



# Aviation Transport Security Regulations 2005

**Select Legislative Instrument 2005 No. 18 as amended**

made under the

*Aviation Transport Security Act 2004 and the Aviation  
Transport Security (Consequential Amendments and  
Transitional Provisions) Act 2004*

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**Regulation 1.03**

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## **Part 1 Preliminary**

### **1.01 Name of Regulations** [see Note 1]

These Regulations are the *Aviation Transport Security Regulations 2005*.

### **1.02 Commencement** [see Note 1]

These Regulations commence on the commencement of sections 3 to 133 of the *Aviation Transport Security Act 2004*.

### **1.03 Definitions**

In these Regulations:

**AACA** means accredited air cargo agent.

**AACA security program** means the security program:

- (a) provided by the Secretary under regulation 4.49; or
- (b) approved by the Secretary under regulation 4.50.

**Act** means the *Aviation Transport Security Act 2004*.

**air security officer** means:

- (a) a protective service officer, special protective service officer, member, or special member, of the Australian Federal Police who is directed by the Commissioner to carry out the duties of a position of air security officer; or
- (b) a person who is:
  - (i) employed and trained by a foreign government to travel on aircraft to provide security for aircraft and their passengers and crew (other than a person who is employed to provide exclusive personal protection for 1 or more individuals travelling on an aircraft); and
  - (ii) operating in accordance with an arrangement between the foreign government and the Australian Government.

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

***ANA*** means the *Air Navigation Act 1920*.

***ANR*** means the *Air Navigation Regulations 1947*.

***ASIC*** means aviation security identification card.

***Australia*** means the Commonwealth of Australia and, when used in a geographical sense, includes:

- (a) the Territory of Christmas Island; and
- (b) the Territory of Cocos (Keeling) Island; and
- (c) the Territory of Norfolk Island.

***aviation security identification card*** means a card of that type issued under Part 6.

***carry-on baggage*** means an article or possession of a passenger on, or a member of the crew of, an aircraft, being an article or possession that is accessible to the passenger or crew member while the aircraft is in flight.

***categorised airport*** means an airport that was a categorised airport under the ANA.

***charter operation*** means an operation of an aircraft for the purpose of:

- (a) a service of providing air transportation of people, or both people and goods, that:
  - (i) is provided for a fee payable by persons using the service; and
  - (ii) is not available to the general public;whether or not the service is conducted in accordance with fixed schedules to or from fixed terminals over specific routes; or
- (b) a service of providing air transportation of people, or both people and goods, that:
  - (i) is provided for a fee payable by persons using the service; and
  - (ii) is available to the general public; and
  - (iii) is not conducted in accordance with fixed schedules to or from fixed terminals over specific routes; or

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- (c) a service of providing air transportation of people, or both people and goods, that:
  - (i) is not provided for a fee payable by persons using the service; and
  - (ii) is not available to the general public; and
  - (iii) is conducted in accordance with fixed schedules to or from fixed terminals over specific routes.

***checked baggage*** means an article or possession of an aircraft passenger or crew member that:

- (a) has been checked in for a flight on the aircraft; and
- (b) is intended to be carried on board the aircraft or another aircraft; and
- (c) if carried in an aircraft, is not accessible to the passenger or crew member while the aircraft is in flight.

***checked in***, in relation to an item of checked baggage, means that the item:

- (a) has been presented to an aircraft operator, or another person on the operator's behalf, for carrying on a flight on board an aircraft of the operator; and
- (b) has been accepted by the aircraft operator, or the other person on the operator's behalf, for that purpose.

***child*** means a person who has not turned 18 years of age.

***crew*** includes flight crew and cabin crew, and any other person travelling on board an aircraft for any purpose relating to the aircraft's operation or to examine the qualifications or competency of its flight crew.

***Customs and Border Protection*** means the Australian Customs and Border Protection Service.

***designated airport*** means each of the following airports:

- (a) Adelaide Airport;
- (c) Brisbane Airport;
- (d) Cairns Airport;
- (e) Canberra Airport;
- (f) Coolangatta Airport;
- (g) Darwin Airport;
- (h) Hobart Airport;

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- (i) Melbourne Airport;
- (j) Perth Airport;
- (k) Sydney Airport.

***domestic air service*** means an air service provided by means of a flight from a place within Australia to another place within Australia with no intermediate stop outside Australia.

***exempt country*** means New Zealand or the United States of America.

***exempt duty free item***, in relation to a passenger who will arrive in Australia on an aircraft operating an inbound international air service, means a duty free item that:

- (aa) is acquired at an airport retail outlet at the point of origin of the flight, or a port of call before reaching Australia, at which all goods for sale:
  - (i) undergo security screening at the point of entry to the airport; and
  - (ii) are protected from unlawful interference by a process of supply chain security from the time they are delivered to the airport; and
- (a) is collected by the passenger at the boarding gate before boarding the aircraft for departure from the airport where the item was acquired; and
- (b) is in a sealed plastic bag with proof of purchase by the passenger affixed to the bag, or enclosed in the bag, so that proof of purchase is visible.

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

***grey ASIC*** means an ASIC of the design set out in subregulation 6.33 (3) or 6.37 (2).

***ICAO*** has the same meaning as in the *Civil Aviation Act 1988*.

***immediate family*** of a person means the following individuals, if they are travelling with the person:

- (a) the person's spouse or de facto partner (within the meaning of the *Acts Interpretation Act 1901*);
- (b) the person's child (including an adopted child);
- (c) a child for whom the person is a legal guardian.

***Immigration Department*** means the Department administered by the Minister who administers the *Migration Act 1958*.

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***international air service*** means an air service provided by means of a flight:

- (a) from a place within Australia to a place outside Australia; or
- (b) from a place outside Australia to a place within Australia.

***jet*** means a fixed-wing aircraft powered by gas-turbine engines (other than turbo-prop engines).

***LAG product*** has the meaning given in regulation 4.22C.

***LAGs bag*** means a transparent plastic bag that:

- (a) may be sealed and unsealed using a resealing mechanism that is a part of the bag; and
- (b) has an area enclosed by the sealing mechanism that has, when the bag is laid flat, a perimeter of 80 cm or less.

***LAGs cleared area*** means an area of a security controlled airport, at least one entrance to which (for use by persons required to be screened) is a LAGs screening point.

*Note* A LAGs cleared area may have entrances other than a LAGs screening point for use solely by persons who may enter a LAGs cleared area other than through a screening point.

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

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

***Migration Act*** means the *Migration Act 1958*.

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

***officer of Customs and Border Protection*** has the same meaning as *Officer of Customs* in the *Customs Act 1901*.

***open charter operation*** means a charter operation of the kind described in paragraph (b) of the definition of ***charter operation***.

***permitted item*** has the meaning given by subregulation 4.13A (1).

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

**Regulation 1.03**

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**qualified security assessment** has the same meaning as in Part IV of the *Australian Security Intelligence Organisation Act 1979*.

**RACA** means regulated air cargo agent.

**red ASIC** means an ASIC of the design set out in subregulation 6.33 (2) or 6.37 (1).

**regular public transport operation** means an operation of an aircraft for the purposes of the carriage of people, or both people and goods, of an air service that:

- (a) is provided for a fee payable by persons using the service; and
- (b) is available to the general public on a regular basis; and
- (c) is conducted in accordance with fixed schedules to or from fixed terminals over specific routes.

**screened air service** — see regulation 4.02.

**screening authority** means a person specified by notice under regulation 4.03.

**secure area** means a landside security zone or the airside area (including airside security zone) of a security controlled airport.

*Note* For the definitions of **landside security zone** and **airside area**, see section 9 of the Act and regulations 3.01 and 3.02.

**security tamper-evident bag** has the meaning given by regulation 4.22R.

**TAC** means a temporary aircrew card issued under regulation 6.37B.

**traffic period**, for a security controlled airport, means a period that begins 2 hours before the scheduled time of arrival, and ends 2 hours after the actual time of departure, of a scheduled air service that operates to or from the airport.

**TSP** means transport security program.

**unauthorised person**, in relation to a place or thing, means a person who:

- (a) is not authorised by the owner or person in control of the place or thing to have access to the place or thing; and
- (b) has no other lawful reason to have access to the place or thing.



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**Regulation 1.05**

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

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

**VIC** means visitor identification card.

***visitor identification card*** means a card of that type issued under Part 6.

#### **1.04 What *properly displaying* means**

- (1) For these Regulations, somebody is ***properly displaying*** an ASIC, VIC or TAC only if it is attached to his or her outer clothing:
  - (a) above waist height; and
  - (b) at the front or side of his or her body; and
  - (c) with the whole front of the ASIC, VIC or TAC clearly visible.
- (2) He or she is not ***properly displaying*** the ASIC, VIC or TAC if anything adhering to it obscures a photograph or anything else on it.

#### **1.05 Meaning of *valid ASIC*, *valid VIC* and *valid TAC***

- (1) In these Regulations:

***valid***, used about an ASIC, VIC or TAC, means:

  - (a) issued in accordance with Part 6; and
  - (b) not expired, suspended or cancelled; and
  - (c) not altered or defaced (permanently or temporarily); and
  - (d) issued to the person who shows or displays it.
- (2) If a provision of these Regulations requires a person to display a valid ASIC in a place without specifying whether the ASIC must be a red ASIC or a grey ASIC:
  - (a) a person who is properly displaying a valid red ASIC satisfies the requirement; and
  - (b) whether a person who is properly displaying a valid grey ASIC satisfies the requirement is to be decided in accordance with regulation 3.03.

**Regulation 1.06**

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**1.06 Prescribed air services**

- (1) For the definition of *prescribed air service* in section 9 of the Act, an air service of any of the following kinds is prescribed:
  - (a) a regular public transport operation;
  - (b) an air service in which a jet is used;
  - (c) an air service in which an aircraft with a certificated maximum take-off weight greater than 5 700 kilograms is used.
- (2) However, an air service is not taken to be a prescribed air service if the Secretary declares, by instrument in writing, that the air service is not a prescribed air service.

**1.07 Prohibited items**

- (1) For the definition of *prohibited item* in section 9 of the Act, a thing described in column 2 of an item in table 1.07 is a prohibited item.

*Note* Subregulations (5) to (10), (12), (13) and (14) (after the table) except from the general definition in subregulation (1) certain items that would otherwise be covered by it.

- (2) Examples set out in an item of the table are not exhaustive of the things described in the item.

*Note* A thing that is described in both table 1.07 and table 1.09 is a weapon — see subregulation 1.09 (5).

- (3) To avoid doubt, nothing in this regulation implies that an article or thing not described in the table is permitted to be carried by air if its carriage would be prohibited by another law.

*Note* See in particular section 23 of the *Civil Aviation Act 1988* and Part 92 of the *Civil Aviation Safety Regulations 1998* in relation to the carriage of dangerous goods.

- (4) A replica or imitation of anything described in column 2 of an item in the table is also a prohibited item.

**Regulation 1.07****Table 1.07 Prohibited items**

<b>Column 1</b>	<b>Column 2</b>
<b>Item</b>	<b>Description of things</b>
1	<p>Sporting goods, kitchen utensils, tools, and other things with sharp edges or points capable of injuring a person</p> <p><i>Examples</i></p> <p>Crampons</p> <p>Knives (including leatherworkers' knives)</p> <p>Ice axes and ice picks</p> <p>Rock climbing equipment such as pitons, hooks, hammers and bolts</p> <p>Ice skates</p> <p>Meat cleavers</p> <p>Axes, hatchets and similar things</p> <p>Metal cutlery</p> <p><i>Note</i> See subregulation (13).</p> <p>Open razors (also called straight razors)</p> <p><i>Note</i> See subregulation (5).</p> <p>Scalpels</p> <p>Ski poles</p> <p>Darts</p> <p>Drills</p> <p>Box cutters</p> <p>Utility knives</p> <p>Saws</p> <p>Screwdrivers, crowbars, hammers, pliers and wrenches</p>

**Regulation 1.07**

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<b>Column 1</b>	<b>Column 2</b>
<b>Item</b>	<b>Description of things</b>
2	<p>Sharp things that are not weapons, but are capable (with or without modification) of causing harm by penetration</p> <p><i>Examples</i></p> <p>Letter-openers</p> <p>Bodkins</p> <p>Pointed metal scissors</p> <p><i>Note</i> See subregulation (6).</p> <p>Razor blades</p> <p>Hypodermic needles (whether or not attached to syringes)</p> <p><i>Note</i> See subregulation (6).</p>
3	<p>Blunt things able to be used to bludgeon or threaten to bludgeon a person</p> <p><i>Examples</i></p> <p>Baseball, softball, and cricket bats and any similar thing used in sport</p> <p>Hockey and lacrosse sticks and any similar thing used in sport</p> <p>Billiard, pool or snooker cues</p> <p>Golf clubs</p> <p>Any other piece of wood, metal or any other substance big enough to threaten a person with</p> <p><i>Note</i> See subregulation (14).</p>
4	<p>Household flammable goods</p> <p><i>Examples</i></p> <p>Aerosol containers, including cans of spray paint</p> <p><i>Note</i> See subregulation (7).</p> <p>Petrol and any other flammable liquid</p> <p>Fireworks</p> <p>Toy caps</p>

**Regulation 1.07**

<b>Column 1</b>	<b>Column 2</b>
<b>Item</b>	<b>Description of things</b>
5	<p>Things capable of being used to restrain a person and not otherwise permitted under the Act or these Regulations</p> <p><i>Examples</i></p> <p>Cable ties</p> <p>Handcuffs</p> <p><i>Note</i> See subregulation (9).</p>

***Exceptions***

- (5) Despite subregulation (1) and item 1 of the table:
  - (a) a safety razor is not a prohibited item; and
  - (b) metal cutlery is not a prohibited item if the cutlery has rounded ends, has no sharp points and is provided:
    - (i) in a landside security zone for use by persons in the landside security zone; or
    - (ii) on an aircraft for use by persons on the aircraft.
- (6) Despite subregulation (1) and item 1 of the table, a hypodermic needle is taken not to be a prohibited item if the person carrying it shows proof that it is medically necessary for the use of the person or another person who is in the person's care.
- (7) Despite subregulation (1) and item 4 of the table, and subject to subregulation (8):
  - (a) alcohol (including alcoholic beverages) and perfumes are not prohibited items; and
  - (b) matches, lighters and lighter fluid are not prohibited items; and
  - (c) an aerosol container (including one that contains a flammable substance) is taken not to be a prohibited item if it is for:
    - (i) personal (including cosmetic) use; or
    - (ii) a medical application.

*Example for subparagraph (7) (c) (ii)*

An asthma inhaler.

**Regulation 1.07**

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- (8) Subregulation (7) does not apply in relation to items of a kind referred to in item 4 of the table carried by a person if:
  - (a) the total volume of liquid items of that kind carried by the person is greater than 5 litres; or
  - (b) the total mass of items of that kind (other than liquids) carried by the person is greater than 2 kilograms.
- (9) Despite subregulation (1) and item 5 of the table, handcuffs and similar restraining devices are taken not to be prohibited items:
  - (a) if carried by a person who is escorting a person in custody; or
  - (b) if carried on an aircraft with the authority of its operator for the purpose of restraining a violent person.
- (10) A thing that is part of an aircraft's stores or emergency equipment, or of an airline operator's or airport operator's emergency equipment, is taken not to be a prohibited item if it is not readily accessible to passengers or the public generally.
- (11) A knife or knife-like object (whether or not made of metal) strong enough to be used as a weapon is a prohibited item.
- (12) A pair of scissors with blades more than 6 cm long, or a pair of manicure scissors, is a prohibited item, but a pair of blunt-ended or round-ended scissors with blades less than 6 cm long is not a prohibited item.
- (13) To avoid doubt, a plastic cutlery knife is not a prohibited item.
- (14) To avoid doubt, walking sticks, crutches and other mobility aids are not prohibited items.
- (15) For subparagraphs 54 (1) (c) (iii) and (3) (c) (iii) of the Act, a person is authorised to have metal cutlery that has rounded ends and no sharp points in his or her possession in the airside security zone if:
  - (a) the cutlery is to be used in the course of, or for the purposes of, carrying on a business requiring the use of cutlery in a landside security zone; or
  - (b) the cutlery is for use by persons on an aircraft.

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**Regulation 1.09**

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- (16) For subparagraphs 55 (1) (c) (ii) and (3) (c) (ii) of the Act, a person is authorised to pass through a screening point with metal cutlery that has rounded ends and no sharp points if:
- (a) the cutlery is to be used in the course of, or for the purposes of, carrying on a business requiring the use of cutlery in a landside security zone; or
  - (b) the cutlery is for use by persons on an aircraft in accordance with an arrangement with the aircraft operator for the supply of cutlery.

**1.08 Security designated authorisations**

For the definition of *security designated authorisation* in section 9 of the Act, each of the following authorisations:

- (a) a flight crew licence;
  - (b) a special pilot licence;
- (in each case within the meaning given by the *Civil Aviation Regulations 1988*) is a security designated authorisation.

**1.09 Weapons**

- (1) For paragraph (b) of the definition of *weapon* in section 9 of the Act, each thing of the kind described in column 2 of an item in table 1.09 is a weapon.

*Note 1* Firearms of all kinds are already weapons — see the definition in section 9 of the Act.

*Note 2* Subregulation (8) (after the table) excepts defibrillators (which are arguably covered by item 5 of the table) from the general definition in subregulation (1).

- (2) Examples set out in an item of the table are not exhaustive of the things described in the item.
- (3) To avoid doubt, nothing in this regulation implies that an article or thing not described in the table is permitted to be carried by air if its carriage would be prohibited by another law.

*Note* See in particular section 23 of the *Civil Aviation Act 1988* and Part 92 of the *Civil Aviation Safety Regulations 1998* in relation to the carriage of dangerous goods.

**Regulation 1.09**

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- (4) A replica or an imitation of a weapon is also a weapon.
- (5) A thing that is both a prohibited item and a weapon is, for the purposes of these Regulations, a weapon.
- (6) However, such a thing that is part of an aircraft's stores or emergency equipment, or of an airline operator's or airport operator's emergency equipment, is taken not to be a weapon if it is not readily accessible to passengers or the public generally.

**Table 1.09 Weapons**

<b>Column 1</b>	<b>Column 2</b>
<b>Item</b>	<b>Description of things</b>
1	<p>Parts and ammunition for firearms</p> <p><i>Examples</i></p> <p>Flares</p> <p>Gun powders</p> <p><i>Note</i> Firearms are defined as weapons in s 9 of the Act.</p>
2	<p>Sharp things designed to be used primarily to inflict injury or to be used in self-defence</p> <p><i>Examples</i></p> <p>Daggers, flick-knives, star knives and Shuriken throwing irons and stars</p> <p>Harpoons</p> <p>Sabres, swords and swordsticks and similar things</p> <p>Spears</p>
3	<p>Blunt things designed to inflict injury or to be used in self-defence</p> <p><i>Examples</i></p> <p>Billy clubs and leather billies</p> <p>Blackjacks</p> <p>Martial arts equipment such as knuckle dusters, clubs, coshes, rice flails and numchucks, kubatons and kubasaunts</p> <p>Night sticks and batons</p>



**Regulation 1.09**

<b>Column 1</b>	<b>Column 2</b>
<b>Item</b>	<b>Description of things</b>
4	<p>Things capable (with or without modification) of discharging projectiles for the purpose of disabling or incapacitating a person or animal</p> <p><i>Examples</i></p> <p>Ballistic knives and similar devices designed to discharge a projectile by means of an explosive or other propellant or mechanism</p> <p>Blow pipes</p> <p>Cross-bows</p> <p>Spear guns</p> <p>Hunting slings</p> <p>Catapults</p> <p>Slingshots</p> <p>Bows and arrows</p>
5	<p>Things designed to disable or incapacitate, or otherwise harm, a person or animal</p> <p><i>Examples</i></p> <p>Stun guns</p> <p>Things capable of being used to administer an electric shock; for example, cattle prods and Tasers</p> <p><i>Note</i> See subregulation (8).</p> <p>Disabling and incapacitating chemicals, gases or sprays, such as Mace, pepper or capsicum spray, tear gas, acid sprays and animal-repellent sprays</p>

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<b>Column 1</b>	<b>Column 2</b>
<b>Item</b>	<b>Description of things</b>
6	<p>Explosive or incendiary devices and flammable materials not ordinarily found around the home</p> <p><i>Examples</i></p> <p>Dynamite</p> <p>Explosives (plastic or otherwise)</p> <p>Blasting caps</p> <p>Blow-torches</p> <p>Detonators, fuses and detonator cord</p> <p>Explosive flares in any form</p> <p>Grenades</p> <p>Mines and other explosive military stores</p> <p>Smoke cartridges</p>
7	<p>Biotoxins and infectious substances</p> <p><i>Examples</i></p> <p>Preparations of anthrax spores</p>
8	<p>Chemical toxins</p> <p><i>Examples</i></p> <p>Chemical warfare agents</p>

(7) To avoid doubt, a telescopic sight is not a weapon.

(8) Despite subregulation (1) and item 5 of the table, a defibrillator is taken not to be a weapon if it is required for medical purposes or is part of an aircraft's equipment.

## **Part 2                      Transport security programs**

### **Division 2.1              Preliminary**

#### **2.01        Definitions for Part**

- (1) In this Part:  
*security contact officer*, for an aviation industry participant, means a person appointed by the participant to carry out the responsibilities of a security contact officer for the participant.
- (2) In this Part:
  - (a) a reference to an audit is a reference to an examination by an aviation industry participant of security measures under the participant's TSP to find out whether the measures have been implemented correctly; and
  - (b) a reference to review of an aviation industry participant's TSP is a reference to an evaluation by the participant of security measures and procedures under its TSP to find out whether the measures and procedures are adequate.

#### **2.02        Security contact officers**

- (1) The responsibilities of a security contact officer for an aviation industry participant for this Part are:
  - (a) to facilitate the development, implementation, review and maintenance of the participant's TSP; and
  - (b) to undertake liaison with other aviation industry participants in relation to aviation security matters.
- (2) An aviation industry participant that must have a TSP must appoint a security contact officer in accordance with its TSP.  
  
Penalty: 10 penalty units.
- (3) A security contact officer for an aviation industry participant must be the participant or an employee of the participant.

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**2.03      Aviation industry participants that must have TSPs**

For paragraph 12 (1) (c) of the Act, the following aviation industry participants are prescribed:

- (a) a RACA;
- (c) Airservices Australia.

*Note* Section 12 of the Act requires the following aviation industry participants to have a TSP:

- an operator of a security controlled airport
- an operator of a prescribed air service.

**2.04      Aviation industry participants to which more than 1 Division applies**

To avoid doubt, if 2 or more Divisions of this Part apply to an aviation industry participant that is required to have a TSP, the participant's TSP must comply with both or all of the applicable Divisions.

**2.05      What all TSPs must contain**

A TSP for an aviation industry participant must contain a statement signed by the participant to the effect that the participant believes that the TSP gives effect to the participant's obligation in subsection 16 (1) of the Act.

**2.06      Offence — disclosing TSPs without consent**

A person must not disclose to any other person any information about the content of an aviation industry participant's TSP without the consent of the participant.

Penalty: 50 penalty units.

**Division 2.2              Operators of security controlled airports**

**2.07      What this Division does**

This Division sets out the requirements about the content of a TSP for the operator of a security controlled airport.

**2.08 Application of this Division**

- (1) This Division applies to the operator of a security controlled airport.
- (2) A reference in this Division to an *airport operator* is a reference to the operator of a security controlled airport.

**2.09 Scope of airport operator's TSP**

An airport operator's TSP must cover any aviation-security-related activity on the airport that is not covered by the TSP of any other aviation industry participant.

**2.10 What airport operator's TSP must contain — outline**

The TSP must set out an outline of the objectives of the TSP, including, by way of an accompanying document:

- (a) a statement outlining the local security risk context of the airport, including consideration of its location and seasonal and operational factors; and
- (b) a list of general threats and generic security risk events to people, assets, infrastructure and operations; and
- (c) an outline of the people, assets, infrastructure and operations that need to be protected.

**2.11 What airport operator's TSP must contain — procedures for managing security etc**

- (1) The TSP must set out the procedures for managing security at the airport, including:
  - (a) organisational structures and security management arrangements; and
  - (b) the roles and responsibilities of security contact officers, security staff, contractors and responding agencies; and
  - (c) the roles and responsibilities of other staff who have been assigned security duties and responsibilities; and
  - (d) the roles and responsibilities of other Commonwealth, State and Territory agencies, and local authorities, with security duties at the airport.

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- (2) The TSP must, for the purpose of coordinating security-related activities, set out a mechanism for consultation:
  - (a) between the operator and its employees or their representatives regarding security measures and procedures; and
  - (b) between the operator and relevant third parties, such as police, aircraft operators, tenants and lessees.
- (3) The TSP must set out, in an accompanying document, the terms of reference and membership of the security committee or other consultative arrangement established to coordinate security activities.

*Note* Paragraph 16 (2) (g) of the Act requires a TSP for an aviation industry participant to set out the consultation that was undertaken, by the participant and the other participants who are covered by or are operating under the program, in preparing the program.

- (4) The TSP must set out measures to ensure that the TSP and other security information is protected against unauthorised access, amendment and disclosure.

**2.12 What airport operator's TSP must contain —  
procedures for quality control**

- (1) The TSP must set out quality control procedures, including:
  - (a) a schedule of audits; and
  - (b) the procedures for carrying out an audit, including a process for selecting auditors; and
  - (c) the procedures for reviewing the TSP, including a process for consultation during such a review; and
  - (d) a description of the circumstances that will require a review of the TSP, including those surrounding the occurrence of an aviation security incident.
- (2) The TSP must require:
  - (a) the records of an audit to be kept for 7 years; and
  - (b) the records of a review to be kept for 3 years.

**2.13 What airport operator's TSP must contain —  
description of airport**

- (1) The TSP must set out:
  - (a) the name of the airport; and
  - (b) its geographic location, including a reference to the closest population centre; and
  - (c) the types of aircraft operations that operate to and from the airport, including regular public transport, cargo, general aviation and joint-user facilities and other significant operations that may require security considerations; and
  - (d) the size of the airport; and
  - (e) a description of significant features affecting the security of the airport perimeter, such as waterways or residential areas; and
  - (f) a description of the airside and landside operations for which the airport operator has responsibility; and
  - (g) the hours during which the airport normally operates; and
  - (h) whether access into landside and airside areas and zones, and the internal security of such areas and zones, is controlled at all times or not; and
  - (i) details of procedures for security outside the airport's normal hours of operation.
- (2) The TSP must identify all aviation industry participants that have a facility at, or are located within, the airport that are required to have a TSP, and are covered by the airport operator's TSP or another aviation industry participant's TSP.
- (3) The operator of a security controlled airport must, within 7 working days after becoming aware of a change in any of the details mentioned in subregulation (1) or (2), notify the Secretary in writing of the new details.

Penalty: 20 penalty units.

- (4) The TSP must be accompanied by a document that sets out:
  - (a) the operator's name; and
  - (b) the name of its chief executive officer or manager; and

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- (c) the operator's mailing address, if different to the airport's location; and
  - (d) the operator's fax number; and
  - (e) the contact telephone number for the operator, including an after-hours number; and
  - (f) an alternative contact person and number; and
  - (g) the name of the security contact officer and his or her business phone number, fax number, e-mail address and a 24-hour security contact number.
- (5) The operator of a security controlled airport must, within 2 working days after becoming aware of a change in contact details (that is, the details required by subregulation (4) to accompany the TSP), notify the Secretary in writing of the new details.

Penalty: 20 penalty units.
- (6) A contravention of subregulation (3) or (5) is an offence of strict liability.
- (7) The operator must give each other aviation industry participant that has a facility at, or is located within, the airport:
  - (a) contact details for the operator, including contact details for the operator's security contact officer; and
  - (b) details of the procedures to make known the location of airside areas, airside security zones and landside security zones within the boundaries of the airport; and
  - (c) details of the procedures to check the identity of persons who are authorised to have access to those areas and security zones.
- (8) The TSP must require the airport operator to maintain a system to enable all aviation industry participants that have a facility at, or are located within, the airport to be contacted if an aviation security incident occurs.
- (9) If the TSP covers another aviation industry participant that is required to have a program or to be covered by the operator's TSP, the operator's TSP must be accompanied by a document that sets out contact information for each such participant.



**2.14 What airport operator's TSP must contain — proposed security zones**

- (1) If an airport operator wishes the Secretary to establish an airside security zone or a landside security zone at the airport, the operator's TSP must set out:
  - (a) the purpose of establishing the zone; and
  - (b) the proposed boundaries of the zone; and
  - (c) if applicable, the period when, or the circumstances in which, the zone will be in force; and
  - (d) the name or position of the person or persons responsible for security measures in relation to the zone.
- (2) The TSP must set out security measures and procedures to monitor and control access to landside and airside security zones, including measures to detect and deter unauthorised access to those zones.
- (3) If an enhanced inspection area has been established at the airport, the TSP must set out information about the surveillance measures and procedures used to deter and detect unauthorised access to the area.

**2.15 What airport operator's TSP must contain — maps**

- (1) A map to be included in the TSP for the purposes of paragraph 17 (2) (a) of the Act:
  - (a) must have a linear scale; and
  - (b) must show a north point; and
  - (c) must show the latitude and longitude of the airport; and
  - (d) must be in black and white only, with limited shading; and
  - (e) must be a clear and light featured depiction of the airport and its airside and landside areas; and
  - (f) must be on A4-size paper or in electronic form.

*Note* The TSP for an airport operator must include a map of the airside and landside boundaries within the airport — see paragraph 17 (2) (a) of the Act.

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- (2) The TSP must include a map showing the location of regular and isolated aircraft parking positions.
- (3) If a screened air service operates from the airport, the TSP must include a map of the airport terminal or terminals showing the location of all screening points and landside security zones including sterile areas.
- (4) If a screened air service operates from the airport, the TSP must include a description and map of the apron or aprons for the purposes of subregulation 4.02 (3).

**2.16 What airport operator's TSP must contain — physical security and access control**

- (1) The TSP must set out the security measures and procedures to be used within the airport, including measures and procedures:
  - (a) to control access at the airport and maintain the integrity of access control systems; and
  - (b) to deter and detect unauthorised access into the airside area by people, aircraft, vehicles or things; and
  - (c) to deter and detect unauthorised access into the airside security zone by people, aircraft, vehicles or things; and
  - (d) to deter and detect unauthorised access into a landside security zone by people, vehicles or things; and
  - (e) to be applied to unattended aircraft; and
  - (f) to assess, identify and respond to unknown substances; and
  - (g) to investigate, secure, and remove unattended or suspect vehicles, aircraft or things, including baggage and cargo; and
  - (h) to ensure the security of passwords, keys and key lists, electronic access cards and other security privileges.
- (2) The TSP must specify which of those measures and procedures have been implemented, and must include a timetable for implementation of measures and procedures that have not been implemented.

*Issuing VICs for access control*

- (3) If an airport operator intends to authorise agents to issue VICs on behalf of the airport operator, the TSP must set out procedures for:
  - (a) how the airport operator will authorise agents; and
  - (b) auditing an agent's practices.
- (4) If an airport operator intends to issue VICs in a form that is different from that set out in regulation 6.39, the TSP must set out:
  - (a) the form; and
  - (b) whether VICs issued by the airport operator's agents will be in the different form.
- (5) An airport operator's TSP may set out:
  - (a) more than 1 form for a VIC; and
  - (b) that the airport operator's agents may use a different form, set out in the TSP, than that used by the airport operator.
- (6) An airport operator's TSP may state that the airport operator (or its agent) must not issue VICs in the form set out in regulation 6.39.
- (7) If an airport operator intends to issue VICs, the TSP may set out circumstances in which a VIC need not be returned to the airport operator within 7 days after the VIC has expired.

**2.17 What airport operator's TSP must contain — screening and clearing**

- (1) If a screened air service operates from the airport, the TSP must set out:
  - (a) measures, equipment and procedures to carry out screening and clearing of persons and baggage; and
  - (b) the names of the screening authorities that will undertake those functions.
- (2) These measures and procedures must include:
  - (a) the locations where screening is undertaken; and
  - (b) details of the screening equipment used; and

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- (c) details of the persons who operate the equipment; and
- (d) procedures to treat suspect passengers or carry-on baggage; and
- (e) measures and procedures to control the movement of passengers; and
- (f) procedures for handling and screening transit passengers from inbound international flights at their first Australian port of call; and
- (g) measures to ensure that non-screened passengers on arriving aircraft (for example, small general-aviation aircraft) do not mix or interfere with screened passengers; and
- (h) measures and procedures to handle:
  - (i) diplomats and other VIPs; and
  - (ii) government couriers and diplomatic bags; and
  - (iii) passengers with reduced mobility or a medical condition; and
  - (iv) persons in custody; and
  - (v) suspect behaviour by a passenger; and
  - (vi) transit passengers; and
- (i) measures and procedures to follow sterile area breaches, including post-breach recovery plans.

**2.18 What airport operator's TSP must contain — checked baggage screening**

- (1) If the airport operator carries out checked baggage screening itself, the TSP must include:
  - (a) measures, equipment and procedures to carry out that screening, including:
    - (i) the locations where screening is undertaken; and
    - (ii) details of the screening equipment used; and
    - (iii) details of the persons operating the screening equipment; and
  - (b) measures and procedures to ensure that checked baggage is protected against tampering and the introduction of explosives; and

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- (c) procedures to treat unattended and suspect baggage; and
  - (d) measures and procedures to respond to the detection of explosives.
- (2) If a screened air service operates from the airport, but the airport operator does not carry out checked baggage screening, the TSP must specify the screening authority that carries out that screening on its behalf.

*Note* The airports where checked baggage screening is required are set out in regulation 4.29.

**2.18A What airport operator's TSP must contain — enhanced inspection area screening**

- (1) This regulation applies to the TSPs for the operators of the following airports:
- (a) Adelaide Airport;
  - (b) Alice Springs Airport;
  - (c) Brisbane Airport;
  - (d) Cairns Airport;
  - (e) Canberra Airport;
  - (f) Coolangatta Airport;
  - (g) Darwin Airport;
  - (h) Hobart Airport;
  - (i) Melbourne Airport;
  - (j) Perth Airport;
  - (k) Sydney Airport.
- (2) If a screened air service operates from an airport, the airport operator's TSP must set out the following matters:
- (a) measures, equipment and procedures for carrying out screening in the area, including:
    - (i) the locations where screening is undertaken; and
    - (ii) details of the screening equipment used; and
    - (iii) details of the screening officers operating the screening equipment; and
  - (b) details of training that will be provided to screening officers that carry out screening for the area; and

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- (c) measures and procedures for responding to the detection of weapons.
- (3) For paragraph (2) (b):
  - (a) the training must be training that meets all of the training requirements of paragraphs 5.06 (1) (d) and (e); and
  - (b) paragraph 5.06 (1) (d) applies as if the reference in subparagraph (i) of that paragraph to a sterile area were a reference to an enhanced inspection area.
- (4) If a screened air service operates from an airport at which an enhanced inspection area has been established, but the airport operator does not carry out screening for the area, the TSP must specify the screening authority that carries out screening for the area.

**2.19 What airport operator's TSP must contain — cargo facilities with direct access to airside**

If a screened air service operates from the airport, the TSP must be accompanied by a document listing each facility that has direct access to the airside of the airport and is responsible for receiving, processing and clearing cargo.

**2.20 What airport operator's TSP must contain — control of firearms, other weapons and prohibited items**

- (1) The TSP must include:
  - (a) measures to deter unauthorised possession of firearms, other weapons and prohibited items; and
  - (b) procedures for dealing with surrendered firearms, other weapons and prohibited items; and
  - (c) procedures for handling and movement of firearms and other weapons; and
  - (d) procedures for using firearms and other weapons in the airside area or landside security zones; and
  - (e) methods for ensuring that staff who have a need to know are aware of the restrictions on the possession and use of firearms, other weapons and prohibited items within the airport.

- (2) The airport operator must ensure that procedures in the TSP to handle or transport firearms, other weapons and prohibited items are consistent with relevant Commonwealth, State or Territory laws.

**2.21 What airport operator's TSP must contain —  
measures for heightened security alert**

- (1) The TSP must set out, in an accompanying document, additional security measures and procedures available in the event of a heightened security alert.
- (2) Those measures and procedures must include:
  - (a) procedures for responding to and investigating aviation security incidents, including threats and breaches of security; and
  - (b) procedures for reporting aviation security incidents or security breaches, including occurrences that threaten the security of the airport; and
  - (c) procedures for evacuation and emergency management in case of an aviation security incident, security threat or breach of security, including:
    - (i) an aircraft hijacking; and
    - (ii) a bomb threat; and
    - (iii) a failure of critical security equipment; and
  - (d) procedures for responding to any special security direction given by the Secretary, including procedures to communicate directions within the airport; and
  - (e) procedures for raising the awareness and alertness of staff to security threats and their responsibility to report aviation security incidents and breaches; and
  - (f) details of any other security contingency procedures and plans.

