purposes of section 22ZN of the Act:
 - (a) if the Secretary determines that this paragraph applies to the airport:
 - (i) continuous patrolling, by members of a uniformed security force, in a passenger terminal building within the airport in which screening of persons or goods is occurring; and
 - (ii) continuous patrolling by members of a uniformed security force, at all times when passengers are being screened, at barriers that separate public areas of the airport from security restricted areas of the airport in relation to:
 - (A) movement of passengers to or from aircraft; or
 - (B) loading of aircraft cargo on a passenger aircraft or unloading of aircraft cargo from a passenger aircraft;
 - (iii) patrolling by members of a uniformed security force at a frequency agreed by the operator of the airport and the Secretary:
 - (A) in the areas of the airport where passenger baggage or other cargo is to be handled by airline staff, except an area referred to in subparagraph (i) or (ii), at times when any such baggage or cargo is being handled; and

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- (B) at locations in the airport, except in an area referred to in subparagraph (i) or (ii), that provide access by passengers or by wheeled vehicles to areas of the airport that are not public areas;
- (iv) the assignment of at least 2 members of a uniformed security force to locations that enable them to make a rapid response to a security emergency at an operational screening point for an international flight;
- (v) the assignment of at least 1 member of a uniformed security force to a location that enables him or her to make a rapid response to a security emergency at an operational screening point for a flight other than an international flight;
- (b) requiring all persons to identify themselves before entering a security restricted area;
- (c) in a period that the Secretary determines, by notice in writing given to the operator of the airport, to be a period in which the following measure is necessary — patrolling, in a part of the airport set out in the determination, by security personnel who are uniformed and armed;
- (d) controlling at all times, vehicle and pedestrian access to a security restricted area of the airport;
- (e) identifying anybody who, and any vehicle that, enters:
 - (i) the airside controlled area of the airport; and
 - (ii) other areas important to the security of the airport;
- (f) preventing unauthorised people or vehicles from entering:
 - (i) the airside controlled area of the airport; and
 - (ii) other areas important to the security of the airport;
- (g) illumination of an aircraft parking area at the airport when a regular public transport aircraft is parked in that area overnight;
- (h) erection and maintenance of fencing, in compliance with standards specified in writing by the Secretary, between a part of an airport used for the surface movement of aircraft and an adjacent part of the airport other than a security restricted area;

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- (i) if the Secretary determines that this paragraph applies to an international flight — provision of storage that ensures aviation security for baggage and other cargo (including mail) that is intended to be carried in the hold of the aircraft;
 - (j) appointment of an employee of the operator of the airport to coordinate aviation security for the airport;
 - (k) convening a meeting of the airport security committee for the airport at intervals not greater than 3 months;
 - (l) attendance at the airport by a member of a police force:
 - (i) at times convenient to that police force; or
 - (ii) on request.
- (2) During a special event period, if an airport operator is unable to provide a uniformed security force to implement the measures mentioned in subparagraphs (1) (a) (i), (ii), (iii) and (iv), those measures must be implemented as if the words ‘uniformed security force’ in each of those subparagraphs were replaced by the words ‘security service’.

Note **Uniformed security force** has the meaning given by section 3AF of the Act.

67 Aviation security: category 4 airports

In relation to a category 4 airport, the following measures, to be implemented by the airport operator, are prescribed matters for the purposes of section 22ZO of the Act:

- (a) requiring everybody who enters a security restricted area to identify himself or herself before doing so;
- (b) identifying people who, and vehicles that, enter:
 - (i) the airside controlled area of the airport; and
 - (ii) other areas important to the security of the airport;
- (c) preventing unauthorised people or vehicles from entering:
 - (i) the airside controlled area of the airport; and
 - (ii) other areas important to the security of the airport;
- (d) erection and maintenance of fencing, in compliance with standards specified in writing by the Secretary, between a part of an airport used for the surface movement of aircraft

and an adjacent part of the airport other than a security restricted area;

- (e) attendance at the airport by a member of a police force:
 - (i) at times convenient to that police force; or
 - (ii) on request;
- (f) appointment of an employee of the operator of the airport to coordinate aviation security for the airport;
- (g) convening a meeting of the airport security committee for the airport at intervals not greater than 6 months.

68 Aviation security: category 5 airports

In relation to a category 5 airport, the following measures, to be implemented by the airport operator, are prescribed matters for the purposes of section 22ZP of the Act:

- (a) requiring everybody who enters a security restricted area to identify himself or herself before doing so;
- (b) identifying people who, and vehicles that, enter:
 - (i) the airside controlled area of the airport; and
 - (ii) other areas important to the security of the airport;
- (c) preventing unauthorised people or vehicles from entering:
 - (i) the airside controlled area of the airport; and
 - (ii) other areas important to the security of the airport;
- (d) attendance at the airport by a member of a police force:
 - (i) at times convenient to that police force; or
 - (ii) on request.

69 Aviation security: vehicle inspections

For the purposes of regulations 63, 65 and 66, patrolling an area accessible by vehicles includes inspecting, if appropriate, any vehicle in that area.

70 Notice of certain decisions by the Secretary

If the Secretary:

- (a) specifies a standard under paragraph 63 (l), 65 (k), 66 (h) or 67 (d); or

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- (b) specifies an area of restricted access at a category 2 airport under paragraph 65 (h); or
- (c) makes a determination under paragraph 65 (l) or 66 (a), (c) or (i);

the Secretary must give to the operator of an airport affected by the decision a copy of the instrument by which he or she made the decision.

Division 6 Security force personnel

71 Qualifications of security force personnel

- (1) To be qualified to be a member of a uniformed security force for the purposes of this Part, a person must be:
 - (a) trained to a level of competence approved by the Secretary in the techniques of first response to acts of terrorism; and
 - (b) trained to a proficient level in the use of firearms; and
 - (c) authorised to bear firearms under the relevant Commonwealth, State or Territory laws applying to the airport where the security force is employed; and
 - (d) trained to a level of competence approved by the Secretary in general airport procedures in relation to the movement of persons and cargo within an airport; and
 - (e) capable of responding promptly and effectively to a breach or impending breach of aviation security.
- (2) In addition to the requirements specified in subregulation (1), to be qualified to be a member of a uniformed security force at a category 1 or 2 airport, a person must have:
 - (a) under the laws of the Commonwealth or of the State or Territory in which the airport is located, powers of arrest and associated powers not less than the powers specified in Part III of the *Australian Protective Service Act 1987*; and
 - (b) proficiency:
 - (i) in contributing to the collection and management of information of value to aviation security intelligence; and
 - (ii) in the appropriate application of such intelligence.

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- (3) In addition to the requirements specified in subregulation (1), to be qualified to participate as a member of a uniformed security force at a category 3 airport, a person must be:
- (a) under the laws of the Commonwealth or of the State or Territory in which the airport is located — authorised to exercise the powers appropriate to a person employed to provide a security service; or
 - (b) if no such laws apply to the airport — a graduate of a course of training in the performance of the duties of a security service, being a course approved in writing by the Secretary.
- (4) For the purposes of this regulation, *first response*, in relation to an act of terrorism, means initial action:
- (a) to evacuate endangered or potentially endangered persons; and
 - (b) if the act has occurred or is occurring — to contain it; or
 - (c) if the act is threatened or prospective — to deter or prevent it; and
 - (d) to cordon the location of the act; and
 - (e) to pass relevant information to emergency services that respond to the act and to other relevant government agencies.

71A Qualifications of security service personnel

To be qualified to be a member of a security service for an airport for the purposes of this Part, a person must:

- (a) hold a Certificate II training qualification in accordance with the National Security Industry Competency Standards for Security Officers — Security Officer Standards (Guarding), published by Property Services Industry Training Advisory Body Ltd (Australian Business Number 67 062 779 186) in November 1998; and
- (b) if the law of the State or Territory in which the airport is located provides for licensing security agents (however described), hold such a licence.

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72 Character requirements of security force personnel

- (1) A person is not eligible to be a member of a uniformed security force:
 - (a) at a category 1 or 2 airport; or
 - (b) providing a measure referred to in paragraph 66 (a) in relation to a category 3 airport;unless the person is:
 - (c) a member or special member of the Australian Federal Police; or
 - (d) a member of the police force of the State or Territory in which the airport is located; or
 - (e) a protective service officer; or
 - (f) determined by the airport operator to be of suitably good character in consequence of information obtained in respect of the person under subregulation (2).
- (2) For the purposes of paragraph (1) (f), an airport operator may require to be satisfied in respect of a person proposing to be a member of a uniformed security force at the airport, that:
 - (a) the person is able to verify his or her identity in accordance with regulation 73; and
 - (b) subject to Part VIIC of the *Crimes Act 1914* in relation to pardons, quashed convictions and spent convictions, the person:
 - (i) has not been convicted of an offence:
 - (A) under a law of the Commonwealth or of a State or Territory; or
 - (B) under a law of a country, or of a part of a country other than Australia;
the penalty for which was imprisonment; or
 - (ii) has not been committed for trial in respect of an offence of the kind referred to in subparagraph (i) without being finally acquitted or convicted of the offence; and
 - (c) the person is not an unlawful non-citizen within the meaning of the *Migration Act 1958*.

- (3) In making a determination under paragraph (1) (f), an airport operator may disregard the conviction of a person in relation to a political offence within the meaning of the *Extradition Act 1988* if, in the opinion of the operator, it is appropriate to disregard that conviction.

73 Verification of identity

- (1) For the purposes of paragraph 72 (2) (a), a person may verify his or her identity by showing the airport operator a primary identification document and:
- (a) a secondary identification document; or
 - (b) any 2 tertiary identification documents;
- being, in each case, a document identifying that person.

74 Use of confidential information

In relation to information obtained under regulation 72, an airport operator must give effect to Information Privacy Principles 1, 2, 4, 6, 7, 8, 9, 10 and 11 set out in section 14 of the *Privacy Act 1988* as if the airport operator were an agency within the meaning of that Act.

75 Provision of information to the Secretary

On request in writing by the Secretary or an authorised person, an airport operator must give to the Secretary or the authorised person, in relation to uniformed security force personnel providing a security service at the airport:

- (a) the following information:
 - (i) the total number of those personnel; and
 - (ii) the number of those personnel rostered to provide a measure or resource prescribed by these Regulations; and
- (b) a copy of the rules (by whatever name they are known) governing the operational procedures of those personnel; and
- (c) such information as will enable the Secretary or authorised person to determine whether the members of the

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uniformed security force comply with the relevant requirements of regulations 71 and 72.

Division 7 Access to security restricted areas of airports

Subdivision 1 Preliminary

76 Definitions for Division 7

- (1) In this Division:

ASIC means:

- (a) a security identification card; or
- (b) a visitor identification card.

ASIC program has the meaning given by regulation 79, and includes a program of that type as varied under regulation 82 or 83.

holder, of an ASIC, means the person to whom it is issued.

issuing body means a person authorised under regulation 81 to issue ASICs.

program purposes, for an ASIC program, means the purposes mentioned in regulation 79.

security identification card means a card of that type issued under this Division.

unlawful non-citizen has the same meaning as in the *Migration Act 1958*.

Note See sections 13, 14 and 15 of that Act.

visitor identification card means a card of that type issued under this Division.

- (2) For this Division, an ASIC *applies to a place* if it shows that the person it is issued to is authorised to be in the place.

Note Unless the contrary intention appears, words and expressions defined in the Act and used in this Division have the same meaning as they do in the Act: see *Acts Interpretation Act 1901*, paragraph 46 (1) (a). For example, subsection 3 (1) of the Act defines *aircraft operator*, *airport operator*, *aviation security* and *security restricted area*. For *uniformed security force*, see section 3AF of the Act.

77 Meaning and extended meaning of *valid ASIC*

- (1) In this Division:
valid, used about an ASIC, means:
- (a) issued under this Division; and
 - (b) not expired or cancelled; and
 - (c) not altered or defaced (permanently or temporarily).
- (2) However, in a provision of this Division that refers to somebody displaying or showing a valid ASIC, *valid ASIC* means an ASIC that:
- (a) is valid (within the meaning given by subregulation (1)); and
 - (b) was issued to him or her; and
 - (c) applies to the place where he or she is.

Note For *applies to a place*, used about an ASIC, see subregulation 76 (2).

78 Offences of strict liability

- (1) If a provision of this Division says that an offence is an offence of strict liability:
- (a) there is no mental element (that is, intention, knowledge or recklessness) for any act or omission that constitutes the offence; and
 - (b) the defence of mistake of fact is available.
- (2) An offence created by this Division is not an offence of strict liability (within the meaning given by subregulation (1)) if nothing in this Division says so.
- (3) The defence of mistake of fact is available for all offences created by this Division.

Subdivision 2 ASIC programs

79 What an ASIC program is

For this Division, the *ASIC program* of an issuing body is a program that sets out the resources to be used, and the

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procedures to be followed, by the body for the following purposes:

- (a) preventing unauthorised people entering security restricted areas at airports;
- (b) ensuring that somebody authorised to be in a security restricted area at an airport is adequately supervised while he or she is in the area;
- (c) making it easier to identify people in security restricted areas at airports through the use of ASICs;
- (d) ensuring maximum recognition for ASICs issued by the body by ensuring that ASICs of a particular kind issued by the body are of a nationally identical design for ASICs of that kind;
- (e) ensuring that somebody in a security restricted area at an airport has a lawful reason to be there;
- (f) ensuring that somebody in a security restricted area at an airport complies with this Part (for example, by complying with requirements about the use and display of an ASIC);
- (g) preventing activities, in security restricted areas at airports, that could result in an unlawful interference with aviation;

Note Acts that amount to ***an unlawful interference with aviation*** are set out in section 3AE of the Act.

- (h) ensuring that accurate records are kept of:
 - (i) how many ASICs are issued by the body, and what kind they are; and
 - (ii) to whom they are issued.

80 Application for authorisation to issue ASICs

- (1) An airport operator, aircraft operator or other person may apply, in writing, to the Secretary for authorisation to issue ASICs to people in a class mentioned in the authorisation.
- (2) An application must be accompanied by a statement setting out the applicant's proposed ASIC program.

81 Decision on an application

- (1) Within 30 days after receiving an application, the Secretary must:
 - (a) authorise, or refuse to authorise, the applicant; and
 - (b) tell the applicant in writing of the decision and, if the decision is a refusal, the reasons for it.
- (2) If the applicant is an airport operator, the Secretary must authorise the applicant if:
 - (a) an airport operated by the applicant has a security restricted area; and
 - (b) the applicant's proposed ASIC program is apparently adequate to give effect to the program purposes; and
 - (c) authorising the applicant would not be likely to be a significant threat to aviation security.
- (3) If the applicant is not an airport operator, the Secretary must not authorise the applicant unless:
 - (a) the applicant is an aircraft operator, or another person who may appropriately be authorised to issue ASICs; and
 - (b) the applicant controls a security restricted area, or part of a security restricted area, of an airport, or reasonably needs on-going access to such an area or part of such an area; and
 - (c) it appears that the ASICs that the applicant proposes to issue cannot more appropriately be issued by an airport operator; and
 - (d) the applicant's proposed ASIC program is apparently adequate to give effect to the program purposes; and
 - (e) authorising the applicant would not be likely to be a significant threat to aviation security.
- (4) For paragraph (3) (c), the Secretary must consider:
 - (a) how many ASICs, and of what kinds, the applicant proposes to issue; and
 - (b) the respective resources of the applicant and the relevant airport operator; and
 - (c) the desirability of having as few issuing bodies as practicable at a time.

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- (5) The Secretary may authorise a person as an issuing body subject to a condition mentioned in the authorisation.
- (6) A person (except the Secretary) must not issue an ASIC, or a card purporting to be an ASIC, unless the person is the holder of an authorisation that is in force.

Penalty: 45 penalty units.
- (7) A contravention of subregulation (6) is an offence of strict liability.

82 Direction to vary ASIC program

- (1) If an issuing body's ASIC program is not adequate to give effect, in all circumstances, to any 1 or more of the program purposes, the Secretary may direct the body, in writing, to vary the program.
- (2) The Secretary must not give such a direction in relation to a program purpose unless the variation is appropriate to make the program adequate for that purpose.
- (3) A direction must:
 - (a) indicate the variation needed; and
 - (b) state the time within which the issuing body must submit an appropriately varied program to the Secretary.
- (4) An issuing body must comply with such a direction.

Note Regulation 85 provides for the revocation of the authorisation of a body that does not comply with a direction.

83 Variation of ASIC program by issuing body

- (1) An issuing body may:
 - (a) review its ASIC program at any time; and
 - (b) submit a written proposed variation of the program to the Secretary for approval.
- (2) Before the end of 30 days after receiving the proposed variation, the Secretary must:
 - (a) approve or refuse to approve the variation; and

- (b) tell the applicant in writing of the decision and, if the decision is a refusal, the reasons for it.
- (3) The Secretary must approve the variation if the program, as varied, will give effect to the program purposes.

84 Issuing body to give effect to ASIC program unless exempted

- (1) An issuing body must give effect to its ASIC program.
Penalty: 45 penalty units.
- (2) A contravention of subregulation (1) is an offence of strict liability.
- (3) However, an issuing body may apply, in writing, to the Secretary for exemption from giving effect to its ASIC program in a particular case or respect.
- (4) Within 30 days after receiving an application, the Secretary must:
 - (a) give or refuse the exemption; and
 - (b) tell the body in writing of the decision and, if the decision is a refusal, the reasons for it.
- (5) The Secretary may also give, on his or her own initiative, an issuing body a written exemption from giving effect to its ASIC program in a particular case or respect.
- (6) Before giving or refusing an exemption under this regulation, the Secretary must consider:
 - (a) the justification for the proposed exemption; and
 - (b) the likely effect of the proposed exemption on each of the program purposes; and
 - (c) how long the proposed exemption will be for, if it is granted; and
 - (d) anything else relevant that the Secretary knows about.
- (7) The Secretary may give an exemption for a particular period and subject to a condition mentioned in the exemption.