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**2.22 What airport operator's TSP must contain — personnel with particular security roles**

*Security contact officer*

- (1) The TSP must set out:
  - (a) the criteria for selecting the security contact officer; and
  - (b) any training that must be given to a person selected.

*Other personnel with particular security roles*

- (2) The TSP must specify, by reference to their positions, the employees, contractors and other persons (other than the security contact officer) who have been assigned particular security duties and responsibilities.
- (3) The TSP must set out:
  - (a) the duties and responsibilities of each of those personnel; and
  - (b) the knowledge, skills and other requirements for the security-related aspects of their positions; and
  - (c) the training or qualifications that satisfy those requirements.

*Staff security awareness*

- (4) The TSP must set out how security awareness training will be given to staff who need to know.

**2.23 Content of TSPs for major airport operators — barriers**

- (1) This regulation applies to the TSPs for the operators of the following airports:
  - (a) Adelaide Airport;
  - (b) Alice Springs Airport;
  - (c) Brisbane Airport;
  - (d) Cairns Airport;
  - (e) Canberra Airport;
  - (f) Coolangatta Airport;



- (g) Darwin Airport;
  - (h) Hobart Airport;
  - (i) Melbourne Airport;
  - (j) Perth Airport;
  - (k) Sydney Airport.
- (2) The TSP must:
- (a) set out the specifications of a barrier sufficient to deter unauthorised access to the airside of the airport; and
  - (b) require the operator to construct and maintain a barrier to those specifications.

## **Division 2.3      Operators of prescribed air services**

### **2.25      What this Division does**

This Division sets out the requirements about the content of a TSP for the operator of a prescribed air service.

### **2.26      Application of this Division**

- (1) This Division applies to the operator of a prescribed air service.
- (2) A reference in this Division to an *aircraft operator* is a reference to the operator of a prescribed air service.

### **2.27      Scope of aircraft operator's TSP**

An aircraft operator's TSP must cover any aviation-security-related activity that is relevant to its operations, including significant facilities on security controlled airports.

### **2.28      What aircraft operator's TSP must contain — outline**

The TSP must set out an outline of the objective of the TSP, including, by way of an accompanying document:

- (a) a statement outlining the local security risk context of the operator, including consideration of location, seasonal and operational factors; and

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- (b) a list of general threats and generic security risk events to people, assets, infrastructure and operations; and
- (c) an outline of the people, assets, infrastructure and operations that need to be protected.

**2.29      What aircraft operator's TSP must contain —  
procedures for managing security etc**

- (1) The TSP must set out procedures for managing security at the operator's facilities, including:
  - (a) organisational structures and security management arrangements; and
  - (b) the roles and responsibilities of security contact officers, security staff, contractors and responding agencies; and
  - (c) the roles and responsibilities of other staff who have been assigned security duties and responsibilities; and
  - (d) the roles and responsibilities of other Commonwealth, State and Territory agencies, and local authorities, with security duties at the facility.
- (2) The TSP must, for the purpose of coordinating security-related activities, set out a mechanism for consultation:
  - (a) between the operator and the operator of any security controlled airport at which the operator has a facility; and
  - (b) between the operator and its employees or their representatives regarding security measures and procedures; and
  - (c) between the operator and relevant third parties such as police, tenants and lessees.
- (3) The TSP must set out measures to ensure that the TSP and other security information is protected against unauthorised access, amendment and disclosure.

**2.30      What aircraft operator's TSP must contain —  
procedures for quality control**

- (1) The TSP must set out quality control procedures, including:
  - (a) a schedule of audits; and

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- (b) the procedures for carrying out an audit, including a process for selecting auditors; and
  - (c) the procedures for reviewing the TSP, including a process for consultation during such a review; and
  - (d) a description of the circumstances that will require a review of the TSP, including those surrounding the occurrence of an aviation security incident.
- (2) The TSP must require:
- (a) the records of an audit to be kept for 7 years; and
  - (b) the records of a review to be kept for 3 years.

**2.31 What aircraft operator's TSP must contain — details of operator's name and operations**

- (1) The TSP must set out, either in the TSP or in an accompanying document:
- (a) the name of the operator; and
  - (b) the geographic location of each of its operational facilities that is located within a security-controlled airport; and
  - (c) the types of aircraft operations it carries on (including regular public transport, cargo and general aviation operations) that may require security considerations, including:
    - (i) details of the operator's aircraft, including aircraft types and numbers; and
    - (ii) details of regular routes flown and airports served; and
    - (iii) a map showing the boundaries of any operational facility that is located within a security controlled airport; and
  - (d) for each of its operational facilities:
    - (i) the hours of the facility's normal operation; and
    - (ii) details of procedures for security outside the facility's normal hours of operation.

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- (2) The operator of a prescribed air service must, within 7 working days after becoming aware of a change in any of the details mentioned in subregulation (1), notify the Secretary in writing of the new details.

Penalty: 20 penalty units.

- (3) The TSP must be accompanied by a document that sets out:
- (a) the operator's name; and
  - (b) the name of its chief executive officer or manager; and
  - (c) the operator's mailing address; and
  - (d) the operator's fax number; and
  - (e) the contact telephone number for the operator, including an after-hours number; and
  - (f) an alternative contact person and number; and
  - (g) the name of the security contact officer and his or her business phone number, fax number, e-mail address and a 24-hour security contact number.
- (4) The operator of a prescribed air service must, within 2 working days after becoming aware of a change in contact details (that is, the details required by subregulation (3) to accompany the TSP), notify the Secretary in writing of the new details.

Penalty: 20 penalty units.

- (5) A contravention of subregulation (2) or (4) is an offence of strict liability.
- (6) The operator of a prescribed air service must give the operator of each security controlled airport at which it has a facility:
- (a) contact details for the facility, including contact details for the operator's security contact officer; and
  - (b) details of the procedures to make known the location of airside areas, airside security zones and landside security zones within the boundaries of the airport; and
  - (c) details of the procedures to check the identity of persons who are authorised to have access to those areas and security zones.

**2.32 What aircraft operator's TSP must contain —  
physical security and access control**

- (1) The TSP must set out the security measures and procedures to be used within each of the operator's facilities, including measures and procedures:
  - (a) to control access to aircraft and facilities and maintain the integrity of access control systems; and
  - (b) to deter and detect unauthorised access into the airside area by people, aircraft, vehicles or things; and
  - (c) to deter and detect unauthorised access into the airside security zone by people, aircraft, vehicles or things; and
  - (d) to deter and detect unauthorised access into a landside security zone by people, vehicles or things; and
  - (e) to be applied to unattended aircraft; and
  - (f) to assess, identify and respond to unknown substances; and
  - (g) to investigate, secure, and remove unattended or suspect vehicles, aircraft or things, including baggage and cargo; and
  - (h) to ensure the security of passwords, keys and key lists, electronic access cards and other security privileges.
- (2) The TSP must specify which of those measures and procedures have been implemented, and must include a timetable for implementing the measures and procedures that have not been implemented.
- (3) If:
  - (a) the facilities are next to or form part of an enhanced inspection area; and
  - (b) the operator controls a designated access point to the area; the TSP must set out information about the surveillance measures and procedures used to deter and detect unauthorised access to the area.
- (4) In paragraph (3) (b), ***designated access point*** means an access point designated by the operator.

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*Issuing TACs for access control*

- (5) If an aircraft operator intends to issue TACs, the TSP must set out the process for how the aircraft operator will issue TACs.

*Issuing VICs for access control*

- (6) If an aircraft operator intends to authorise agents to issue VICs on behalf of the aircraft operator, the TSP must set out procedures for:
- (a) how the aircraft operator will authorise agents; and
  - (b) auditing an agent's practices.
- (7) If an aircraft operator is approved by the Secretary to issue VICs and the aircraft operator intends to issue VICs in a form that is different from that set out in regulation 6.39, the TSP must set out:
- (a) the form; and
  - (b) whether VICs issued by the aircraft operator's agents will be in the different form.
- (8) An aircraft operator's TSP may set out:
- (a) more than 1 form for a VIC; and
  - (b) that an aircraft operator's agents may use a different form, set out in the TSP, than that used by the aircraft operator.
- (9) An aircraft operator's TSP may state that the aircraft operator (or its agent) must not issue VICs in the form set out in regulation 6.39.
- (10) If an aircraft operator is approved by the Secretary to issue VICs, the TSP may set out circumstances in which a VIC need not be returned to the aircraft operator within 7 days after the VIC has expired.

**2.33 What aircraft operator's TSP must contain — control of firearms, other weapons and prohibited items**

- (1) The aircraft operator must ensure that procedures in the TSP include:

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- (a) measures to deter unauthorised possession of firearms, other weapons and prohibited items; and
  - (b) procedures for dealing with surrendered firearms, other weapons and prohibited items; and
  - (c) procedures for handling and movement of firearms and other weapons; and
  - (d) measures and procedures for the carriage on board a prescribed aircraft (other than by an air security officer) of firearms and other weapons; and
  - (e) methods for ensuring operational staff are aware of the restrictions on the possession and use of firearms, other weapons and prohibited items within the airport.
- (2) The aircraft operator must ensure that procedures in the TSP to handle or transport firearms, other weapons and prohibited items are consistent with relevant Commonwealth, State or Territory laws.

**2.34 What aircraft operator's TSP must contain — check-in and boarding procedures**

The TSP must set out passenger check-in and boarding procedures, including procedures for dealing with any anomalies in passenger reconciliation that may arise during check-in or boarding.

**2.35 What aircraft operator's TSP must contain — screening and clearing**

- (1) If the operator carries out passenger or crew screening, the TSP must include:
- (a) measures, equipment and procedures to carry out that screening and clearing, including:
    - (i) the locations where screening is undertaken; and
    - (ii) details of the screening equipment used; and
    - (iii) details of the persons operating the screening equipment; and
  - (b) measures to ensure that screened passengers departing from or boarding an aircraft do not mix with unscreened passengers on arriving aircraft; and

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- (c) measures, equipment and procedures to carry out screening and clearing of carry-on baggage, including:
    - (i) the locations where screening and searching is undertaken; and
    - (ii) details of the screening equipment used; and
    - (iii) the details of the persons operating the screening equipment; and
  - (d) measures and procedures for the screening and clearing of transit passengers, including passengers who cannot leave the aircraft during transit; and
  - (e) procedures to treat suspect passengers or carry-on baggage; and
  - (f) measures and procedures to control the movement of passengers; and
  - (g) measures and procedures to handle:
    - (i) diplomats and other VIPs; and
    - (ii) government couriers and diplomatic bags; and
    - (iii) passengers with reduced mobility or a medical condition; and
    - (iv) persons in custody; and
    - (v) transit passengers; and
  - (h) measures and procedures for handling suspect behaviour by a passenger, including:
    - (i) details of restraining devices that will be carried onboard each aircraft and their location; and
    - (ii) details of the crew members who are authorised to use restraints; and
    - (iii) the procedures for reporting such behaviour; and
  - (i) measures and procedures following sterile area breaches, including post-breach recovery plans.
- (2) If the operator does not carry out screening of passengers or crew, the TSP must specify the screening authorities that carry out that screening on its behalf.



**2.35A What aircraft operator's TSP must contain — enhanced inspection area screening**

- (1) If an aircraft operator carries out screening for an enhanced inspection area, the TSP must set out:
  - (a) measures, equipment and procedures for carrying out screening for the area, including:
    - (i) the locations where screening is undertaken; and
    - (ii) details of the screening equipment used; and
    - (iii) details of the screening officers operating the screening equipment; and
  - (b) details of training that will be provided to screening officers that carry out screening for the area; and
  - (c) measures and procedures to respond to the detection of weapons.
- (2) For paragraph (1) (b):
  - (a) the training must be training that meets all of the training requirements of paragraphs 5.06 (1) (d) and (e); and
  - (b) paragraph 5.06 (1) (d) applies as if the reference in subparagraph (i) of that paragraph to a sterile area were a reference to an enhanced inspection area.
- (3) If the aircraft operator does not carry out screening for the area, the TSP must specify the screening authority that carries out screening for the area.

**2.36 What aircraft operator's TSP must contain — security of passenger and crew information**

The TSP must set out measures to ensure the protection of information about passenger and crew movements.

**2.37 What aircraft operator's TSP must contain — checked baggage screening**

- (1) If the operator carries out checked baggage screening itself, the TSP must include:
  - (a) measures, equipment and procedures to carry out that screening, including:

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- (i) the locations where screening is undertaken; and
    - (ii) details of the screening equipment used; and
    - (iii) details of the persons operating the screening equipment; and
  - (b) measures and procedures for questioning of passengers, including:
    - (i) which passengers are questioned; and
    - (ii) the questions asked; and
    - (iii) where passengers are questioned; and
    - (iv) details of the staff who question passengers; and
    - (v) how the staff respond to an adverse or questionable answer; and
  - (c) measures and procedures to ensure that checked baggage is protected against tampering and the introduction of explosives; and
  - (d) procedures to treat unattended and suspect baggage; and
  - (e) measures and procedures to respond to the detection of explosives.
- (2) If the operator does not carry out checked baggage screening, the TSP must specify the screening authorities that carry out screening on its behalf.

**2.38 What aircraft operator's TSP must contain — passenger and checked baggage reconciliation**

The TSP must include:

- (a) measures and procedures to ensure that checked baggage transported on an aircraft belongs to the passengers on the flight, including:
  - (i) details of the equipment used to reconcile passengers and baggage; and
  - (ii) procedures to ensure that the baggage of any passenger who fails to board a flight (other than a passenger who does not re-board, or remain on board, a flight following diversion of the flight from its scheduled destination to an alternative destination

- in a circumstance specified in regulation 4.21A) is unloaded before the aircraft departs; and
- (iii) procedures to clear checked baggage that has been unloaded from an aircraft before it is reloaded onto an aircraft; and
  - (b) procedures to identify unaccompanied baggage and any additional security measures to be applied to such baggage, including details of the procedures and equipment used to screen it.

## **2.39 What aircraft operator's TSP must contain — security of aircraft**

The TSP must include:

- (a) measures and procedures to prevent the unlawful carriage of a firearm, another weapon or a prohibited item, including the procedures:
  - (i) for the pre-flight security checks required under Part 4; and
  - (ii) to ensure the security of an aircraft after a pre-flight security check; and
  - (iii) to respond to the detection of a firearm, another weapon or a prohibited item; and
- (b) measures and procedures to deter unauthorised access to aircraft at all times; and
- (c) measures and procedures to ensure that access to an aircraft's flight deck is controlled to prevent unauthorised entry at all times; and
- (d) measures and procedures to assess, identify and respond to unknown substances; and
- (e) measures and procedures to investigate, secure and remove unattended and suspect items, including baggage and cargo; and
- (f) measures and procedures to maintain the security of stores.

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**2.40      What aircraft operator's TSP must contain — security of aircraft cleaning operations and stores**

The TSP must include measures and procedures to ensure the security of aircraft cleaning operations and materials to be taken on board an aircraft and at facilities controlled by the operator.

**2.41      What aircraft operator's TSP must contain — security of cargo etc**

- (1) The TSP must set out the methods, techniques and equipment to be used for the examination of cargo if the operator operates a prescribed air service and either:
  - (a) examines cargo itself; or
  - (b) has another person, who is not a RACA or an aircraft operator, examine cargo on its behalf.
- (2) The TSP must set out the procedures for receipt and handling of cargo.
- (3) The TSP must set out measures and procedures to be used to ensure the security of cargo at all times, including supervising and controlling access to cargo that has received clearance.
- (4) The TSP must set out measures and procedures to be used to ensure the security of diplomatic mail.
- (5) The TSP must set out measures and procedures to be used for handling and treating suspect cargo.

**2.42      What aircraft operator's TSP must contain — security of documents**

The TSP must include measures and procedures to control access to operational documents (such as baggage tags, boarding passes and tickets), including those produced electronically.

**2.43 What aircraft operator's TSP must contain —  
measures for heightened security alert**

- (1) The TSP must set out, in an accompanying document, additional security measures and procedures available in the event of a heightened security alert.
- (2) The TSP must include:
  - (a) procedures for responding to and investigating aviation security incidents, including threats and breaches of security; and
  - (b) procedures for reporting aviation security incidents or security breaches, including occurrences that threaten aviation security; and
  - (c) procedures for evacuation and emergency management in case of an aviation security incident, security threat or breach of security, including:
    - (i) an aircraft hijacking; and
    - (ii) a bomb threat; and
    - (iii) a failure of critical security equipment; and
    - (iv) an external attack on an aircraft; and
    - (v) the discovery of an unknown substance on an aircraft in flight; and
    - (vi) the discovery of an unauthorised person on board an aircraft in flight; and
  - (d) procedures for responding to any special security directions given by the Secretary; and
  - (e) procedures for raising the awareness and alertness of staff to security threats and their responsibility to report aviation security incidents and breaches; and
  - (f) details of any other security contingency procedures and plans.

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**2.44 What aircraft operator's TSP must contain — control directions**

- (1) The TSP must describe the procedures for passing compliance control directions received by the operator to the pilot in command of the aircraft concerned.

*Note* In relation to compliance control directions, see section 74B of the Act.

- (2) The TSP must describe the procedures that the operator will use to pass an incident control direction to the pilot in command of an aircraft.

*Note* In relation to incident control directions, see section 74D of the Act.

- (3) The TSP complies with subregulations (1) and (2) if it refers to another document that sets out the procedures.

**2.45 What aircraft operator's TSP must contain — personnel with particular security roles**

*Security contact officer*

- (1) The TSP must set out:
  - (a) the criteria for selecting the security contact officer; and
  - (b) any training that must be given to a person selected.

*Other personnel with particular security roles*

- (2) The TSP must specify, by reference to their positions, employees, contractors or other persons (other than the security contact officer) who have been assigned particular security duties and responsibilities.
- (3) The TSP must set out:
  - (a) the duties and responsibilities of each of those personnel; and
  - (b) the knowledge, skills and other requirements for the security-related aspects of their positions; and
  - (c) the training or qualifications that satisfy those requirements.

*Staff security awareness*

- (4) The TSP must set out how security awareness training will be given to operational staff.

## **Division 2.4      Regulated air cargo agents**

### **2.47      What this Division does**

This Division sets out the requirements about the content of a TSP for a RACA.

### **2.48      Scope of RACA's TSP**

- (1) The TSP must set out the measures and procedures to be used to:
  - (a) examine, handle, store and transport cargo in a secure manner; and
  - (b) make arrangements for the secure movement of cargo.
- (2) The measures and procedures must be applied:
  - (a) to cargo that is in the RACA's possession or under the RACA's control; and
  - (b) at each site or facility that is covered by the TSP.

### **2.49      What RACA's TSP must contain — outline**

The TSP must set out an outline of the objective of its TSP, including, by way of an accompanying document:

- (a) a statement outlining the local security risk context of the RACA, including consideration of location, seasonal and operational factors; and
- (b) a list of general threats and generic security risk events to people, assets, infrastructure and operations; and
- (c) an outline of the people, assets, infrastructure and operations that need to be protected.

**Regulation 2.50**

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**2.50      Content of programs — RACAs**

The following matters must be dealt with in the TSP of a RACA:

- (a) measures and procedures to deter and detect the unauthorised carriage of explosives and to prevent acts of unlawful interference with aviation;
- (b) methods to prevent unauthorised persons from having access to cargo from the time it is dealt with by the measures set out in the program until the time it is delivered to the operator of a prescribed aircraft or to another RACA;
- (c) the keeping of accurate records of the cargo and the security measures adopted in relation to it.

**2.51      What RACA's TSP must contain — cargo security measures**

- (1) The TSP must set out the measures, equipment and procedures used to deter and detect the unauthorised carriage, as cargo, of explosives that could facilitate an act of unlawful interference with aviation, including procedures that will have effect during equipment failure or unserviceability.
- (1A) The TSP must set out the methods, techniques and equipment to be used for the examination of cargo.
- (2) The TSP must set out measures and procedures to ensure the security of cargo at all times.
- (3) The TSP must set out measures and procedures for the handling and treatment of suspect cargo.
- (4) The TSP must set out:
  - (a) measures to prevent the unauthorised disclosure of information regarding security measures to be applied to cargo; and
  - (c) measures to prevent aircraft operator and flight information from being revealed, before cargo is received by the RACA, to those without a need to know; and
  - (d) details of persons who may be given such information and how it is to be given to such a person.



**2.52 What RACA's TSP must contain — procedures for managing security etc**

- (1) The TSP must set out procedures for managing security at each of its facilities, including:
  - (a) organisational structures and security management arrangements; and
  - (b) the roles and responsibilities of security contact officers, security staff, contractors and responding agencies; and
  - (c) the roles and responsibilities of other staff who have been assigned security duties and responsibilities; and
  - (d) the roles and responsibilities of other Commonwealth, State and Territory agencies, and local authorities, with security duties at the facility.
- (2) The TSP must, for the purpose of coordinating security-related activities, set out a mechanism for consultation:
  - (a) within the RACA's organisation and within each site covered by the TSP; and
  - (b) between the RACA and the operator of any security controlled airport at which the RACA has a facility; and
  - (c) between the RACA and its employees or their representatives regarding security measures and procedures; and
  - (d) between the RACA and relevant third parties.

*Note* A relevant third party might for example be an aircraft operator.
- (3) The TSP must set out measures to ensure that the TSP and other security information is protected against unauthorised access, amendment and disclosure.

**2.53 What RACA's TSP must contain — procedures for quality control**

- (1) The TSP must set out quality control procedures, including:
  - (a) a schedule of audits; and
  - (b) the procedures for carrying out an audit, including a process for selecting auditors; and
  - (c) the procedures for reviewing the TSP, including a process for consultation during such a review; and

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- (d) a description of the circumstances that will require a review of the TSP, including those surrounding the occurrence of an aviation security incident.
- (2) The TSP must require:
  - (a) the records of an audit to be kept for 7 years; and
  - (b) the records of a review to be kept for 3 years.

**2.54      What RACA's TSP must contain — details of RACA's name and operations**

- (1) The TSP must set out, in an accompanying document, all sites that operate on the RACA's behalf and all sites covered by the TSP.
- (2) The information required is, for each site or facility:
  - (a) the name (if any) of the site or facility; and
  - (b) its geographic location; and
  - (ba) whether the RACA is operating as a cargo terminal operator or a consolidator at the site or facility; and
  - (c) details of operations that may require security considerations; and
  - (d) if the facility is located at a security controlled airport, a map showing the boundaries of the facility on the airport; and
  - (e) a description of any airside and landside operations for which the RACA is responsible; and
  - (f) the hours of its normal operation; and
  - (g) details of procedures for security outside its normal hours of operation.
- (3) The RACA must, within 7 working days after becoming aware of a change in any of the details mentioned in subregulation (1) or (2), notify the Secretary in writing of the new details.

Penalty: 20 penalty units.

- (4) The TSP must be accompanied by a document that sets out:
  - (a) the RACA's name; and
  - (b) the name of its chief executive officer or manager; and

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- (c) the RACA's mailing address; and
  - (d) the RACA's fax number; and
  - (e) the contact telephone number for the RACA, including an after-hours number; and
  - (f) an alternative contact person and number; and
  - (g) the name of the security contact officer and his or her business phone number, fax number, e-mail address and a 24-hour security contact number.
- (5) The RACA must, within 2 working days after becoming aware of a change in contact details (that is, the details required by subregulation (4) to accompany the TSP), notify the Secretary in writing of the new details.
- Penalty: 20 penalty units.
- (6) A contravention of subregulation (3) or (5) is an offence of strict liability.
- (7) For each of the RACA's facilities that is located at a security controlled airport, the RACA must give the airport operator:
- (a) the RACA's contact details, including contact details for the security contact officer; and
  - (b) details of the procedures to be used by the RACA to make known the location of airside areas, airside security zones and landside security zones within the boundaries of the airport; and
  - (c) details of the procedures to check the identity of persons who are authorised to have access to those areas and zones.

**2.55 What RACA's TSP must contain — physical security and access control**

- (1) The TSP must set out, for each of the RACA's sites as appropriate to the operations at those sites, the security measures and procedures to be used within the site, including measures and procedures:
- (a) to control access to sites and maintain the integrity of access control systems; and

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- (b) to deter and detect unauthorised access into the airside area by people, aircraft, vehicles or things; and
  - (c) to deter and detect unauthorised access into the airside security zone by people, aircraft, vehicles or things; and
  - (d) to deter and detect unauthorised access into a landside security zone by people, vehicles or things; and
  - (e) to deter and detect unauthorised access into sites (including cargo handling areas covered by the TSP) by people, vehicles or things; and
  - (f) to ensure the security of passwords, keys and key lists, electronic access cards and other security privileges; and
  - (g) to ensure all security equipment is appropriately maintained and calibrated, including measures for managing and recording details of equipment maintenance programs; and
  - (h) to ensure that any vehicles used in the transport of cargo are secured adequately; and
  - (i) for the examination of cargo.
- (2) The TSP must specify the security measures and procedures that have been implemented, and must include a timetable for the implementation of measures and procedures that have not been implemented.

**2.57 What RACA's TSP must contain — measures for heightened security alert**

- (1) The TSP must set out, in an accompanying document, additional security measures and procedures available in the event of a heightened security alert.
- (2) The TSP must include:
- (a) procedures for responding to and investigating aviation security incidents, including threats and breaches of security; and
  - (b) procedures for reporting aviation security incidents or security breaches, including occurrences that threaten aviation security; and

- (c) procedures for evacuation and emergency management in case of an aviation security incident, security threat or breach of security, including:
  - (i) a bomb threat; and
  - (ii) a failure of critical security equipment; and
- (d) procedures for responding to any special security directions given by the Secretary; and
- (e) procedures for raising the awareness and alertness of staff to security threats and their responsibility to report aviation security incidents and breaches; and
- (f) details of any other security contingency procedures and plans.

## **2.58 What RACA's TSP must contain — personnel with particular security roles**

### *Security contact officer*

- (1) The TSP must set out:
  - (a) the criteria for selecting the security contact officer; and
  - (b) any training that must be given to a person selected.

### *Other personnel with particular security roles*

- (2) The TSP must specify, by reference to their positions, employees, contractors or other persons (other than the security contact officer) who have been assigned particular security duties and responsibilities.
- (3) The TSP must set out:
  - (a) the duties and responsibilities of each of those personnel; and
  - (b) the knowledge, skills and other requirements for the security-related aspects of their positions; and
  - (c) the training or qualifications that satisfy those requirements.

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*Staff security awareness*

- (4) The TSP must set out how security awareness training will be given to operational staff.

**2.59      Content of RACA's TSP — limit on persons covered**

The TSP must only cover an aviation industry participant that is an agent or subsidiary of the RACA, or has a contract with the RACA to provide a service for the movement or handling of cargo or the making of arrangements for the movement or handling of cargo.

**2.60      What RACA's TSP must contain — regular customers**

The TSP must include, in relation to international cargo:

- (a) procedures for maintaining and keeping secure a list of regular customers, including, for each such customer:
  - (i) the customer's name and contact details; and
  - (ii) why the customer was included on the list; and
  - (iii) the date of the customer's inclusion on the list; and
- (b) the form of an undertaking required from such a customer that it will take appropriate security measures to prevent the unauthorised carriage of an explosive or an explosive device; and
- (c) the procedures for receiving cargo from such a customer, including procedures to identify people who represent such a customer.

**2.61      What RACA's TSP must contain — informing consignors of certain matters**

The TSP must include measures and procedures to ensure that a consignor is made aware that:

- (a) the cargo will be subject to security and clearing procedures; and
- (b) it is illegal to consign as cargo, without authorisation, an explosive or an explosive device.

## **Division 2.6            Airservices Australia**

### **2.75        Definition for Division — AA**

In this Division:

**AA** means Airservices Australia.

### **2.76        What this Division does**

This Division sets out the requirements about the content of a TSP for AA.

### **2.77        Scope of AA's TSP**

The TSP must set out the measures and procedures for managing the provision of protective security to minimise the risk of unlawful interference with aviation, including security threats and other major security threats against critical air traffic facilities, aeronautical navigation facilities, telecommunications facilities and surveillance facilities.

### **2.78        What AA's TSP must contain — outline**

The TSP must set out an outline of the objective of the TSP, including, by way of an accompanying document:

- (a) a statement outlining the local security risk context of each of AA's facilities, including consideration of location, seasonal and operational factors; and
- (b) a list of general threats and generic security risk events to people, assets, infrastructure and operations; and
- (c) an outline of the people, assets, infrastructure and operations that need to be protected.

### **2.79        What AA's TSP must contain — procedures for managing security etc**

- (1) The TSP must set out procedures for managing security at its facilities, including:
  - (a) organisational structures and security management arrangements; and

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- (b) the roles and responsibilities of AA's security officers, security staff, contractors and responding agencies; and
  - (c) the roles and responsibilities of other staff who have been assigned other security duties and responsibilities; and
  - (d) the roles and responsibilities of other Commonwealth, State and Territory agencies and local authorities with security duties at the facility.
- (2) The TSP must, for the purpose of coordinating security-related activities, set out a mechanism for consultation:
  - (a) between AA and the operators of security controlled airports within which there are AA facilities; and
  - (b) between AA and its employees (or their representatives), regarding security measures and procedures to be implemented; and
  - (c) between AA and relevant third parties such as police, airport operators and aircraft operators.
- (3) The TSP must set out measures to ensure that the TSP and other security information is protected against unauthorised access, amendment and disclosure.

**2.80      What AA's TSP must contain — procedures for quality control**

- (1) The TSP must set out quality control procedures, including:
  - (a) a schedule of audits; and
  - (b) the procedures for carrying out an audit, including a process for selecting auditors; and
  - (c) the procedures for reviewing the TSP, including a process for consultation during such a review; and
  - (d) a description of the circumstances that will require a review of the TSP including those surrounding the occurrence of an aviation security incident.
- (2) The TSP must require:
  - (a) the records of an audit to be kept for 7 years; and
  - (b) the records of a review to be kept for 3 years.



**2.81 What AA's TSP must contain — details of AA's operations**

- (1) The TSP must be accompanied by a document setting out:
  - (a) a list, in accordance with subregulation (2), of AA's aviation-related facilities (including facilities for air traffic control and related activities) that is covered by the TSP; and
  - (b) AA's contact details, in accordance with subregulation (3).
- (2) The list must set out, for each facility:
  - (a) the facility's geographic location; and
  - (b) whether the facility is located within a security controlled airport; and
  - (c) for each facility that is located at a security controlled airport, a map showing the boundaries of the facility; and
  - (d) the type of operations carried out by the facility, including joint-user facilities and other significant operations that may require security considerations; and
  - (e) the hours of operation of the facility; and
  - (f) details of procedures for security outside the facility's normal hours of operation.
- (3) The contact details that must be set out are:
  - (a) AA's fax number; and
  - (b) AA's contact telephone number, an after-hours number and an alternative contact person and number; and
  - (c) the name of AA's security contact officer, and his or her business phone number, fax number, e-mail address and 24-hour security contact number.
- (4) AA must, within 2 working days after becoming aware of a change in contact details (that is, the details required by subregulation (3) to accompany the TSP), notify the Secretary in writing of the new details.

*List of AA's contact details*

- (5) AA must maintain a contact system for all facilities and other significant operations covered under the TSP.

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*AA to give information*

- (6) For each of its facilities that is located within a security controlled airport, AA must give the operator of the airport the contact information for the facility, including contact details for AA's security contact officer or the facility security contact officer.

**2.82 What AA's TSP must contain — physical security and access control**

- (1) The TSP must set out the security measures and procedures to be used by each of its facilities, including measures and procedures:
  - (a) to control access at facilities and maintain integrity of access control systems, both within a security controlled airport and off-airport; and
  - (b) to deter and detect unauthorised access by people, vehicles or things; and
  - (c) to deal with unattended vehicles at a facility that is within a security controlled airport; and
  - (d) to investigate, secure and remove unattended or suspect items, including vehicles, materials and stores; and
  - (e) to ensure the continued security of passwords, keys and key lists, electronic access cards and other security privileges; and
  - (f) to assess, identify and respond to unknown substances.
- (2) The TSP must specify which of those measures and procedures have been implemented, and must include a timetable for the implementation of measures and procedures that have not been implemented.

**2.83 What AA's TSP must contain — control of firearms, other weapons and prohibited items**

- (1) The TSP must include:
  - (a) measures to deter unauthorised possession of firearms, other weapons and prohibited items; and

- (b) procedures for dealing with surrendered firearms, other weapons and prohibited items; and
  - (c) procedures for the handling and movement of firearms and other weapons; and
  - (d) procedures for using firearms and other weapons in the airside area or landside security zones; and
  - (e) methods for ensuring that operational staff are aware of the restrictions on the possession and use of firearms, other weapons and prohibited items within a facility.
- (2) AA must ensure that procedures in the TSP to handle or transport firearms, other weapons and prohibited items are consistent with relevant Commonwealth, State or Territory laws.

**2.84 What AA's TSP must contain — measures for heightened security alert**

- (1) The TSP must set out in an accompanying document, additional security measures and procedures available for implementation at all its facilities in the event of a heightened security alert.
- (2) The TSP must include:
- (a) procedures for responding to and investigating aviation security incidents, including threats and breaches of security; and
  - (b) procedures for reporting aviation security incidents, or security breaches including occurrences that threaten the security of an AA facility within a security controlled airport; and
  - (c) procedures for evacuation and emergency management in case of an aviation security incident, security threat or breach of security, including bomb threats and critical security equipment failures; and
  - (d) procedures for responding to any special security directions given by the Secretary, including procedures to communicate directions within a security controlled airport; and

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- (e) procedures for raising the awareness and alertness of staff to security threats and responsibility to report aviation security incidents and breaches; and
- (f) details of any other security contingency procedures and plans.

**2.85      What AA's TSP must contain — control directions**

- (1) The TSP must describe the procedures that AA will use for passing compliance control directions to the pilot in command of the aircraft concerned.

*Note* In relation to compliance control directions, see section 74B of the Act.

- (2) The TSP must describe the procedures that AA will use to pass an incident control direction to the pilot in command of an aircraft.

*Note* In relation to incident control directions, see section 74D of the Act.

- (3) The TSP complies with subregulations (1) and (2) if it refers to another document that sets out the procedures.

**2.86      What AA's TSP must contain — personnel with particular security roles**

*Security contact officer*

- (1) The TSP must set out:
  - (a) the criteria for the selection of a security contact officer; and
  - (b) any training that must be given to a person selected.

*Other personnel with a security role*

- (2) The TSP must specify, by reference to their positions, employees, contractors and other persons (other than the security contact officer) or contractors with, or who have been assigned, security duties and responsibilities.

- (3) The TSP must set out:
- (a) the security duties and responsibilities of each of those personnel; and
  - (b) the knowledge, skills and other requirements for the security-related aspects of their positions; and
  - (c) the training or qualifications that satisfy those requirements.

*Staff security awareness*

- (4) The TSP must set out the mechanism to provide security awareness training to operational staff.

**Regulation 3.01A**

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## **Part 3                      Airport areas and zones**

### **Division 3.1A            Security controlled airports — categories**

#### **3.01A    Definitions**

- (1) In this Division:

*closed charter operation* means a charter operation that is not an open charter operation.

*maximum weight* has the meaning given by subregulation 4.02 (1A).

*revenue passenger* means a passenger who has paid a fee for a flight, including a passenger who has acquired a ticket for the flight under a frequent flyer scheme.

- (2) For this Division, the average number of revenue passengers is worked out by:
- (a) adding together the number of revenue passengers departing the airport:
    - (i) if the airport has been operating for at least 3 financial years — in each of the 3 previous financial years; or
    - (ii) if the airport has been operating for less than 3 financial years — in each of the previous financial years that the airport has been operating; and
  - (b) dividing the total by:
    - (i) if the airport has been operating for at least 3 financial years — 3; or
    - (ii) if the airport has been operating for less than 3 financial years — the number of financial years that the airport has been operating.

**Regulation 3.01B**

### **3.01B Categories of security controlled airports**

For section 28A of the Act, the categories in the table are prescribed.