Regulation 85

85 Secretary may revoke issuing body's authorisation

- (1) If an issuing body is an airport operator, the Secretary must revoke the operator's authorisation if:
 - (a) no airport operated by the body has a security restricted area; or
 - (b) the body's ASIC program is apparently no longer adequate to give effect to a program purpose, and it is unlikely that a direction under regulation 82 will make the program adequate for that purpose; or
 - (c) allowing the body's authorisation to continue would be likely to be a significant threat to aviation security; or
 - (d) the body does not comply with a direction of the Secretary under regulation 82.

- (2) If an issuing body is not an airport operator, the Secretary must revoke the body's authorisation if:
 - (a) the body is no longer a person that may appropriately be authorised to issue ASICs; or
 - (b) the body no longer controls a security restricted area, or part of a security restricted area, of an airport, nor reasonably requires on-going access to such an area or part of an area; or
 - (c) the ASICs being issued by the body can more appropriately be issued by an airport operator; or
 - (d) allowing the body's authorisation to continue would be likely to be a significant threat to aviation security; or
 - (e) the body's ASIC program is apparently no longer adequate to give effect to a program purpose, and it is unlikely that a direction under regulation 82 will make the program adequate for that purpose; or
 - (f) the body does not comply with a direction of the Secretary under regulation 82.

- (3) The Secretary may revoke the authorisation of an issuing body if the body contravenes:
 - (a) this Division; or
 - (b) a condition of its authorisation.

- (4) For subregulation (3), the Secretary must consider:
 - (a) the kind and seriousness of the contravention; and
 - (b) whether the issuing body has previously contravened this Division or a condition of its authorisation.
- (5) As soon as practicable after revoking the authorisation of a body under this regulation, the Secretary must tell the body in writing of the revocation and the reasons for it.
- (6) The revocation takes effect when written notice of the revocation is given to the person.

86 Revocation of authorisation at request of holder

- (1) The Secretary must revoke the authorisation of a body to issue ASICs if the person asks the Secretary, in writing, to do so.
- (2) A revocation under subregulation (1) takes effect when the request was made.

87 Re-applying for authorisation

A body whose authorisation is revoked may apply under regulation 80 for a new authorisation.

Subdivision 3 ASICs: issue, expiry and cancellation

88 Definitions for Subdivision 3

In this Subdivision:

conviction (of a person for an offence) has the meaning given by subsection 85ZM (1) of the *Crimes Act 1914*, but does not include:

- (a) a spent conviction (within the meaning given by subsection 85ZM (2) of that Act); or
- (b) a conviction for an offence of which, under a law relating to pardons or quashed convictions, he or she is taken never to have been convicted.

Note 1 Under the definition of **conviction** in subsection 85ZM (1) of the *Crimes Act 1914*, somebody is also taken to have been convicted of an offence if he or she has been convicted of the offence but no conviction has

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been recorded, and if a court has taken the offence into account in sentencing him or her for another offence: see paragraphs 85ZM (1) (b) and (c).

Note 2 Under Part VIIC of the *Crimes Act 1914*, if somebody receives a free and absolute pardon for an offence against a law of the Commonwealth or a Territory because he or she was wrongly convicted of the offence, he or she is taken for all purposes never to have been convicted — see section 85ZR of that Act.

Note 3 Under that Act, a person need not disclose convictions that:

- (a) have been quashed (see s 85ZT); or
- (b) are spent (see s 85ZV).

sentence includes a suspended sentence.

Subdivision 3 offence means an offence of a kind mentioned in the following Table against a law of the Commonwealth, or of a State or Territory, or of any other country or part of a country:

Item	Kind of offence
1	An offence involving dishonesty
2	An offence involving violence or a threat of violence
3	An offence involving intentional damage to property or a threat of damage to property
4	An offence constituted by the production, possession, supply, import or export of a substance that is: <ul style="list-style-type: none">(a) a narcotic substance within the meaning of the <i>Customs Act 1901</i>; or(b) a drug within the meaning of:<ul style="list-style-type: none">(i) regulation 10 of the Customs (Prohibited Exports) Regulations; or(ii) regulation 5 of the Customs (Prohibited Imports) Regulations
5	An offence, of a kind dealt with in Part II of the <i>Crimes Act 1914</i> , against the Government of: <ul style="list-style-type: none">(a) the Commonwealth or a State or Territory; or(b) a country or part of a country other than Australia

89 Issue of ASICs — issuing body

An issuing body may issue ASICs only in accordance with its ASIC program.

90 Security identification cards — issue by issuing body

- (1) An issuing body may issue a security identification card to somebody for all or part of 1 or more security restricted areas at an airport, or at more than 1 airport.
- (2) However, an issuing body may issue a security identification card to somebody only if:
 - (a) he or she needs to enter, for his or her employment, a security restricted area, or part of a security restricted area, to which the card will apply; and
 - (b) he or she is not an unlawful non-citizen; and

Note For the meaning of *unlawful non-citizen*, see regulation 76.

 - (c) he or she has verified his or her identity by means of:
 - (i) 2 primary identification documents; or
 - (ii) a primary identification document and a secondary identification document; or
 - (iii) a primary identification document and 2 tertiary identification documents; and
 - (d) issuing the card to him or her would not be a significant threat to aviation security.

Penalty: 45 penalty units.

- (3) Also, if an issuing body proposes to issue a security identification card to somebody who:
 - (a) was convicted of a Subdivision 3 offence during the relation-back period (within the meaning given by regulation 91) for him or her and the offence; and
 - (b) was sentenced to imprisonment for the offence for more than 7 days;

the body must not issue the card to him or her unless the Secretary approves the issue of the card under regulation 92.

Penalty: 45 penalty units.

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- (4) A contravention of subregulation (2) or (3) is an offence of strict liability.
- (5) The issue of a security identification card may be subject to a condition notified by the issuing body to the holder.
- (6) If a security identification card is issued subject to a condition, the notice of the condition must be in writing.

91 Relation-back period

- (1) For regulation 90, the length of the relation-back period for a person and a conviction is:
 - (a) for a conviction for which he or she was dealt with as a minor — 5 years; or
 - (b) for any other conviction — 10 years.
- (2) For regulation 90, the relation-back period in relation to the proposed issue of a security identification card to somebody ends at the end of the day before the day on which it is proposed to issue the card to him or her.
- (3) However, if subregulation (4) applies to somebody, the relation-back period for the issue of a security identification card to him or her:
 - (a) begins on the day on which this Division commences; and
 - (b) ends at the end of the day before the day on which it is proposed to issue the card to him or her.
- (4) This subregulation applies to somebody who:
 - (a) on the day this Division commences, held a card that is taken, under regulation 96, to be a security identification card; and
 - (b) held that card, or first that card and then a valid security identification card issued in its place under this Division, continuously since this Division commenced.
- (5) To avoid doubt, subregulation (4) does not cease to apply to somebody if he or she is issued with a security identification card that takes effect immediately after the expiry of another security identification card (including a card that is taken, for this Division, to be such a card) held by him or her (whether or

not the cards apply to the same security restricted area, or the same part of such an area).

92 Security identification cards — Secretary's approval of issue

- (1) If a person is not eligible to be issued a security identification card only because of subregulation 90 (3), an issuing body may apply to the Secretary, in writing, for approval to issue a security identification card to the person.

Note Subregulation 90 (3) prevents the issue of such a card to somebody who has been convicted of a Subdivision 3 offence. For *Subdivision 3 offence*, see regulation 88.

- (2) If the Secretary needs more information to deal with an application, the Secretary may ask the issuing body, in writing, to provide the information.
- (3) Within 30 days after receiving an application (or, if the Secretary has asked for information under subregulation (2), after receiving the information), the Secretary must:
- (a) approve, or refuse to approve, in writing, the issuing of the security identification card; and
 - (b) tell the issuing body in writing of the decision and, if the decision is a refusal, the reasons for it.
- (4) Before approving or refusing to approve the issue of the card, the Secretary must consider:
- (a) the nature of the offence the person was convicted of; and
 - (b) the length of the term of imprisonment imposed on him or her; and
 - (c) if he or she has served the term, or part of the term — how long it is, and his or her conduct and employment history, since he or she did so; and
 - (d) if the whole of the sentence was suspended — how long the sentence is, and his or her conduct and employment history, since the sentence was imposed; and
 - (e) anything else relevant that the Secretary knows about.
- (5) The Secretary may give an approval subject to a condition, but must tell the issuing body in writing about the condition.

Regulation 93

93 Visitor identification cards

- (1) An issuing body may issue a visitor identification card to somebody for a security restricted area, or part of a security restricted area, of an airport.
- (2) However, a visitor identification card may be issued to him or her only if:
 - (a) he or she needs to enter the area, or part of the area, for a lawful purpose; and
 - (b) he or she will be supervised by the holder of a valid security identification card while in the area or the part of the area.
- (3) An issuing body must not issue a visitor identification card to somebody in contravention of subregulation (2).

Penalty: 45 penalty units.