<b>Category</b>	<b>Security controlled airports</b>
1	Designated airports
2	Airports to or from which an international air service operates and that are not designated airports
3	Airports that are not covered by category 1 or 2 and that meet the following: <ul style="list-style-type: none"><li>(a) aircraft operate regular public transport operations or open charter operations to or from the airport with a maximum weight of at least 20 000 kg;</li><li>(b) if those operations are only operated to or from the airport by aircraft with a maximum weight of at least 20 000 kg but less than 30 000 kg — those operations involve an average of at least 50 000 revenue passengers departing the airport each year</li></ul>
4	Airports that are not covered by categories 1 to 3 and that meet both of the following: <ul style="list-style-type: none"><li>(a) aircraft operate regular public transport operations or open charter operations to or from the airport with a maximum weight of at least 20 000 kg but less than 30 000 kg;</li><li>(b) those operations involve an average of at least 30 000 but less than 50 000 revenue passengers departing the airport each year</li></ul>
5	Airports that are not covered by categories 1 to 4 and that meet both of the following: <ul style="list-style-type: none"><li>(a) aircraft operate regular public transport operations or open charter operations to or from the airport with a maximum weight of at least 20 000 kg but less than 30 000 kg;</li><li>(b) those operations involve an average of less than 30 000 revenue passengers departing the airport each year</li></ul>

**Regulation 3.01C**

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<b>Category</b>	<b>Security controlled airports</b>
6	Airports that are not covered by categories 1 to 5 and that meet either of the following: <ul style="list-style-type: none"><li>(a) aircraft operate regular public transport operations or open charter operations to or from the airport with a maximum weight of at least 5 700 kg but less than 20 000 kg;</li><li>(b) aircraft operate closed charter operations to or from the airport with a maximum weight of at least 10 750 kg</li></ul>
7	Airports for which the Secretary is satisfied the operator is temporarily unable to comply with the security screening requirements that apply to the category that the airport would otherwise be assigned to

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**3.01C    Criteria to be considered by Secretary**

- (1) For subsection 133 (1) of the Act, before assigning a particular security controlled airport a category under subsection 28 (6) of the Act, the Secretary may consider the matters set out in this regulation.

*Note* Under paragraph 126 (1) (ea) of the Act, application may be made to the Administrative Appeals Tribunal for a review of the Secretary's decision to assign a category to a particular security controlled airport.

- (2) The Secretary may consider the following:
- (a) whether the airport is a designated airport;
  - (b) whether an international air service operates to or from the airport;
  - (c) whether aircraft operate regular public transport operations or open charter operations to or from the airport, and if so:
    - (i) the maximum weight of those aircraft; and
    - (ii) the average number of revenue passengers that depart the airport each year as part of those operations;
  - (d) whether aircraft operate closed charter operations to or from the airport, and if so, the maximum weight of those aircraft.



- (3) The Secretary may also consider the following:
- (a) whether the design of the existing terminal at the airport will prevent the airport operator from complying with particular security screening requirements;
  - (b) whether it is practicable for temporary facilities to be installed at the airport so that the airport operator can comply with particular security screening requirements;
  - (c) the operational environment of the airport, including:
    - (i) the types of aircraft operating to and from the airport; and
    - (ii) the services those aircraft provide; and
    - (iii) the services available at the airport, such as refuelling and maintenance services;
  - (d) the number of revenue passengers that:
    - (i) departed the airport in each of the 3 previous financial years; and
    - (ii) are expected to depart the airport in the following 3 financial years;
  - (e) the ability of the screening authority for the airport to:
    - (i) provide and operate security screening equipment; and
    - (ii) provide particular security screening services;
  - (f) when the airport operator expects to be able to start complying with particular security screening requirements;
  - (g) the social and financial implications of requiring, or not requiring, the airport to use or implement equipment or procedures specified in the Act, these Regulations, or in a notice given by the Secretary under regulation 4.17;
  - (h) any other matter that the Secretary considers relevant.

*Example of social implications for paragraph (g)*

The loss of access by the local community to medical services.

**Regulation 3.01**

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**Division 3.1                      Establishment of areas and zones**

**3.01              Types of airside security zones**

For section 31 of the Act, the following types of airside security zones are prescribed:

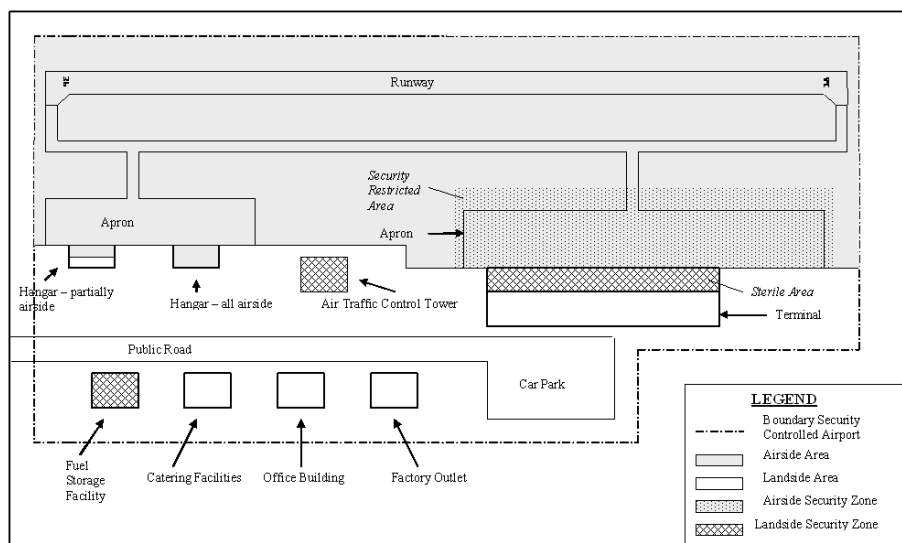
- (a) the security restricted area;
- (b) the enhanced inspection area.

**3.02              Types of landside security zones**

For section 33 of the Act, the following types of landside security zones are prescribed:

- (a) the sterile area;
- (b) the fuel storage zone;
- (c) the air traffic control facilities zone;
- (d) the navigational aids zone.

*Note* The following is a diagram of a typical security controlled airport:



**3.02A Type of airside event zones**

For section 31B of the Act, the following type of airside event zone is prescribed, that is, the airside special event zone.

**3.02B Type of landside event zones**

For section 33B of the Act, the following type of landside event zone is prescribed, that is, the landside special event zone.

**Division 3.2 Control of secure areas — use of ASICs etc**

**Subdivision 3.2.1 Display and use of ASICs, VICs and TACs in secure areas**

**3.03 Requirement to display ASICs in secure areas**

- (1) Subject to subregulations (4), (4A) and (5), regulations 3.05 to 3.09 and subregulations 3.18 (2) and 3.26 (2):
  - (a) a person in the airside security zone of a security controlled airport must properly display a valid red ASIC; and
  - (b) a person in a secure area (other than the airside security zone) of such an airport must properly display either a valid red ASIC or a valid grey ASIC.

Penalty: 5 penalty units.

*Note 1* The requirement in subregulation (1) applies to a person who is accessing parts of the sterile area not generally accessible to passengers or the public.

*Note 2* For **properly displaying**, see regulation 1.04; for **valid**, see regulation 1.05; for **secure area**, see regulation 1.03.

*Note 3* A person who properly displays a valid VIC or TAC, and is supervised by a person who properly displays a valid ASIC, need not display a valid ASIC — see regulation 3.09.

- (2) To avoid doubt, the obligations in subregulation (1) apply to crew.

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- (3) A contravention of subregulation (1) is an offence of strict liability.
- (4) Subregulation (1) does not apply in relation to a security controlled airport from or to which no regular public transport operation operates.
- (4A) At a security controlled airport from or to which no screened air service operates, paragraphs (1) (a) and (b) apply only during traffic periods.
- (4B) To avoid doubt, there is no requirement that a person display a VIC or TAC in the secure area of an airport referred to in subregulation (4A) other than during traffic periods.
- (5) Subregulation (1) does not apply to a person:
  - (a) who is in a part of the sterile area that is generally accessible to passengers or the public generally; or
  - (b) who is a passenger and:
    - (i) is boarding or disembarking from an aircraft by means of an aerobridge; or
    - (ii) is boarding or disembarking from an aircraft in the secure area and is moving reasonably directly between the aircraft and the terminal building.

**3.04      Supervision and control while embarking and disembarking etc**

- (1) For paragraph 44 (2) (l) of the Act, a screening authority must have, and must employ, supervision and control measures adequate to ensure that persons, goods and vehicles in the sterile area that have received clearance remain cleared.
- (2) For paragraph 44 (2) (l) of the Act, an aircraft operator must have, and must employ, supervision and control measures adequate to ensure that:
  - (a) persons in the airside area who have received clearance remain cleared while boarding or disembarking from a prescribed air service; and
  - (b) goods and vehicles in the airside area that have received clearance remain cleared while being loaded onto or unloaded from a prescribed air service.

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- (3) The supervision and control measures must ensure that passengers moving between the sterile area and an aircraft do not have access to a weapon or a prohibited item if the aircraft is to operate a screened air service.

**3.05 Crew of foreign and state aircraft etc**

Despite regulation 3.03, the following people need not display an ASIC in a secure area:

- (a) a person who is a member of the crew 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 in the uniform of the aircraft operator; and
  - (ii) displays appropriate identification issued or authorised by the aircraft operator;
- (b) a person who is a member of the crew of a state aircraft (that is, a person who has duties or functions on board such an aircraft during its flight in connection with the flying or safety of the aircraft) and who:
  - (i) is in uniform; and
  - (ii) displays appropriate identification issued or authorised by the defence force or service of which he or she is a member;
- (c) a person who:
  - (i) is a member of a foreign defence force or service; and
  - (ii) is undergoing flight training; and
  - (iii) is in uniform; and
  - (iv) displays appropriate identification issued or authorised by the defence force or service of which he or she is a member; and
  - (v) is supervised by the holder of an ASIC.

**3.06 Members of a defence force**

- (1) This regulation applies to a member of:
- (a) the Australian Defence Force (**ADF**); and

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- (b) a visiting force, within the meaning of the *Defence (Visiting Forces) Act 1963*, on training, exercises or operations with the ADF.
- (2) Despite regulation 3.03, a member of a defence force to whom this regulation applies need not display an ASIC in a secure area if the member:
  - (a) is on duty and involved:
    - (i) in the operation of an aircraft; or
    - (ii) in supporting the operation of an aircraft; and
  - (b) is in uniform or other role appropriate clothing; and
  - (c) displays proper identification as a member of a defence force.

**3.07      Persons facilitating movement of cargo or passengers**

- (1) In this regulation:
  - cargo facilitator*** means a person who:
    - (a) is at a security controlled airport for the purpose of travelling with cargo on a prescribed aircraft; and
    - (b) has arrived at the airport on the aircraft; and
    - (c) is travelling for the purpose of assisting with the movement of the cargo; and
    - (d) does not travel through the airport for that purpose more than 3 times a year.

*Example*

A person travelling with a racehorse to move the horse off the aircraft.

***medical transport facilitator*** means a person who is an employee, contractor or volunteer of a State or Territory ambulance service and is at a security controlled airport for the purpose of assisting with the movement of:

- (a) a sick or injured passenger to or from an aircraft; or
- (b) medical cargo.

***passenger facilitator*** means a person who is at a security controlled airport, or on a prescribed aircraft, for the purpose of assisting the movement of a passenger with reduced mobility or a specialised medical need.

**Regulation 3.07**

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- (2) Despite regulation 3.03, a cargo facilitator or passenger facilitator need not display an ASIC in the secure area if, while he or she is in the area, he or she is escorted by:
  - (a) an employee or officer of the operator of the aircraft on which the relevant cargo or passenger is or will be carried; or
  - (b) somebody else who the cargo facilitator or passenger facilitator has reason to believe is authorised to supervise cargo facilitators or passenger facilitators in the area.
- (2A) Despite regulation 3.03, a medical transport facilitator is not required to display an ASIC in the secure area if he or she, while in the secure area, is supervised by an ASIC holder who is authorised by the operator of the aircraft on which the medical cargo or sick or injured passenger is or will be carried.
- (2B) For subregulation (2A), a medical transport facilitator is supervised if the ASIC holder:
  - (a) escorts or accompanies the medical transport facilitator at all times when the medical transport facilitator is in the secure area; or
  - (b) watches the medical transport facilitator at all times when the medical transport facilitator is in the secure area.
- (3) An aircraft operator must ensure that a cargo facilitator or passenger facilitator does not enter, or stay in, a secure area of an airport unless the cargo facilitator or passenger facilitator:
  - (a) holds, and properly displays, a valid ASIC; or
  - (b) is directed to enter the area, and while in the area is escorted, by a person referred to in paragraph (2) (a) or (b).

Penalty: 10 penalty units.

- (3A) An aircraft operator must ensure that a medical transport facilitator does not enter, or stay in, a secure area of an airport unless the medical transport facilitator:
  - (a) holds and properly displays a valid ASIC; or

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- (b) is supervised by a person mentioned in subregulation (2A).

Penalty: 10 penalty units.

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

**3.07A    Persons attending baggage make-up areas**

Despite regulation 3.03, a person need not display an ASIC in a secure area if:

- (a) he or she is in the area for the purpose of identifying his or her baggage as part of baggage screening or reconciliation; and
- (b) at all times while he or she is in the area, he or she is escorted by a person who is properly displaying a valid ASIC.

**3.07B    Minors exempt from requirement to display ASIC**

Despite regulation 3.03, a person is not required to display an ASIC in a secure area if:

- (a) the person is:
  - (i) younger than 5; or
  - (ii) younger than 16 and on a school excursion; and
- (b) at all times the person is in the secure area, he or she is escorted by a person who is properly displaying a valid ASIC.

**3.08    Persons exempted by Secretary from requirement to display ASIC**

- (1) Despite regulation 3.03, somebody to whom the Secretary has given an exemption under this regulation need not display an ASIC in a secure area.
- (2) A person may apply, in writing, to the Secretary for a written exemption from displaying an ASIC in such an area.



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**Regulation 3.09**

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- (3) Within 30 days after receiving an application, the Secretary must:
  - (a) give or refuse the exemption; and
  - (b) notify 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 a person, or all persons in a specified class, exemption from displaying an ASIC in a secure area.
- (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 or conditions mentioned in the exemption; or
  - (b) limited to part of such an area of a particular airport.
- (7) If the Secretary gives an exemption to all persons in a specified class, the Secretary must publish a notice of the exemption in the *Gazette*.
- (8) To avoid doubt, an exemption under this regulation does not authorise the holder to:
  - (a) pass through a screening point without being screened; or
  - (b) enter a secure area or a prescribed aircraft otherwise than through a screening point.

**3.09 Persons who display valid VICs or TACs**

- (1) Despite regulation 3.03, a person who is properly displaying a valid VIC or TAC need not display an ASIC in the secure area to which the VIC or TAC allows access.

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- (2) A person who is the holder of an ASIC, and has supervised a person who holds a VIC or TAC into the secure area to which the VIC or TAC allows access, must not leave the holder of the VIC or TAC unsupervised while the holder of the VIC or TAC is in the area unless the supervision of the VIC or TAC holder is taken over by another ASIC holder.

Penalty: 5 penalty units.

- (3) A contravention of subregulation (2) is an offence of strict liability.
- (4) A person who is the holder of a VIC or TAC, and was supervised by the holder of an ASIC into the secure area to which the VIC or TAC allows access, must leave the area immediately if no holder of an ASIC is supervising him or her.

Penalty: 5 penalty units.

**3.10 Other cards not to be used as ASICs, VICs or TACs**

- (1) A person must not intentionally use an identity card, or another type of card, to be in a secure area, if he or she knows or believes that the card is not a valid ASIC, VIC or TAC.

Penalty: 10 penalty units.

- (2) Subregulation (1) does not apply to a person who, under this Division, need not properly display a valid ASIC in the relevant secure area.

**3.11 Entry to secure area to be for lawful purposes only**

The holder of an ASIC, VIC or TAC must not enter, or stay in, a secure area other than for a lawful purpose.

Penalty: 5 penalty units.

**Subdivision 3.2.2      Display and use of ASICs, VICs and  
TACs outside secure areas**

**3.12      Persons facilitating passenger check-in or baggage  
handling outside secure areas**

- (1) A person who is facilitating:
- (a) passenger check-in; or
  - (b) the handling of checked baggage;
- at a security controlled airport (regardless of whether, at the time, he or she is in a secure area) must properly display a valid ASIC at all times while doing so.

Penalty: 5 penalty units.

*Note 1* For **properly displaying**, see regulation 1.04; for **valid**, see regulation 1.05. The passenger and baggage check-in areas are not normally part of the secure area of an airport.

*Note 2* A person who properly displays a valid VIC or TAC, and is supervised by a person who properly displays a valid ASIC, need not display a valid ASIC — see regulation 3.09.

*Note 3* At a time when such a person is outside the secure area, he or she complies with subregulation (1) if the ASIC is either a red ASIC or a grey ASIC. At a time when he or she is in the secure area, the ASIC must be either a red ASIC or a grey ASIC in accordance with regulation 3.03.

- (2) A contravention of subregulation (1) is an offence of strict liability.
- (3) In relation to a security controlled airport from or to which no screened air service operates, subregulation (1) has effect only during traffic periods.

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**Division 3.3                      Control of airside areas and  
zones — physical security**

**Subdivision 3.3.1              Preliminary**

**3.13              Definitions for Division**

In this Division:

*exempt goods*, in relation to an enhanced inspection area at an airport, means any of the following:

- (a) baggage that has been cleared;
- (b) cargo that has been cleared;
- (c) goods, of a particular kind, that:
  - (i) are provided by a person (the *regular provider*) who has established an arrangement, recorded in writing, with an aviation industry participant for the supply of goods of that kind; and
  - (ii) have not been accessible to unauthorised persons from the time the goods are accepted from the regular provider by the aviation industry participant, until the start of a screened air service for which the goods are taken on board an aircraft;
- (d) duty free items that:
  - (i) are intended for supply by an aircraft operator, or a duty free shop, operating from the airport; and
  - (ii) are items that have been authorised by the airport operator for the airport as being items needed for delivery to an aircraft located in the area, or as items that must be carried through the area for delivery;
- (e) items that:
  - (i) are carried by a private security contractor; and
  - (ii) are contained in an armoured vehicle that displays the livery of the contractor; and
  - (iii) remain under the lawful authority of a uniformed member of the contractor's staff who properly displays a valid red ASIC if required do so under regulation 3.03; and

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- (iv) need to be delivered to, or carried through, the area with the consent of the airport operator;
- (f) goods under the lawful control of any of the following:
  - (i) a law enforcement officer;
  - (ii) a member of the Australian Defence Force (*ADF*);
  - (iii) a member of a visiting force, within the meaning of the *Defence (Visiting Forces) Act 1963*, on training exercises or operations with the ADF;
- (g) goods that the Secretary by written notice has provided, under paragraph 42 (2) (b) of the Act, may pass through a screening point for the area without being screened.

*Note* The requirement to display a valid red ASIC arises under paragraph 3.03 (1) (a). Subregulations 3.03 (4) to (4B) affect when and where this requirement applies.

***exempt person*** means:

- (a) a law enforcement officer; or
- (b) a member of the Defence Force who is responding to an event or threat of unlawful interference with aviation; or
- (c) an employee, contractor or volunteer of an ambulance, rescue or fire service or a state or territory emergency service who is responding to an emergency in Australia or overseas; or
- (ca) a person acting under the direction of a person mentioned in paragraph (c) during an emergency; or
- (d) a person to whom the Secretary has given an exemption under regulation 3.08.

***exempt vehicle***, in relation to an enhanced inspection area at an airport, means any of the following:

- (a) a vehicle that:
  - (i) has been screened at an enhanced inspection area screening point at the airport; and
  - (ii) after being screened, is allowed, by a screening officer, to pass through the screening point into the area; and
  - (iii) since being allowed to pass through the screening point, has not left the airside area of the airport;

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- (b) a vehicle, whether or not it has been screened, carrying any of the following persons to an aircraft at the airport for boarding if the persons have been screened and allowed by a screening officer to pass through a screening point:
  - (i) a member of the crew of the aircraft;
  - (ii) passengers;
- (c) a vehicle used for the official duties of an exempt person;
- (d) an armoured vehicle carrying exempt goods.

***responsible aviation industry participant***, in relation to an area or a zone, means:

- (a) in the case of an area or a zone that is covered by the TSP of an aviation industry participant — that aviation industry participant; or
- (b) in any other case — the operator of the security controlled airport at which the area or zone is located.

**3.14 Common boundaries of areas and zones**

- (1) If a boundary within an airside area is a common boundary for the airside area and an enhanced inspection area, only the requirements for signs applicable to the enhanced inspection area apply.
- (2) If a boundary within an airside area is a common boundary for the airside area and a security restricted area, only the requirements for signs applicable to the security restricted area apply.
- (3) If a boundary within an airside area is a common boundary for an enhanced inspection area and a security restricted area, only the requirements for signs applicable to the security restricted area apply.

**3.15 Requirements for airside generally**

- (1) The requirements for the fencing of, and the provision of other physical barriers to entry to, the airside area of a security controlled airport are:
  - (a) subject to subregulation (2), a barrier sufficient to delineate the airside area; and

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- (b) effective access control points to permit authorised access to the airside area; and
  - (c) patrolling, electronic surveillance or any other suitable measures to inspect the barriers for damage and to deter and detect unauthorised access to the airside area; and
  - (d) if possible, illumination of the aircraft parking area while a prescribed aircraft is parked there at night; and
  - (e) signs, each at least 0.4 m wide by 0.3 m high, and otherwise complying with subregulation (4), and in the number required by subregulation (5), fixed to the barrier; and
  - (f) a sign at least 0.4 m wide by 0.3 m high, and otherwise complying with subregulation (6), at every entrance to the airside.
- (2) Paragraph (1) (a) does not apply in relation to an airport mentioned in subregulation 2.23 (1).
- (3) The responsible aviation industry participant for the airside area of the airport must ensure that the area can be entered only by:
  - (a) a person authorised to do so who:
    - (i) properly displays a valid ASIC; or
    - (ii) properly displays a valid VIC or TAC and is supervised by someone authorised to enter the area who properly displays a valid ASIC; or
  - (b) an exempt person; or
  - (c) a vehicle driven by:
    - (i) a person who is authorised to enter the area and who:
      - (A) properly displays a valid ASIC; or
      - (B) properly displays a valid VIC or TAC and is supervised by someone authorised to enter the area who properly displays a valid ASIC; or
    - (ii) an exempt person; or

**Regulation 3.15**

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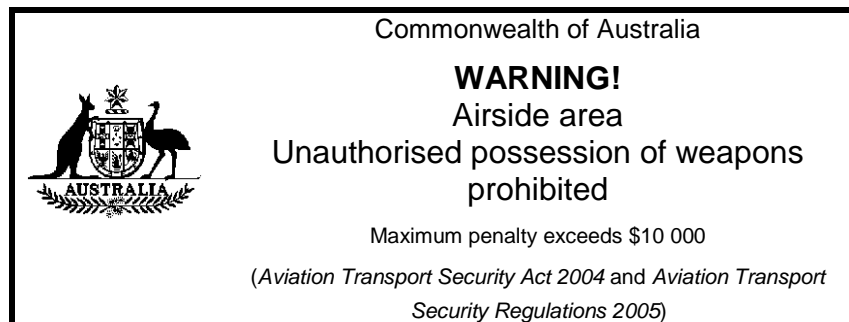
- (d) a person who:
  - (i) holds a ticket for carriage on an aircraft that will take its passengers on board through the airside area; and
  - (ii) is moving reasonably directly from the terminal exit to the aircraft, under the supervision of the aircraft or airport operator, for the purpose of boarding; or
- (e) a person who arrived on board an aircraft that disembarked its passengers into the airside area, and is moving reasonably directly, under the supervision of the aircraft or airport operator, from the aircraft to the terminal entry.

- (4) A sign required by paragraph (1) (e) is to be as follows:



- (5) There must be as many of the signs required by paragraph (1) (e) as are necessary to ensure that a person approaching the barrier and looking towards the airside is able to see at least 1 of the signs no matter where he or she stands.

- (6) A sign required by paragraph (1) (f) is to be as follows:





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- (7) A responsible aviation industry participant for the airside, or part of the airside, of a security controlled airport must comply with the requirements of subregulations (1), (3), (4), (5) and (6).

Penalty:

- (a) if the offender is an airport operator or an aircraft operator — 200 penalty units; or
  - (b) in any other case — 100 penalty units.
- (10) If the secure area of a security controlled airport from or to which no screened air service operates is entered, during a period that is not a traffic period for the airport, by a person, or a vehicle driven by a person, not displaying a valid ASIC, VIC or TAC, that entry does not constitute a contravention by the airport operator of paragraph (3) (a) or (c).

**Subdivision 3.3.2 Security restricted area**

**3.16 Additional security requirements for security restricted area**

- (1) This regulation sets out the additional security requirements applicable to an airside security zone that is a security restricted area.
- (2) This regulation begins to have effect in relation to an airport when the Secretary establishes such a zone for the airport.
- (3) The responsible aviation industry participant must ensure that:
  - (a) the area can be entered only by:
    - (i) a person authorised to do so who:
      - (A) properly displays a valid red ASIC; or
      - (B) properly displays a valid VIC, a valid TAC or a valid grey ASIC and is supervised by someone authorised to enter the area who properly displays a valid red ASIC; or
    - (ii) an exempt person; or
    - (iii) a vehicle driven by:

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- (A) a person who is authorised to enter the area and who:
  - (I) properly displays a valid red ASIC; or
  - (II) properly displays a valid VIC, a valid TAC or a valid grey ASIC and is supervised by someone authorised to enter the area who properly displays a valid red ASIC; or
- (B) an exempt person; or
- (iv) a person who:
  - (A) holds a ticket for carriage on an aircraft that will take its passengers on board through the security restricted area; and
  - (B) is moving reasonably directly from the terminal exit to the aircraft, under the supervision of the aircraft or airport operator, for the purpose of boarding; or
- (v) a person who arrived on board an aircraft that disembarked its passengers into the security restricted area, and is moving reasonably directly, under the supervision of the aircraft or airport operator, from the aircraft to the terminal entry; and
- (b) if access to the zone or any part of it is not continuously controlled, the zone or part is inspected before it is used; and
- (c) signs, at least 0.4 m wide by 0.3 m high, and otherwise complying with subregulation (4), are permanently fixed at the boundary of the zone so that the warnings and statement on at least 1 sign can be seen from every entrance to the zone; and
- (d) if there is no security barrier, those signs are placed in such a way that anybody entering the zone has reasonable warning that it is a security restricted area.

**Penalty:**

- (a) if the offender is an airport operator or an aircraft operator — 200 penalty units; or

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(b) in any other case — 100 penalty units.

*Note for paragraph (3) (a)* For **properly displays**, see regulation 1.04; for **valid**, see regulation 1.05.

(4) A sign required by paragraph (3) (c) must be in the following form:



(7) If the secure area of a security controlled airport from or to which no screened air service operates is entered, during a period that is not a traffic period for the airport, by a person, or a vehicle driven by a person, not displaying a valid ASIC, VIC or TAC, that entry does not constitute a contravention by the airport operator of subparagraph (3) (a) (i) or (iii).

**Subdivision 3.3.3      Enhanced inspection area**

**3.16A      Purpose and application of Subdivision**

- (1) This Subdivision sets out the additional security requirements applicable to an airside security zone that is an enhanced inspection area.
- (2) This Subdivision applies to an enhanced inspection area of an airport when the Secretary establishes such a zone within the airside area of the airport.

*Note* An enhanced inspection area is a type of airside security zone prescribed under regulation 3.01. Under section 30 of the Act, the Secretary may establish an airside security zone within the airside area of a security controlled airport by written notice given to the airport operator of the airport.

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**3.16B    Requirements for enhanced inspection area generally**

For subsection 36 (1) of the Act, the requirements in regulation 3.16 dealing with security restricted areas are prescribed and apply to enhanced inspection areas as if a reference in regulation 3.16 to a security restricted area were a reference to an enhanced inspection area.

**3.16C    Additional security requirements for enhanced inspection area — entry point screening**

- (1) This regulation is made for sections 36 and 44 of the Act.
- (2) This regulation applies only at an airport listed in subregulation 2.18A (1) from or to which a screened air service operates.
- (3) A responsible aviation industry participant must, during traffic periods at the airport:
  - (a) establish and maintain a screening point at every point of entry into an enhanced inspection area from an area occupied or controlled by the participant; and
  - (b) adopt appropriate measures to deter and detect unauthorised access to the enhanced inspection area; and
  - (c) if an area is not continuously used as an enhanced inspection area, ensure the area is inspected and cleared of unauthorised weapons and explosives before it is so used.
- (4) For paragraph 44 (2) (b) of the Act, the screening point must screen for weapons only.
- (5) The screening point must be operated by a screening authority and be able to screen the things mentioned in subregulation (4).
- (6) The responsible aviation industry participant must do the following:
  - (a) require all goods, persons and vehicles entering the enhanced inspection area to enter the area through an enhanced inspection area screening point;
  - (b) require all goods, persons and vehicles entering the enhanced inspection area from or through an area occupied or controlled by the responsible aviation industry participant, other than exempt goods, exempt persons or

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- exempt vehicles, to be screened before passing through the screening point;
- (c) ensure that all goods, persons and vehicles screened at the screening point receive clearance before entering the enhanced inspection area;
  - (d) carry out screening in accordance with any methods, techniques and equipment that apply to the authority as specified in a notice:
    - (i) issued by the Secretary under regulation 4.17; and
    - (ii) that is binding, under subregulation 4.17 (3), on the responsible aviation industry participant.
- (7) The responsible aviation industry participant commits an offence if the participant does not comply with a requirement in subregulation (3), (4), (5) or (6).

Penalty:

- (a) if the responsible aviation industry participant is an airport operator or an aircraft operator — 200 penalty units; or
- (b) in any other case — 100 penalty units.

**3.16D Additional security requirements for enhanced inspection area — random screening in area**

- (1) This regulation is made for sections 36 and 44 of the Act.
- (2) This regulation applies only at an airport listed in subregulation 2.18A (1) from or to which a screened air service operates.
- (3) This regulation applies to a responsible aviation industry participant who occupies or controls an area of the airport that includes a point of entry into an enhanced inspection area.
- (4) The responsible aviation industry participant must conduct random inspections within the enhanced inspection area during traffic periods at the airport.
- (5) For paragraph 44 (2) (b) of the Act, the screening point must screen for weapons only.

**Regulation 3.17**

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- (6) The screening point must be operated by a screening authority and be able to screen the things mentioned in subregulation (5) in accordance with the requirements of paragraph (7) (b).
  - (7) The responsible aviation industry participant must do the following at the screening point:
    - (a) randomly select for screening goods, persons or vehicles that have entered the enhanced inspection area;
    - (b) screen the goods, persons or vehicles (other than exempt goods, exempt persons and exempt vehicles) in accordance with the methods, techniques and equipment specified in a notice:
      - (i) issued by the Secretary under regulation 4.17; and
      - (ii) that is binding, under subregulation 4.17 (3), on the responsible aviation industry participant.
  - (8) The responsible aviation industry participant commits an offence if the participant does not comply with a requirement in subregulation (4), (5), (6) or (7).
- Penalty:
- (a) if the responsible aviation industry participant is an airport operator or an aircraft operator — 200 penalty units; or
  - (b) in any other case — 100 penalty units.
- (9) This regulation does not authorise the screening of exempt goods, exempt persons or exempt vehicles that have entered the enhanced inspection area.

**Subdivision 3.3.4      Offences**

**3.17      Offences relating to entry to airside areas and airside security zones of security controlled airports**

- (1) In this regulation:  
*regulatory officer* means a person who has authority, under the Act, these Regulations or another law, to enter the airside area or an airside security zone of a security controlled airport.

**Regulation 3.17A**

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- (2) A person (other than a regulatory officer) must not enter an airside area or an airside security zone of a security controlled airport without the permission of the responsible aviation industry participant.

Penalty: 50 penalty units.

- (3) A person (other than a regulatory officer) must not stay in an airside area or an airside security zone of a security controlled airport after being asked by the responsible aviation industry participant to leave the area or zone.

Penalty: 50 penalty units.

- (4) A person (other than a regulatory officer) must not take a vehicle into an airside area or an airside security zone of a security controlled airport without the permission of the responsible aviation industry participant.

Penalty: 50 penalty units.

- (5) A person (other than a regulatory officer) must not leave a vehicle in an airside area or an airside security zone of a security controlled airport after being asked by the responsible aviation industry participant to remove the vehicle.

Penalty: 50 penalty units.

- (6) To avoid doubt, nothing in this regulation is taken to affect any right of access or privilege granted by or under any other Commonwealth law.

*Note* Section 131 of the Act preserves rights and privileges granted under other Acts. In addition, law enforcement officers have the right, under section 83 of the Act, to have access to any part of an airport for the purpose of carrying out their duties.

**3.17A Offence — not operating enhanced inspection area screening point (entry point screening)**

- (1) This regulation is made for paragraph 44 (2) (a) of the Act.

**Regulation 3.17B**

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- (2) A person commits an offence if:
- (a) the person is a screening authority responsible for operating an enhanced inspection area screening point of the kind mentioned in regulation 3.16C at an airport; and
  - (b) an aircraft operating a screened air service is at the airport; and
  - (c) the screening point has been established and maintained by a responsible aviation industry participant to meet the requirements in subregulation 3.16C (6); and
  - (d) at a particular time, it is a traffic period at the airport; and
  - (e) at that time, the screening authority does not have in place adequate measures to ensure:
    - (i) that persons, goods or vehicles entering the enhanced inspection area do not enter the area other than through the screening point; and
    - (ii) that persons, goods or vehicles (other than exempt persons, exempt goods or exempt vehicles) do not enter the enhanced inspection area without being screened.

Penalty: 50 penalty units.

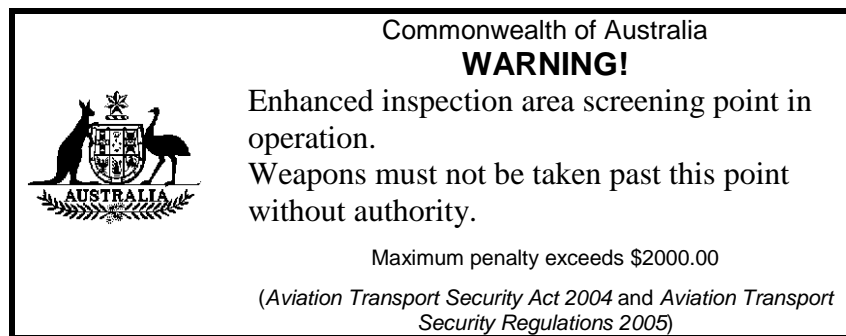
**3.17B      Offence — sign at enhanced inspection area screening point**

- (1) This regulation is made for paragraph 44 (2) (k) of the Act.
- (2) A person commits an offence if:
- (a) the person is a responsible aviation industry participant for an enhanced inspection area at an airport; and
  - (b) the participant has established an enhanced inspection area screening point for the enhanced inspection area; and
  - (c) the participant does not display, at the enhanced inspection area screening point, a sign that is:
    - (i) 0.4 m wide and 0.3 m high; and



**Regulation 3.17C**

(ii) in the following form:



Penalty:

- (a) if the responsible aviation industry participant is an airport operator or an aircraft operator — 200 penalty units; or
- (b) in any other case — 100 penalty units.

**3.17C Offence — not preventing entry to enhanced inspection area**

- (1) This regulation is made for subparagraph 44 (2) (d) (ii) of the Act.
- (2) A person commits an offence if:
  - (a) the person is the responsible aviation industry participant operating an enhanced inspection area screening point of the kind mentioned in regulation 3.16C at an airport; and
  - (b) an aircraft operating a screened air service is at the airport; and
  - (c) at a particular time, it is a traffic period at the airport; and
  - (d) at that time, the aviation industry participant does not have in place adequate measures to ensure:
    - (i) that persons, goods or vehicles entering the enhanced inspection area from an area occupied or controlled by the participant do not do so other than through that screening point; and

**Regulation 3.18**

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- (ii) that persons, goods or vehicles (other than exempt persons, exempt goods or exempt vehicles) are screened before they enter the enhanced inspection area:
  - (A) from an area occupied or controlled by the participant; or
  - (B) through an access point controlled by the participant.

Penalty: 50 penalty units.

**Subdivision 3.3.5      Emergency Access**

**3.18      Access by emergency personnel**

- (1) Nothing in this Division requires or authorises an aviation industry participant to prevent any of the following having access to any part of the airside area or any airside security zone of the airport:
  - (a) members of the Defence Force who are responding to an event or threat of unlawful interference with aviation;
  - (b) an employee, contractor or volunteer of an ambulance, rescue or fire service or a state or territory emergency service who is responding to an emergency in Australia or overseas;
  - (c) a person acting under the direction of a person mentioned in paragraph (b) during an emergency.
- (2) A requirement of this Part to display an ASIC, VIC or TAC does not apply to a person referred to in paragraph (1) (a), (b) or (c).

## **Division 3.4                      Control of landside areas and zones — physical security**

### **3.19            Definitions for Division**

In this Division:

*exempt person* means:

- (a) a law enforcement officer; or
- (b) a member of the Defence Force who is responding to an event or threat of unlawful interference with aviation; or
- (c) an ambulance, rescue or fire service officer who is responding to an emergency.