- (4) A contravention of subregulation (3) is an offence of strict liability.
- (5) The issue of a visitor identification card may be subject to a condition notified by the issuing body to the holder.
- (6) If a visitor identification card is issued subject to a condition, notice of the condition may be given orally.

94 Issue of ASICs — Secretary

- (1) The Secretary may issue a security identification card to an officer of the Department for all or part of 1 or more security restricted areas at an airport, or at more than 1 airport.
- (2) However, the Secretary may issue a security identification card to the officer only if the officer is somebody to whom, under regulation 90, an issuing body could issue the card.
- (3) The Secretary may issue a visitor identification card to somebody for a security restricted area, or part of a security restricted area, of an airport.

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- (4) However, the Secretary may issue a visitor identification card to somebody only if he or she is somebody to whom, under subregulation 93 (2), an issuing body could issue the card.
- (5) The Secretary may issue an ASIC subject to a condition.
- (6) If a security identification card is issued subject to a condition, the Secretary must tell the holder about the condition in writing.
- (7) If a visitor identification card is issued subject to a condition, the Secretary may tell the holder about the condition orally.

95 ASICs — period of issue and expiry

- (1) An ASIC may be issued for up to 5 years.
- (2) Unless earlier cancelled, an ASIC expires:
 - (a) at the end of the day, or the last day of the period, specified on it; or
 - (b) for a visitor identification card that does not have a day or period specified on it — at the time when, or the end of the period after which, the Secretary or issuing body tells the holder that it will expire; or
 - (c) for a security identification card that does not have a day or period specified on it — at the end of 5 years after its issue.

96 Transitional — cards issued before this Division commences

- (1) In this regulation:
 - superseded card* means a card that:
 - (a) was issued to somebody, before this regulation commenced, by an airport operator (including the Federal Airports Corporation), an aircraft operator or the Secretary to allow him or her to enter a security restricted area, or part of a security restricted area, of an airport unescorted; and
 - (b) bears a recent photograph of him or her by which he or she can be identified.

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- (2) If, immediately before this regulation commenced, somebody was the holder of a superseded card for a security restricted area, or part of a security restricted area, of an airport, and the card has not expired nor been cancelled, the card is taken:
- (a) to be a security identification card for the area or part; and
 - (b) to continue in effect (unless sooner cancelled) until:
 - (i) when, except for this regulation, it would have ceased to have effect; or
 - (ii) the holder is issued a security identification card under regulation 90 or 94; and
 - (c) to continue to be subject to any condition to which the card was subject immediately before this regulation commenced.

97 Cancellation of ASICs by issuing body

- (1) An issuing body must cancel an ASIC issued by the body if:
- (a) the body finds out that the ASIC was not issued in accordance with the body's ASIC program or this Division; or
 - (b) use of the ASIC by the holder is a significant threat to aviation security; or
 - (c) for a security identification card:
 - (i) the holder no longer needs to enter the security restricted area, or the part of a security restricted area, of an airport to which the card applies, for his or her employment; or
 - (ii) the holder becomes an unlawful non-citizen; or
- Note* For the meaning of **unlawful non-citizen**, see regulation 76.
- (iii) the holder is convicted of a Subdivision 3 offence for which he or she is sentenced to a term of imprisonment of more than 7 days; or
 - (d) for a visitor identification card:
 - (i) the holder no longer needs to enter the security restricted area, or the part of a security restricted area, of an airport to which the card applies, for a lawful purpose; or

- (ii) the holder is not being, or will not be, supervised by the holder of a valid security identification card while in the area or part.
- (2) An issuing body may cancel an ASIC issued by the body if:
 - (a) the holder contravenes this Division, or a condition of the ASIC; or
 - (b) the ASIC is altered or defaced (permanently or temporarily).
- (3) For paragraph (2) (a), the issuing body must consider:
 - (a) the kind and seriousness of the contravention; and
 - (b) whether the holder has previously contravened this Division or a condition of the ASIC.
- (4) As soon as practicable after an issuing body cancels an ASIC under subregulation (1) or (2), the body must tell the holder that the card has been cancelled and why.
- (5) A cancellation under subregulation (1) or (2) takes effect when the holder is told of it.

98 Cancellation of ASICs by issuing body at holder's request

- (1) An issuing body must cancel an ASIC issued by the body if the holder of the ASIC asks the body to cancel it.
- (2) A cancellation under subregulation (1) takes effect when the request was made.

99 Cancellation of ASICs by Secretary

- (1) The Secretary must cancel an ASIC issued by the Secretary if:
 - (a) the Secretary finds out that the ASIC was not issued in accordance with this Division; or
 - (b) possession of the ASIC by the holder is a significant threat to aviation security; or
 - (c) for a security identification card:
 - (i) the holder no longer needs to enter the security restricted area, or the part of a security restricted

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area, of an airport to which the card applies, for his or her employment; or

- (ii) the holder becomes an unlawful non-citizen; or

Note For the meaning of **unlawful non-citizen**, see regulation 76.

- (iii) the holder is convicted of a Subdivision 3 offence for which he or she is sentenced to a term of imprisonment of more than 7 days; or

- (d) for a visitor identification card:

- (i) the holder no longer needs to enter the security restricted area, or the part of a security restricted area, of an airport to which the card applies, for a lawful purpose; or

- (ii) the holder is not being, or will not be, supervised by the holder of a valid security identification card while in the area, or part of the area.

- (2) The Secretary may cancel an ASIC issued by the Secretary if:

- (a) the holder contravenes this Division, or a condition of the ASIC; or
- (b) the ASIC is altered or defaced (permanently or temporarily).

- (3) For paragraph (2) (a), the Secretary must consider:

- (a) the kind and seriousness of the contravention; and
- (b) whether the holder has previously contravened this Division or a condition of the ASIC.

- (4) As soon as practicable after cancelling an ASIC under subregulation (1) or (2), the Secretary must tell the holder that the card has been cancelled and why.

- (5) A cancellation under subregulation (1) or (2) takes effect when the holder is told of it.

100 Cancellation of ASIC by Secretary at holder's request

- (1) The Secretary must cancel an ASIC issued by the Secretary if the holder of the ASIC asks the Secretary to cancel it.
- (2) A cancellation under subregulation (1) takes effect when the request was made.

**101 Security identification card holder convicted of
Subdivision 3 offence**

If the holder of a security identification card is convicted of a Subdivision 3 offence, for which he or she is sentenced to a term of imprisonment of more than 7 days, he or she must tell the issuing body, or (if the card was issued by the Secretary) the Secretary, in writing of the conviction and sentence as soon as possible.

Penalty: 5 penalty units.

Subdivision 4 Display and use of ASICs

102 What properly displaying means

- (1) For this Subdivision, somebody is *properly displaying* an ASIC only if it is attached to his or her outer clothing:
 - (a) at waist height or above; and
 - (b) at the front or side of his or her body; and
 - (c) with the front face of the card clearly visible.
- (2) However, somebody is not *properly displaying* an ASIC if material adhering to the ASIC obscures the photograph or anything else on it.

103 Persons required to display ASICs

- (1) Subject to regulations 104, 105, 106 and 107, everybody (including an authorised officer) in a security restricted area of an airport must properly display a valid ASIC.

Penalty: 5 penalty units.

Note For *properly displaying*, see regulation 102; for *valid ASIC*, see regulation 77.

- (2) A contravention of subregulation (1) is an offence of strict liability.
- (3) A contravention of subregulation (1) is an infringement notice offence, and if an infringement notice is issued for such a

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contravention, the penalty payable under the notice is 1 penalty unit.

- (4) To avoid doubt, nothing in subregulation (1) affects an authorised officer's obligation to show somebody his or her identity card before exercising a power under this Part.

Note Regulation 36 requires an authorised officer to show his or her identity card to somebody before exercising a power under this Part in relation to him or her.

104 Police officer in uniform

Despite regulation 103, a police officer in uniform who is carrying out his or her duty as a police officer need not display an ASIC in a security restricted area of an airport.

105 Aircrew of foreign and state aircraft

Despite regulation 103, each of the following people need not display an ASIC in a security restricted area of an airport:

- (a) a crew member of a foreign aircraft (other than a state aircraft) that is engaged in a regular public transport operation or a charter operation, and who:
- (i) is on duty; and
 - (ii) is in the uniform of the aircraft operator; and
 - (iii) displays appropriate identification issued, or authorised, by the aircraft operator;
- (b) a crew member of a state aircraft who:
- (i) is on duty; and
 - (ii) is in uniform; and
 - (iii) displays appropriate identification issued, or authorised, by the defence force or service of which he or she is a member.

106 Intending passengers on RPT, state and foreign aircraft

- (1) In this regulation:

intending passenger means somebody to whom a ticket or other authorisation has been issued, for travel on a flight of a

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state aircraft, or an aircraft engaged in a regular public transport operation or a charter operation.

- (2) Despite regulation 103, an intending passenger need not display an ASIC in a security restricted area of an airport if:
- (a) he or she is directed to enter the area by:
 - (i) somebody who properly displays a valid security identification card; or
 - (ii) somebody who the intending passenger has reason to believe to be authorised to supervise intending passengers in the area; or
 - (iii) if the aircraft on which the intending passenger will travel is a foreign aircraft or a state aircraft — a crew member described in paragraph 105 (a) or (b); and
 - (b) while he or she is in the area, he or she is generally supervised by somebody referred to in subparagraph (a) (i), (ii) or (iii).
- (3) An aircraft operator must ensure that, as far as practicable, an intending passenger for the flight of an aircraft operated by the operator does not enter, or stay in, a security restricted area of an airport unless the intending passenger:
- (a) holds, and properly displays, a valid security identification card; or
 - (b) is directed to enter the area, and while in the area is supervised, by:
 - (i) somebody who properly displays a valid security identification card; or
 - (ii) if the aircraft is a foreign aircraft or state aircraft — a crew member described in paragraph 105 (a) or (b).

Penalty: 10 penalty units.

- (4) A contravention of subregulation (3) is an offence of strict liability.

Regulation 107

107 Secretary may give exemption from requirement to display ASIC

- (1) Despite regulation 103, somebody to whom the Secretary has given an exemption under this regulation need not display an ASIC in a security restricted area, or part of the security restricted area, of an airport.
- (2) A person may apply, in writing, to the Secretary for a written exemption from displaying an ASIC in such an area or part of such an area.
- (3) Within 30 days after receiving an application, the Secretary must:
 - (a) give or refuse the exemption; and
 - (b) tell the person in writing of the decision and, if the decision is a refusal, the reasons for it.
- (4) On the Secretary's own initiative, the Secretary may give somebody a written exemption from displaying an ASIC in a security restricted area of an airport.
- (5) Before giving or refusing an exemption, the Secretary must consider:
 - (a) why the exemption is necessary; and
 - (b) the likely effect of the proposed exemption on aviation security at the airport; and
 - (c) how long the proposed exemption will last, if it is given; and
 - (d) anything else relevant that the Secretary knows about.
- (6) The Secretary may give an exemption:
 - (a) for a particular period and subject to a condition mentioned in the exemption; or
 - (b) limited to part of a security restricted area of a particular airport.

108 Other cards not to be used as ASICs

- (1) A person must not intentionally use an identity card, or another type of card, to gain access to a security restricted area of an

airport, if he or she knows or believes that the card is not a valid ASIC.

Penalty: 10 penalty units.

- (2) A contravention of subregulation (1) is an infringement notice offence, and if an infringement notice is issued for such a contravention, the penalty payable under the notice is 1 penalty unit.

109 Use of ASIC by holder

- (1) The holder of a security identification card must not enter, or stay in, a security restricted area of an airport other than for his or her employment.

Penalty: 5 penalty units.

- (2) The holder of a visitor identification card must not enter, or stay in, a security restricted area, of an airport:
- (a) other than for a lawful purpose; and
 - (b) unless he or she is supervised by somebody who properly displays a valid security identification card.

Penalty: 5 penalty units.

- (3) A contravention of subregulation (1) or (2) is an offence of strict liability.

110 Return of security identification card that has expired etc

- (1) The holder of a security identification card must return the card to the person that issued it (that is, the issuing body or the Secretary), as soon as practicable, if:
- (a) the card expires; or
 - (b) the holder is told that the card is cancelled; or
 - (c) the card is altered or defaced (permanently or temporarily); or

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- (d) the holder no longer needs to enter the security restricted area or part of such an area to which the card applies for his or her employment.

Penalty: 5 penalty units.

- (2) A contravention of subregulation (1) is an offence of strict liability.

111 Notification of lost etc security identification cards

- (1) If the holder of a security identification card becomes aware that his or her card has been lost, stolen or destroyed, he or she must tell the issuing body, or (if the card was issued by the Secretary) the Secretary, as soon as practicable.

Penalty: 5 penalty units.

- (2) However, subregulation (1) does not apply if the card has been destroyed by the issuing body or (if the card was issued by the Secretary) by the Secretary.
- (3) A contravention of subregulation (1) is an offence of strict liability.

Subdivision 5 Powers of security officers

112 Power to tell person to show valid ASIC

- (1) In this regulation:
exempt person, for a security restricted area or part of a security restricted area of an airport, means somebody who, under regulation 104, 105, 106 or 107, need not display a valid ASIC in the area or part.
- (2) If a security officer knows, or has reason to believe, that somebody in a security restricted area or part of a security restricted area of an airport is not properly displaying a valid ASIC, the security officer may (unless the security officer knows the person to be an exempt person for the area or part) tell him or her to do so.

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- (3) Before telling the person to do so, the security officer, if he or she is not an authorised officer, must show him or her:
- (a) an identity card, issued to the officer, that displays a recent photograph of the officer; or
 - (b) another appropriate form of identification.

Note Regulation 36 requires an authorised officer to show his or her identity card to somebody before exercising a power under this Part in relation to him or her.

- (4) A person must comply with a direction of a security officer under subregulation (2).

Penalty: 10 penalty units.

- (5) However, a person need not comply with the direction if he or she is an exempt person for the area or part.
- (6) A contravention of subregulation (4) is an infringement notice offence, and if an infringement notice is issued for such a contravention, the penalty payable under the notice is 1 penalty unit.

113 Power to demand surrender of false ASIC etc

- (1) If a person who is in a security restricted area of an airport is displaying a card that appears to be an ASIC, and a security officer has reason to believe that the card is not a valid ASIC, the officer may demand that the person surrender the card to the officer.
- (2) A security officer may demand that the holder of an ASIC surrender the card to the officer if the officer has reason to believe that the holder is using the card in contravention of:
- (a) this Division; or
 - (b) a condition of the ASIC.
- (3) Before demanding that somebody surrender a card, a security officer who is not an authorised officer must show the person:
- (a) an identity card that displays a recent photograph of the officer; or
 - (b) another appropriate form of identification.

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Note Regulation 36 requires an authorised officer to show his or her identity card to somebody before exercising a power under this Part in relation to him or her.

- (4) A person must comply with a demand of a security officer under subregulation (1) or (2).

Penalty: 10 penalty units.

- (5) A contravention of subregulation (4) is an infringement notice offence, and if an infringement notice is issued for such a contravention, the penalty payable under the notice is 1 penalty unit.

- (6) If a card is surrendered to a security officer, the security officer must, as soon as practicable, give the card to:

- (a) if the card was purportedly issued by an issuing body — the issuing body; or
(b) in any other case — the Secretary.

- (7) Somebody in a security restricted area who surrenders a card to a security officer under subregulation (4) must leave the area at once.

Penalty: 10 penalty units.

- (8) A contravention of subregulation (7) is an infringement notice offence, and if an infringement notice is issued for such a contravention, the penalty payable under the notice is 1 penalty unit.

114 Power to remove people from security restricted area

- (1) A security officer may direct a person to leave a security restricted area, or part of a security restricted area, of an airport if the officer reasonably believes that the person has contravened:

- (a) this Division; or
(b) if the person is the holder of an ASIC — a condition of the ASIC.

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- (2) Before directing somebody to leave the area or part of the area, a security officer who is not an authorised officer must show him or her:
- (a) an identity card that displays a recent photograph of the officer; or
 - (b) another appropriate form of identification.

Note Regulation 36 requires an authorised officer to show his or her identity card to somebody before exercising a power under this Part in relation to him or her.

- (3) If somebody is directed by a security officer to leave a security restricted area, or part of a security restricted area, of an airport, and does not leave the area or part at once, the security officer may remove him or her from the area or part.
- (4) If somebody is required under subregulation 113 (7) to leave a security restricted area, or part of a security restricted area, of an airport, and does not leave the area or part at once, a security officer may remove him or her from the area or part.

Note Section 76 of the *Crimes Act 1914* creates an offence of obstructing or resisting a person exercising a power under Commonwealth law.

- (5) However, in removing somebody, a security officer must not use more force, or subject him or her to greater indignity, than is necessary and reasonable.

Subdivision 6 Miscellaneous

115 What happens if issuing body ceases to exist etc

- (1) If:
- (a) the authorisation of an issuing body (the *original issuing body*) is revoked under regulation 85; or
 - (b) the body ceases to exist; or
 - (c) for any other reason, the body no longer performs the functions or exercises the powers of an issuing body under this Division;

the Secretary may authorise, in writing, another person to perform the functions, and exercise the powers, of the original issuing body under this Division.

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- (2) An ASIC issued by the original issuing body that is in force at the time of such an authorisation is not affected by:
 - (a) the body having ceased to exist; or
 - (b) the new authorisation.
- (3) The authorised person is taken to be the issuing body for the ASIC, but is not responsible for the actions of the original issuing body in relation to the ASIC before the authorisation.
- (4) An authorisation may be subject to a condition specified in it.

116 Notice in writing — how given

A written notice required or permitted to be given to a person under this Division:

- (a) may be given to the person personally; or
- (b) may be posted to the person at the postal address last notified to the person giving the notice; or
- (c) may be sent to the person at the fax number (if any) last notified to the person giving the notice.