*responsible aviation industry participant*, in relation to an area or a zone, means:

- (a) in the case of an area or a zone that is covered by the TSP of an aviation industry participant — that aviation industry participant; or
- (b) in any other case — the operator of the security controlled airport at which the area or zone is located.

### **3.20            Security requirements for sterile areas**

- (1) The physical security requirements for a landside security zone that is the sterile area of a security controlled airport are as set out in this regulation.
- (2) This regulation begins to have effect in relation to an airport when the Secretary establishes such a zone for the airport.
- (3) The responsible aviation industry participant for the zone must ensure that:
  - (a) at least 1 screening point is established and maintained; and
  - (b) the zone is enclosed in a barrier sufficient to prevent cleared persons in the zone coming into contact with persons who have not been cleared, and to prevent cleared persons getting access to anything from outside the zone that has not been cleared; and

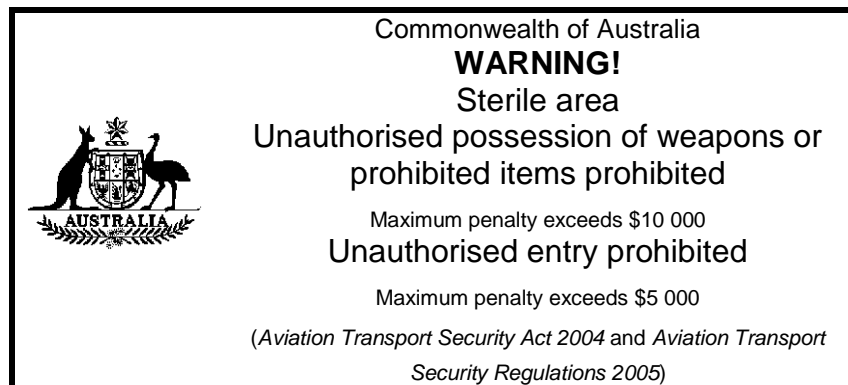
**Regulation 3.20**

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- (c) appropriate measures are taken to deter and detect unauthorised access to the zone; and
- (d) a person who enters the zone through a screening point is screened and cleared unless the person is of a class that is permitted to pass through a screening point without being screened; and
- (e) a person can enter the zone other than through a screening point only if he or she is of a class of persons permitted to do so under regulation 4.11 or 4.12A; and
- (f) a vehicle that enters the sterile area is screened and cleared; and
- (g) goods that enter the sterile area are screened and cleared; and
- (h) a cleared vehicle is able to enter the zone only if it is authorised to do so and it is driven by a person who is authorised to enter the area who:
  - (i) properly displays a valid ASIC; or
  - (ii) properly displays a valid VIC or TAC and is supervised by somebody who properly displays a valid ASIC; and
- (i) if the zone is not continuously used as a sterile area, the zone is inspected before it is so used; and
- (j) signs at least 0.4 m wide by 0.3 m high, and otherwise complying with subregulation (4), are placed in such a way that anyone entering the area knows that it is a sterile area.

**Regulation 3.21**

- (4) A sign required by paragraph (3) (j) must be in the following form:



- (5) The responsible aviation industry participant for the sterile area must ensure that the requirements of subregulation (3) are complied with in relation to the area.

Penalty: 200 penalty units.

- (8) If the secure area of a security controlled airport from or to which no screened air service operates is entered, during a period that is not a traffic period for the airport, by a person, or a vehicle driven by a person, not displaying a valid ASIC, VIC or TAC, that entry does not constitute a contravention by the airport operator of paragraph (3) (h).

**3.21 Security requirements for landside security zones other than sterile areas**

- (1) The security requirements set out in this regulation apply to a landside security zone of any type other than a sterile area.
- (2) The responsible aviation industry participant for the zone must take precautions (for example, barriers, patrolling or surveillance), that are reasonably sufficient to ensure that:
- (a) a person can enter the zone only if he or she is authorised to do so and:
- (i) properly displays a valid ASIC; or

**Regulation 3.22**

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- (ii) properly displays a valid VIC or TAC and is supervised by someone authorised to enter the zone who properly displays a valid ASIC; and
- (b) a vehicle can enter the zone only if it is authorised to do so, and is driven by a person who is authorised to enter the zone and:
  - (i) properly displays a valid ASIC; or
  - (ii) properly displays a valid VIC or TAC and is supervised by someone authorised to enter the zone who properly displays a valid ASIC.

Penalty: 200 penalty units.

*Note* For **properly displays**, see regulation 1.04; for **valid**, see regulation 1.05.

- (3) If the secure area of a security controlled airport from or to which no screened air service operates is entered, during a period that is not a traffic period for the airport, by a person, or a vehicle driven by a person, not displaying a valid ASIC, VIC or TAC, that entry does not constitute a contravention by the airport operator of subregulation (2).

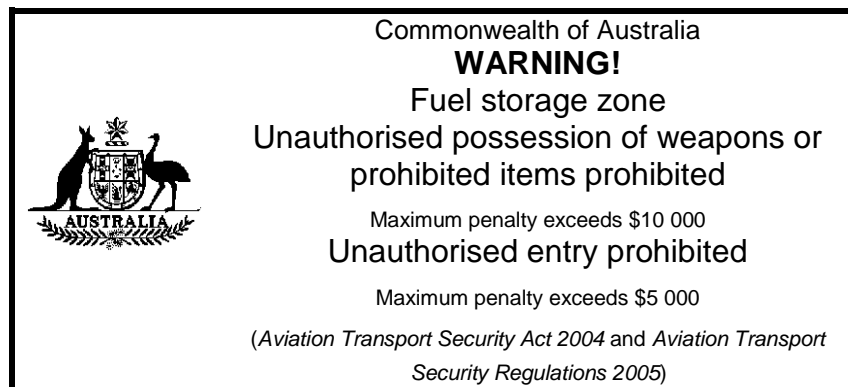
**3.22      Security requirements for fuel storage zones**

- (1) The additional physical security requirements for a fuel storage zone are as set out in this regulation.
- (2) This regulation begins to have effect in relation to an airport when the Secretary establishes such a zone for the airport.
- (3) The responsible aviation industry participant must ensure that signs, each at least 0.4 m wide by 0.3 m high, and that otherwise comply with subregulation (4), are permanently fixed at the boundary of the zone so that the warning and statement on at least 1 sign can be seen from every point on the boundary.

Penalty: 200 penalty units.

- (4) A sign required by subregulation (3) must be in the following form:

**Regulation 3.23**

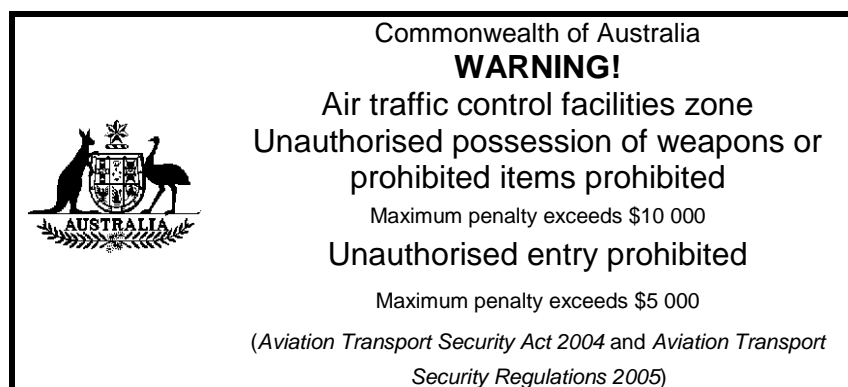


**3.23 Security requirements for air traffic control facilities zones**

- (1) The additional physical security requirements for an air traffic control facilities zone are as set out in this regulation.
- (2) This regulation begins to have effect in relation to an airport when the Secretary establishes such a zone for the airport.
- (3) The responsible aviation industry participant must ensure that signs, each at least 0.4 m wide by 0.3 m high, and otherwise complying with subregulation (4), are permanently fixed at the boundary of the zone so that the warning and statement on at least 1 sign can be seen from every point on the boundary.

Penalty: 200 penalty units.

- (4) A sign required by subregulation (3) must be in the following form:



**Regulation 3.24**

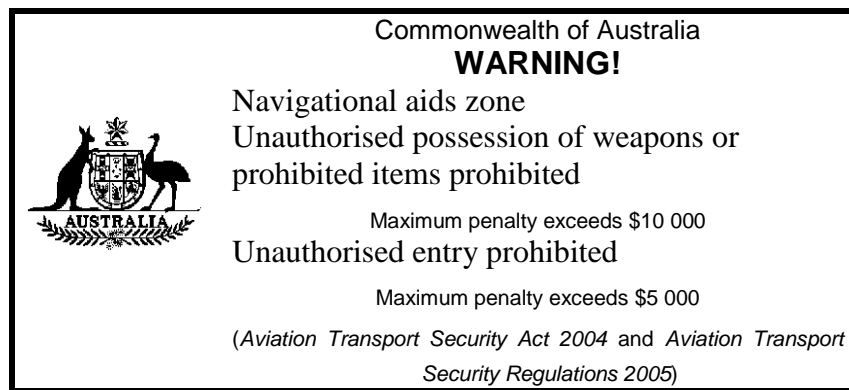
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**3.24      Security requirements for navigational aids zones**

- (1) The additional physical security requirements for a navigational aids zone are as set out in this regulation.
- (2) This regulation begins to have effect in relation to an airport when the Secretary establishes such a zone for the airport.
- (3) The responsible aviation industry participant must ensure that signs, each at least 0.4 m wide by 0.3 m high, and otherwise in accordance with subregulation (4), are placed in such a way that anyone who enters the zone knows that it is a navigational aids zone.

Penalty: 200 penalty units.

- (4) A sign required by subregulation (3) must be in the following form:



**3.25      Offences relating to entry to landside security zones**

- (1) In this regulation:  
*regulatory officer* means a person who has authority, under the Act, these Regulations or another law, to enter the landside security zone of a security controlled airport.
- (2) A person (other than a regulatory officer) must not enter a landside security zone of a security controlled airport without the permission of the responsible aviation industry participant.

Penalty: 50 penalty units.



**Regulation 3.26**

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- (3) A person (other than a regulatory officer) must not stay in a landside security zone of a security controlled airport after being asked by the responsible aviation industry participant to leave the zone.

Penalty: 50 penalty units.

- (4) A person (other than a regulatory officer) must not take a vehicle into a landside security zone of a security controlled airport without the permission of the responsible aviation industry participant.

Penalty: 50 penalty units.

- (5) A person (other than a regulatory officer) must not leave a vehicle in a landside security zone of a security controlled airport after being asked by the responsible aviation industry participant to remove the vehicle.

Penalty: 50 penalty units.

- (6) To avoid doubt, nothing in this regulation is taken to affect any right of access or privilege granted by or under any other Commonwealth law.

*Note* Section 131 of the Act preserves rights and privileges granted under other Acts. In addition, law enforcement officers have the right, under section 83 of the Act, to have access to any part of an airport for the purpose of carrying out their duties.

### **3.26 Access by emergency personnel**

- (1) Nothing in this Division requires or authorises an aviation industry participant to prevent any of the following having access to any part of the landside of the airport:
- (a) members of the Defence Force who are responding to an event or threat of unlawful interference with aviation;
  - (b) an employee, contractor or volunteer of an ambulance, rescue or fire service, or a State or Territory emergency service, who is responding to an emergency in Australia or overseas;
  - (c) a person acting under the direction of a person mentioned in paragraph (b) during an emergency.

**Regulation 3.28**

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- (2) A requirement of this Part to display an ASIC, VIC or TAC does not apply to a person referred to in paragraph (1) (a), (b) or (c).

**Division 3.5                      Counter-terrorist first response  
function**

**3.28              Definition — *counter-terrorist first response***

For the purposes of this Division, *counter-terrorist first response* means providing:

- (a) deterrence measures designed to deny information to terrorists and deter acts of terrorism, and if an act is threatened or prospective, to deter or prevent it, being measures that vary in accordance with the threat, and include, but are not limited to, continuous patrolling within the airport by members of a counter-terrorist first response force at all times when the airport is operational, with emphasis on, but not exclusively:
  - (i) within terminals; and
  - (ii) approaches to terminals; and
  - (iii) at barriers that separate the parts of the airport that are publicly accessible from airside areas, airside security zones and landside security zones of the airport in relation to movement of passengers to or from prescribed aircraft or loading and unloading of goods (including baggage and cargo) on a prescribed aircraft; and
  - (iv) in the areas of the airport where goods (including baggage and cargo) are handled by airline, RACA or airport staff at times when goods (including baggage and cargo) are being handled; and
  - (v) at locations in the airport that provide access by persons or vehicles to areas of the airport that are not publicly accessible; and
  - (vi) parts of the airport used for the surface movement of aircraft (except taxiways and runways) and adjacent parts of the airport; and

**Regulation 3.29**

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- (b) a response capability that provides:
  - (i) an initial response capability for acts of terrorism:
    - (A) to evacuate endangered or potentially endangered persons; and
    - (B) if the act has occurred or is occurring, to contain it; and
    - (C) to cordon the location of the act; and
  - (ii) an initial response to other acts of unlawful interference with aviation; and
  - (iii) an initial response to other aviation security incidents to make a determination as to whether they are counter-terrorist first response related; and
  - (iv) at least 2 members of a counter-terrorist first response force to make a rapid response on the activation of an operational screening point duress alarm, or request to attend at an operational screening point for an international or domestic air service; and
- (c) to transfer responsibility for command and control after completion of that response to the responsible law enforcement agency or agencies and to pass relevant information relating to a terrorist act to other government agencies, the airport operator and the aircraft operator to ensure that the airport and aircraft operators are able to meet their incident reporting obligations under the Act.

**3.29 Provision of counter-terrorist first response force**

- (1) The operator of a designated airport must enter into an agreement with a counter-terrorist first response service provider, in accordance with this Division, for the provision of a counter-terrorist first response force for the airport.
- (2) The counter-terrorist first response service provider is responsible for the implementation and operational delivery of the counter-terrorist first response function.

**Regulation 3.30**

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- (3) Nothing in this Division requires the service provider to give an airport operator or aircraft operator information the disclosure of which would constitute an offence under an Act or the law of a State or Territory.

**3.30      Qualifications of members of counter-terrorist first response force**

- (1) To be qualified to be a member of a counter-terrorist first response force for a designated airport, a person must be:
- (a) either:
    - (i) a member, special member, protective service officer or special protective service officer of the Australian Federal Police; or
    - (ii) a member of the police force of the State or Territory in which the airport is located; and
  - (b) authorised to bear firearms under the Commonwealth, State or Territory law applying at the airport; and
  - (c) trained to a proficient level in the use of firearms, other weapons and other techniques used in the exercise of counter-terrorist first response; and
  - (d) trained to a level of competence in general airport procedures in relation to the movement of persons, aircraft, vehicles, other machinery and goods (including baggage and cargo) within an airport; and
  - (e) capable of responding promptly and effectively as a member of a counter-terrorist first response force.
- (2) To be qualified to be a member of a counter-terrorist first response force at a designated airport, a person must have:
- (a) under the laws of the Commonwealth, State or Territory in which the airport is located, powers of arrest and associated powers not less than the powers conferred by Part II of the *Australian Federal Police Act 1979*; 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.

**3.31 Dogs at certain airports**

In the case of each of the following airports:

- (a) Brisbane Airport;
- (b) Melbourne Airport;
- (c) Sydney Airport;

the agreement required by regulation 3.29 must require the service provider to keep available at least 2 dogs that are trained to detect explosives, and a handler for each dog.

**Regulation 3A.01**

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## **Part 3A                      Airside and Landside Special Event Zones**

### **Division 3A.1              Preliminary**

#### **3A.01      Definitions**

- (1) In this Part, an aviation industry participant is the ***airside special event zone manager*** in respect of a particular zone if:
  - (a) the aviation industry participant applied to the Secretary to establish an airside special event zone under regulation 3A.02 in respect of the particular zone; and
  - (b) the Secretary established the airside special event zone in respect of the zone.
- (2) In this Part, an aviation industry participant is the ***landside special event zone manager*** in respect of a particular zone if:
  - (a) the aviation industry participant applied to the Secretary to establish a landside special event zone under regulation 3A.08 in respect of the particular zone; and
  - (b) the Secretary established the landside special event zone in respect of the zone.

### **Division 3A.2              Airside special event zones**

#### **Subdivision 3A.2.1      Application for an airside special event zone**

#### **3A.02      Application for an airside special event zone**

- (1) For section 133 of the Act, an aviation industry participant may apply in writing to the Secretary for the Secretary to establish an airside special event zone under section 31A of the Act.
- (2) The application must contain the following information:
  - (a) the name and contact details of the aviation industry participant;

**Regulation 3A.04**

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- (b) a map showing the proposed airside special event zone including entry points into the zone and exit points out of the zone;
  - (c) a description of the proposed event to be held in the proposed airside special event zone;
  - (d) the period (or periods) during which the proposed airside special event zone will be in force, including dates, times and duration;
  - (e) an estimate of the number of people who will attend the event to be held in the proposed airside special event zone including an explanation of how that estimate was calculated;
  - (f) a description of any security risks with respect to the event to be held in the proposed airside special event zone;
  - (g) an explanation of how the security risks were identified;
  - (h) details of the measures that the aviation industry participant will take to manage and mitigate security risks resulting from the event that will be held in the proposed airside special event zone.
- (3) If the aviation industry participant plans to make changes to its transport security program for the purposes of managing and mitigating security risks resulting from the proposed event to be held in the proposed airside special event zone, the application must include details of the planned changes.

**3A.03 Further information about applications**

- (1) The Secretary may request that the applicant provide the Secretary with further information about the application.
- (2) The Secretary may refuse to consider the application until the applicant gives the Secretary the information.

**3A.04 Notices**

If:

- (a) the Secretary gives the operator of a security controlled airport a notice establishing an airside special event zone under section 31A of the Act; and

**Regulation 3A.05**

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- (b) the airside special event zone manager is not the operator of the airport in which the event zone is established;

the Secretary must provide the airside special event zone manager with a copy of the notice.

*Note* The notice establishing an airside special event zone includes a map of the airport showing the boundaries of the airside special event zone and specifies the period (or periods) during which the event zone is in force.

**Subdivision 3A.2.2    Requirements for airside special event zones**

**3A.05    Requirements for airside special event zones**

- (1) For section 36A of the Act, the requirements in these Regulations dealing with airside areas are prescribed and apply, as in force from time to time, to airside special event zones.
- (2) The requirements under subregulation (1) do not include the requirements relating to the display of an ASIC, a VIC or a TAC.

**Subdivision 3A.2.3    Offences relating to airside special event zones**

**3A.06    Offence if person moves out of airside special event zone**

- (1) For subsection 36A (3) of the Act, a person commits an offence if:
- (a) an airside special event zone is in force; and
  - (b) the person is in the airside special event zone; and
  - (c) the person moves from the zone into any of the following:
    - (i) a part of a landside security zone that is outside a landside special event zone that is in force;
    - (ii) a part of an airside security zone that is outside an airside special event zone that is in force;
    - (iii) a part of an airside area that is outside an airside special event zone that is in force; and



**Regulation 3A.07**

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- (d) the person is not authorised by the Act or by these Regulations to enter the zone or area.

Penalty: 20 penalty units.

- (2) Strict liability applies to the physical elements in subregulation (1).

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

**3A.07 Offence if airside special event zone manager allows unauthorised movement**

- (1) For subsection 36A (3) of the Act, a person commits an offence if:
  - (a) an airside special event zone is in force; and
  - (b) the person is the airside special event zone manager for the airside special event zone; and
  - (c) another person (the ***transient person***) who is in the airside special event zone moves from the zone into any of the following:
    - (i) a part of a landside security zone that is outside a landside special event zone that is in force;
    - (ii) a part of an airside security zone that is outside an airside special event zone that is in force;
    - (iii) a part of the airside area that is outside an airside special event zone that is in force; and
  - (d) the transient person is not authorised by the Act or by these Regulations to enter the zone or area.

Penalty: 20 penalty units.

- (2) Strict liability applies to the physical elements in subregulation (1).

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

**Regulation 3A.08**

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**Division 3A.3            Landside special event zones**

**Subdivision 3A.3.1    Application for a landside special event zone**

**3A.08    Application for a landside special event zone**

- (1) For section 133 of the Act, an aviation industry participant may apply in writing to the Secretary for the Secretary to establish a landside special event zone under section 33A of the Act.
- (2) The application must contain the following information:
  - (a) the name and contact details of the aviation industry participant;
  - (b) a map showing the proposed landside special event zone including entry points into the zone and exit points out of the zone;
  - (c) a description of the proposed event to be held in the proposed landside special event zone;
  - (d) the period (or periods) during which the proposed landside special event zone will be in force, including dates, times and duration;
  - (e) an estimate of the number of people who will attend the event to be held in the proposed landside special event zone including an explanation of how that estimate was calculated;
  - (f) a description of any security risks with respect to the event to be held in the proposed landside special event zone;
  - (g) an explanation of how the security risks were identified;
  - (h) details of the measures that the aviation industry participant will take to manage and mitigate security risks resulting from the event that will be held in the proposed landside special event zone.
- (3) If the aviation industry participant plans to make changes to its transport security program for the purposes of managing and mitigating security risks resulting from the proposed event to be held in the proposed landside special event zone, the application must include details of the planned changes.

**3A.09 Further information about applications**

- (1) The Secretary may request that the applicant provide the Secretary with further information about the application.
- (2) The Secretary may refuse to consider the application until the applicant gives the Secretary the information.

**3A.10 Notices**

If:

- (a) the Secretary gives the operator of a security controlled airport a notice establishing a landside special event zone under section 33A of the Act; and
- (b) the landside special event zone manager is not the operator of the airport in which the event zone is established;

the Secretary must provide the landside special event zone manager with a copy of the notice.

*Note* The notice establishing a landside special event zone includes a map of the airport showing the boundaries of the landside special event zone and specifies the period (or periods) during which the event zone is in force.

**Subdivision 3A.3.2 Requirements for landside special event zones**

**3A.11 Requirements for landside special event zones**

- (1) For section 38A of the Act, the requirements in these Regulations dealing with landside areas are prescribed and apply, as in force from time to time, to landside special event zones.
- (2) The requirements under subregulation (1) do not include the requirements relating to the display of an ASIC, a VIC or a TAC.

**Regulation 3A.12**

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**Subdivision 3A.3.3    Offences relating to landside special event zones**

**3A.12    Offence if person moves out of landside special event zone**

- (1) For subsection 38A (3) of the Act, a person commits an offence if:
- (a) a landside special event zone is in force; and
  - (b) the person is in the landside special event zone; and
  - (c) the person moves from the zone into any of the following:
    - (i) an airside area that is outside an airside special event zone that is in force;
    - (ii) a part of a landside security zone that is outside a landside special event zone that is in force; and
  - (d) the person is not authorised by the Act or by these Regulations to enter the area or zone.

Penalty: 20 penalty units.

- (2) Strict liability applies to the physical elements in subregulation (1).

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

**3A.13    Offence if landside special event zone manager allows unauthorised movement**

- (1) For subsection 38A (3) of the Act, a person commits an offence if:
- (a) a landside special event zone is in force; and
  - (b) the person is the landside special event zone manager for the landside special event zone; and
  - (c) another person (the ***transient person***) who is in the landside special event zone moves from the zone into any of the following:
    - (i) an airside area that is outside an airside special event zone that is in force;
    - (ii) a part of a landside security zone that is outside a landside special event zone that is in force; and

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- (d) the transient person is not authorised by the Act or by these Regulations to enter the area or zone.

Penalty: 20 penalty units.

- (2) Strict liability applies to the physical elements in subregulation (1).

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

## **Part 4 Other security measures**

### **Division 4.1 Screening and clearing**

#### **Subdivision 4.1.1 Screening and clearing generally**

##### **4.01 Definition — *operational period***

In this Subdivision:

*operational period* of an aircraft means:

- (a) for a departing aircraft:
  - (i) if the aircraft is at Adelaide Airport, Brisbane Airport, Melbourne Airport, Perth Airport, Sydney Airport, Cairns Airport, Canberra Airport, Coolangatta Airport, or Darwin Airport — the period beginning 2 hours before the aircraft's scheduled departure time (or, if it is known in advance that its departure will be delayed, 2 hours before its re-scheduled departure time) and ending 30 minutes after its actual departure time; or
  - (ii) if the aircraft is at any other security controlled airport — the period beginning 30 minutes before the aircraft's scheduled departure time (or, if it is known in advance that its departure will be delayed, 30 minutes before its re-scheduled departure time) and ending 30 minutes after its actual departure time; and
- (b) for an arriving aircraft, the period beginning 30 minutes before its scheduled arrival time (or, if it is known in advance that its arrival will be delayed, 30 minutes before its re-scheduled arrival time) and ending 30 minutes after its actual arrival time.

#### **4.02 Meaning of *screened air service***

- (1) An aircraft must be a cleared aircraft before departure if it is operating a regular public transport operation or an open charter operation with a maximum weight of at least:
  - (a) after 30 June 2010 — 30 000 kg; and
  - (b) after 30 June 2012 — 20 000 kg.
- (1A) For subregulation (1):

***maximum weight***, for an aircraft, means the maximum gross weight at take off that the manufacturer of the aircraft, or a person authorised by the Civil Aviation Safety Authority, certifies for structural safety or control of the aircraft.
- (2) An aircraft not covered by subregulation (1) that departs from the same airport apron as an aircraft described in that subregulation, and is scheduled to depart within the operational period of the latter aircraft, must be a cleared aircraft.
- (3) For subregulation (2):

***apron*** has, for an airport, the meaning given by the airport operator's TSP.
- (4) An aircraft described in subregulation (1) or (2) operates a ***screened air service***.

#### **4.03 Specification of persons to carry out screening**

- (1) This regulation is made for paragraph 44 (2) (a) of the Act.
- (2) The Secretary may specify, by a written notice in accordance with subsection 44 (3) of the Act, a person, or persons jointly, who are authorised or required to carry out screening at a security controlled airport or part of a security controlled airport.
- (3) The Secretary must specify sufficient persons under subregulation (2) for an airport or part of an airport to ensure that at all times:
  - (a) there is at least 1 screening authority for the whole of the sterile area of the airport; and

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- (b) if 1 or more screening authorities are specified for part of the area, there is at least 1 screening authority for the remainder of the area.

**4.04 Things to be detected by screening**

- (1) This regulation is made for paragraph 44 (2) (b) of the Act.
- (2) The things that are to be detected by screening are:
  - (a) on a person, or in a person's belongings, or in stores entering a sterile area — weapons and prohibited items; and
  - (b) in checked baggage — explosives; and
  - (c) in a vehicle or in goods entering an enhanced inspection area — weapons.
- (3) To avoid doubt, subregulation (2) does not oblige a screening authority to detect weapons, prohibited items or explosives if it is not technically possible to do so.

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

**4.05 Dealing with weapons detected during screening**

- (1) For paragraph 44 (2) (c) of the Act, this regulation sets out how weapons detected during screening are to be dealt with.
- (2) Subject to subregulation (3), a weapon detected during screening must be:
  - (a) surrendered to a screening authority; and
  - (b) stored and handled in accordance with subregulation 4.57 (2).
- (3) Subregulation (2) does not apply if:
  - (a) a weapon is detected by a screening authority for a particular screening area; and
  - (b) the weapon is in the possession of a person authorised under Division 4.2 to have the weapon:
    - (i) in his or her possession; and



- (ii) in the screening area.

*Note* Division 4.2 deals with weapons, and the classes of persons authorised to possess weapons in secure areas. Regulation 4.52 authorises an aviation industry participant to have some types of weapon in an airside security zone if the weapon is a tool of trade controlled by the participant.

#### **4.06 Dealing with prohibited items detected during screening**

- (1) For paragraph 44 (2) (c) of the Act, this regulation sets out how prohibited items detected during screening are to be dealt with.
- (2) Any prohibited item detected during screening must be stored and handled in accordance with any applicable Commonwealth, State or Territory law.

#### **4.07 Use of hand-held metal detectors**

- (1) This regulation is made for paragraph 44 (2) (j) of the Act.
- (2) A hand-held metal detector must not be used for screening at a security controlled airport from which a screened air service does not operate unless its use is required by:
  - (a) written notice under subsection 44 (3) of the Act; or
  - (b) a special security direction under section 67 of the Act.
- (3) If a hand-held metal detector is used as a screening tool in accordance with a requirement referred to in subregulation (2), it must be operated in accordance with the relevant direction.
- (4) An airport operator must not use or purport to use a hand-held metal detector as a screening device in contravention of subregulation (2) or (3).

Penalty: 50 penalty units.

#### **4.08 Circumstances in which persons must be screened and cleared in order to board an aircraft**

- (1) This regulation is made for subparagraph 44 (2) (d) (i) of the Act.

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- (2) A person must be screened and cleared before boarding an aircraft if:
- (a) the aircraft is to operate a screened air service; and
  - (b) the person is a passenger on, or a member of the crew of, the aircraft.
- (3) For subregulation (2), a member of an aircraft's crew is taken to continue to be cleared if he or she, since he or she was last screened, has continuously been:
- (a) in the airside of an airport at which there is a sterile area (and if the sterile area is not continuously in operation, while the area was in operation); or
  - (b) in the sterile area of an airport; or
  - (c) on board an aircraft that operates a screened air service.

*Note* The following table summarises the requirements of these Regulations in relation to foreign aircrew and cabin crew, or the crew of a state aircraft:

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6
Class of person	Entry to an aircraft	Entry to the sterile area	Wearing of an ASIC in a secure area	Checked baggage screening (if otherwise applicable)	Baggage remaining on aircraft or overnighting
Crew of a foreign aircraft	Screening required	Screening required	Not required, but company uniform and ID required	Screening required when baggage loaded	Not screened
Crew of a state aircraft	Screening not required	Screening required	Not required	Not required	Not required

**4.09 Circumstances in which persons may enter certain areas without being screened**

- (1) This regulation is made for subparagraph 44 (2) (d) (ii) of the Act.
- (2) A person must be cleared before entering an enhanced inspection area or a sterile area unless the person:
- (a) has entered the area from the airside after disembarking from a screened air service; or

- (b) may pass through a screening point under regulation 4.10.

**4.10 Persons who may pass through screening point without being screened**

For paragraph 41 (2) (b) of the Act, the following persons may pass through a screening point without being screened:

- (a) a law enforcement officer who produces his or her identity card as a law enforcement officer;
- (b) a screening officer who is engaged in the management of the screening point;
- (c) an ambulance, rescue or fire service officer who is responding to an emergency on the landside of the airport;
- (d) a member of the Defence Force who is responding to an event or threat of unlawful interference with aviation.

**4.11 Persons who may enter certain cleared areas other than through screening point**

*Sterile areas*

- (1) For paragraph 41 (2) (c) of the Act, a person mentioned in subregulation (2) may enter an area that is a cleared area other than through a screening point if:
  - (a) for a sterile area within the cleared area — either of the following apply:
    - (i) he or she is authorised to do so and properly displays a valid ASIC;
    - (ii) he or she is authorised to do so, properly displays a valid VIC or TAC and is supervised by somebody who may enter the sterile area other than through a screening point and properly displays a valid ASIC; and
  - (b) for a LAGs cleared area within the cleared area — he or she does not have in his or her possession an impermissible LAG product.

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*Persons who may enter sterile area*

- (2) For subregulation (1), the persons are the following:
- (a) an aviation security inspector;
  - (b) an officer of Customs and Border Protection;
  - (c) a screening officer;
  - (d) an employee of the operator of the airport in which the sterile area is located;
  - (e) an employee of the operator of a screened air service aircraft;
  - (f) a contractor, and an employee of a contractor, to the operator of the airport in which the sterile area is located who is engaged in the loading of cargo, stores or checked baggage, or the boarding of passengers, onto a cleared aircraft that is operating a screened air service, or who is otherwise authorised for access to the aircraft;
  - (g) a contractor, and an employee of a contractor, to the operator of a screened air service aircraft who is engaged in the loading of cargo, stores or checked baggage, or the boarding of passengers, onto a cleared aircraft that is operating a screened air service, or who is otherwise authorised for access to the aircraft.

*Enhanced inspection areas or sterile areas*

- (3) For paragraph 41 (2) (c) of the Act, the following persons may enter a cleared area that is an enhanced inspection area or a sterile area other than through a screening point:
- (a) an ambulance, rescue or fire service officer who is responding to an emergency;
  - (b) a member of the Defence Force who is responding to an event or threat of unlawful interference with aviation;
  - (c) an air security officer;
  - (d) a law enforcement officer who produces his or her identity card as a law enforcement officer.

*Interpretation*

- (4) For paragraph (1) (b), an ***impermissible LAG product***, for a person, is a LAG product that is not:
  - (a) in a LAGs bag that contains only LAG products that are in LAGs containers and either of the following subparagraphs apply:
    - (i) the LAGs bag is sealed and is the only LAGs bag in the person's possession;
    - (ii) the LAG products are needed for the use or care of the person because of an infirmity; or
  - (b) a tool of trade for the person.
- (5) For paragraph (4) (b), something is a ***tool of trade*** for a person if:
  - (a) the person requires it for the purpose for which he or she is in the sterile area; and
  - (b) the purpose is lawful.

**4.12 Foreign dignitaries receiving clearance at screening point without being screened**

- (1) For paragraph 41 (2) (b) of the Act, any of the following persons may pass through a screening point without being screened:
  - (a) a Head of State of a country recognised by Australia and members of his or her immediate family;
  - (b) a Head of the government of a country recognised by Australia and members of his or her immediate family;
  - (c) a Minister responsible for foreign affairs of the government of a country recognised by Australia and members of his or her immediate family.
- (2) For paragraph 42 (2) (b) of the Act, carry-on baggage of a person mentioned in subregulation (1) may pass through a screening point with the person without being screened.

*Note* The Secretary may also provide for clearance by written notice under subsection 41 (2) of the Act.

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**4.12A Foreign dignitaries receiving clearance other than through a screening point**

- (1) For paragraph 41 (2) (c) of the Act, any of the persons mentioned in subregulation (2) may enter a cleared area, a cleared zone or a cleared aircraft other than through a screening point if the person is accompanied by:
  - (a) a member of the Australian Federal Police who meets the requirements of subregulation 4.11 (4); or
  - (b) an officer of Customs and Border Protection who meets the requirements of subregulation 4.11 (1).
- (2) The persons are as follows:
  - (a) a Head of State of a country recognised by Australia and members of his or her immediate family;
  - (b) a Head of the government of a country recognised by Australia and members of his or her immediate family;
  - (c) a Minister responsible for foreign affairs of the government of a country recognised by Australia and members of his or her immediate family.
- (3) For paragraph 42 (2) (c) of the Act, carry-on baggage of a person mentioned in subregulation (2) may enter a cleared area, a cleared zone or a cleared aircraft with the person other than through a screening point.

*Note* The Secretary may also provide for clearance by written notice under subsection 41 (2) of the Act.

**4.13 Certain inbound international transit passengers — screening of passengers and their carry-on baggage**

- (1) Subject to subregulation (2), this regulation applies in relation to an aircraft that is operating an inbound international air service if:
  - (a) the service is a screened air service; and
  - (b) the aircraft lands in Australia, having flown directly from a foreign country; and
  - (c) the place of the landing is not the aircraft's final destination;

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unless:

- (d) no passengers disembark from, or board, the aircraft at the place of the landing referred to in paragraph (b); and
  - (e) every passenger was screened at the place where he or she boarded the aircraft.
- (2) This regulation does not apply if the landing is an unscheduled stop and no passenger boards the aircraft.
  - (3) Subject to subregulation (7) and regulation 4.13A, every passenger must disembark from the aircraft with his or her carry-on baggage.
  - (4) The aircraft operator must ensure that before any passenger re-boards the aircraft, the aircraft is inspected.
  - (5) The inspection must include at least a thorough inspection of:
    - (a) the interior of the aircraft, including the passenger cabin, seats, overhead baggage lockers, toilets, crew rest stations, catering and food preparation areas, flight crew compartment, and any other technical areas such as the flight deck; and
    - (b) any unlocked storage facilities in the parts of the aircraft mentioned in paragraph (a).
  - (6) Every passenger and his or her carry-on baggage must be screened before he or she re-boards the aircraft.
  - (7) If a passenger has a disability that would make disembarking and re-boarding difficult for him or her, the aircraft operator may arrange to have him or her and his or her carry-on baggage screened in his or her seat.
  - (8) If subregulation (3), (4), (5) or (6) is not complied with in relation to an aircraft mentioned in subregulation (1), the aircraft's operator is guilty of an offence.

Penalty: 50 penalty units.

- (9) An offence against subregulation (8) is an offence of strict liability.

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**4.13A Transit passengers may leave LAG items on board certain flights**

- (1) In this regulation:  
*permitted item* means an item that:
  - (a) is a LAG product that is in a container that has a capacity of more than 100 ml; and
  - (b) is purchased by a passenger at an airport retail outlet; and
  - (c) is in a sealed plastic bag with proof of purchase by the passenger affixed to the bag, or enclosed in the bag, so that proof of purchase is visible; and
  - (d) has undergone security screening at the airport before being taken on board an aircraft.
- (2) Despite subregulation 4.13 (3), a passenger may leave a LAG product on board an aircraft operating an inbound international air service in the circumstances set out in subregulation (3).
- (3) For subregulation (2), the circumstances are that:
  - (a) if the aircraft makes a scheduled transit stop in Australia or outside Australia as part of its journey to its final destination in Australia — all the following apply:
    - (i) the service is approved by the Secretary;
    - (ii) the LAG product to be left on board is a permitted item or an exempt duty free item;
    - (iii) the Secretary has, in the approval under subparagraph (i) or otherwise, also approved the LAG product to remain on board the aircraft; or
  - (b) if the aircraft makes an unscheduled stop in Australia or outside Australia as a result of an emergency or other technical safety problem during its journey to its final destination in Australia — all the following apply:
    - (i) the service is approved by the Secretary;
    - (ii) the LAG product to be left on board is a permitted item or an exempt duty free item;
    - (iii) the Secretary has, in the approval under subparagraph (i) or otherwise, also approved the LAG product to remain on board the aircraft;



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- (iv) the passengers disembark from the aircraft in order to allow the emergency or problem to be rectified;
  - (v) all the passengers board the aircraft after the emergency or problem is rectified and no new passengers board the aircraft.
- (4) The Secretary may, by written notice:
  - (a) approve an inbound international service for subparagraphs (3) (a) (i) and (3) (b) (i); and
  - (b) approve, for subparagraphs (3) (a) (iii) and (3) (b) (iii), a LAG product that is a permitted item or an exempt duty free item to remain on the board the aircraft operating the service.

**4.14 Circumstances in which goods must be cleared before being taken on to an aircraft**

- (1) In this regulation:
  - regular provider*, for stores of a particular kind, means a person that has established an arrangement, recorded in writing, with an aircraft operator for the supply of stores of that kind.
- (2) An item of stores that is provided by a regular provider of items of that kind may enter a cleared area, a cleared zone or a cleared aircraft otherwise than through a screening point.
- (3) To avoid doubt, an item of stores that is not provided by a regular provider of similar items must be cleared before it is taken onto a cleared aircraft or into a landside security zone.
- (4) The operator of a screened air service must ensure that stores are not accessible to unauthorised persons:
  - (a) in the case of an item that is provided by a regular provider of similar items — from the time the item is accepted from the provider or the provider's agent by the operator; or

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- (b) in the case of any other item of stores — from the time it is cleared;

until the start of the screened air service for which it is taken on board the aircraft.

Penalty: 100 penalty units.

- (5) For each item of stores loaded onto an aircraft that operates a screened air service, the aircraft operator must keep, until the end of the air service, a record of the provider of the item.

Penalty: 100 penalty units.

**4.15 When carry-on baggage must be cleared**

Carry-on baggage (including carry-on baggage belonging to an aircraft's flight crew) must be cleared before being taken on to an aircraft if the aircraft is to operate a screened air service.

*Note* The carry-on baggage of foreign dignitaries may receive clearance under subregulation 4.12 (2) or 4.12A (3).

**4.16 Circumstances in which vehicles must be cleared in order to be taken onto aircraft**

A vehicle that is to be loaded onto an aircraft that is to operate a screened air service is to be treated as cargo.

**4.17 Methods, techniques and equipment to be used for screening**

- (1) The Secretary may specify, by written notice, methods, techniques and equipment to be used for screening.
- (2) A notice under subregulation (1) may specify that it is to be given only to a person or persons responsible for carrying out the relevant screening.
- (3) A notice under subregulation (1) is binding on a person if and only if it has been served on the person.

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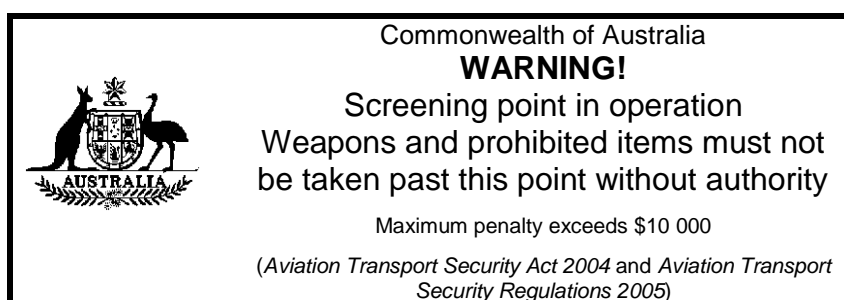
- (4) A person must comply with a notice under subregulation (1) that is binding on him or her.

Penalty: 100 penalty units.

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

**4.18 Notices to be displayed at places of screening of passengers and carry-on baggage**

- (1) A notice, 0.4 m wide and 0.3 m high, is to be displayed, at a place where screening is carried out, in the following form:



- (2) If a sign in accordance with subregulation (1) is not visibly displayed at an operating screening point, the screening authority responsible for operating the screening point is guilty of an offence.

Penalty: 50 penalty units.

**4.19 Supervision etc of baggage**

- (1) The operator of a prescribed aircraft must ensure that checked baggage is not accessible to an unauthorised person between the time it is checked in and the time it is made available (for example, by being placed on a baggage carousel) for collection at the end of the prescribed air service.

Penalty: 50 penalty units.

*Note* For requirements for the control and supervision of baggage that is screened and cleared before it is checked in, see regulation 4.24.

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- (2) If the operator of a prescribed aircraft knows that a passenger's baggage contains a firearm, the aircraft operator must take reasonable precautions to ensure that the baggage is not retrieved by any person other than the passenger.

Penalty: 50 penalty units.

**4.20 Unaccompanied baggage**

For the purposes of screening and clearing, unaccompanied baggage is to be treated as cargo.

**4.21 Control etc of baggage loading**

- (1) There must be attached, to each item of checked baggage that is carried on board an aircraft that is operating a domestic or international regular public transport operation or domestic or international open charter operation, a tag that identifies the relevant flight.
- (2) The tag must be attached to the item before the start of the flight referred to in subregulation (1).
- (3) Before the start of the flight, a record must be created for each such item that is carried on board the aircraft, and the record must be kept until at least 2 days after the end of the flight.
- (4) The record must:
- (a) identify the passenger who checked in the item; and
  - (b) record the number of the flight for which the passenger was checked in; and
  - (c) match the item to a passenger on board the aircraft, or specify the circumstances of its carriage if the person who checked in the item is not on board the aircraft when it departs.
- (5) The operator of an aircraft that is operating a prescribed air service must ensure that subregulations (1) to (4) are complied with in respect of every item of checked baggage loaded on a flight of the aircraft.

Penalty: 50 penalty units.

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- (6) The operator of an aircraft that is operating a prescribed air service must inspect the record for such an item immediately before loading the item on board the aircraft.

Penalty: 50 penalty units.

- (7) The operator of a prescribed air service must ensure that, before the relevant aircraft departs, every item of checked baggage (whether screened or not) that is on board the aircraft can be matched to:
- (a) a passenger who is on the flight; or
  - (b) a passenger who was properly checked in for a flight that has departed; or
  - (c) a passenger who does not re-board, or remain on board, the aircraft following diversion of the flight from its scheduled destination to an alternative destination in a circumstance specified in regulation 4.21A.

Penalty: 50 penalty units.

- (8) The operator of an aircraft that is operating a prescribed air service must ensure that any item of checked baggage that cannot be matched to a passenger in accordance with subregulation (7) is either not loaded on the aircraft, or is removed before the aircraft departs.

Penalty: 50 penalty units.

**4.21A Circumstances relating to diversion of flights**

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

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

- (4) The record must include:
- (a) the date and time the approval was given; and
  - (b) the reasons for giving the approval.

**4.22 Clearance of checked baggage removed from prescribed air service aircraft**

If checked baggage is removed, for any reason other than an operational requirement, from an aircraft that is operating a prescribed air service, it must be cleared before it is re-loaded on board such an aircraft.

**Subdivision 4.1.1A Liquid, aerosol and gel products**

**4.22A Definitions**

In this Subdivision:

*exempt person* means:

- (a) a person who may pass through a screening point without being screened under regulation 4.10; or
- (b) an aviation security inspector, or a representative of the screening authority, who is lawfully testing the screening system.

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

**4.22B Meaning of exempt LAG item**

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

- (a) the LAG product is in the possession of a passenger travelling on an aircraft that is operating an inbound international air service to Australia from an airport in an exempt country; and
- (b) the passenger passed through a screening point for international passengers at the airport in the exempt country before boarding the aircraft; and

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

**4.22C Meaning of *LAG product***

- (1) Subject to subregulations (2) to (5) a ***LAG product*** means any of the following things:
  - (a) a substance that is a liquid when at room temperature;
  - (b) an aerosol;
  - (c) a gel;
  - (d) a cream;
  - (e) a paste.
- (2) The following things, in relation to a person travelling on an international air service, are not ***LAG products***:
  - (a) if the person is an infant or toddler — a baby product that is in a quantity that is reasonable having regard to the duration of the flight;
  - (b) a medical product for the person;
  - (c) a therapeutic product for the person in a quantity that is reasonable having regard to the duration of the flight;
  - (d) the contents of a bag being used to manage a medical condition of the person (such as a colostomy bag);
  - (e) biological tissues, blood products, blood cultures, samples and substances used for medical research or reproductive health;
  - (f) material or containers that are required to maintain the temperature, quality or integrity of something mentioned in paragraphs (a) to (e).
- (2A) The following things, in relation to a person authorised to enter a LAGs cleared area other than through a screening point, are not ***LAG products***:
  - (a) a medical product for the person;



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- (b) a therapeutic product for the person in a quantity that is reasonable having regard to the length of time that he or she will be in the LAGs cleared area;
  - (c) the contents of a bag being used to manage a medical condition of the person (such as a colostomy bag);
  - (d) material or containers that are required to maintain the temperature, quality or integrity of something mentioned in paragraphs (a) to (c).
- (3) A thing mentioned in subregulation (1) that is taken through a LAGs screening point by a person is not a LAG product if:
- (a) the thing is to be used by the person in the course of, or for the purposes of, carrying on a business in a landside security zone; and
  - (b) the thing is not for the personal use of the person.
- (4) A thing mentioned in subregulation (1) that is taken through a LAGs screening point is not a LAG product if:
- (a) the thing is taken by a person specified in an item in column 2 of the table in regulation 4.62; and
  - (b) the thing is a tool of trade for that person.
- (5) A thing mentioned in subregulation (1) that is taken through a LAGs screening point is taken not to be a LAG product if the thing is the subject of a notice by the Secretary under regulation 4.22Q.

- (6) In this regulation:

***baby product*** means:

- (a) a product used in the care of an infant or toddler; or
- (b) food for an infant or toddler, including infant formula.

***medical product*** means a product supplied on prescription to a person.

***therapeutic product*** means a product, other than a medical product, that is used for the treatment or management of a person's medical condition.

*Examples*

- Special dietary products
- Contact lens solution.

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**4.22D Offence — not establishing LAGs screening point**

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

- (a) an international air service operates from the airport, or area of the airport, as the case may be; and
- (b) the screening authority does not establish a LAGs screening point at the airport, or area of the airport.

Penalty: 50 penalty units.

**4.22E Offence — operator of inbound flight from exempt country**

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

- (a) the aircraft is flying to Australia from an airport in an exempt country; and
- (b) the aircraft operator does not put in place appropriate procedures to ensure that passengers on the aircraft do not have a LAG product in their possession, at the relevant times, unless the LAG product is:
  - (i) in a LAGs container that is in a sealed LAGs bag; or
  - (ii) an exempt LAG item; or
  - (iii) a LAG product that was supplied to the passenger by the aircraft operator during the flight; or
  - (iv) a permitted item.

Penalty: 200 penalty units.

- (2) In this regulation:

***passenger*** does not include:

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

***relevant times***, in relation to an aircraft, means:

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

- (b) the time the aircraft arrives in Australia.

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

- (1) For paragraph 44 (2) (a) of the Act, the operator of an aircraft that is operating an inbound international air service commits an offence if:
- (a) the aircraft is flying to Australia from an airport in a non-exempt country; and
  - (b) the aircraft operator does not put in place appropriate procedures to ensure that passengers on the aircraft do not have a LAG product in their possession, during the relevant times, unless the LAG product is:
    - (i) in a LAGs container that is in a sealed LAGs bag; or
    - (ii) an exempt duty free item; or
    - (iii) a LAG product that was supplied to the passenger by the aircraft operator during the flight; or
    - (iv) a permitted item.

Penalty: 200 penalty units.

- (2) In this regulation:

*passenger* does not include:

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

*relevant times*, in relation to an aircraft, means:

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

**4.22G Offence — LAG product passing through LAGs screening point**

- (1) For paragraph 44 (2) (aa) of the Act, a person commits an offence if:
- (a) the person passes through a LAGs screening point; and

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

Penalty: 20 penalty units.

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

**4.22H Offence — more than 1 LAGs bag**

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

Penalty: 20 penalty units.

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

- (3) In this regulation:

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

**4.22HA Offence — entering LAGs cleared area other than through screening point with impermissible LAG product**

- (1) For subparagraph 44 (2) (d) (ii) of the Act, a person commits an offence if:
  - (a) the person enters a LAGs cleared area other than through a screening point; and
  - (b) when entering the LAGs cleared area, the person has in his or her possession a LAG product; and

- (c) the LAG product is an impermissible LAG product within the meaning of subregulation 4.11 (4).

Penalty: 20 penalty units.

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

#### **4.22I Things to be detected by screening**

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

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

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

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

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

#### **4.22J Dealing with LAG product surrendered during screening**

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

Penalty: 50 penalty units.

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

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

- (a) a screening authority has put in place procedures for the destruction of LAG products; and
- (b) a LAG product has been surrendered to the screening authority as a result of screening; and
- (c) the person prevents the destruction of the LAG product.

Penalty: 20 penalty units.

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

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

- (a) an international air service operates from the airport, or area of the airport, as the case may be; and
- (b) the screening authority has established a LAGs screening point at the airport, or area of the airport; and
- (c) the screening authority does not put in place reasonable measures to ensure that persons who pass through the LAGs screening point, to enter a LAGs cleared area, are screened at the screening point.

Penalty: 50 penalty units.

**4.22M Offence — not preventing entry to LAGs cleared area**

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

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

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- (b) the screening authority does not put in place reasonable measures to ensure that a person does not enter a LAGs cleared area without being screened, unless the person:
  - (i) is an exempt person; or
  - (ii) if the airport is an airport in which the sterile area is the same as the LAGs cleared area — is a person permitted under regulation 4.11 to enter a sterile area other than through a LAGs screening point; or
  - (iii) has entered the sterile area from an airside area of the airport after disembarking from a LAGs screened air service.

Penalty: 50 penalty units.

- (2) In this regulation:

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

- (a) departed from a place inside Australia; and
- (b) only carried passengers that were screened for LAG products before boarding the service.

**4.22N Offence — not screening for LAG products**

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

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

Penalty: 50 penalty units.

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

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

Penalty: 20 penalty units.

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

- (3) In this regulation:

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

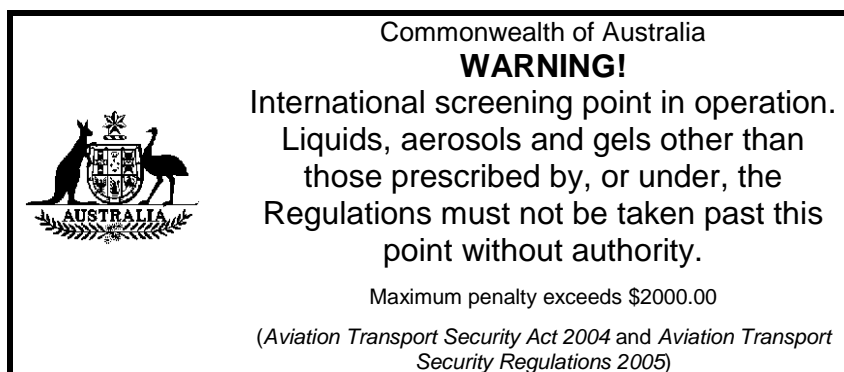
**4.22P Offence — sign at LAGs screening point**

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

- (a) an international air service operates from the airport, or area of the airport, as the case may be; and
- (b) the person has established a LAGs screening point at the airport, or area of the airport; and
- (c) the person does not display, at the LAGs screening point, a sign that is:
  - (i) 0.4 m wide and 0.3 m high; and



(ii) in the following form:



Penalty: 50 penalty units.

#### **4.22Q Notices**

- (1) For subsection 44 (3) of the Act, the Secretary may by written notice provide that a thing, or a class of things, that would, except for this regulation be a LAG product, is taken not to be a LAG product.
- (2) For subsection 44 (3) of the Act, the Secretary may by written notice provide that a thing or a class of things, that is not a LAG product under these Regulations, is taken to be a LAG product.
- (3) A notice under subregulation (1) or (2) may apply to a thing, or to a class of things, that is carried by a particular person, or class of persons, or that is taken on to a particular flight.

#### **Subdivision 4.1.1B Security tamper-evident bags**

#### **4.22R Definitions**

In this Subdivision:

**ICAO guidance material** means the *Guidance Material on Security Control for Liquids, Aerosols and Gels (LAGs)* that was issued on 16 October 2008 by ICAO.

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*security tamper-evident bag* means a bag:

- (a) that complies with the technical specifications for security tamper-evident bags set out in the ICAO guidance material; and
- (b) for which the security requirements set out in regulation 4.22S have been satisfied.

**4.22S Security requirements for security tamper-evident bags**

- (1) For paragraph (b) of the definition of *security tamper-evident bag* in regulation 4.22R and subparagraph 4.22T (1) (b) (ii), the requirements are:
  - (a) the bag was delivered to a retail business within a secure area of an airport (the *business*) in a sealed container; and
  - (b) the container was inspected after delivery to the business for signs that it had been tampered with before delivery and no such signs were found; and
  - (c) the business has in place procedures to ensure that bags under its control cannot be tampered with; and
  - (d) bags are stored in a secure manner and are accessible only by persons whose names are on a written list of persons authorised by the business to have access to the bags; and
  - (e) the business keeps records relating to the delivery, storage and handling of the bags.
- (2) The Secretary may direct a person who conducts the business to keep a list mentioned in paragraph (1) (d) or a record mentioned in paragraph (1) (e) for the period specified in the direction.

**4.22T Offence — supply of non-compliant security tamper-evident bags**

- (1) A person who conducts a retail business (the *business*) within a secure area of an airport commits an offence if:
  - (a) someone working in the business seals a LAG product purchased by a person (the *customer*) in a bag that is represented to the customer by the business to be a security tamper-evident bag; and

- (b) either or both of the following apply:
  - (i) the bag does not comply with the technical specifications for security tamper-evident bags set out in the ICAO guidance material;
  - (ii) the security requirements set out in regulation 4.22S have not been satisfied for the bag.
- (2) For paragraph (1) (a), a business is taken to have represented to a customer that a bag is a security tamper-evident bag if signage in the premises of the business or anything said to the customer by someone working in the business would reasonably lead the customer to believe that an item placed in the bag can be taken through a screening point for LAG products at an airport outside Australia without being surrendered.

Penalty: 20 penalty units.

#### **Subdivision 4.1.2 Checked baggage screening**

##### **4.23 Offence — aircraft operator loading checked baggage that has not been cleared**

For paragraph 44 (2) (f) and subsection 44 (4) of the Act, an aircraft operator commits an offence if:

- (a) the aircraft operator conducts a screened air service; and
- (b) the operator loads an item of checked baggage onto an aircraft that is being used for the air service; and
- (c) the operator knows the item has not been cleared.

Penalty: 50 penalty units.

##### **4.24 Offence — failure of screening authority to supervise or control**

- (1) For paragraph 44 (2) (l) and subsection 44 (4) of the Act, a screening authority at a security controlled airport, or part of the airport, commits an offence if:
  - (a) a screened air service operates from the airport or part of the airport, as the case may be; and

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- (b) the screening authority:
  - (i) carries out screening and clearing of baggage for the air service at the airport or part of the airport; and
  - (ii) is required to carry out screening of the baggage in accordance with the specifications of a binding screening notice; and
- (c) baggage belonging to passengers of the air service must be cleared before it is checked in; and
- (d) the screening authority does not have appropriate procedures in place to ensure that an item cannot be placed in or on any cleared baggage during the supervision or control period.

Penalty: 50 penalty units.

- (2) In this regulation:

***binding screening notice***, in relation to a screening authority, means a notice:

- (a) given under regulation 4.17 (1); and
- (b) binding on the authority.

*Note* Subregulation 4.17 (3) sets out the requirement for a binding notice.

***supervision or control period*** means the period that starts when baggage is cleared and ends when baggage is checked in.

**4.25 International air services transiting Australia — inbound**

- (1) This regulation applies in relation to checked baggage on board an inbound international air service that becomes a screened air service by transiting through an airport in Australia.
- (2) An item of the baggage must be screened at the aircraft's first port of call in Australia if:
  - (a) the aircraft's operator cannot demonstrate that the item:
    - (i) was screened at the port where the baggage was loaded on the aircraft outside Australia; and
    - (ii) has been kept continuously secure since it was screened; or
  - (b) the Secretary, by notice in writing, so requires.

**4.26 International air services transferring passengers in Australia — inbound**

- (1) This regulation applies in relation to checked baggage on board an inbound international air service if some or all of its passengers are to be transferred to a screened air service in Australia.
- (2) An item of the baggage must be screened before it is transferred to the other air service if:
  - (a) the international aircraft's operator cannot demonstrate that the item:
    - (i) was screened at the port where the baggage was loaded on the aircraft outside Australia; and
    - (ii) has been kept continuously secure since it was screened; or
  - (b) the Secretary, by notice in writing, so requires.

**4.27 International air services transiting Australia — outbound**

- (1) This regulation applies in relation to checked baggage on board an outbound international air service that becomes a screened air service by transiting through an airport in Australia.
- (2) An item of the baggage must be screened at the aircraft's last port of call in Australia if:
  - (a) the aircraft's operator cannot demonstrate that the item:
    - (i) was screened at any of the aircraft's previous ports of call in Australia; and
    - (ii) has been kept continuously secure since it was screened; or
  - (b) the Secretary, by notice in writing, so requires.

**4.28 International air services transferring passengers in Australia — outbound**

- (1) This regulation applies in relation to checked baggage on board an outbound international air service if some or all of its passengers are to be transferred to a screened air service in Australia.

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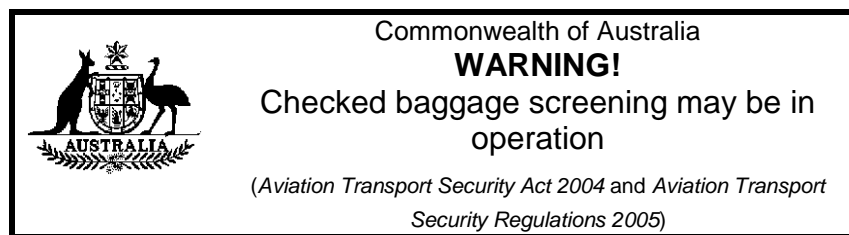
- (2) An item of the baggage must be screened before it is transferred to the other air service if:
- (a) the aircraft's operator cannot demonstrate that the item:
    - (i) was screened at any of the aircraft's previous ports of call in Australia; and
    - (ii) has been kept continuously secure since it was screened; or
  - (b) the Secretary, by notice in writing, so requires.

**4.37 Requirement to notify intending passengers about checked baggage screening**

- (1) A screening authority must display signs, not less than 0.4 m wide by 0.3 m high, in the form set out in subregulation (2), indicating that checked baggage screening may occur.

Penalty: 10 penalty units.

- (2) A sign required by subregulation (1) must be in the following form:



**4.38 Explosives not to be loaded on board aircraft**

- (1) Subject to subregulation (3), a screening authority must ensure that an explosive that is detected in an item of checked baggage during screening at the terminal facility is not loaded on board an aircraft.

Penalty: 50 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

- (3) Subregulation (1) does not apply in relation to an explosive the carriage of which is permitted by or under the *Civil Aviation Safety Regulations 1998*.

#### **4.39 Opening of checked baggage**

Nothing in these Regulations authorises a screening authority or a screening officer to open an item of checked baggage without the consent of a person who is entitled to possession of the item, or of the person who checked the item in, unless:

- (a) the screening authority first makes a reasonable attempt to find a person who is entitled to possession of the item, or the person who checked the item in; and
- (b) no such person is found.

### **Division 4.1A Examining, certifying and clearing cargo**

#### **Subdivision 4.1A.1 Requirements for examining, certifying and clearing cargo**

#### **4.40 Examining cargo**

- (1) For subparagraph 44C (1) (a) (i) and paragraph 44C (2) (e) of the Act, a person who is examining cargo that will be carried on a prescribed aircraft must examine the cargo to detect unauthorised explosives that may be present in the cargo.
- (2) Subregulation (1) does not apply to cargo for which the Secretary has issued a written notice under paragraph 44B (2) (b) of the Act.
- (3) A RACA, an aircraft operator or an AACA must conduct the examination in accordance with:
  - (a) the RACA or aircraft operator's TSP, or the AACA's security program; or
  - (b) if a written notice is issued by the Secretary under subregulation (4) — the written notice.

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- (4) For subsection 44C (3) of the Act, the Secretary may issue one or more written notices to the persons mentioned in subregulation (6).
- (5) The notice may state:
  - (a) the types of cargo to be examined in accordance with the notice; and
  - (b) the methods, techniques and equipment to be used for examining the types of cargo; and
  - (c) the procedures for handling the types of cargo after the cargo has been examined.
- (6) The Secretary may issue a notice under subregulation (4) to:
  - (a) all RACAs, all AACAs or all aircraft operators; or
  - (b) one or more specified class of RACA, AACA or aircraft operator; or
  - (c) one or more RACA, AACA or aircraft operator.
- (7) For paragraph (6) (b), a specified class may include a class that is identified by reference to the kind of site at which a RACA, an AACA or an aircraft operator is examining cargo.
- (8) A RACA, an AACA or an aircraft operator to whom a notice is issued under subregulation (4) must comply with the notice.

Penalty: 50 penalty units.
- (9) A contravention of subregulation (8) is an offence of strict liability.

**4.41 Certifying and clearing cargo**

- (1) An aircraft operator may certify cargo by loading the cargo onto an aircraft.
- (2) An aircraft operator must only carry on a prescribed aircraft cargo that has been cleared.

Penalty: 100 penalty units.
- (3) An offence against subregulation (2) is an offence of strict liability.



- (4) For paragraph 44C (2) (h) of the Act, an aircraft operator must, in accordance with the operator's TSP, supervise and control access to cargo that has received clearance.

### **Subdivision 4.1A.2 Designating regulated air cargo agents**

#### **4.42 Regulated air cargo agents**

For paragraph 44C (2) (i) of the Act, a person is a RACA if the person:

- (a) carries on a business that includes the handling, or making arrangements for transport, of cargo to be carried on a prescribed air service; and
- (b) is designated as a RACA under regulation 4.43.

#### **4.43 How to become a RACA**

- (1) A person carrying on a business mentioned in paragraph 4.42 (a) may apply, in writing, to the Secretary to be designated as a RACA.
- (2) The application must contain the following information:
  - (a) if the applicant is a company:
    - (i) the name of the company; and
    - (ii) the ACN of the company; and
    - (iii) if the company trades under another name, the 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 partnership trades under another name, the trading name;
  - (c) if the applicant is an incorporated association:
    - (i) the name of the association; and
    - (ii) the full name of each member of the association; and
    - (iii) if the association trades under another name, the trading name;

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- (d) in any other case:
    - (i) the applicant's full name; and
    - (ii) if the applicant trades under another name, the trading name;
  - (e) the postal address, street address, telephone number, fax number (if any) and email address (if any) of the applicant's principal office in Australia and each of the applicant's sites in Australia that will be covered by the applicant's TSP;
  - (f) if the applicant has a business name registered under the law of a State or Territory — the business name, its registration number and a copy of the certificate of registration;
  - (g) details of any previous RACA designation or AACAA accreditation and, if the designation or accreditation had been revoked, the reasons for the revocation.
- (3) In the application, the applicant must undertake that, if the applicant is designated as a RACA, the applicant will notify the Secretary in writing within 7 working days after becoming aware of a significant change to the applicant's circumstances as they existed at the time of making the application.
- (4) The Secretary may, in writing, designate the applicant as a RACA if the Secretary is satisfied that:
- (a) the applicant's application contains the information required by subregulation (2); and
  - (b) the applicant's application contains the undertaking mentioned in subregulation (3); and
  - (c) the applicant's business includes handling or making arrangements for transporting cargo.
- (5) The Secretary must, within 14 days of making a decision on the application, notify the applicant in writing of the decision.
- (6) If the decision is to refuse the application, the notice must contain the reasons for the decision.

#### **4.44 Revocation of RACA designation**

- (1) The Secretary may revoke the designation of a person as a RACA if:
  - (a) any information given in the RACA's application is false; or
  - (b) the RACA's business no longer includes handling or making arrangements for transporting cargo; or
  - (c) a significant change to the RACA's circumstances has occurred since the RACA's application or TSP was made and the RACA has not told the Secretary about the changes; or
  - (d) the RACA has failed to comply with:
    - (i) a direction under section 21 or 23 of the Act; or
    - (ii) a special security direction under section 73 of the Act; or
  - (e) the RACA has failed to comply with its TSP or does not have a TSP approved by the Secretary; or
  - (f) the RACA has asked the Secretary, in writing, to have the designation as a RACA revoked; or
  - (g) the Secretary is reasonably satisfied that the RACA's designation poses a threat to aviation security.
- (2) If the Secretary revokes the designation of a person as a RACA, he or she must notify the person, in writing, of the decision, and the reasons for it, within 14 days of the revocation.
- (3) The designation of a person as a RACA is automatically revoked if the person is accredited as an AACA.

#### **4.45 Secretary's list of regulated air cargo agents**

- (1) The Secretary must keep a list of persons designated as RACAs.
- (2) The Secretary may publish the list.

**Regulation 4.45A**

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**4.45A Failure to notify changes**

- (1) A RACA commits an offence in relation to information contained in an application under regulation 4.43 which resulted in its designation as a RACA under subregulation 4.43 (4) if:
- (a) the information has changed since the RACA was designated; and
  - (b) the RACA has not notified the Secretary of the change within 7 working days after becoming aware of the change.

Penalty: 20 penalty units.

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

**4.46 Disclosure of information**

- (1) In this regulation:
- approved person*** means an aviation industry participant or an AACA.
- security program*** means the following:
- (a) if the approved person is an aviation industry participant — the aviation industry participant's TSP;
  - (b) if the approved person is an AACA — the AACA's security program.
- (2) An approved person commits an offence if:
- (a) the approved person discloses to another person security measures and procedures to be applied to cargo; and
  - (b) the disclosure is not in accordance with a security program.

Penalty: 50 penalty units.

- (3) An approved person commits an offence if:
- (a) the approved person discloses to another person security measures and procedures that will not be applied to cargo; and

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- (b) the disclosure is not in accordance with a security program.

Penalty: 50 penalty units.

- (4) An approved person commits an offence if:
  - (a) the approved person discloses to another person details about the airline or flight on which particular cargo will be carried; and
  - (b) the disclosure is not in accordance with a security program.

Penalty: 50 penalty units.

- (5) An approved person must make a record of persons who are given airline or flight information under subregulation (4).
- (6) An approved person who contravenes subregulation (5) commits an offence.

Penalty: 20 penalty units.

- (7) An approved person must keep a record mentioned in subregulation (5) for 90 days.
- (8) An approved person who contravenes subregulation (7) commits an offence.

Penalty: 20 penalty units.

**Subdivision 4.1A.3 Accrediting accredited air cargo agents**

**4.47 Accredited air cargo agents**

For paragraph 44C (2) (j) of the Act, a person is an AACA if:

- (a) the person carries on a business that includes the handling, or making arrangements for the transport, of cargo; and
- (b) the person is accredited by the Secretary as an AACA under this Subdivision.

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**4.48 Applying for accreditation**

- (1) A person carrying on a business, or intending to carry on a business, that includes the handling, or making arrangements for the transport, of cargo, may apply in writing to the Secretary to be accredited as an AACA.
- (2) The application must contain the following information:
  - (a) if the applicant is a company:
    - (i) the name of the company; and
    - (ii) the ACN of the company; and
    - (iii) if the company trades under another name, the 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 partnership trades under another name, the trading name;
  - (c) if the applicant is an incorporated association:
    - (i) the name of the association; and
    - (ii) the full name of each member of the association; and
    - (iii) if the association trades under another name, the trading name;
  - (d) in any other case:
    - (i) the applicant's full name; and
    - (ii) if the applicant trades under another name, the trading name;
  - (e) the postal address, street address, telephone number, fax number (if any) and email address (if any) of the applicant's principal office in Australia and each of the applicant's sites in Australia that will be covered by the applicant's AACA security program;
  - (f) if the applicant has a business name registered under the law of a State or Territory — the business name and its registration number;
  - (g) details of any previous AACA accreditation or RACA designation and, if the accreditation or designation had been revoked, the reasons for the revocation;

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- (h) if the applicant is not already handling, or making arrangements for the transport of, cargo — evidence of an intent to carry on a business that includes the handling, or making arrangements for the transport, of cargo.

*Note* Any change to the information provided under subregulation (2) must be notified to the Secretary within 7 working days of the AACA becoming aware of the change, see regulation 4.51H.

**4.49 Secretary to provide AACA security program**

- (1) The Secretary must provide an applicant for accreditation with an AACA security program that:
  - (a) is appropriate for the kind of business that is carried on by the applicant; and
  - (b) addresses the requirements set out in regulation 4.51F.
- (2) An applicant may, in relation to the AACA security program provided by the Secretary:
  - (a) accept the program and notify the Secretary that it wishes to proceed with its application; or
  - (b) reject the program and notify the Secretary that it wishes to withdraw its application; or
  - (c) within 7 days of receiving the program, make a request to the Secretary to amend the program.
- (3) An applicant that withdraws its application under paragraph (2) (b) must return the program and destroy any copies of the program within 7 days of notifying the Secretary.
- (4) An applicant who contravenes subregulation (3) commits an offence.  
  
Penalty: 10 penalty units.
- (5) Subregulation (4) is an offence of strict liability.
- (6) An applicant that requests an amendment of the program must give the Secretary:
  - (a) written details of the proposed amendment; and
  - (b) written reasons why the proposed amendment is required.

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**4.50 Consideration of amended AACA security program**

- (1) In considering a request under paragraph 4.49 (2) (c), the Secretary must take into account:
  - (a) whether the proposed amended program addresses the requirements set out in regulation 4.51F; and
  - (b) existing circumstances as they relate to aviation security; and
  - (c) the current use of the AACA security program by business of the kind carried on by the applicant; and
  - (d) the efficient administration of the AACA scheme.
- (2) After considering the request and the matters mentioned in subregulation (1), the Secretary must:
  - (a) decide to approve or reject the request; and
  - (b) give the applicant written notice of the decision within 14 days of making the decision.
- (3) If the Secretary does not make a decision under subregulation (2) within 60 days of a request being made under paragraph 4.49 (2) (c), the Secretary is taken to have rejected the amendment.
- (4) An amendment to an AACA security program that is approved by the Secretary may be provided by the Secretary to other applicants for accreditation or to other AACAs.

**4.51 Consideration of the application**

In making a decision on an application under regulation 4.48, the Secretary may take into account:

- (a) anything in the application submitted by the applicant to the Secretary; and
- (b) any further information provided by the applicant under subregulation 4.51A (2); and
- (c) the nature of the applicant's business and whether it would be more appropriate for the applicant to be designated as a RACA.



**4.51A Decision on application**

- (1) The Secretary may, in relation to an application made by an applicant under regulation 4.48:
  - (a) accredit the applicant on the condition that the applicant comply with the AACA security program issued to the applicant by the Secretary; or
  - (b) accredit the applicant on the condition that the applicant comply with the amended AACA security program requested by the applicant and approved by the Secretary; or
  - (c) refuse to accredit the applicant; or
  - (d) refuse to accredit the applicant and advise the applicant to apply to the Secretary for designation as a RACA.
- (2) Before making a decision under subregulation (1) the Secretary may request, in writing, that the applicant provide further information.
- (3) The Secretary must notify the applicant in writing of the decision on the application within 14 days of making the decision and, if the decision is to refuse the application, give the applicant reasons for the decision.
- (4) The Secretary is taken to have made a decision to refuse to accredit the applicant if the Secretary does not make a decision on the application:
  - (a) if the applicant had not commenced business at the time of making the application — within the period of 90 days after the application is made; or
  - (b) in any other case — within the period of 60 days after the application is made.
- (5) If the Secretary has requested further information under subregulation (2), the period starting on the day of the request and ending on the day the applicant provides the information is not to be counted for the purpose of subregulation (4).