117 Review of decisions under this Division

- (1) In this regulation:

decision has the same meaning as in the *Administrative Appeals Tribunal Act 1975*.
- (2) Application may be made under the *Administrative Appeals Tribunal Act 1975* to the Administrative Appeals Tribunal for review of:
 - (a) a decision of the Secretary:
 - (i) under subregulation 81 (1) — to refuse to authorise a person as an issuing body; or
 - (ii) under subregulation 81 (5) — to authorise an issuing body subject to a condition; or
 - (iii) under subregulation 82 (1) — to direct an issuing body to vary its ASIC program; or
 - (iv) under subregulation 83 (2) — to refuse to approve a variation of an issuing body's ASIC program; or

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- (v) under subregulation 84 (4) — to refuse to exempt an issuing body from the requirement to give effect to its ASIC program in a particular case or respect; or
 - (vi) under subregulation 84 (7) — to give an exemption subject to a condition; or
 - (vii) under regulation 85 — to revoke an issuing body's authorisation; or
 - (viii) under subregulation 92 (3) — to refuse to authorise the issue of a security identification card; or
 - (ix) under subregulation 92 (5) — to authorise the issue of a security identification card subject to a condition; or
 - (x) under subregulation 94 (1) — to refuse to issue a person with a security identification card; or
 - (xi) under subregulation 94 (5) — to issue a security identification card subject to a condition; or
 - (xii) under regulation 99 — to cancel a security identification card; or
 - (xiii) under subregulation 107 (3) — to refuse to exempt somebody from displaying a valid ASIC in a security restricted area, or part of a security restricted area, of an airport; or
 - (xiv) under subregulation 107 (6) — to exempt somebody from displaying a valid ASIC in a security restricted area, or part of a security restricted area, of an airport subject to a condition; or
 - (xv) under subregulation 115 (1) — to authorise, or refuse to authorise, a person to perform the functions, or exercise the powers, of an issuing body; or
 - (xvi) under subregulation 115 (4) — to authorise a person to perform the functions or exercise the powers of an issuing body subject to a condition; or
- (b) a decision of an issuing body:
- (i) under subregulation 90 (1) — to refuse to issue a security identification card to somebody; or

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- (ii) under subregulation 90 (5) — to issue a security identification card subject to a condition; or
- (iii) under regulation 97 — to cancel a security identification card.

Part 8 Implementation of certain international obligations

118 Aircraft flying to or from Angola — prohibition

- (1) An Australian registered aircraft must not be flown to or from the Republic of Angola without express approval from the Secretary.
- (2) An aircraft that has come from, or whose destination is, the Republic of Angola must not be landed in, flown over, or flown from, Australia without express approval from the Secretary.
- (3) When deciding whether to give approval under subregulation (1) or (2), the Secretary must take into account:
 - (a) Australia's relations with other countries; and
 - (b) Australia's obligations under international law.

120 Aircraft flying to or from Libya — prohibition

- (1) An Australian aircraft must not travel to or from Libya without the express approval of the Secretary.
- (2) An aircraft that, after the commencement of this regulation:
 - (a) leaves Libyan territory; or
 - (b) is destined to land in Libyan territory;must not be landed in, flown over or flown from, Australian territory without the express approval of the Secretary.
- (3) When deciding whether to give approval under subregulation (1) or (2), the Secretary must take into account Australia's relations with other countries and its obligations under international law.
- (4) The requirements of this regulation are in addition to the requirements of subsection 13A (1) of the Act.

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- (5) In this regulation, *Libya* means the Socialist People's Libyan Arab Jamahiriya.

120A Aircraft flying to or from Afghanistan — prohibition

- (1) An Australian aircraft must not travel to or from Afghanistan without the express approval of the Secretary.
- (2) An aircraft that has come from, or whose destination is, Afghanistan must not fly over, land in or take off from, Australia without the express approval of the Secretary.
- (3) When deciding whether to give approval under subregulation (1) or (2), the Secretary must take into account Australia's relations with other countries and its obligations under international law.

Part 9 **Penal provisions and prosecutions**

Division 1 **Penal provisions**

121 **Offences in general**

- (1) A person who contravenes or fails to comply with a provision of these Regulations is guilty of an offence.
- (2) The owner, the operator and the hirer (not being the Crown), and the pilot in command and any other pilot, of an aircraft that flies in contravention of, or fails to comply with, a provision of these Regulations is guilty of an offence.
- (3) Any reference in subregulation (1) or (2) to a contravention of, or failure to comply with, a provision of these Regulations shall be read as including a reference to a contravention or failure to comply with any direction (including any condition or requirement set out in a direction) or instruction given or issued under these Regulations, including any condition or direction subject to which an airport may be used or any condition subject to which a licence is granted or rendered valid under these Regulations.
- (4) Notwithstanding subregulations (1), (2) and (3), a person shall not be convicted of an offence against this regulation by reason only of a contravention of, or a failure to comply with, a direction, or a condition or requirement set out in a direction, under these Regulations if:
 - (a) the direction is of a kind that, by virtue of these Regulations, does not have effect in relation to a person until it has been served by post on the person or has otherwise been brought to his attention; and
 - (b) at the time of the alleged contravention or failure to comply, the direction had not been served by post on the first-mentioned person and had not otherwise been brought to his attention.

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- (5) An offence, not being an offence for which a penalty is prescribed otherwise than by this regulation, may be prosecuted either summarily or upon indictment, but an offender is not liable to be prosecuted more than once in respect of the same offence.
- (6) The penalty for an offence to which subregulation (5) applies is:
 - (a) if the offence is prosecuted summarily — a fine not exceeding \$2,500 or imprisonment for a term not exceeding 6 months, or both; or
 - (b) if the offence is prosecuted upon indictment — a fine not exceeding \$5,000 or imprisonment for a term not exceeding 2 years, or both.
- (7) A person who attempts to commit an offence against these Regulations is guilty of an offence and is punishable as if the attempted offence had been committed.
- (8) Any provision of these Regulations by which an offence is created shall be read subject to the provisions of section 23 of the Act.

122 Offences in relation to licences

- (1) Where a licence is suspended under these Regulations, the person to whom the licence was granted shall not, for the purposes of subregulation (1), be deemed to be the holder of the licence during the period of suspension.
- (2) A person shall not purport to give a licence or to issue a document, for the purposes of these Regulations, unless he or she is authorized under these Regulations to do so.

123 False statements

A person shall not make, either orally or in writing, a statement that is false or misleading in a material particular in or in connexion with:

- (a) an application for the grant, issue, renewal or endorsement of a licence or approval under the Act or these Regulations; or

- (b) a return, report, notice, form or other document furnished in accordance with the Act or these Regulations.

125 Power of Court to order returns etc to be furnished

Where any person is convicted of an offence under these Regulations for failure to furnish any return or to comply with a notice to surrender a document, the Court before which he is convicted may, in addition to imposing any pecuniary or other penalty, order the defendant to furnish the return or surrender the document, as the case may be.

126 Detention of aircraft

- (1) Where it appears to the Secretary that any aircraft is intended or likely to be flown in such circumstances that the flight would involve an offence against the Act or these Regulations or be a cause of danger to persons in the aircraft or to persons or property on the ground, he may take such action by way of detention of the aircraft or such other action as is necessary for the purpose of causing the circumstances relating to the flight to be investigated or the aircraft to be inspected.
- (2) If an aircraft is detained under subregulation (1), it must not be used until the Secretary so approves.
- (3) The Secretary must not approve the use of an aircraft under subregulation (2) unless the Secretary is satisfied that the Act and these Regulations are being complied with.

127 Aircraft parking areas

- (1) The Secretary may designate a part of an airport established under regulation 9 to be an area for the parking of aircraft of a specified kind by means of signs, notices or markers placed about the area:
 - (a) that identify that area;
 - (b) that specify the kind of aircraft that may be parked in the area; and
 - (c) that specify the conditions (if any) subject to which aircraft of that kind may be parked in that area.

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- (2) Where an aircraft has been left standing at such an airport in contravention of the *Civil Aviation Regulations 1988*, the Secretary may, by notice in writing served on a person who is a relevant person in relation to the aircraft, direct that person:
 - (a) to remove the aircraft from the airport; or
 - (b) except in the case of a contravention of subregulation (7), to remove the aircraft to an area specified by the Secretary in the notice;
within such time as is specified in the notice.
- (3) A notice under subregulation (2) may be served:
 - (a) by leaving it with or tendering it to a relevant person;
 - (b) by posting it to a relevant person in a prepaid registered letter; or
 - (c) if a relevant person cannot be found or his or her address is not known, by affixing it to the aircraft to which it relates.
- (4) A relevant person shall comply with the directions contained in a notice served on him or her under this regulation.
- (5) Where a relevant person fails to comply with the directions contained in a notice served on the person under this regulation, the Secretary may authorize an officer, with such assistance (if any) as the officer requires, to carry out the directions contained in the notice.
- (6) Where an aircraft is left standing in contravention of this regulation for more than one day, the owner, operator and hirer are guilty of a separate contravention for each day on which the aircraft is so left standing.
- (7) An aircraft that is not certified as airworthy shall not, without the permission in writing of the Secretary, be left standing for a period exceeding 12 weeks in an area that the Secretary has, under subregulation (1), designated to be an area for the parking of aircraft of a kind to which that aircraft belongs.
- (8) In this regulation, *relevant person*, in relation to an aircraft means:
 - (a) the owner, operator, hirer or pilot in command of the aircraft; or

- (b) a person apparently in charge of the aircraft at the time of the service of the notice on him or her.