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**4.51B Duration of accreditation**

- (1) An AACA's accreditation commences on the day stated in the notice of decision given under subregulation 4.51A (3) and continues in force until revoked under regulation 4.51D.
- (2) The notice of decision must not state a day for commencement of accreditation that is a day earlier than the day on which a person commences carrying on a business that includes the handling, or making arrangements for the transport, of cargo.

**4.51C Action by Secretary in relation to the accreditation**

- (1) If there is a change to an AACA's operations resulting in the AACA no longer carrying on business in accordance with the requirements of its AACA security program, the Secretary may issue a notice in writing to the AACA in accordance with subregulation (2).
- (2) The notice may propose one or more of the following actions:
  - (a) that the AACA agree to restrict its activities to those that are in accordance with the AACA security program provided to it by the Secretary;
  - (b) that the AACA agree to the Secretary imposing a condition on the AACA's accreditation relating to activities that are not in accordance with the AACA's security program;
  - (c) that the AACA agree to comply with a different AACA security program;
  - (d) that the AACA apply to be designated as a RACA;
  - (e) that the AACA's accreditation be cancelled.
- (3) The AACA must notify the Secretary in writing within 14 days of receiving the notice if it accepts the proposed action or which, if any, of the actions proposed in the notice it will accept.
- (4) If an AACA accepts the action proposed under paragraph (2) (e), the AACA is taken to have requested a revocation under paragraph 4.51D (2) (f).

**4.51D Revocation of accreditation**

- (1) The Secretary may, at any time by notice in writing, immediately revoke the accreditation of a person as an AACA if it is in the interests of aviation security to do so.
- (2) The Secretary may also revoke the accreditation of a person as an AACA if:
  - (a) any information given in the AACA's application is false; or
  - (b) the AACA's business no longer includes handling, or making arrangements for transporting of, cargo; or
  - (c) the AACA has not given notice of a change as required by regulation 4.51H; or
  - (d) the AACA has failed to comply with the AACA's security program; or
  - (e) the AACA does not respond to a notice under regulation 4.51C within the time provided in that regulation; or
  - (f) the AACA has asked the Secretary, in writing, to revoke the AACA's accreditation.
- (3) Before revoking the AACA's accreditation under paragraph (2) (a), (b), (c), (d) or (e), the Secretary must notify the AACA in writing of the Secretary's intention to revoke the AACA's accreditation and the reasons for the intended revocation.
- (4) The Secretary must give the AACA at least 14 days from the day on which the Secretary notifies the AACA of his or her intention under subregulation (3) in which to make a submission as to why the accreditation should not be revoked.
- (5) The Secretary must:
  - (a) consider any submission made by the AACA in response to a notice under subregulation (3) before making a decision about the revocation; and
  - (b) provide the AACA with written notification of the Secretary's decision within 28 days of receiving the submission.

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- (6) If the Secretary does not make a decision under paragraph (5) (b) within 28 days of receiving the submission, the Secretary is taken to have revoked the AACAs accreditation.
- (7) The accreditation of a person as an AACAs is automatically revoked if the person is designated as a RACA.

**4.51E Secretary's list of AACAs**

- (1) The Secretary must keep a list of persons accredited as AACAs.
- (2) The Secretary may publish the list.

**Subdivision 4.1A.4 AACAs security programs**

**4.51F What AACAs security program must contain**

The AACAs security program provided by the Secretary under regulation 4.49 must set out the following requirements under the program, as relevant to the kind of business to which the program applies:

- (a) details of the kind of business to which the program applies;
- (b) the measures and procedures to deter and detect the unauthorised carriage of explosives and to prevent acts of unlawful interference with aviation;
- (c) the methods to prevent unauthorised persons from having access to cargo;
- (d) the measures and procedures for the handling and treatment of suspect cargo;
- (e) the measures to prevent the unauthorised disclosure of information regarding security measures to be applied to cargo;
- (f) the measures to prevent aircraft operator and flight information from being revealed to those without a need to know;

- (g) details of persons who may be given information mentioned in paragraph (f) and how it is to be given to such a person;
- (h) the measures and procedures to control access to the AACA's sites and maintain the integrity of access control systems;
- (i) the measures and procedures to ensure that any vehicles used in the transport of cargo are secured adequately;
- (j) the measures and procedures for the examination of cargo;
- (k) details of the training to be undertaken by AACA employees;
- (l) the circumstances and measures for reporting aviation security incidents to the Secretary, including the information that must be set out in the report and the method of reporting.

### **Subdivision 4.1A.5 Offences**

#### **4.51G AACA must comply with security program**

- (1) An AACA commits an offence if:
  - (a) there is an AACA security program that is currently in force for the AACA; and
  - (b) the AACA fails to comply with the program.

Penalty: 50 penalty units.

- (2) For paragraph (1) (a), if the Secretary gives the AACA a replacement program, that replacement program is the program in force for the AACA.
- (3) Subregulation (1) does not apply if the AACA has a reasonable excuse.

*Note* A defendant bears an evidential burden in relation to the matter in subregulation (3), see subsection 13.3 (3) of the *Criminal Code*.

- (4) Subregulation (1) is an offence of strict liability.

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**4.51H Failure to notify changes**

- (1) An AACA commits an offence in relation to information contained in an application under regulation 4.48 which resulted in its accreditation as an AACA under subregulation 4.51A (1) if:
  - (a) the information has changed since the AACA was accredited; and
  - (b) the AACA has not notified the Secretary of the change within 14 working days after becoming aware of the change.

Penalty: 20 penalty units.

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

**Division 4.2 Weapons**

**4.52 Aviation industry participants authorised to have weapons (not firearms) in possession in secure areas**

- (1) An aviation industry participant is authorised to have a weapon (other than a firearm) in its possession in an airside area or a landside security zone if:
  - (a) the weapon is a tool of trade; and
  - (b) the aviation industry participant takes reasonable precautions to ensure that the weapon remains under its control.
- (2) For paragraph (1) (a), something is a *tool of trade* if the relevant aviation industry participant requires it for a lawful purpose.

**4.53 Persons authorised to have weapons (not firearms) in possession in secure areas**

- (1) Each of the following persons is authorised to have a weapon (not a firearm) in his or her possession in a secure area of an airport:
  - (a) an officer of Customs and Border Protection;
  - (b) an air security officer;

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- (c) a screening officer who is carrying the weapon to or from an aircraft because the weapon:
  - (i) has been accepted for carriage by the aircraft's operator; or
  - (ii) is being removed from the aircraft;
- (d) an authorised representative of an airline operator who is carrying the weapon to or from an aircraft because the weapon:
  - (i) has been accepted for carriage by the aircraft's operator; or
  - (ii) is being removed from the aircraft.
- (2) A person is authorised to have a weapon (other than a firearm) in his or her possession in a secure area if:
  - (a) the weapon is a tool of trade; and
  - (b) the person keeps control of the weapon at all times.
- (3) For paragraph (2) (b), the person ceases to have control of the weapon if he or she gives possession of it to, or allows it to be accessible to, a person for whom it is not a tool of trade.
- (4) For paragraph (2) (a) and subregulation (3), something is a *tool of trade* if:
  - (a) the person whose possession it is in requires it for the purpose for which he or she is in the relevant area or zone; and
  - (b) the purpose is lawful.

**4.54 Persons authorised to have firearms in possession in airside areas**

- (1) Each of the following persons is authorised to have a firearm in his or her possession in an airside area of an airport:
  - (a) a person who:
    - (i) with the consent of the airport operator, is engaged in controlling wildlife or other animals on the airport; and

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- (ii) if the airport is an airport from which a regular public transport operation operates — properly displays a valid ASIC; and

*Note* The requirement to display an ASIC does not apply to security regulated airports that do not have regular public transport operations, see subregulation 3.03 (4).

- (iii) holds, and has on his or her person, a firearms licence, validly issued under the law of the State or Territory in which the airport is located, for the firearm; and
  - (iv) if a licence or permission is required under the law of the State or Territory for the person to shoot wildlife or animals on the airport, holds, and has on his or her person, such a licence or permission;
- (b) a uniformed member of the staff of a private security contractor who:
- (i) with the consent of the airport operator, is in an armoured vehicle, or is facilitating the movement of, an armoured vehicle that displays the contractor's livery, or a vehicle that is accompanying such a vehicle and also displays the contractor's livery; and
  - (ii) if the airport is an airport from which a regular public transport operation operates — properly displays a valid ASIC; and

*Note* The requirement to display an ASIC does not apply to security regulated airports that do not have regular public transport operations, see subregulation 3.03 (4).

- (iii) holds, and has on his or her person, a firearms licence, validly issued under the law of the State or Territory in which the airport is located, for the firearm; and
- (iv) if required by State or Territory legislation — holds, and has on his or her person, a valid 1A Security Guard licence issued under the law of the State or Territory; and
- (v) stays close to at least 1 other uniformed member of the staff of the contractor;



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- (c) a screening officer who is carrying the firearm to or from an aircraft because the firearm:
    - (i) has been accepted for carriage by the aircraft's operator; or
    - (ii) is being removed from the aircraft;
  - (d) an authorised representative of an airline operator who is carrying the firearm to or from an aircraft because the firearm:
    - (i) has been accepted for carriage by the aircraft's operator; or
    - (ii) is being removed from the aircraft;
  - (e) an officer of Customs and Border Protection;
  - (f) an air security officer.
- (2) A person (other than a person referred to in paragraph (1) (c), (d), (e) or (f)) in an airside area of an airport who is carrying a firearm, or has a firearm close by and under his or her control, must, on demand by a law enforcement officer, an aviation security inspector or a representative of the airport operator or an airline operator, immediately show the law enforcement officer, aviation security inspector or representative:
- (a) the person's firearms licence; and
  - (b) if the person is a person referred to in paragraph (1) (b), the person's security guard licence; and
  - (c) if the person is a person referred to in paragraph (1) (a), and the law of the State or Territory requires the person to hold a licence or permission referred to in subparagraph (1) (a) (iv) — that licence or permission.

Penalty: 20 penalty units.

- (3) An offence against subregulation (2) is an offence of strict liability.

*Note* This regulation does not authorise a person to have a firearm in his or her possession in a land side security zone, including a sterile area. For the carriage of firearms in the sterile area, see the Act, section 46.

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**4.55 Persons authorised to carry weapons through screening points**

The following persons are authorised to carry a weapon through a screening point:

- (a) a screening officer on duty, or an employee or contractor of the airport operator or the operator of a screened aircraft (being an employee or contractor who is on duty), if:
  - (i) the weapon has been detected during screening; and
  - (ii) the weapon is to be stored until it is handed over in accordance with regulation 4.57; and
  - (iii) to reach the place where the weapon is to be stored or released, the weapon must be carried through the screening point; and
  - (iv) the weapon is carried in such a way that its presence is not apparent to members of the public;
- (b) a screening officer on duty, or an employee or a contractor of the airport operator or the operator of a screened aircraft (being an employee or contractor who is on duty), if:
  - (i) the weapon has been surrendered for the purpose of being carried in the hold of the aircraft; and
  - (ii) the aircraft operator has agreed to carry the weapon in the hold of the aircraft; and
  - (iii) to reach the place where the weapon is to be checked in or to be loaded onto the aircraft, the weapon must be carried through the screening point; and
  - (iv) the weapon is carried in such a way that its presence is not apparent to members of the public;
- (c) an aviation security inspector on duty, or a representative of the screening authority, who is lawfully testing the screening system.

*Note 1* This regulation does not authorise the carrying of a weapon through the sterile area, see the Act, section 46.

*Note 2* If a weapon has been surrendered for the purpose of being carried on an international aircraft as checked baggage, and the airline operator is not sure whether carriage of the weapon constitutes an offence of unlawful export under the *Customs Act 1901*, the airline operator should refer the matter to Customs and Border Protection before loading the weapon on the aircraft.

**4.56 Persons authorised to have firearms in possession in sterile areas**

An air security officer is authorised to have a firearm in his or her possession in a sterile area.

**4.57 Dealing with weapons surrendered at security controlled airports**

- (1) This regulation sets out how to deal with a weapon surrendered by a person at a security controlled airport.
- (2) A weapon surrendered at a security controlled airport is to be stored and handled in accordance with any other applicable Commonwealth law or any applicable State or Territory law.

**4.58 Dealing with weapons surrendered etc on aircraft**

- (1) This regulation sets out how to deal with a weapon surrendered by a person on a prescribed aircraft.
- (2) If the person to whom the weapon is surrendered knows or suspects that the carriage of the weapon is an offence, he or she must cause the weapon to be handed over to a law enforcement officer in accordance with the law of the Commonwealth or a State or Territory as soon as practicable after the end of the flight.
- (3) Until the weapon is handed over as required by subregulation (2), it must be stored in such a way that its presence is not apparent to passengers.

**4.59 Persons authorised to have weapons in possession on prescribed aircraft**

- (1) An air security officer is authorised to have a weapon in his or her possession on board a prescribed aircraft.
- (2) A representative of the operator of a prescribed aircraft is authorised to possess a weapon on board the aircraft if:
  - (a) the weapon has been surrendered on board the aircraft;and

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- (b) the weapon is to be handed over to a law enforcement officer in accordance with the law of the Commonwealth or a State or Territory; and
  - (c) the weapon is to be stored until it is handed over; and
  - (d) the weapon is stored in such a way that its presence is not apparent to passengers.
- (3) A person is authorised to have a weapon (other than a firearm) in his or her possession on a prescribed aircraft if:
  - (a) the weapon is a tool of trade; and
  - (b) the person keeps control of the weapon at all times.
- (4) For paragraph (3) (b), the person ceases to have control of the weapon if he or she gives possession of it to, or allows it to be accessible to, a person for whom it is not a tool of trade.
- (5) For paragraph (3) (a) and subregulation (4), something is a *tool of trade* if:
  - (a) the person whose possession it is in requires it for the purpose for which he or she is in a prescribed aircraft; and
  - (b) the purpose is lawful.

**4.59A Persons authorised to use firearms on prescribed aircraft**

- (1) For subsection 52 (1) of the Act, an air security officer is authorised to use a firearm on board a prescribed aircraft if the use of the firearm is necessary to safeguard against unlawful interference with aviation.
- (2) This regulation has extra-territorial application under subsection 134 (1) of the Act in relation to prescribed aircraft that are:
  - (a) Australian aircraft; or
  - (b) aircraft (other than Australian aircraft) engaged in Australian international carriage;while the aircraft are outside Australian territory.

## Division 4.3 Prohibited items

### 4.60 Prescription of sterile area

The sterile area of a security controlled airport is prescribed for the purposes of paragraphs 54 (1) (aa) and (3) (aa) of the Act.

### 4.61 Aviation industry participants authorised to have prohibited items in possession in sterile areas

- (1) An aviation industry participant is authorised to have a prohibited item in its possession in the sterile area if:
  - (a) the item is a tool of trade; and
  - (b) the aviation industry participant takes reasonable precautions to ensure that the item remains under its control.
- (2) For paragraph (1) (a), something is a *tool of trade* if the relevant aviation industry participant requires it for a lawful purpose.

### 4.62 Persons authorised to have prohibited items that are tools of trade in possession in sterile areas

- (1) A person (other than a person who is an aviation industry participant) described in an item of the following table is authorised to have a prohibited item in his or her possession in the sterile area if:
  - (a) any limitations specified in the item are met; and
  - (b) the item is a tool of trade in relation to the person; and
  - (c) the person keeps control of the item at all times.

Column 1 Item	Column 2 Person	Column 3 Limitations
1	An employee of an aviation industry participant who occupies or controls an area of a security controlled airport, or an employee of a contractor to such an aviation industry participant	In an area which the participant occupies or controls

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Column 1 Item	Column 2 Person	Column 3 Limitations
2	An employee of the operator of a security controlled airport	—
3	An employee of a contractor to the operator of a security controlled airport	—
4	An employee of an operator of a prescribed air service	—
5	An employee of a contractor to an operator of a prescribed air service	—
6	An officer of Customs and Border Protection, or an officer of the Australian Quarantine and Inspection Service or the Immigration Department, on duty at the airport concerned	—
7	An officer of a fire service, rescue service or ambulance service, or a medical practitioner, attending at an emergency at the airport	—
8	A medical practitioner or paramedic attending a person who suffers from a medical condition	—

- (2) For paragraph (1) (c), a person ceases to have control of an item if he or she gives possession of it to, or allows it to be accessible to, a person for whom it is not a tool of trade.
- (3) For paragraph (1) (b) and subregulation (2), something is a ***tool of trade*** if:
- (a) the person whose possession it is in requires it for the purpose for which he or she is in the sterile area; and
  - (b) the purpose is lawful.

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- (4) A person who suffers from a medical condition is authorised to have a prohibited item in his or her possession in the sterile area if:
  - (a) the item is medically necessary for the purpose of treating the condition; and
  - (b) the person shows a screening officer a medical certificate to that effect.
- (5) A person who is caring for another person who suffers from a medical condition is authorised to have a prohibited item in his or her possession in the sterile area if:
  - (a) the item is medically necessary for the purpose of treating the condition; and
  - (b) the person shows a screening officer a medical certificate to that effect.

**4.63 Persons authorised to have prohibited items in possession in sterile areas**

- (1) An air security officer is authorised to have a prohibited item in his or her possession in a sterile area.
- (2) A person escorting a person in custody is authorised to have a prohibited item in his or her possession in the sterile area if the item is reasonably necessary in connection with the escort.

**4.64 Persons authorised to carry prohibited items through screening point**

- (1) A screening officer on duty, or an employee of, or a contractor to, the operator of a screened aircraft (being an employee or contractor who is on duty) is authorised to carry a prohibited item through a screening point if:
  - (a) the item has been detected during screening; and
  - (b) the item is to be stored until it is disposed of; and
  - (c) to reach the place where the item is to be stored, it must be carried through the screening point; and
  - (d) the item is carried in such a way that its presence is not apparent to members of the public.

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- (2) A screening officer on duty, or an employee of, or a contractor to, the operator of a screened aircraft (being an employee or contractor who is on duty) is authorised to carry a prohibited item through a screening point if:
  - (a) the item has been surrendered for the purpose of being carried in the hold of the aircraft; and
  - (b) the aircraft operator has agreed to carry the item in the hold of the aircraft; and
  - (c) to reach the place where the item is to be loaded onto the aircraft, the item must be carried through the screening point; and
  - (d) the item is carried in such a way that its presence is not apparent to members of the public.
- (3) A person escorting a person in custody is authorised to carry a prohibited item through a screening point if the item is reasonably necessary in connection with the escort.
- (4) A person who suffers from a medical condition is authorised to carry a prohibited item through a screening point if:
  - (a) the item is medically necessary for the purpose of treating the condition; and
  - (b) the person shows a screening officer, or a representative of the screening authority, a medical certificate to that effect.
- (5) A person who is caring for another person who suffers from a medical condition is authorised to carry a prohibited item through a screening point if:
  - (a) the item is medically necessary for the purpose of treating the condition; and
  - (b) the person shows a screening officer, or a representative of the screening authority, a medical certificate to that effect.

**4.65 Persons authorised to have prohibited items in possession on prescribed aircraft**

- (1) An air security officer is authorised to have a prohibited item in his or her possession on board a prescribed aircraft.



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- (2) An officer of Customs and Border Protection is authorised to have a prohibited item in his or her possession on board a prescribed aircraft if the officer is undertaking duties in accordance with the *Customs Act 1901*.
- (3) A representative of the operator of a prescribed aircraft is authorised to possess a prohibited item on board the aircraft if:
  - (a) the item has been surrendered on board the aircraft; and
  - (b) the item is to be stored; and
  - (c) the item is stored in such a way that its presence is not apparent to passengers.
- (4) A person is authorised to have a prohibited item in his or her possession in a prescribed aircraft if:
  - (a) the prohibited item is a tool of trade; and
  - (b) the person keeps control of the prohibited item at all times.
- (5) For paragraph (4) (b), the person ceases to have control of the prohibited item if he or she gives possession of it to, or allows it to be accessible to, a person for whom it is not a tool of trade.
- (6) For paragraph (4) (a) and subregulation (5), something is a ***tool of trade*** if:
  - (a) the person whose possession it is in requires it for the purpose for which he or she is in a prescribed aircraft; and
  - (b) the purpose is lawful.
- (7) A person who suffers from a medical condition is authorised to have a prohibited item in his or her possession in a prescribed aircraft if:
  - (a) the item is medically necessary for the purpose of treating the condition; and
  - (b) the person shows a representative of the aircraft operator a medical certificate to that effect.
- (8) A person who is caring for another person who suffers from a medical condition is authorised to have a prohibited item in his or her possession in a prescribed aircraft if:
  - (a) the item is medically necessary for the purpose of treating the condition; and

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- (b) the person shows a representative of the aircraft operator a medical certificate to that effect.

## **Division 4.4                      On-board security**

### **4.66                      Management and control of passengers**

- (1) The operator of a domestic regular public transport operation or domestic open charter operation or international regular public transport operation or international open charter operation must carry on board an aircraft enough restraining devices to permit the restraint of at least 2 passengers.

Penalty: 5 penalty units.

- (2) The restraining devices must be stored on the aircraft in a place that:
  - (a) is readily accessible to the aircraft's crew; and
  - (b) is not visible nor readily accessible to the aircraft's passengers.

Penalty: 5 penalty units.

### **4.67                      Security of flight crew compartment — all aircraft**

- (1) This regulation applies to an aircraft that is used to operate a prescribed air service.
- (2) If such an aircraft has a cockpit door:
  - (a) the door must be able to be locked; and
  - (b) there must be a means for the cabin crew to communicate with the flight crew while the door is locked.
- (3) If the aircraft has a cockpit door, the door must remain locked from the time the aircraft's passenger doors are closed and secured for departure until they are unlocked to allow the passengers to disembark, except:
  - (a) when necessary to allow a person to enter or leave the cockpit; or

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- (b) when otherwise necessary for safety reasons.
  - (4) A person must not be allowed to enter the cockpit after the aircraft has taken off unless:
    - (a) he or she is authorised to do so by the aircraft's pilot in command or the aircraft's operator and:
      - (i) is a member of the aircraft's crew; or
      - (ii) is an employee of the aircraft's operator; or
      - (iii) is authorised or required by the *Civil Aviation Regulations 1988* or the *Civil Aviation Safety Regulations 1998* to enter the cockpit; and
    - (b) he or she holds appropriate identification as a person referred to in paragraph (a).
  - (5) If subregulation (2), (3) or (4) is contravened, the operator of the aircraft concerned commits an offence.
- Penalty: 200 penalty units.
- (6) A contravention of subregulation (5) is an offence of strict liability.
  - (7) It is a defence to a charge of contravening subregulation (2) or (3) that the aircraft concerned:
    - (a) had a faulty door lock, or that the door lock became faulty during flight; and
    - (b) was being returned to a place at which the lock could be repaired.
  - (8) If an operator is returning an aircraft with a faulty door lock to a place at which the lock can be repaired, the operator of the aircraft must inform the Secretary, as soon as practicable, of:
    - (a) the flight; and
    - (b) the measures taken to ensure that the cockpit of the aircraft is secure during the flight.

Penalty: 50 penalty units.

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**4.68 Additional requirements for security of flight crew compartment — aircraft with seating capacity 30 or more**

- (1) This regulation applies in relation to an aircraft operated for the purposes of a regular public transport operation or an open charter operation (in each case, whether a domestic or an international air service).
- (2) The operator of an aircraft that has a certificated maximum passenger seating capacity of 30 to 59 must not operate the aircraft unless the aircraft is equipped with a cockpit door that is:
  - (a) designed to resist forcible intrusion by unauthorised persons; and
  - (b) capable of withstanding impacts of at least 300 joules at critical locations; and
  - (c) capable of withstanding at least 1113 newtons constant tensile load on the knob or handle; and
  - (d) designed to resist penetration by small arms fire and fragmentation devices to a level equivalent to level IIIa of the United States National Institute of Justice Standard (NIJ) 0101.04 Revision A, as in force on 15 January 2002.

Penalty: 50 penalty units.

- (3) The operator of an aircraft that has a certificated maximum passenger seating capacity of 60 or more must not operate the aircraft unless the aircraft is equipped with a cockpit door that complies with section 13.2.2 of Annex 6, *Operation of Aircraft*, to the Chicago Convention, as in force on 28 November 2002.

Penalty: 50 penalty units.

*Note* The section is as follows:

‘13.2.2 From 1 November 2003, all passenger-carrying aeroplanes of a maximum certificated take-off mass in excess of 45 500 kg or with a passenger seating capacity greater than 60 shall be equipped with an approved flight crew compartment door that is designed to resist penetration by small-arms fire and grenade shrapnel, and to resist forcible intrusions by unauthorized persons. This door shall be capable of being locked and unlocked from either pilot’s station.’.

- (4) A contravention of subregulation (2) or (3) is an offence of strict liability.
- (5) The Secretary may, by instrument in writing, exempt an operator of a specified aircraft from compliance with subregulation (2) or (3).

#### **4.69 Pre-flight security checks**

- (1) Before an aircraft operates a prescribed air service, its operator must ensure that a pre-flight security check of the aircraft is carried out in accordance with subregulations (2), (3), (4) and (5):
  - (a) if the flight is the aircraft's first flight since returning to service after maintenance carried out outside the airside area of a security controlled airport; or
  - (b) unless, since the aircraft's previous flight, it has been continuously protected, in the way set out in the operator's TSP, from unauthorised access.

Penalty: 50 penalty units.
- (2) The checks must include:
  - (a) a comprehensive inspection of the interior of the aircraft, including the passenger cabin, seats, overhead baggage lockers, toilets, catering and food preparation areas, flight deck and crew rest stations, and cargo hold; and
  - (b) an inspection of any unlocked storage facilities in a part of the aircraft mentioned in paragraph (a); and
  - (c) an inspection of the parts of the aircraft's exterior that are reasonably accessible.
- (3) The check of the cargo holds must be done before any cargo is loaded.
- (4) The check of the passenger cabin must be done before any passenger boards the aircraft.
- (5) The check of the baggage compartments must be done before any baggage is loaded.

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**4.70 Training programs**

- (1) The operator of a prescribed air service must establish and maintain a training program in accordance with subregulation (2).

Penalty: 50 penalty units.

- (2) There must be a program for crew that provides training in:
- (a) deciding the seriousness of an occurrence; and
  - (b) crew communication and coordination; and
  - (c) appropriate self-defence; and
  - (d) the use of non-lethal protective devices, to the extent permitted by law; and
  - (e) understanding the behaviour of terrorists; and
  - (f) exercises simulating threatening situations; and
  - (g) flight deck procedures to protect the aircraft; and
  - (h) procedures for searching the aircraft; and
  - (i) least-risk bomb locations for aircraft.

**4.71 Unattended aircraft — aircraft operating prescribed air service**

If an aircraft that is operated for the purposes of a prescribed air service is not under the continuous supervision of a person authorised by its operator for that purpose, its operator must take reasonable measures to prevent an unauthorised person having access to the aircraft.

Penalty: 50 penalty units.

**4.72 Unattended aircraft**

- (1) In this regulation:
- Australian aircraft* has the same meaning as in the *Civil Aviation Act 1988*.
- (2) There must be reasonable measures taken to protect an Australian aircraft that is a powered aircraft (other than an aircraft to which regulation 4.71 applies) against being flown by an unauthorised person.

- (3) For subregulation (2), ***reasonable measures*** include, for example:
- (a) wheel locks or clamps; or
  - (b) lockable control locks; or
  - (c) the aircraft being chained or padlocked to a permanent tie-down point; or
  - (d) the aircraft being inside a locked hangar.
- (4) The measures taken:
- (a) must be reasonably effective to prevent the aircraft being flown by an unauthorised person; and
  - (b) must be discernible from outside the aircraft; and
  - (c) must not compromise the aircraft's safety.
- (5) If subregulation (2) or (4) is contravened, the registered operator (within the meaning given by the *Civil Aviation Safety Regulations 1998*) of the aircraft concerned is guilty of an offence.

Penalty: 50 penalty units.

## **Division 4.5          Persons in custody**

### **Subdivision 4.5.1      Preliminary**

#### **4.73      Definition for Division**

In this Division:

***Form 1*** means Form 1 in Schedule 1.

### **Subdivision 4.5.2      Persons in custody under the Migration Act**

#### **4.74      Application of this Subdivision**

This Subdivision applies in relation to the travel, on a prescribed aircraft, of persons in custody under the Migration Act.

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**4.75      Definition for Subdivision**

For this Subdivision, a person in custody is *dangerous* if:

- (a) the Immigration Department has assessed him or her as being likely to attempt to commit an unlawful interference with aviation, or likely to attempt to escape; or
- (b) the Immigration Department is aware that the person has been charged with, or convicted of, a crime involving violence against a person or serious damage to property.

**4.76      Persons to whom and situations in which this Subdivision does not apply**

- (1) Nothing in this Subdivision applies to or in relation to a person who is in custody because that person has been taken into custody (otherwise than under the Migration Act) at a security controlled airport, or on a prescribed aircraft.
- (2) To avoid doubt, nothing in this Subdivision applies to or in relation to:
  - (a) a turnaround departure (that is, the departure of a person who has been refused entry at an airport and leaves Australia within 72 hours); or
  - (b) a monitored departure (that is, the departure from Australia of a person who holds a bridging visa, and whose departure from Australia is monitored by the Immigration Department).

**4.77      Provision of information to operator of a prescribed air service — person in custody undertaking supervised departure**

- (1) In this regulation:  
*supervised departure* means the unescorted departure from Australia of a person who is a non-citizen, who cooperates in the departure process, and is in immigration detention and under the supervision of an officer under the Migration Act until he or she departs from Australia.



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- (2) This regulation applies in relation to:
  - (a) the supervised departure from Australia, on a prescribed aircraft, of a person in custody; and
  - (b) travel on a prescribed air service that is a domestic air service, for the purpose of a supervised departure, by such a person.
- (3) the Immigration Department must give the information required by Part A of Form 1 about the person to the operator of a prescribed air service on which the person will travel by giving the operator a Form 1, of which only Part A has been completed, at least 6 hours before the intended start of the relevant flight, unless the operator agrees otherwise.
- (4) If the Immigration Department has provided the information in accordance with subregulation (3), and the operator requires more information, or wishes to raise concerns about the proposed travel, the operator must do so in writing no less than 3 hours before the intended start of the relevant flight.
- (5) If the Immigration Department finds out that any information that it has given to an operator is incorrect or incomplete, it is to give the correct or missing information to the operator as soon as practicable.
- (6) To avoid doubt, nothing in this regulation requires the Immigration Department to give an operator of a prescribed air service any information the disclosure of which would constitute an offence under any Act or under the law of a State or Territory.

**4.78 Provision of information to operator of a prescribed air service — escorted domestic travel maintaining immigration detention**

- (1) This regulation applies in relation to the escorted travel, on a prescribed aircraft operating a domestic air service, of a person who is in custody in immigration detention and is not dangerous.

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- (2) the Immigration Department must give the information required by Parts A and B of Form 1 to the operator of a prescribed air service by giving the operator a Form 1, completed except for any necessary approval by the Secretary, at least 24 hours before the intended start of the relevant flight, unless the operator agrees otherwise.
- (3) If the Immigration Department has complied with subregulation (2) and the operator requires more information or wishes to raise concerns about the proposed travel, the operator must do so in writing no less than 12 hours before the intended start of the relevant flight.
- (4) If the Immigration Department finds out that any information that it has given to an operator is incorrect or incomplete, it must give the correct or missing information to the operator as soon as practicable.
- (5) To avoid doubt, nothing in this regulation requires the Immigration Department to give an operator of a prescribed air service any information the disclosure of which would constitute an offence under any Act or under the law of a State or Territory.

**4.79 Provision of information to operator of prescribed air service — escorted international travel by non-dangerous persons**

- (1) This regulation applies in relation to the escorted travel, on a prescribed aircraft that is operating an international air service, of a person in custody who is not dangerous.
- (2) the Immigration Department must give the information required by Parts A and B of Form 1 to the operator of a prescribed air service by giving the operator a Form 1, completed except for any necessary approval by the Secretary, at least 48 hours before the intended start of the relevant flight, unless the operator agrees otherwise.

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- (3) If the Immigration Department has complied with subregulation (2) and the operator requires more information, or wishes to raise concerns about the proposed travel, the operator must do so in writing no less than 24 hours before the intended start of the relevant flight.
- (4) If the Immigration Department finds out that any information that it has given to an operator is incorrect or incomplete, it must give the correct or missing information to the operator as soon as practicable.
- (5) To avoid doubt, nothing in this regulation requires the Immigration Department to give an operator of a prescribed air service any information the disclosure of which would constitute an offence under any Act or under the law of a State or Territory.

**4.80 Provision of information to operator of prescribed air service and operator of security controlled airport — escorted travel by dangerous persons**

- (1) This regulation applies in relation to the escorted travel, on a prescribed aircraft, of a person in custody who is dangerous or otherwise presents a risk to aviation security.
- (2) the Immigration Department must give the information required by Parts A and B of Form 1 to the operator of a prescribed air service by giving the operator a Form 1, completed except for any necessary approval by the Secretary, at least 48 hours before the intended start of the relevant flight, unless the operator agrees otherwise.
- (3) If the Immigration Department has complied with subregulation (2) and the operator requires more information or wishes to raise concerns about the proposed travel, the operator must do so in writing no less than 24 hours before the intended start of the relevant flight.
- (4) If the Immigration Department finds out that any information that it has given to an operator is incorrect or incomplete, it must give the correct or missing information to the operator as soon as practicable.

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- (5) After the operator of a prescribed air service has endorsed its consent on the relevant Form 1, the Immigration Department must ensure that a copy of the endorsed form is sent to the operator of each security controlled airport through which the person will travel.
- (6) Unless the operator of such an airport agrees otherwise, the Immigration Department must ensure that the copy of the form referred to in subregulation (5) is sent at least 12 hours before the person's arrival at that airport.
- (7) To avoid doubt, nothing in this regulation requires the Immigration Department to give an operator of a prescribed air service or airport operator any information the disclosure of which would constitute an offence under any Act or under the law of a State or Territory.

**4.81 Escort arrangements for dangerous persons in custody**

- (1) This regulation applies in relation to travel on a prescribed aircraft by a dangerous person in custody.
- (2) If such a person in custody is travelling:
  - (a) he or she must be escorted at all times, when on a prescribed aircraft or at a security controlled airport, by at least 2 escorts; and
  - (b) at least 1 of the escorts must be of the same sex as him or her; and
  - (c) unless the Secretary approves otherwise in writing, the escorts are not to be responsible for any other person in custody; and
  - (d) the escorts must be law enforcement officers or persons of a kind agreed to between the operator of a prescribed air service and the Immigration Department, and must not be crew members of the aircraft on which the person is travelling; and
  - (e) the Immigration Department must provide the escorts unless the Immigration Department and the operator of a prescribed air service agree that the operator will provide the escorts.

**4.82 Escort arrangements for non-dangerous persons in custody**

- (1) This regulation applies in relation to travel on a prescribed aircraft by a person in custody who is not dangerous.
- (2) To avoid doubt, there is no set number of escorts required for such a person.

**4.83 Limits on number of persons in custody undertaking escorted travel on prescribed aircraft**

- (1) A reference in this regulation to a person in custody includes both a person in custody to whom this Subdivision applies, and a person in custody to whom Subdivision 4.5.3 applies.
- (2) No more than 2 escorted persons in custody, no more than 1 of whom is dangerous, are to be carried on the same flight without the Secretary's written approval.

*Note* A limited exception is available if 3 or more escorted persons in custody who are travelling are all members of the same family unit — see regulation 4.84.

- (3) If the operator of a prescribed air service is notified of the proposed travel, on a flight of the aircraft, of a number of escorted persons in custody that would (together with any escorted persons in custody already accepted for carriage on the flight) exceed the limit in subregulation (2), and the operator is willing to carry all or some of the extra persons on the flight, it is the operator's responsibility to apply for the Secretary's approval of the carriage of the extra persons.
- (4) Nothing in this regulation prevents the Immigration Department from applying on the operator's behalf if the Immigration Department and the operator agree.
- (5) In giving an approval under subregulation (2), the Secretary may impose any condition reasonably necessary in the interests of aviation security.