128 Posters, signs and advertisements within an airport

- (1) A person shall not paint, place or affix any sign (other than a sign referred to in regulation 31), poster or advertisement upon any building or other property within the precincts of an airport established under regulation 9 except in accordance with the permission in writing of the Secretary.

Penalty: \$200.

- (2) Where a poster, sign or advertisement has been painted, placed or affixed upon any building or other property in contravention of subregulation (1), the Secretary may, by notice in writing served upon the occupier of the building or other property, direct the occupier to remove or obliterate the poster, sign or advertisement within such time as is specified in the notice.
- (3) An occupier shall comply with the directions contained in a notice served upon him under this regulation.

Penalty: \$200.

- (4) Where an occupier fails to comply with the directions contained in a notice served upon him under this regulation, the Secretary may authorize an officer, with such assistance (if any) as he requires, to enter the building or property and to carry out the directions contained in the notice.
- (5) A reference in this regulation to the occupier of a building or other property shall, if, in a particular case, there is no occupier of a building or other property, be read as a reference to the tenant of the building or other property.

129 Prohibition of entry etc on prohibited area

- (1) A person shall not, without lawful authority or excuse:
- (a) enter or remain within a prohibited area in an airport;
 - (b) bring or leave any property on a prohibited area within an airport;
 - (c) operate any vehicle on a prohibited area within an airport;

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- (d) bring any animal or bird on to a prohibited area within an airport; or
- (e) permit any animal or bird under his possession or control to trespass on a prohibited area within an airport.

(2) Where:

- (a) a person contravenes paragraph (1) (a), (b), (c) or (d); or
- (b) any property, vehicle, animal or bird is found in contravention of paragraph (1) (b), (c), (d) or (e);

any authorized person may apprehend and remove that person, property, vehicle, animal or bird, as the case may be, without being deemed guilty of any act of trespass.

(3) In this regulation:

authorized person means an officer or employee of the Department, a member of the Defence Force, a constable, the proprietor of an airport or any person authorized by him or the pilot in command of an aircraft.

prohibited area, in relation to an airport, means any part of the airport upon which is posted a notice relating to that part of the airport, being a notice to the effect that trespassing upon that part of the airport is prohibited and purporting to have been posted with the authority of the Secretary.

Division 2 Prosecutions

130 Time for commencing prosecutions

- (1) A prosecution in respect of any offence against these Regulations may be commenced at any time within one year after the commission of the offence.
- (2) For the purposes of subregulation (1), time shall be deemed not to run during any period after the commission of an offence and before the institution of proceedings in respect thereof for which the defendant is outside Australian territory.

Division 3 Infringement notices

131 Purpose and effect of Division

- (1) The purpose of this Division is to create a system of infringement notices for certain offences against these Regulations as an alternative to prosecution.
- (2) This Division does not:
 - (a) require an infringement notice to be issued to a person for an offence; or
 - (b) affect the liability of a person to be prosecuted for an offence if an infringement notice is not issued to the person for the offence; or
 - (c) prevent the issue of 2 or more infringement notices to a person for an offence; or
 - (d) affect the liability of a person to be prosecuted for an offence if the person does not comply with an infringement notice for the offence; or
 - (e) limit or otherwise affect the penalty that may be imposed by a court on a person convicted of an offence.
- (3) If 2 or more infringement notices are issued to a person for the same offence, the person's liability to be prosecuted for the offence ceases if the person pays the infringement notice penalty for any of the notices.

132 Meaning of *penalty* for Division 3

In this Division:

penalty, for an infringement notice offence, means the penalty for the offence if an infringement notice is issued for the offence.

Note If an offence created by a provision of these Regulations is an infringement notice offence, another provision will say so, and specify the applicable fixed penalty.

133 Authorised person may give infringement notice

If an authorised person has reason to believe that a person has committed an infringement notice offence, the authorised

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person may issue a notice (called an infringement notice) to the person for the offence.

134 Contents of infringement notice

- (1) An infringement notice issued by an authorised person for an offence must:
 - (a) be identified by a unique number; and
 - (b) give the name of the authorised person who issued it; and
 - (c) state its date of issue; and
 - (d) state the full name, or the surname and initials, and the address of the person to whom it is issued; and
 - (e) give brief details of the offence, including:
 - (i) the date and time of the offence; and
 - (ii) where the offence happened; and
 - (iii) the provision of these Regulations contravened; and
 - (f) state the penalty for the offence payable under the notice; and
 - (g) state the place where, and any method by which, the penalty may be paid; and
 - (h) tell the person to whom it is issued where, and to whom, the person should apply to be allowed more time to pay the penalty; and
 - (i) be signed by the authorised person who issued it; and
 - (j) tell the person to whom it is issued that the person may pay the penalty specified in the notice by posting or delivering the payment to the place of payment specified in the notice; and
 - (k) if there is another way to pay the penalty — tell the person to whom it is issued what that way is; and
 - (l) tell the person to whom it is issued that if the person pays the penalty within 28 days after the day when the notice is served on the person (or any longer time allowed in writing by an authorised officer) — unless the infringement notice is subsequently withdrawn and any penalty paid refunded:
 - (i) any liability of the person for the offence will be discharged; and

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- (ii) the person will not be prosecuted in a court for the offence; and
 - (iii) the person will not be taken to have been convicted of the offence; and
 - (m) tell the person to whom it is issued that if the person is prosecuted in court and found guilty of the offence, the person may be convicted of the offence and ordered to pay a penalty and costs, and be subject to any other order that the court makes; and
 - (n) tell the person to whom it is issued the greatest penalty that a court could impose for the offence.
- (2) An infringement notice may contain any other information that the authorised person who issues it thinks necessary.

135 Service of infringement notices

- (1) An infringement notice must be served on the person to whom it is issued.
- (2) An infringement notice may be served on an individual:
 - (a) by giving it to the individual; or
 - (b) by leaving it at, or by sending it by post, telex, facsimile or similar facility to, the address of the place of residence or business (the *relevant place*) of the individual last known to the authorised person issuing it; or
 - (c) by giving it, at the relevant place, to someone who:
 - (i) lives or is employed, or apparently lives or is employed, there; and
 - (ii) is, or the authorised person has reason to believe is, over 16 years.
- (3) An infringement notice may be served on a corporation:
 - (a) by leaving it at, or by sending it by post, telex, facsimile or similar facility to, the address of the head office, a registered office or a principal office of the corporation; or
 - (b) by giving it, at an office mentioned in paragraph (a), to someone who is, or the authorised person has reason to believe is, an officer or employee of the corporation.

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136 Time for payment of penalty

The penalty mentioned in an infringement notice must be paid:

- (a) within 28 days after the day on which the notice is served on the person to whom it is issued; or
- (b) if the person applies for a further period of time in which to pay the penalty, and that application is granted — within the further period allowed; or
- (c) if the person applies for a further period of time in which to pay the penalty, and the application is refused — within 7 days after the notice of the refusal is served on the person; or
- (d) if the person applies for the notice to be withdrawn, and the application is refused — within 28 days after the notice of the refusal is served on the person.

137 Extension of time to pay penalty

- (1) The person to whom an infringement notice is issued (*the recipient*) may apply, in writing, to an authorised person for a further period of 28 days or less in which to pay the penalty mentioned in the notice.
- (2) The authorised person must:
 - (a) grant or refuse a further period; and
 - (b) tell the recipient in writing of the decision and, if the decision is a refusal, the reasons for it.
- (3) Notice of the decision may be served on the recipient in any way in which the infringement notice could have been served on the recipient.

138 Effect of payment of infringement notice penalty

If an infringement notice is not withdrawn, and the person to whom it is issued for an offence pays the penalty stated in the notice:

- (a) any liability of the person for the offence is discharged; and
- (b) the person may not be prosecuted in a court for the offence; and

- (c) the person is not taken to have been convicted of the offence.

139 Withdrawal of infringement notice

- (1) With or without an application under subregulation (2), the Secretary may withdraw an infringement notice.
- (2) Before the end of 28 days after receiving an infringement notice, a person may apply, in writing, to the Secretary for the infringement notice to be withdrawn.
- (3) The Secretary must:
 - (a) withdraw or refuse to withdraw the notice; and
 - (b) tell the applicant in writing of the decision and, if the decision is a refusal, the reasons for it.
- (4) Before withdrawing or refusing to withdraw a notice, the Secretary must consider:
 - (a) whether the person has been convicted previously of an offence against these Regulations; and
 - (b) the circumstances of the offence stated in the notice; and
 - (c) whether the person has previously paid a penalty under an infringement notice issued to the person for an offence of the same type as the offence mentioned in the notice; and
 - (d) any other matter the Secretary considers relevant to the particular case.

140 Notice of withdrawal of infringement notices

- (1) Notice of the withdrawal of an infringement notice may be served on a person in any way in which the infringement notice could have been served on that person.
- (2) A notice withdrawing an infringement notice served on a person for an offence must:
 - (a) include the following information:
 - (i) the full name, or surname and initials, and address of the person;
 - (ii) the number of the infringement notice;
 - (iii) the date of issue of the infringement notice; and

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- (b) state that the notice is withdrawn; and
- (c) if the Secretary intends to prosecute the person in a court for the offence — state that the person may be prosecuted in a court for the offence.

141 Refund of penalty

If an infringement notice is withdrawn after the penalty has been paid, the Commonwealth must refund the amount of the penalty to the person who paid it.

Part 10 Evidence

142 Evidence

- (1) The Director may certify, in writing, that:
 - (a) a notification, report, or written report, under a provision of section 19BA of the Act has not been received by the Director; or
 - (b) a written notice under a provision of section 19BC of the Act has not been received by the Director.
- (2) The Secretary may certify, in writing, that:
 - (a) a licence, or other document, required to be surrendered to the Secretary under regulation 145 has not been so surrendered; or
 - (b) a copy of the text of the Convention, or of an Annex to the Convention, that is annexed to the certificate is a true copy; or
 - (c) a copy of a licence, notice, approval or other document that:
 - (i) has been published, given or issued, as the case may be, under the Act or these Regulations; and
 - (ii) is annexed to the certificate;is a true copy.
- (3) The Secretary, in a certificate under paragraph (2) (c), may certify that the document of which the document annexed to the certificate is certified to be a true copy was, on a specified date or between specified dates, posted to:
 - (a) the defendant in a prosecution for an offence against the Act or these Regulations or in any proceedings for the recovery of moneys under the Act or these Regulations; or
 - (b) the applicant or other specified person in any review, investigation or inquiry conducted or made under these Regulations.

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- (4) The Secretary, or the officer having custody of the appropriate records of the Department, may, by writing under his hand, certify that, during a specified period or on a specified date:
- (a) a person was or was not licensed;
 - (b) an airport was or was not established or provided, was or was not altered, abolished, removed, added to or altered in character or was or was not being provided, maintained or operated in a specified manner, in accordance with regulation 9;
 - (c) a notice or approval required under the Act or these Regulations had or had not been issued under the Act or these Regulations;
 - (d) a licence issued under these Regulations was or was not suspended, cancelled or endorsed with a specified endorsement;
 - (e) an aircraft operator had or had not submitted:
 - (i) a proposed aviation security program under section 22Q of the Act; or
 - (ii) a revised program under section 22U of the Act; or
 - (iii) a variation of an approved program under section 22V of the Act; or
 - (f) an approved aviation security program was or was not in force under section 22S of the Act; or
 - (g) an airport operator had or had not submitted:
 - (i) a proposed airport security program under section 22ZC of the Act; or
 - (ii) a revised program under section 22ZG of the Act; or
 - (iii) a variation of an approved program under section 22ZH of the Act; or
 - (h) an approved airport security program was or was not in force under section 22ZE of the Act.
- (5) In all courts and in any review, investigation or inquiry conducted or made under these Regulations, a certificate purporting to have been given under this regulation:
- (a) shall, unless the contrary is proved, be deemed to be a certificate given by a person empowered by this regulation to give the certificate; and

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- (b) is evidence of the facts stated in the certificate, and, in the case of a certificate certifying that a document was posted to the defendant in a prosecution for an offence against the Act or these Regulations or in any proceedings for the recovery of moneys payable under the Act or these Regulations or an applicant or a specified person in any review, investigation or inquiry conducted or made under these Regulations, is evidence that the document was received by the defendant, applicant or specified person on or about the time at which it would have been received in the ordinary course of post.

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Part 11 Miscellaneous**143 Application for licences etc**

Every application for the issue or renewal of a licence or other document under the Act or these Regulations shall be made in the approved form to the Secretary, and shall be accompanied by the fee or payment required in connexion therewith and by notification of the applicant's place of abode, his place of business and the address to which any communication to him under the Act or these Regulations may be sent.

144 Change of address

Where the holder of a licence under these Regulations changes his place of abode or business or the address notified in accordance with regulation 143, he shall forthwith furnish to the Secretary notice in writing of the change.

145 Surrender of documents

- (1) The holder of a licence or other document issued under the Act or these Regulations, or a person having the custody of a licence or other document issued under the Act or these Regulations, shall, if the Secretary by notice in writing so requires, surrender the licence or document to the Secretary within such time as is specified in the notice.
- (2) A person shall not, with intent to evade the requirements of this regulation, destroy, mutilate or deface any document which he is required to surrender to the Secretary.

146 Production of licences etc

- (1) Any person required under these Regulations to be the holder of a licence shall, on demand by an authorized person, produce his licence for inspection by the authorized person.
- (2) The owner or pilot in command of any aircraft shall, on demand, produce or cause to be produced for inspection by an

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authorized person, if the aircraft carries passengers or cargo, the list of names of the passengers or the bills of lading and the manifest, as the case may be.

147 Access of authorised person to airports, aircraft etc

An authorized person shall, at all reasonable times, have access to any place to which access is necessary for the purpose of carrying out any powers and functions vested in him in pursuance of the Act or these Regulations, and, in particular:

- (a) shall have access at all times to any licensed airport or place authorized for use as an airport for the purpose of inspecting the airport or place;
- (b) shall, at all reasonable times, have access to any aircraft for the purpose of inspecting the aircraft.

148 Exemption of aircraft and spare parts from seizure on patent claims

- (1) The lawful entry into Australian territory, or the lawful transit across Australian territory, with or without landings, of an aircraft in relation to which this regulation applies shall not entail:
 - (a) the seizure or detention of the aircraft;
 - (b) the bringing of proceedings against the owner or operator of the aircraft; or
 - (c) any other interference with the aircraft;by or on behalf of the Commonwealth or any person in Australian territory, on the ground that the construction, mechanism, parts, accessories or operation of the aircraft is or are an infringement of Letters Patent granted in Australian territory.
- (2) The importation into, and storage in, Australian territory of spare parts and spare equipment for an aircraft in relation to which this regulation applies and the use and installation of those spare parts and spare equipment shall not entail:
 - (a) the seizure or detention of the aircraft or of the spare parts or spare equipment;

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(b) the bringing of proceedings against the owner or operator of the aircraft or against the owner of the spare parts or spare equipment; or

(c) any other interference with the aircraft, or with the spare parts or spare equipment;

by or on behalf of the Commonwealth or any person in Australian territory, on the ground that the spare parts or the spare equipment or their installation are or is an infringement of Letters Patent granted in Australian territory.

(3) Subregulation (2) shall not apply in relation to spare parts or spare equipment which are sold or distributed in Australian territory or are exported from Australian territory for sale or distribution.

(4) This regulation shall apply in relation to aircraft registered in a country or territory in respect of which there is for the time being in force a declaration, made by the Minister and published in the *Gazette*, that the provisions of this regulation shall apply in relation to aircraft registered in that country or territory, being a country or territory:

(a) which is a party to the International Convention for the Protection of Industrial Property; or

(b) in which there are in force laws protecting inventions made by Australian citizens.

149 Fees and charges

(1) The fee or charge specified or referred to in column 3 of an item in Schedule 2 is payable in respect of the matter specified opposite thereto in column 2 of that item, at the time an application in relation to that matter is made, by or on behalf of the person who makes the application.

(2) Notwithstanding anything contained in these Regulations, a person is not entitled to the grant, issue, variation or renewal of a permission or approval being a matter in respect of which a fee or charge is payable under subregulation (1), until that fee or charge has been paid.

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(3) Where:

- (a) a person has paid, under subregulation (1), an amount as a fee or charge upon making an application in relation to a matter specified in column 2 of Schedule 2; and
- (b) a permission or approval was not granted, issued, endorsed, validated, varied or renewed, or a group of three letters was not reserved as a result of the application, or the person did not take the examination in respect of which the amount was paid;

the person is entitled to have refunded to him or her an amount equal to the amount so paid less an amount equal to the expenses (if any) incurred by the Commonwealth in relation to the matter in respect of which the application was made.

(4) In this regulation and in Schedule 2, unless the contrary intention appears:

Australian operator means an operator that is a person who is an Australian.

international operation means an operation that involves departure from a point outside Australia, or arrival at a point outside Australia.

person who is an Australian means an Australian citizen, a corporation established by a law of the Commonwealth, a State or a Territory, or a corporation the whole or a majority of the shares in which are owned or controlled by the Commonwealth or by Australian citizens.

150 Exemption from jury service

- (1) A person regularly employed by an airline in the capacity of operating crew is exempt from serving as a juror where summoned so to serve under the law of a Territory of the Commonwealth.
- (2) A person exempted from jury service under subregulation (1) shall, when summoned to serve as a juror under the law of a Territory of the Commonwealth, comply with any requirement of the law of that Territory relating to the removal of his name from the jury list.