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**4.84 Exception for members of family unit**

- (1) This regulation applies if 3 or more persons who, in the Immigration Department's opinion, are all members of a family unit are all undertaking escorted travel.
- (2) Despite regulation 4.83, if none of the members of the family unit is dangerous, and the Immigration Department and the operator of a prescribed air service agree on escort arrangements, all members of the family unit may be carried on the aircraft.

**4.85 Information to be provided to aircraft's pilot in command**

The operator of a prescribed air service on which a person in custody is to be carried must notify the aircraft's pilot in command before the aircraft's departure:

- (a) that a person in custody is being carried on the aircraft; and
- (b) the conditions under which the person is being carried.

**Subdivision 4.5.3 Persons in custody otherwise than under Migration Act**

**4.86 Application of this Subdivision**

This Subdivision applies in relation to the travel, on a prescribed aircraft, of persons in custody under a law other than the Migration Act.

**4.87 Definitions for Subdivision**

- (1) In this Subdivision:  
*enforcement agency* means:
  - (a) in the case of a person being moved from one custodial facility to another — the agency responsible for the custodial facility from which the person is being moved; or

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- (b) in the case of a person in custody under the *Fisheries Management Act 1991* — the Australian Fisheries Management Authority; or
  - (c) in the case of a person (other than a person described in paragraph (a)) in custody under an Act other than the *Fisheries Management Act 1991* — the Australian Federal Police or the police force or police service of a State or Territory; or
  - (d) in the case of a person (other than a person described in paragraph (a)) in custody under a law of a State or Territory — the police force or police service of the State or Territory.
- (2) For the purposes of this Subdivision, a person in custody is **dangerous** if:
- (a) the relevant enforcement agency has assessed him or her as being likely to attempt to commit an unlawful interference with aviation, or to attempt to escape; or
  - (b) he or she has been charged with, or convicted of, an offence:
    - (i) against a person or persons; or
    - (ii) involving actual or threatened damage to property; punishable by imprisonment for 5 years or more.

**4.88 Persons to whom Subdivision does not apply**

Nothing in this Subdivision applies to or in relation to a person who is in custody because he or she has been taken into custody at a security controlled airport, or on a prescribed aircraft.

**4.89 Provision of information to operator of prescribed air service and operator of security controlled airport — escorted travel**

- (1) This regulation applies in relation to the escorted travel, on a prescribed aircraft, of a person in custody.

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- (2) The relevant enforcement agency in relation to the person must give the information required by Parts A and B of Form 1 to the operator of a prescribed air service by giving the operator a Form 1, completed except for any necessary approval by the Secretary, at least 48 hours before the intended start of the relevant flight, unless the operator agrees otherwise.
- (3) If the enforcement agency has complied with subregulation (2) and the operator requires more information, or wishes to raise concerns about the proposed travel, the operator must do so in writing no less than 24 hours before the intended start of the relevant flight.
- (4) If the enforcement agency finds out that any information that it has given to an operator is incorrect or incomplete, it must give the correct or missing information to the operator as soon as practicable.
- (5) If the person in custody is dangerous, after the operator of a prescribed air service has endorsed its consent on the relevant Form 1 the enforcement agency must ensure that a copy of the endorsed form is sent to the operator of each security controlled airport through which the person will travel.
- (6) Unless the operator of such an airport agrees otherwise, the enforcement agency must ensure that the copy of the form referred to in subregulation (5) is sent at least 12 hours before the person's arrival at that airport.
- (7) To avoid doubt, nothing in this regulation requires the enforcement agency to give an operator of a prescribed air service or airport operator any information the disclosure of which would constitute an offence under any Act or under the law of a State or Territory.

**4.90 Escort arrangements for dangerous persons in custody**

- (1) This regulation applies in relation to travel on a prescribed aircraft by a dangerous person in custody.



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- (2) If such a person in custody is travelling:
- (a) he or she must be escorted at all times, when on a prescribed aircraft or at a security controlled airport, by at least 2 escorts; and
  - (b) at least 1 of the escorts must be of the same sex as him or her; and
  - (c) unless the Secretary approves otherwise in writing, the escorts are not to be responsible for any other person in custody; and
  - (d) the escorts must be law enforcement officers or persons of a kind agreed to between the operator of a prescribed air service and the relevant enforcement agency, and must not be crew members of the aircraft on which the person is travelling; and
  - (e) the enforcement agency must provide the escorts unless the enforcement agency and the operator of a prescribed air service agree that the operator will provide the escorts.

**4.91 Escort arrangements for non-dangerous persons in custody**

- (1) This regulation applies in relation to travel on a prescribed aircraft by a person or persons in custody who is or are not dangerous.
- (2) To avoid doubt, there is no set number of escorts required for such a person or 2 or more such persons, but such a person or such persons must be escorted unless the Secretary approves otherwise in writing.

**4.92 Limits on number of persons in custody undertaking escorted travel on prescribed aircraft**

- (1) A reference in this regulation to a person in custody includes both a person in custody to whom this Subdivision applies, and a person in custody to whom Subdivision 4.5.2 applies.

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- (2) No more than 2 escorted persons in custody, no more than 1 of whom is dangerous, are to be carried on the same flight without the Secretary's written approval.

*Note* A limited exception is available if 3 or more escorted persons in custody who are travelling are all members of the same family unit — see regulation 4.93.

- (3) If the operator of a prescribed air service is notified of the proposed travel, on a flight of the aircraft, of a number of escorted persons in custody that would (together with any escorted persons in custody already accepted for carriage on the flight) exceed the limit in subregulation (2), and the operator is willing to carry all or some of the extra persons on the flight, it is the operator's responsibility to apply for the Secretary's approval of the carriage of the extra persons.
- (4) The Secretary may impose, on an approval under subregulation (2), any condition reasonably necessary in the interests of aviation security.

#### **4.93 Exception for members of family unit**

- (1) This regulation applies if 3 or more persons who, in the relevant enforcement agency's opinion, are all members of a family unit are all undertaking escorted travel.
- (2) Despite regulation 4.92, if none of the members of the family unit is dangerous, and the enforcement agency and the operator of a prescribed air service agree on escort arrangements, all of members of the family unit may be carried on the aircraft.

#### **4.94 Information to be provided to aircraft's pilot in command**

The operator of a prescribed air service on which a person in custody is to be carried must notify the aircraft's pilot in command before the aircraft's departure:

- (a) that a person in custody is being carried on the aircraft;  
and
- (b) the conditions under which the person is being carried.

## **Division 4.6          Control directions**

### **4.95          Compliance control directions**

- (1) An aviation security inspector may give a compliance control direction orally or in writing.
- (2) However, if an aviation security inspector gives such a direction orally, he or she must, as soon as practicable, confirm it in writing.
- (3) The written confirmation must:
  - (a) identify the direction; and
  - (b) set out the reasons for giving it.
- (4) If the direction was given to the pilot in command of a prescribed aircraft, the written confirmation may be given either to the pilot or to the aircraft's operator.
- (5) An aviation security inspector who has given a compliance control direction must notify the Secretary in writing, as soon as practicable, that he or she has given the direction and its content.

## **Part 5 Powers of officials**

### **Division 5.1 Aviation security inspectors**

#### **5.01 Identity cards**

- (1) For subsection 78 (2) of the Act, the requirements as to the form of an identity card are as follows:
  - (a) the card must set out the holder's full name;
  - (b) the card must bear a recent photograph of the holder;
  - (c) the card must bear a statement to the effect that the holder is an aviation security inspector for the purposes of Part 5 of the Act and this Part;
  - (d) the card must bear the signatures of the holder and the Secretary.
- (2) If a person representing or apparently representing an aviation industry participant so requests, an aviation security inspector must show his or her identity card to the person.

Penalty: 5 penalty units.

- (3) A person who ceases to be an aviation security inspector must return his or her identity card to the Secretary within 7 days.

Penalty: 5 penalty units.

- (4) Before an aviation security inspector exercises any power under these Regulations (other than regulation 7.08) in relation to a person, the inspector must show his or her identity card to the person.

Penalty: 5 penalty units.

## **Division 5.2      Airport security guards**

### **5.03      Training and qualifications of airport security guards**

- (1) For paragraph 91 (2) (a) of the Act, the training and qualification requirements for an airport security guard are:
  - (a) that he or she:
    - (i) holds at least a Certificate II in Security Operations;  
or
    - (ii) holds another qualification that, in the Secretary's opinion, is equivalent to a Certificate II in Security Operations; and
  - (b) that he or she is licensed as a security guard in the State or Territory in which the airport is located, if required by State or Territory legislation; and
  - (c) that he or she has completed training, approved by the Secretary, that is designed to ensure familiarity with the Act (in particular, the power of an airport security guard under section 92) and these Regulations.
- (2) For paragraph 91 (2) (a) of the Act, an additional training requirement for an airport security guard employed at an airport from which screened air services do not operate is that he or she has completed training, approved by the Secretary, that is designed to ensure competency in the use of a hand-held metal detector.
- (3) The operator of a security controlled airport from which screened air services do not operate must ensure that the operator has access to the services of at least 1 airport security guard who meets:
  - (a) the training and qualification requirements mentioned in subregulation (1); and
  - (b) the training requirement mentioned in subregulation (2).

**Penalty:** 20 penalty units.

*Note* The use of hand-held metal detectors at a security controlled airport from which a screened air service does not operate is regulated — see regulation 4.07.

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- (4) Subregulation (3) does not apply to operators of security controlled airports from which regular public transport operations do not operate.

**5.04 Identity cards for airport security guards**

For paragraph 91 (2) (b) of the Act, an airport security guard at an airport from which a regular public transport operation operates must hold, and while on duty must at all times properly display, a valid ASIC.

*Note* The requirement to display an ASIC does not apply to security regulated airports that do not have regular public transport operations, see subregulation 3.03 (4).

**5.05 Uniforms of airport security guards**

For paragraph 91 (3) (a) of the Act, an airport security guard must wear a distinctive and recognisable uniform.

**Division 5.3 Screening officers**

**5.06 Training and qualifications of screening officers**

For paragraph 94 (2) (a) of the Act, the training and qualification requirements for a screening officer are:

- (a) that he or she:
  - (i) holds at least a Certificate II in Security Operations; or
  - (ii) holds another qualification that, in the Secretary's opinion, is equivalent to a Certificate II in Security Operations; and
- (b) that he or she is licensed as a security guard in the State or Territory in which the airport is located, if required by State or Territory legislation; and
- (c) that, until a supervisor is satisfied that he or she is competent as a screening officer, while on duty as a screening officer:
  - (i) he or she is supervised by a qualified screener; and

- (ii) he or she does not make any independent screening decisions; and
- (d) that he or she has completed training, approved by the Secretary, that is designed to ensure competency in:
  - (i) maintaining the integrity of a sterile area; and
  - (ii) using screening equipment; and
  - (iii) the methods and techniques to be used for screening persons, baggage and other goods; and
  - (iv) dealing with weapons and prohibited items that are detected or surrendered; and
- (e) that he or she has completed training approved by the Secretary, that is designed to ensure familiarity with the Act (in particular, the power of a screening officer under Division 5 of Part 5) and these Regulations.

#### **5.07 Identity cards for screening officers**

For paragraph 94 (2) (b) of the Act, a screening officer must hold, and while on duty must at all times properly display, a valid ASIC.

#### **5.08 Uniforms of screening officers**

For paragraph 94 (3) (a) of the Act, a screening officer must wear a distinctive and recognisable uniform.

### **Division 5.4 Eligible customs officers**

#### **5.09 Training of eligible customs officers**

For paragraph 89B (1) (c) of the Act, the training requirement for an eligible customs officer is completion by the officer of training approved by the Secretary that is designed to ensure familiarity with the Act (in particular, the powers of an eligible customs officer under Division 3A of Part 5) and these Regulations.

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**5.10 Identity cards for eligible customs officers**

For paragraph 89B (2) (a) of the Act, an eligible customs officer must hold, and while on duty must at all times properly display, a valid ASIC.

**5.11 Uniforms of eligible customs officers**

For paragraph 89B (2) (b) of the Act, an eligible customs officer must wear a distinctive and recognisable uniform.



## **Part 6                      Security identification**

### **Division 6.1              Preliminary**

#### **6.01        Definitions for this Part**

(1) In this Part:

***adverse criminal record***, in relation to a person, has the meaning given in subregulation (2).

***AFP*** means the Australian Federal Police established under the *Australian Federal Police Act 1979*.

***agent*** means an agent, of an airport operator or a Secretary-approved VIC issuer, authorised to issue VICs on behalf of the airport operator or Secretary-approved VIC issuer under regulation 6.37G.

***ASIC program*** means a program of the kind described in regulation 6.06, and includes a program of that kind as varied under regulation 6.09 or 6.10.

***ASIO*** means the Australian Security Intelligence Organisation established under the *Australian Security Intelligence Organisation Act 1979*.

***AusCheck scheme*** means the scheme prescribed for the purposes of section 8 of the *AusCheck Act 2007*.

***aviation-security-relevant 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:

<b>Item</b>	<b>Kind of offence</b>
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

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Item	Kind of offence
4	An offence constituted by the production, possession, supply, import or export of a substance that is: (a) a narcotic substance within the meaning of the <i>Customs Act 1901</i> ; or (b) a drug, within the meaning of: (i) regulation 10 of the <i>Customs (Prohibited Exports) Regulations 1958</i> ; or (ii) regulation 5 of the <i>Customs (Prohibited Imports) Regulations 1956</i>
5	An offence, of a kind dealt with in Part II of the <i>Crimes Act 1914</i> , against the Government of: (a) the Commonwealth or a State or Territory; or (b) a country or part of a country other than Australia
6	An offence against Part 2 of the <i>Crimes (Aviation) Act 1991</i>
7	An offence against Part 5.3 of the <i>Criminal Code</i>
8	An offence constituted by the production, possession, supply, import or export of explosives or explosive devices

**background check**, for an individual, means an assessment, under the AusCheck scheme, of information about any of the matters mentioned in section 5 of the *AusCheck Act 2007*.

**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) if Division 3 of Part VIIC of that Act applies to the person; or
- (b) a conviction for an offence of which, under a law relating to pardons or quashed convictions, the person is taken never to have been convicted.

*Note 1* Under the definition of **conviction** in subsection 85ZM (1) of the *Crimes Act 1914*, a person is also taken to have been convicted of an offence if the person has been convicted of the offence but no conviction has been recorded, and if a court has taken the offence into account in sentencing the person for another offence (see paragraphs 85ZM (1) (b) and (c)).

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

*Note 3* In certain circumstances, Division 3 of Part VIIC of the *Crimes Act 1914* ceases to apply to a person in relation to a spent conviction if Division 4 (Convictions of further offences) applies.

*Note 4* Under the *Crimes Act 1914*, a person need not disclose convictions that:

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

*Note 5* Convictions for offences under Part 2 of the *Crimes (Aviation) Act 1991* or Part 5.3 of the *Criminal Code* do not become spent for an authority assessing whether to issue the convicted person with an ASIC (see the *Crimes Act 1914*, paragraph 85ZZH (k), and the *Crimes Regulations 1990*, regulation 8 and Schedule 4).

**Hague Convention** means the *Convention abolishing the Requirement of Legalisation for Foreign Public Documents*, done at the Hague on 5 October 1961.

**holder**, of an ASIC, VIC or TAC, means the person to whom it is issued.

**imprisonment** includes periodic detention, home-based detention and detention until the rising of a court, but does not include an obligation to perform community service.

**issuing body** means a person or agency:

- (a) that is authorised to issue ASICs; or
- (b) that is a transitional issuing body.

**officer of the Commonwealth** includes the following:

- (a) a Minister;
- (b) a person who:
  - (i) holds an office established by or under an Act; or
  - (ii) was appointed under an Act; or
  - (iii) was appointed by the Governor-General or a Minister but not under an Act;
- (c) a person who is a member or officer of an authority of the Commonwealth;

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- (d) a person who is:
  - (i) in the service or employment of the Commonwealth, or of an authority of the Commonwealth; or
  - (ii) employed or engaged under an Act.

***operational need*** means:

- (a) a requirement for frequent access to all or part of a secure area of an airport where persons are required to display an ASIC, for either of the following purposes:
  - (i) the operation of the airport or an aircraft;
  - (ii) the purpose of a person's occupation or business; or
- (b) is required under regulation 3.12, 5.04, 5.07 or 5.10 to properly display a valid ASIC at all times.

*Example for subparagraph (a) (ii)*

A courier or supplier.

***program purposes***, for an ASIC program, means the purposes mentioned in regulation 6.06.

***qualified criminal record***, in relation to a person, has the meaning given in subregulation (3).

***Secretary AGD*** means the Secretary who is responsible for administering the AusCheck scheme.

***Secretary-approved VIC issuer*** means an aircraft operator that the Secretary has approved to issue VICs under regulation 6.37F.

***security assessment*** has the same meaning as in Part IV of the *Australian Security Intelligence Organisation Act 1979*.

***sentence*** includes a suspended sentence.

***transitional issuing body*** means a body declared by the Secretary under subregulation 6.22A (1) to be a transitional issuing body.

***VIC issuer*** means each of the following:

- (a) an airport operator (or its agent);
- (b) a Secretary-approved VIC issuer (or its agent);
- (c) Customs and Border Protection.

- (2) A person has an *adverse criminal record* if the person:
  - (a) has been convicted of an aviation-security-relevant offence and sentenced to imprisonment; or
  - (b) in the case of a person who has been convicted twice or more of aviation-security-relevant offences, but no sentence of imprisonment was imposed — received 1 of those convictions within the 12 months ending on the date when the relevant background check was conducted.
- (3) A person has a *qualified criminal record* if the person:
  - (a) has been convicted twice or more of aviation-security-relevant offences; and
  - (b) did not receive a sentence of imprisonment for any of those convictions; and
  - (c) did not receive any of those convictions within the 12 months ending on the date when the relevant background check was conducted.

### **6.03 Kinds of ASICs**

- (1) There are the following kinds of ASICs:
  - (a) red ASICs;
  - (b) grey ASICs.
- (2) A red ASIC or a grey ASIC must be either an Australia-wide ASIC or an airport-specific ASIC.
- (3) An Australia-wide ASIC has effect for the purposes of entry to a secure area at any security controlled airport.
- (4) An airport-specific ASIC has effect for the purposes of entry to a secure area at only the airport specified on it.
- (5) A red ASIC or a grey ASIC must also be either a permanent ASIC or a temporary ASIC.

### **6.04 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.

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- (2) A document is a ***primary identification document*** for somebody if it is:
- (a) a certified copy (that is, a copy certified by a Registrar of Births or similar officer to be a correct copy) 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 current, valid passport issued to him or her (whether by Australia or by another country).
- (3) A document is a ***secondary identification document*** for somebody if:
- (a) it has on it a recent photograph of him or her, or his or her signature; and
  - (b) 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.
- (3A) A flight crew licence issued to a person by a foreign country that is a party to the Convention on International Civil Aviation is a ***secondary identification document*** if it includes a photograph of the person and is presented with the person's valid passport.
- (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.

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***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) A document is a ***tertiary identification document*** for somebody if:

- (a) it sets out his or her name and address; and
- (b) 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

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- (v) an extract from the electoral roll compiled by the Australian Electoral Commission; or
  - (vi) a record issued under a law in force in Australia other than a law about land titles.
- (6) A driver's licence issued to a person under the laws of another country is a ***tertiary identification document*** if it includes a photograph of the person and is presented with the person's valid passport.

**6.05 Authentication of certain foreign documents**

If a person presents to an issuing body, as an identification document, a document that:

- (a) is a public document for the purposes of the Hague Convention; and
- (b) was issued in a country (other than Australia) that is a Contracting State to that Convention;

the issuing body may require the person to have the document authenticated in accordance with that Convention.

*Note* The authentication procedure involves the endorsement on, or attachment to, the document of a certificate in a standard form. Details of the procedure and any fee payable should be available from the embassy of the country in which the document was issued.

**Division 6.2 ASIC programs**

**6.06 What an ASIC program is**

An ***ASIC program*** sets out procedures to be followed for the following purposes:

- (a) the issue and production of ASICs;
- (b) the issue and production of temporary ASICs that are designed to be used on a single occasion and then destroyed, if the issuing body proposes to issue such ASICs;
- (c) the design, distribution and storage of sample ASICs, VICs or TACs for training purposes;



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- (d) the safekeeping, secure transport and disposal of ASICs and associated equipment;
- (e) the recovery and secure destruction of issued ASICs that are no longer required;
- (f) the security of records in relation to applicants for ASICs;
- (g) ensuring that persons properly display ASICs;
- (h) lost ASICs;
- (i) ensuring that ASICs are returned to issuing bodies when they are no longer required.

*Note* An applicant for authorisation as an issuing body must provide with its application a statement of its proposed ASIC program — see regulation 6.15.

**6.07 Issuing body to give effect to ASIC program**

- (1) An issuing body must not fail to give effect to its ASIC program.  
  
Penalty: 50 penalty units.
- (2) Without limiting subregulation (1), an issuing body fails to give effect to its ASIC program if it:
  - (a) fails to do something that its ASIC program requires that it do; or
  - (b) does something that its ASIC program requires that it not do; or
  - (c) does something that its ASIC program requires that it do, but does so in a way that contravenes the program.
- (3) A contravention of subregulation (1) is an offence of strict liability.
- (4) 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.
- (5) If the Secretary needs more information to deal with an application, the Secretary may ask the applicant, in writing, to provide the information.

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- (6) Within 30 days after receiving an application (or, if the Secretary asks for more information under subregulation (5), within 30 days after receiving the information), the Secretary must:

- (a) grant or refuse the exemption; and
- (b) notify the body in writing of the decision and, if the decision is a refusal, the reasons for the decision.

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

- (7) If the Secretary has not approved, or refused to approve, the exemption within the period allowed by subregulation (6), the Secretary is taken to have refused to approve the exemption.
- (8) The Secretary may also grant, 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.
- (9) Before granting 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.
- (10) The Secretary may grant an exemption for a particular period and subject to a condition mentioned in the exemption.

**6.09      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.

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- (2) The Secretary must not give such a direction in relation to a program purpose unless the Secretary is satisfied that 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 6.19 provides for the revocation of the authorisation of a body that does not comply with a direction.

**6.10 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) If the Secretary needs more information to deal with an application, the Secretary may ask the applicant, in writing, to provide the information.
- (3) Before the end of 30 days after receiving the proposed variation (or, if the Secretary asks for more information under subregulation (2), before the end of 30 days after receiving the information), the Secretary must:
  - (a) approve or refuse to approve the variation; and
  - (b) notify the body in writing of the decision and, if the decision is a refusal, the reasons for the decision.

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

- (4) If the Secretary has not approved, or refused to approve, the program within the period allowed by subregulation (3), the Secretary is taken to have refused to approve the program.

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- (5) The Secretary must approve the variation if the program, as varied, will give effect to the program purposes.

**6.11      Variation of program after 21 November 2011**

- (1) An issuing body must:
- (a) review its ASIC program to determine whether the program complies with these Regulations as in force on 21 November 2011 (the *amended Regulations*); and
  - (b) if the program needs to be varied to comply with the amended Regulations — submit a written proposed variation of the program to the Secretary, by 21 December 2011, for approval under regulation 6.10.
- (2) If an issuing body does not submit a written proposed variation under paragraph (1) (b), the Secretary may:
- (a) under regulation 6.19, revoke the authorisation of the body as an issuing body; or
  - (b) declare the body to be a transitional issuing body under regulation 6.22A.
- (3) The issuing body may request, in writing, that the Secretary allow an extension of time within which to submit a written proposed variation of the body's ASIC program.
- (4) The issuing body may not request an extension of time if the Secretary has, under regulation 6.19, revoked the body's authorisation as an issuing body.
- (5) Within 30 days after receiving the written request, the Secretary must:
- (a) decide whether to grant the extension of time; and
  - (b) give the issuing body written notice of the decision.
- (6) If the Secretary does not make a decision about a request within 30 days after receiving the written request, the Secretary is taken to have refused to grant the extension of time.

## **Division 6.3 Issuing bodies**

### **6.12 Customs and Border Protection and CASA to be issuing bodies**

Customs and Border Protection and CASA are each an issuing body.

### **6.13 Existing issuing bodies**

If, immediately before 21 November 2011, an aviation industry participant or an operator of a security controlled airport was an issuing body under regulation 6.13 or 6.14 of these Regulations as in force immediately before 21 November 2011, the participant or operator is taken to be authorised as an issuing body on and after 21 November 2011.

*Note* An issuing body may apply under regulation 6.20 for the Secretary to revoke the authorisation of the issuing body under regulation 6.19A.

### **6.15 Application for authorisation to issue ASICs**

- (1) An aviation industry participant or a Commonwealth agency may apply, in writing, to the Secretary for authorisation as an issuing body.

*Note* Knowingly making a false or misleading statement in an application is an offence punishable by imprisonment for 12 months — see the *Criminal Code*, section 136.1.

- (2) An application must be accompanied by a statement setting out the applicant's proposed ASIC program.

### **6.16 Decision on application**

- (1) If the Secretary needs more information to deal with an application under regulation 6.15, the Secretary may ask the applicant, in writing, to provide the information.
- (2) Before the end of 30 days after receiving an application (or, if the Secretary asks for more information under subregulation (1), before the end of 30 days after receiving the information), the Secretary must:

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- (a) authorise, or refuse to authorise, the applicant as an issuing body; and
- (b) notify the body in writing of the decision and, if the decision is a refusal, the reasons for the decision.

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

- (3) If the Secretary has not authorised, or refused to authorise the applicant as an issuing body within the period allowed by subregulation (2), the Secretary is taken to have refused to authorise the applicant as an issuing body.
- (4) If the applicant is the operator of a security controlled airport, the Secretary must authorise the applicant as an issuing body if the Secretary is satisfied that:
  - (a) the applicant's proposed ASIC program is apparently adequate to give effect to the program purposes; and
  - (b) authorising the applicant as an issuing body would not be likely to be a threat to aviation security.
- (5) If the applicant is not the operator of a security controlled airport, the Secretary must not authorise the applicant as an issuing body unless:
  - (a) the applicant is the operator of a prescribed air service, or another person that may appropriately be authorised, in the opinion of the Secretary, as an issuing body; and
  - (b) the applicant controls a secure area, or reasonably needs on-going access to such an area; and
  - (c) the Secretary is satisfied that the ASICs that the applicant proposes to issue cannot more appropriately be issued by the operator of a security controlled airport; and
  - (d) the Secretary is satisfied that the applicant's proposed ASIC program is apparently adequate to give effect to the program purposes; and
  - (e) the Secretary is satisfied that authorising the applicant as an issuing body would not be likely to be a threat to aviation security.

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- (6) For paragraph (5) (c), the Secretary must consider:
  - (a) how many ASICs the applicant proposes to issue; and
  - (b) the respective resources of the applicant and the operator of the relevant security controlled airport.
- (7) The Secretary may authorise a person as an issuing body subject to a condition set out in the instrument of authorisation.

**6.17 Issuing bodies' staff etc**

- (1) An issuing body other than a Commonwealth agency must not allow a person to be directly involved in the issue of ASICs if he or she would not be eligible for the issue of an ASIC, except that he or she need not have an operational need for the ASIC.

Penalty: 20 penalty units.

- (2) A Commonwealth agency that is an issuing body must not allow a person to be directly involved in the issue of ASICs if he or she would not be eligible for the issue of an ASIC, except that he or she need not have an operational need for the ASIC.
- (3) Despite subregulations (1) and (2) the Secretary may approve the involvement of a person in the issue of ASICs if:
  - (a) a security assessment of the person is qualified; but
  - (b) the Secretary is satisfied that the involvement of the person in the issue of ASICs would not constitute a threat to aviation security.

**6.18 Copies of ASIC program to be made available**

An issuing body must make a copy of its ASIC program available to another issuing body if the requesting issuing body can demonstrate that making the program available to it will assist it to avoid hindering or obstructing compliance with the program.

**6.19 Revocation of authorisation for cause**

- (1) If an issuing body is the operator of a security controlled airport, the Secretary must revoke the body's authorisation as an issuing body if in the opinion of the Secretary:

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- (a) 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 6.09 will make the program adequate for that purpose; or
  - (b) allowing the body's authorisation to continue would be likely to be a significant threat to aviation security; or
  - (c) the body does not comply with a direction of the Secretary under regulation 6.09.
- (2) If an issuing body is not the operator of a security controlled airport, the Secretary must revoke the body's authorisation if in the opinion of the Secretary:
  - (a) the body is no longer a person that may appropriately be authorised to issue ASICs; or
  - (b) the body no longer controls a secure area, or part of a secure area, of a security controlled 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 6.09 will make the program adequate for that purpose; or
  - (f) the body does not comply with a direction of the Secretary under regulation 6.09.
- (3) The Secretary may revoke the authorisation of an issuing body if the body contravenes:
  - (a) this Part; or
  - (b) a condition of its authorisation; or
  - (c) its ASIC program.
- (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 Part or a condition of its authorisation or ASIC program.



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- (5) As soon as practicable after revoking the authorisation of a body under this regulation, the Secretary must notify the body in writing of the revocation and the reasons for the revocation.

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

- (6) The revocation takes effect when written notice of the revocation is given to the body.

**6.19A Secretary's discretion to revoke authorisation**

- (1) The Secretary may revoke the authorisation of a body (the *relevant body*) as an issuing body:
- (a) on the Secretary's own initiative; or
  - (b) on application by the relevant body under regulation 6.20.
- (2) This regulation does not apply to the Secretary's power to revoke authorisations under regulation 6.19.
- (3) If the Secretary is considering revoking the authorisation of an issuing body on the Secretary's own initiative, the Secretary must give the relevant body written notice inviting the relevant body to respond within 14 days.
- (4) Before deciding whether to revoke an authorisation, the Secretary must consider the following matters:
- (a) the number of ASICs the relevant body has issued, or is taken to be the issuing body for, that:
    - (i) are valid; or
    - (ii) have been suspended under regulation 6.42B; or
    - (iii) have been cancelled or have expired, but:
      - (A) the ASIC may be reinstated; or
      - (B) another ASIC may be issued to the former holder without a further background check being conducted;
  - (b) whether there are any applications for ASICs that the relevant body is yet to approve or refuse to approve;

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- (c) whether there is another issuing body that can be the issuing body for the ASICs issued, or taken to be issued, by the relevant body;
  - (d) whether the relevant body should be a transitional issuing body under regulation 6.22A;
  - (e) any information given to the Secretary by the Secretary AGD about the following:
    - (i) any applications mentioned in paragraph (b);
    - (ii) any applications for ASICs that have been approved by the relevant body but the ASIC has not yet been issued;
    - (iii) the effect the revocation of the body's authorisation may have on operations;
  - (f) if the relevant body has responded to a notice under subregulation (3) — the relevant body's response, including whether the relevant body wants to continue to be an issuing body;
  - (g) any other relevant information available to the Secretary.
- (5) If the Secretary decides to revoke, or refuse to revoke, a body's authorisation, the Secretary must give the body written notice of the Secretary's decision and the reasons for the decision.
- Note* If the body applied for the revocation, the Secretary must make the decision and give the body written notice within 30 days of receiving the application — see subregulation 6.20 (2).
- (6) If the Secretary decides to revoke a body's authorisation and there are ASICs mentioned in paragraph (4) (a) that the body has issued, or is taken to be the issuing body for, the Secretary must:
- (a) under regulation 6.22, decide which other issuing body will be the issuing body for those ASICs; or
  - (b) declare the body to be a transitional issuing body under regulation 6.22A.
- (7) For subregulation (6), before deciding which of paragraphs (6) (a) and (b) will apply, the Secretary must consider the matters mentioned in paragraphs (4) (a), (b), (c), (f) and (g).

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- (8) If:
  - (a) the Secretary decides to revoke a body's authorisation; and
  - (b) the body is not the issuing body for any ASICs mentioned in paragraph (4) (a), or paragraph (6) (a) applies;the revocation takes effect on the day the Secretary makes the decision.
- (9) The Secretary must tell the Secretary AGD if the Secretary decides to revoke a body's authorisation.

**6.20 Application by issuing body for revocation of authorisation**

- (1) An issuing body may apply, in writing, for the Secretary to revoke the authorisation of the body as an issuing body under regulation 6.19A.
- (2) Within 30 days after receiving the written application, the Secretary must:
  - (a) decide to revoke, or refuse to revoke, the applicant's authorisation as an issuing body; and
  - (b) give the applicant written notice under subregulation 6.19A (5).
- (3) If the Secretary does not make a decision about an application within 30 days after receiving the application, the Secretary is taken to have refused to revoke the applicant's authorisation.

**6.21 Re-applying for authorisation**

A body whose authorisation is revoked may apply under regulation 6.15 for a new authorisation.

**6.22 Responsibility for ASICs of revoked issuing body etc**

- (1) This regulation applies if:
  - (a) the Secretary revokes the authorisation of an issuing body; or
  - (b) an issuing body ceases to exist; or
  - (c) for any other reason, an issuing body no longer performs the functions or exercises the powers of an issuing body.

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- (2) The Secretary may decide that another issuing body (the ***new issuing body***) will be the issuing body for any ASICs issued by a body mentioned in subregulation (1) (the ***original issuing body***) that:
  - (a) are valid; or
  - (b) have been suspended under regulation 6.42B; or
  - (c) have been cancelled or have expired, but:
    - (i) the ASIC may be reinstated; or
    - (ii) another ASIC may be issued to the former holder without a further background check being conducted.
- (3) The Secretary must tell the Secretary AGD who the new issuing body for the ASICs mentioned in subregulation (2) will be.
- (4) An ASIC mentioned in subregulation (2) issued by the original issuing body is not affected by the body no longer being an issuing body.
- (5) The new issuing body is not responsible for the actions of the original issuing body in relation to the ASIC.
- (6) The original issuing body must:
  - (a) transfer to the new issuing body the body's register of the following:
    - (i) ASICs that are valid;
    - (ii) ASICs that have been suspended under regulation 6.42B;
    - (iii) ASICs that have been cancelled or have expired, but:
      - (A) the ASIC may be reinstated; or
      - (B) another ASIC may be issued to the former holder without a further background check being conducted; and
  - (b) continue to retain records in accordance with regulation 6.24.

**6.22A Transitional issuing bodies**

- (1) The Secretary may, in writing, declare an issuing body to be a transitional issuing body.
- (2) If the Secretary makes a declaration, the following applies:
  - (a) beginning on the day after the Secretary makes the declaration, the transitional issuing body:
    - (i) must not issue a new ASIC unless the body received the application for the ASIC before the body was declared to be a transitional issuing body; and
    - (ii) must not apply to the Secretary AGD for a background check, other than under regulation 6.41A;
  - (b) the transitional issuing body will continue to be the issuing body for any valid ASICs issued by the body, and may issue replacement ASICs;
  - (c) immediately following the expiry or cancellation of the last valid ASIC issued by the issuing body, the body ceases to be an issuing body.
- (3) The Secretary must tell the Secretary AGD if the Secretary declares a body to be a transitional issuing body.

**Division 6.4 Record-keeping****6.23 Register of ASICs**

- (1) An issuing body must keep a register in accordance with this regulation.
- (2) The register must contain the following details of each ASIC issued by the body:
  - (a) the name of the person to whom the ASIC was issued;
  - (b) subject to subregulation (3), his or her residential address;
  - (c) the general reason that he or she has an operational need to hold an ASIC;
  - (d) the date of the beginning of the current period during which he or she has continuously held an ASIC;

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- (e) whether the card is red, grey, permanent, temporary, Australia wide or airport specific;
  - (f) the unique number of the ASIC;
  - (g) its date of issue;
  - (h) its date of expiry;
  - (i) if applicable, the date on which it was cancelled;
  - (j) if the ASIC is cancelled and the cancellation is set aside by the Secretary or set aside (however described) by the Administrative Appeals Tribunal:
    - (i) the date the cancellation is set aside; and
    - (ii) if the holder returns the ASIC to the issuing body after the cancellation — the date the body returns the ASIC to the holder;
  - (k) if the ASIC is suspended:
    - (i) the date the issuing body tells the holder about the suspension; and
    - (ii) the date the holder returns the ASIC to the issuing body; and
    - (iii) if the suspension period ends under subregulation 6.42C (3) — the date the body returns the ASIC to the holder;
  - (l) if applicable, the date on which the ASIC was reported lost, stolen or destroyed;
  - (m) if applicable, the date on which the ASIC is returned to the to the issuing body.
- (3) The register need not contain the residential address of an ASIC holder who is a law enforcement officer, an officer or employee of ASIO or an Australian Public Service employee.
- (4) The register may be kept by means of a computer or in any other form that can be conveniently audited.
- (5) The issuing body must hold the register at its office.
- (6) The issuing body must allow an aviation security inspector to inspect the register on request during normal business hours.

**6.24 Other records of issuing bodies**

- (1) An issuing body must maintain records that are sufficient to demonstrate that it has complied with its ASIC program.
- (2) The body must retain the record of issue of an ASIC:
  - (a) for at least 6 months after the creation of the record; or
  - (b) until the expiry of the ASIC;whichever is later.
- (3) The records may be kept by means of a computer or in any other form that can be conveniently audited.
- (4) The issuing body must hold the records at its office.
- (5) The issuing body must allow an aviation security inspector to inspect the records on request during normal business hours.

**6.25 Annual reporting by issuing bodies**

An issuing body must report to the Secretary in writing, within 1 month after the end of each financial year:

- (a) the total number of ASICs issued by the body that have not expired and have not been cancelled; and
- (b) the number of ASICs issued by the body that have expired or been cancelled but have not been returned to the body.

Penalty: 20 penalty units.

**6.25A Register of VICs and other records**

- (1) A VIC issuer (other than an agent) must keep a register and other records in accordance with this regulation.

*Register and other records*

- (2) The register must contain the following details of each VIC issued by the VIC issuer (or its agents):
  - (a) if the VIC is issued by a Secretary-approved VIC issuer (or its agent) or Customs and Border Protection — the airport for which the VIC is valid;

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- (b) the following details about the person to whom the VIC was issued:
  - (i) the name of the person;
  - (ii) the date of birth of the person;
  - (iii) the residential address of the person;
- (c) the reasons stated by the person for why the person needs to be issued a VIC;
- (d) the unique number of the VIC;
- (e) the date of issue of the VIC;
- (f) the date of expiry of the VIC;
- (g) if applicable, the date on which the VIC was returned or cancelled, or reported lost, stolen or destroyed;
- (h) the following details about the ASIC holder supervising the VIC holder:
  - (i) the name of the ASIC holder;
  - (ii) the unique number of the ASIC holder's ASIC;
  - (iii) the date of expiry of the ASIC holder's ASIC;
- (i) a declaration by the VIC holder that he or she has not:
  - (i) been refused an ASIC; or
  - (ii) had an ASIC that was suspended or cancelled because the holder had an adverse criminal record; or
  - (iii) if the VIC is not issued by Customs — been issued with a VIC for the airport for more than a total of 28 days in the previous 12 months, not including the following:
    - (A) VICs issued by Customs and Border Protection;
    - (B) VICs issued before 21 November 2011;
    - (C) VICs issued relying on regulation 6.38G, 6.38H or 6.38I;
    - (D) VICs issued relying on an exemption under regulation 6.38F;
- (j) if the VIC is issued by a Secretary-approved VIC issuer (or its agent) — a declaration by the VIC holder that he or she has not been issued with a VIC by that issuer for more than a total of 28 days in the previous 12 months;



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- (k) if the VIC is issued by Customs and Border Protection — a declaration by the VIC holder that he or she has not been issued with a VIC by Customs and Border Protection for more than a total of 28 days in the previous 12 months;
- (l) if paragraph 6.38C (1) (a) or (b) applies, details of the identification document or documents used to confirm the identity of the VIC holder;
- (m) confirmation by an ASIC holder of the reasons why the VIC holder needs to enter a secure area of the airport;
- (n) if the ASIC holder mentioned in paragraph (m) is not the ASIC holder mentioned in paragraph (h) — the following details about the ASIC holder mentioned in paragraph (m):
  - (i) the name of the ASIC holder;
  - (ii) the unique number of the ASIC holder's ASIC;
  - (iii) the date of expiry of the ASIC holder's ASIC.

*Example for paragraph (l)*

If the identification document is a passport, the document number, country of issue and expiry date of the passport.

- (3) The register need not contain the residential address of a VIC holder who is a law enforcement officer, an officer or employee of ASIO or an Australian Public Service employee.
- (4) A person commits an offence if:
  - (a) the person is required to keep a register under this regulation; and
  - (b) the person does not retain the record of issue of a VIC issued by the person (or its agent) for 24 months after the issue of the VIC; and
  - (c) the person knows that the record has not been retained for 24 months.

Penalty: 30 penalty units.

- (5) A person commits an offence if:
  - (a) the person (the **issuer**) is required to keep a register under this regulation; and
  - (b) the issuer does not retain a record, for each person to whom the issuer (or its agents) has issued a VIC in the previous 12 months, of the number of days in the previous

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12 months that the person has held a VIC for an airport;  
and

- (c) the issuer knows that the record has not been retained; and
- (d) the issuer is not exempt from this subregulation under subregulation (6).

Penalty: 30 penalty units.

- (6) An issuer is exempt from subregulation (5) if the issuer is an airport operator of an airport from which screened air services do not operate.

*Means of maintaining register and other records*

- (7) The VIC issuer must keep the register and other records by means of a computer or in any other form that can be conveniently audited.
- (8) The VIC issuer must hold the register and other records at its office.
- (9) The VIC issuer must allow an aviation security inspector to inspect the register and other records on request during normal business hours.

**6.25B Register of TACs**

- (1) If an aircraft operator issues TACs, the aircraft operator must maintain a register in accordance with this regulation.
- (2) The register must contain the following details of each TAC issued by the aircraft operator:
  - (a) the name of the person to whom the TAC was issued;
  - (b) either:
    - (i) the unique number of the TAC holder's ASIC; or
    - (ii) the name of the issuing body to whom the TAC holder has applied for an ASIC;
  - (c) the unique number of the TAC;
  - (d) the date of issue of the TAC;
  - (e) the date of expiry of the TAC;

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- (f) if applicable, the date on which the TAC was returned or cancelled, or reported lost, stolen or destroyed.
- (3) The aircraft operator must retain the record of issue of a TAC for 24 months after the issue of the TAC.

*Means of maintaining register*

- (4) The aircraft operator must keep the register by means of a computer or in any other form that can be conveniently audited.
- (5) The aircraft operator must hold the register at its office.
- (6) The aircraft operator must allow an aviation security inspector to inspect the register on request during normal business hours.

**Division 6.5      ASICs, TACs and VICs — issue,  
expiry, suspension and  
cancellation**

**Subdivision 6.5.1      Definitions for this Division**

**6.26A      Definitions**

- (1) In this Division:
  - AusCheck facility* means the facility made available by the Secretary AGD in accordance with regulation 13 of the *AusCheck Regulations 2007*.
  - ICAO 3-letter code*, for an airport, means the second, third and fourth letters of the ICAO 4-letter code for the airport.
- (2) In this Division, an ASIC holder is *supervising* a person if:
  - (a) the ASIC holder escorts or watches the person at all times when the person is required to display an ASIC; or
  - (b) all of the following apply:
    - (i) the ASIC holder ensures that the person stays within a particular area;
    - (ii) the ASIC holder is able to see if the person leaves the area;

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- (iii) the person has no access, while in that area, to:
  - (A) an aircraft engaged in a prescribed air service; or
  - (B) passengers boarding, or intending to board, an aircraft engaged in a prescribed air service; or
  - (C) anything being loaded, or to be loaded, on board an aircraft engaged in a prescribed air service.

**Subdivision 6.5.2 Issue and form of ASICs****6.26 ASICs — application for issue**

A person who has an operational need may apply to an issuing body for the issue of an ASIC.

**6.27 Issue of ASICs**

- (1) An issuing body may issue ASICs only in accordance with its ASIC program.
- (2) A person commits an offence if:
  - (a) the person issues an ASIC, a card resembling an ASIC, or a card apparently intended to be taken to be an ASIC; and
  - (b) the person is not an issuing body.

Penalty: 50 penalty units.
- (3) An offence under subregulation (2) is an offence of strict liability.
- (4) A person commits an offence if:
  - (a) the person is a transitional issuing body; and
  - (b) the person issues an ASIC, a card resembling an ASIC, or a card apparently intended to be taken to be an ASIC; and
  - (c) the ASIC:
    - (i) is not a replacement ASIC; or

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- (ii) was not applied for before the person was declared to be a transitional issuing body.

Penalty: 50 penalty units.

- (5) An issuing body must not issue an Australia-wide ASIC unless the ASIC holder has an operational need to access more than one airport.

**6.27A Approval of airport operator for airport-specific ASICs**

- (1) If an issuing body (other than Customs and Border Protection) intends to issue an airport-specific ASIC to a person, and the issuing body is not the airport operator of that airport, the issuing body must not issue the ASIC unless the issuing body has received the written approval of the airport operator of the airport.
- (2) The airport operator may give the issuing body approval subject to conditions.
- (3) An issuing body may apply to the Secretary for an exemption from subregulation (1) if:
  - (a) the airport operator refuses to give the issuing body approval to issue an airport-specific ASIC; or
  - (b) the issuing body does not agree to the conditions imposed on the issuing body by the airport operator in relation to the issuing of an airport-specific ASIC.
- (4) Before deciding whether to grant an issuing body an exemption from subregulation (1), the Secretary must consider the following:
  - (a) the reasons (if any) given by the airport operator for why approval was not given or the conditions were imposed;
  - (b) the issuing body's reasons for wanting to issue airport-specific ASICs for that airport;
  - (c) the number of airport-specific ASICs the issuing body has previously issued, and proposes to issue, for that airport;
  - (d) the effect that an exemption would have on the airport operator and on aviation security at the airport;

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- (e) the significance of any facilities operated by the issuing body at the airport, including:
  - (i) if any aircraft use the facilities — the size and number of aircraft that use the facilities; and
  - (ii) if any passengers use the facilities — the number of passengers that use the facilities; and
  - (iii) whether the issuing body operating the facilities has its own screening point; and
  - (iv) the measures and procedures in place to control access to the facilities.
- (5) Within 30 days of receiving an application for an exemption from an issuing body, the Secretary must:
  - (a) decide whether to grant the issuing body an exemption from subregulation (1); and
  - (b) give the issuing body written notice of the decision and the reasons for the decision.

**6.27AA Application for background check**

- (1) An issuing body may apply to the Secretary AGD for a background check on:
  - (a) an applicant for an ASIC, if the issuing body proposes to issue an ASIC to the person; or
  - (b) a person employed by the issuing body to issue ASICs; or
  - (c) the holder of an ASIC who has notified the issuing body under regulation 6.41.
- (2) An issuing body may apply to the Secretary AGD for a background check on a person employed by the issuing body to issue ASICs:
  - (a) before the person begins to issue ASICs; and
  - (b) every 2 years afterwards.
- (3) The Secretary may apply to the Secretary AGD for a background check on the holder of an ASIC if the Secretary considers on reasonable grounds that the holder:
  - (a) has been convicted of an aviation-security-relevant offence; or

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- (b) constitutes a threat to aviation security.
- (4) In considering the matter mentioned in paragraph (3) (a) or (b), the Secretary must take into account:
  - (a) any information given to the Secretary by the holder of the ASIC or the issuing body of the ASIC; and
  - (b) any information given to the Secretary by the Secretary AGD or a law enforcement agency (however described) about the holder; and
  - (c) anything else relevant that the Secretary knows about.

**6.28 ASICs — issue**

- (1) Subject to subregulations (3), (4), (4A), (4D) and (4H) and regulations 6.29 and 6.31, an issuing body may issue an ASIC to a person only if:
  - (a) the person has an operational need for an ASIC; and
  - (b) the person has confirmed his or her identity by showing the issuing body:
    - (i) a primary identification document; and
    - (ii) either:
      - (A) a secondary identification document; or
      - (B) 2 tertiary identification documents; and
  - (c) either:
    - (i) the person has shown the issuing body his or her Australian birth certificate, Australian passport or Australian naturalisation certificate; or
    - (ii) the issuing body is satisfied that the person is not an unlawful non-citizen; and
  - (d) the issuing body has received a notice from the Secretary AGD stating that:
    - (i) the Secretary AGD has conducted an assessment under the AusCheck scheme to decide if the person has an adverse criminal record or a qualified criminal record; and
    - (ii) based on the criminal history, the person does not have an adverse criminal record; and

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- (e) the issuing body has been notified in writing that a security assessment of the person has been made, and:
  - (i) the assessment was not adverse; or
  - (ii) if the assessment was qualified — the issuing body has received a notice from the Secretary that an ASIC may be issued because the person is not a threat to aviation safety; and
- (f) the person is not disqualified under regulation 6.48 from holding an ASIC.

Penalty: 50 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.
- (3) The issuing body may issue an ASIC to a person who is under 18 if the person meets the criteria in paragraphs (1) (a), (b), (c) and (f).
- (4) The issuing body may issue an ASIC to a person who holds a security designated authorisation that is less than 2 years old if the person meets the criteria in paragraphs (1) (d), (e) and (f).
- (4A) Subject to subregulation (4G), an issuing body may issue an ASIC to a person if:
  - (a) the person had his or her ASIC cancelled under paragraph 6.43 (2) (e) or subregulation 6.43 (4A) or 6.47 (1); and
  - (b) the person had returned the cancelled ASIC to the issuing body that issued the ASIC or, if the cancelled ASIC was lost, stolen or destroyed, has complied with regulation 6.46; and
  - (c) within 12 months after the cancellation:
    - (i) the person gives the issuing body a statutory declaration that states:
      - (A) the reason why his or her ASIC was cancelled; and
      - (B) that, since his or her background checks were completed, he or she has not been convicted of an aviation-security-relevant offence; and



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- (C) any relevant circumstances of the person that have changed since his or her background checks were completed; and
  - (ii) the issuing body lodges a request for the issue of an ASIC using the facility made available by the Secretary AGD in accordance with the AusCheck facility.
- (4B) An issuing body commits an offence if the issuing body issues an ASIC in contravention of subregulation (4A).

Penalty: 50 penalty units.
- (4C) An offence against subregulation (4B) is an offence of strict liability.
- (4D) Subject to subregulation (4G), an issuing body may issue an ASIC to a person if:
  - (a) the person held an ASIC that:
    - (i) has expired; and
    - (ii) had an expiry date less than the maximum period permitted for the person by regulation 6.32; and
  - (b) the person has complied with regulation 6.45 or 6.46; and
  - (c) within 12 months after the expiry of the ASIC:
    - (i) the person gives the issuing body a statutory declaration that states:
      - (A) that, since his or her background checks were completed, he or she has not been convicted of an aviation-security-relevant offence; and
      - (B) any relevant circumstances of the person that have changed since the expired ASIC was issued; and
    - (ii) the issuing body lodges a request for the issue of an ASIC using the Auscheck facility.
- (4E) An issuing body commits an offence if the issuing body issues an ASIC in contravention of subregulation (4D).

Penalty: 50 penalty units.

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(4F) An offence against subregulation (4E) is an offence of strict liability.

(4G) Before an ASIC is issued under subregulation (4A) or (4D), the issuing body must ensure that:

- (a) the person meets the criteria in paragraphs (1) (a), (b) and (c); and
- (b) if the cancelled or expired ASIC was issued subject to a condition under subregulation 6.29 (6) or regulation 6.43D — the ASIC to be issued is subject to the same condition.

*Note* See regulation 6.32 for when the ASIC must expire.

(4H) The issuing body may issue an ASIC to a person who had his or her ASIC cancelled under paragraph 6.43 (2) (da).

*Note* See regulation 6.32 for when the ASIC must expire.

(5) An issuing body may issue an ASIC on a condition, but must notify the holder in writing what the condition is.

(6) In particular, a condition may be that a background check of the holder be conducted more often than required by these Regulations.

*Note* See regulation 6.32 for when the ASIC must expire.

## **6.29 ASICs — Secretary's approval of issue in certain cases**

(1) If a person is not eligible to be issued an ASIC only because he or she:

- (a) has an adverse criminal record; or
- (b) is disqualified under regulation 6.48 from holding an ASIC;

an issuing body or the person may apply to the Secretary, in writing, for approval to issue an ASIC to the person.

(1A) An application under subregulation (1) must be made:

- (a) for an issuing body — before the end of 28 days after the issuing body is advised of the outcome of the applicant's background check under regulation 9 of the *AusCheck Regulations 2007*; or

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- (b) for the person — before the end of 28 days after the person:
  - (i) is told under subregulation 8 (6) of the *AusCheck Regulations 2007* that the advice of the outcome of his or her background check would include unfavourable criminal history advice; or
  - (ii) is disqualified under regulation 6.48 from holding an ASIC.
- (1B) The Secretary may, on application in writing by an issuing body or the person, extend the time for making the application.
- (2) If the Secretary needs more information to deal with an application, the Secretary may ask the issuing body or the person, in writing, to provide the information.
- (2A) The Secretary may request information about the person from the Secretary AGD.
- (2B) If the Secretary has asked for more information under subregulation (2), and does not receive the information within 30 days of asking for it, the Secretary may close the application and subregulations (3) and (4) do not apply.

*Note* Closing an application is not a refusal to issue an ASIC.
- (2C) The Secretary may, on application in writing by an issuing body or the person, extend the time for providing the information.
- (2D) If an application was closed under subregulation (2B) and the Secretary extends the time in which the issuing body or person may provide the information, the application is not reopened until the Secretary receives 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) decide whether to approve, or refuse to approve, the issuing of the ASIC; and

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- (b) if the Secretary decides to approve the issuing of the ASIC — tell the following persons, in writing, about the decision:
  - (i) the person who applied for the ASIC;
  - (ii) the issuing body;
  - (iii) the Secretary AGD; and
- (c) if the Secretary decides to refuse to approve the issuing of the ASIC:
  - (i) tell the person who applied for the ASIC, in writing, about the decision and the reasons for it; and
  - (ii) if the application mentioned in subregulation (1) was made by an issuing body — tell the issuing body, in writing, about the decision.

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

- (4) If the Secretary has not approved, or refused to approve, the issue of the ASIC within the period allowed by subregulation (3), the Secretary is taken to have refused to approve the issue of the ASIC.
- (5) Before approving or refusing to approve the issue of the ASIC to a person who is not eligible to be issued an ASIC only because the person's adverse criminal record prevents him or her being issued with an ASIC, 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.

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

**6.29A AusCheck facility to be used when issuing an ASIC**

An issuing body issuing an ASIC under regulation 6.28 or 6.29 must use the AusCheck facility.

Penalty: 10 penalty units.

**6.30 Report to Secretary of refusal to issue ASICs in certain cases**

- (1) If an issuing body refuses to issue an ASIC to an applicant because the applicant fails to satisfy any of the criteria in paragraph 6.28 (1) (c) or (f), the issuing body must, within 7 days of the decision, give the Secretary a written report that sets out:
- (a) the applicant's name, address and date of birth; and
  - (b) the reasons for the refusal.
- (2) The Secretary may pass the information on to other issuing bodies or to CASA if he or she thinks that doing so will help to prevent unlawful interference with aviation.

**6.31 Persons the subject of qualified security assessments**

- (1) This regulation applies if a security assessment of a person is a qualified security assessment.

*Note* For a person's notification and review rights in relation to a qualified security assessment, see section 38 and Division 4 of Part IV of the *Australian Security Intelligence Organisation Act 1979*.

- (2) If the Secretary is satisfied that the holding of an ASIC by the person would not constitute a threat to aviation security, the Secretary must give the issuing body a written notice stating that an ASIC may be issued because the person is not a threat to aviation security.

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**Regulation 6.31A**

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- (3) If the Secretary is satisfied that the holding of an ASIC by the person would constitute a threat to aviation security the Secretary must give the issuing body a written direction not to issue the ASIC to the person.
- (4) The Secretary must give the person a notice stating that the Secretary has given the issuing body a notice under subregulation (2) or a direction under subregulation (3).
- (5) An issuing body must not issue an ASIC to a person in contravention of a direction under subregulation (3).

Penalty: 20 penalty units.

**6.31A Provision of information to Secretary AGD**

If the Secretary makes a decision under regulation 6.29 or 6.31, the Secretary must tell the Secretary AGD about the decision.

**6.32 ASICs — period of issue and expiry**

- (1) Unless earlier cancelled, an ASIC expires at the end of the last day of the month specified on it as its month of expiry.
- (2) Subject to subregulations (3) and (4), the expiry must not be later than 2 years after the last day of the month in which the background check, undertaken when the person applied for the ASIC, was completed.

*Note* For the meaning of **background check**, see regulation 6.01.

- (3) In the case of an ASIC issued to a person under 18 in reliance on subregulation 6.28 (3), the expiry must not be later than 6 months after the person's 18th birthday.
- (4) If an ASIC is issued to a person who has a qualified criminal record, the expiry must not be later than 12 months after the last day of the month in which the background check, undertaken when the person applied for the ASIC, was completed.

*Note* For the meaning of **background check**, see regulation 6.01.

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**Regulation 6.33**

- (5) If an ASIC is cancelled under paragraph 6.43 (2) (ba) or (d) and the cancellation is set aside (however described) by the Secretary or the Administrative Appeals Tribunal, the ASIC expires on the earlier of:
- (a) the date it would have expired if it had not been cancelled;  
or
  - (b) if a condition imposed under regulation 6.43D sets an earlier expiry date — that date.

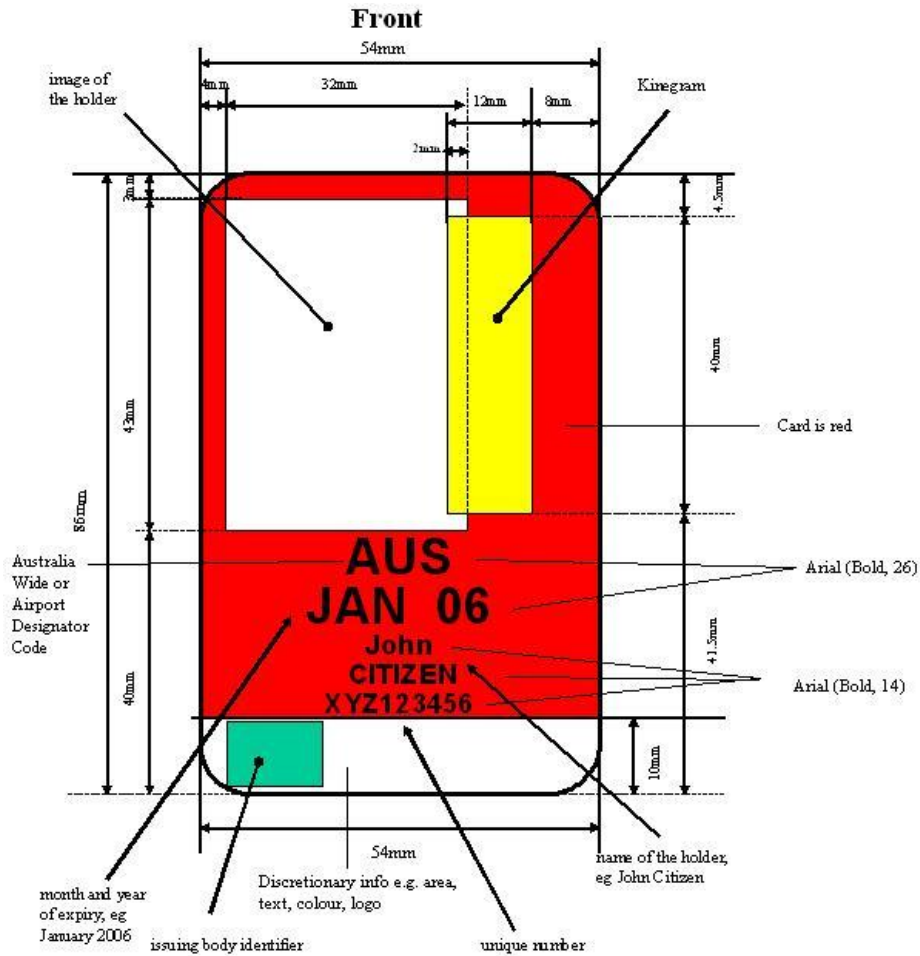
**6.33 Form of ASICs other than temporary ASICs**

- (1) This regulation does not apply to a temporary ASIC.

*Note* For the design of a temporary ASIC, see regulation 6.37.

**Regulation 6.33**

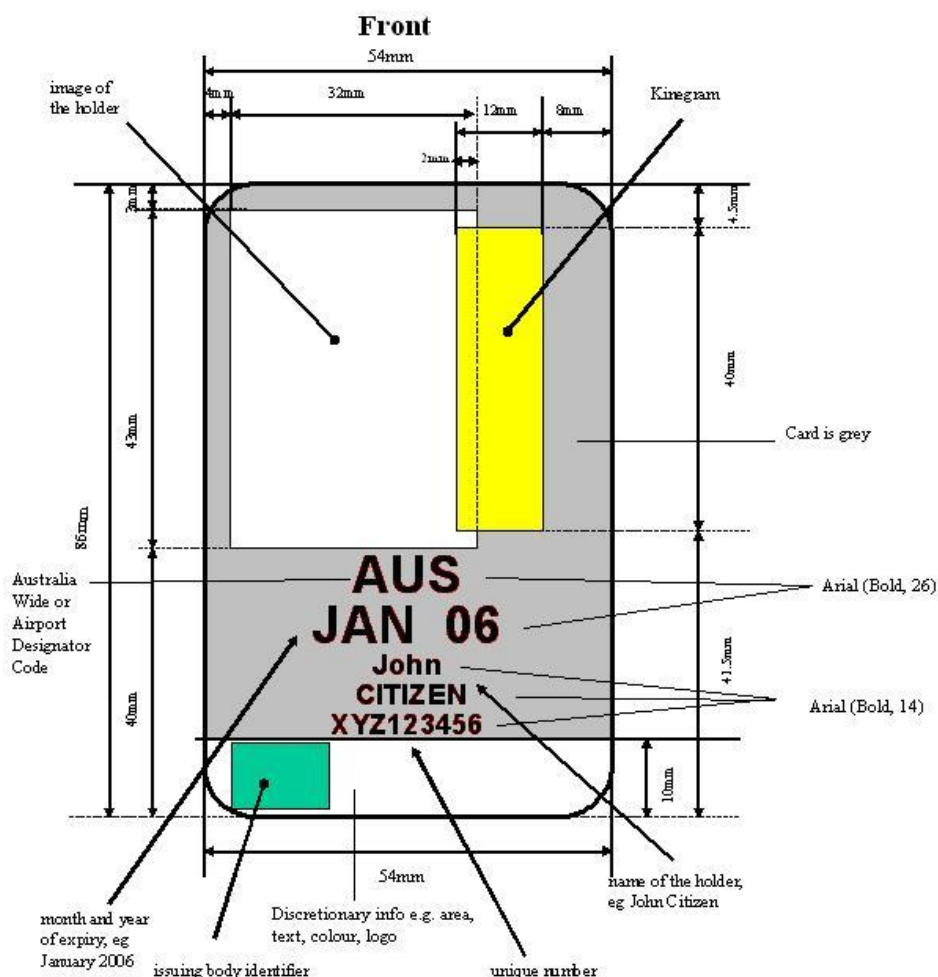
(2) The form of a permanent red ASIC is as follows:





**Regulation 6.33**

(3) The form of a permanent grey ASIC is as follows:



(4) An ASIC must comply with the following requirements:

- (a) the dimensions of the ASIC, and of each of its parts, must be as shown in the diagram in subregulation (2) or (3), as the case requires;
- (b) where the diagram indicates a particular colour, type-face or type size, that colour, type-face or type size must be used;

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**Regulation 6.33**

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- (c) the image of the holder must be a recent (that is, taken within 6 months before the issue of the ASIC) photograph of the holder, showing the holder's full face and his or her head and shoulders;
  - (d) the image must be protected against tampering by means of:
    - (i) a Kinegram<sup>®</sup> Hot Stamped Patch Optically Variable Device; or
    - (ii) another means directed by the Secretary by notice in the *Gazette*; and
  - (e) the given name and surname must be those that the holder normally uses;
  - (f) the text at the place marked 'Australia Wide or Airport Designator Code' must be:
    - (i) if the ASIC is an Australia-wide ASIC — the letters 'AUS'; or
    - (ii) if the ASIC is an airport-specific ASIC — the ICAO 4-letter code, the ICAO 3-letter code or the IATA 3-letter code for the airport;
  - (g) the number must be unique among ASICs issued by that issuing body;
  - (h) the issuing body identifier must be either the issuing body's logo or:
    - (i) if the body is an airport operator — the ICAO 4-letter code, the ICAO 3-letter code or the IATA 3-letter code for the airport; or
    - (ii) if the body is an aircraft operator — the IATA 2-letter code, or the ICAO 3-letter code, for the operator; or
    - (iii) if the issuing body is Customs and Border Protection — the word 'Customs'; or
    - (iv) for any other issuing body — as directed by the Secretary;
- however, the background to the identifier need not be any particular colour;

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**Regulation 6.35**

- (i) the expiry date must be expressed as *abbreviated month abbreviated year*, where ***abbreviated month*** means the first 3 letters of the name of the month of expiry and ***abbreviated year*** means the last 2 digits of the number of the year of expiry.
- (5) A permanent ASIC that is issued to a law enforcement officer or an officer or employee of ASIO may bear the holder's name on the back of the card.
- (6) The Secretary may approve the issue of a permanent ASIC showing the holder's name on the back if the Secretary is satisfied that having the holder's name on the front would put the holder's personal security at risk.
- (7) An issuing body must not issue a permanent ASIC that does not comply with subregulations (2) to (6).

Penalty: 50 penalty units.

- (8) An offence under subregulation (7) is an offence of strict liability.

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

- (9) The discretionary information area at the bottom of an ASIC may be used by the issuing body for its own purposes.

### **6.35 Issue of replacement ASICs**

- (1) An issuing body may issue a replacement permanent ASIC to the holder of another permanent ASIC issued by the issuing body if:
  - (a) he or she has lost the other permanent ASIC, or it has been stolen or destroyed, and he or she has made a statutory declaration setting out the circumstances of the loss or theft; or
  - (b) where the other permanent ASIC has been stolen, he or she has given the issuing body a copy of a police report, or other information issued by the police, regarding the theft.
- (2) An issuing body may issue a replacement permanent ASIC to the holder of another permanent ASIC issued by the issuing body if the holder has changed his or her name.

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**Regulation 6.36**

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- (2A) The issuing body may issue a replacement permanent red ASIC in substitution for a permanent grey ASIC (or vice versa), or an airport-specific ASIC for an Australia-wide ASIC (or vice versa), or an ASIC specific to an airport for one specific to another airport.
- (3) The replacement permanent ASIC must expire no later than the earlier permanent ASIC would have expired.
- (3A) The replacement permanent ASIC number must be unique among ASICs issued by the issuing body.
- (5) Either:
  - (a) the replacement permanent ASIC must bear a number indicating how many times a permanent ASIC has been issued to the person with that expiry date; or
  - (b) the issuing body must keep a record of how many times it has issued a permanent ASIC to the person with that expiry date.
- (6) The issue of a replacement permanent ASIC to a person under this regulation cancels any temporary ASIC issued to the person under regulation 6.36.

**6.36 Issue of temporary ASICs**

- (1) An issuing body may issue a temporary ASIC to the holder of another ASIC if:
  - (a) he or she has lost the other ASIC, or it has been stolen or destroyed, and he or she makes a statutory declaration setting out the circumstances of the loss or theft; and
  - (b) where the ASIC has been destroyed, he or she returns any remains of the ASIC to the issuing body; and
  - (c) where the other ASIC has been stolen, he or she gives the issuing body a copy of his or her report of the theft to the police of the place where the ASIC was stolen.
- (2) An issuing body may issue a temporary ASIC to a person to whom the issue of an ASIC has been approved if the issuing body cannot produce that ASIC for some technical reason.

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- (3) An issuing body may issue a temporary airport-specific ASIC to a person who holds a valid permanent airport-specific ASIC for another airport.
- (4) An issuing body may issue a temporary ASIC to a person who lives and normally works outside Australia if:
  - (a) the person is:
    - (i) a station manager or duty manager of an aircraft operator; or
    - (ii) an engineer employed by a foreign aircraft operator, or a contractor to such an operator, and is in Australia to carry out maintenance on an aircraft; and
  - (b) he or she has been issued with a security identification card for his or her overseas employment; and
  - (c) the issuing body is satisfied that the security identification card was issued on the basis of background checks that are equivalent to those carried out for the issue of an ASIC; and
  - (d) unless the issuing body is the person's employer, the person's employer requests the issuing body, in writing, to issue the temporary ASIC.
- (5) An issuing body may issue a temporary ASIC to a person who holds a valid ASIC if:
  - (a) the person has inadvertently left his or her permanent ASIC at home, or misplaced it; and
  - (b) it is impracticable because of work commitments for him or her to recover it immediately.
- (6) A temporary ASIC must not be issued for a period longer than:
  - (a) in the case of a temporary ASIC issued to a person under subregulation (5):
    - (i) if his or her duties will not permit him or her to return within 24 hours to the place where the ASIC was left — as long as is reasonably necessary to recover the ASIC; or

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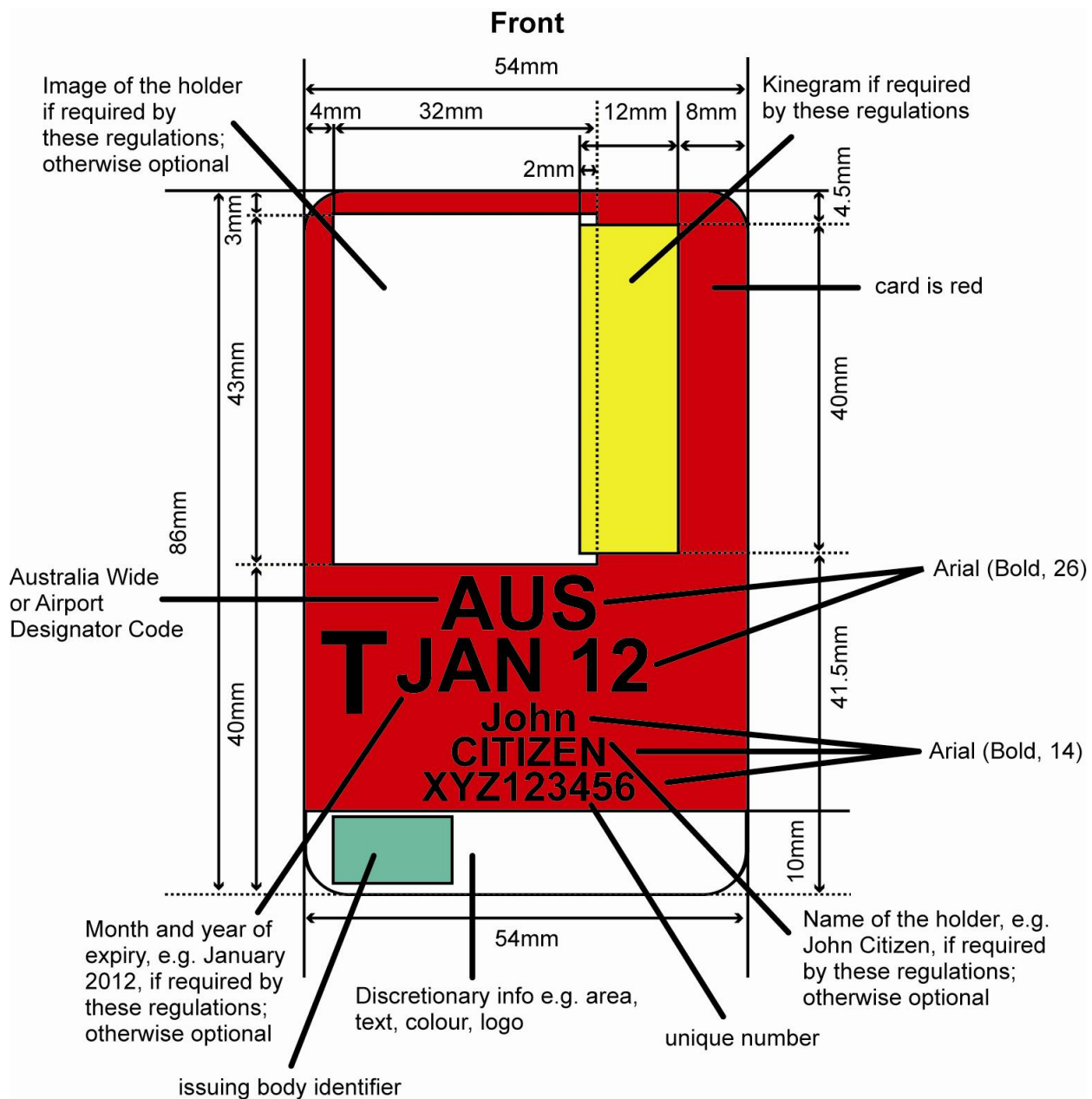
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- (ii) 24 hours; or
  - (b) in any other case — 3 months or the remaining period of validity of the permanent ASIC, whichever is shorter.
- (7) An issuing body may issue a second temporary ASIC to a person immediately after a temporary ASIC issued to him or her expires, but must not issue a third temporary ASIC to him or her immediately after the second temporary ASIC expires.

**6.37 Form of temporary ASICs**

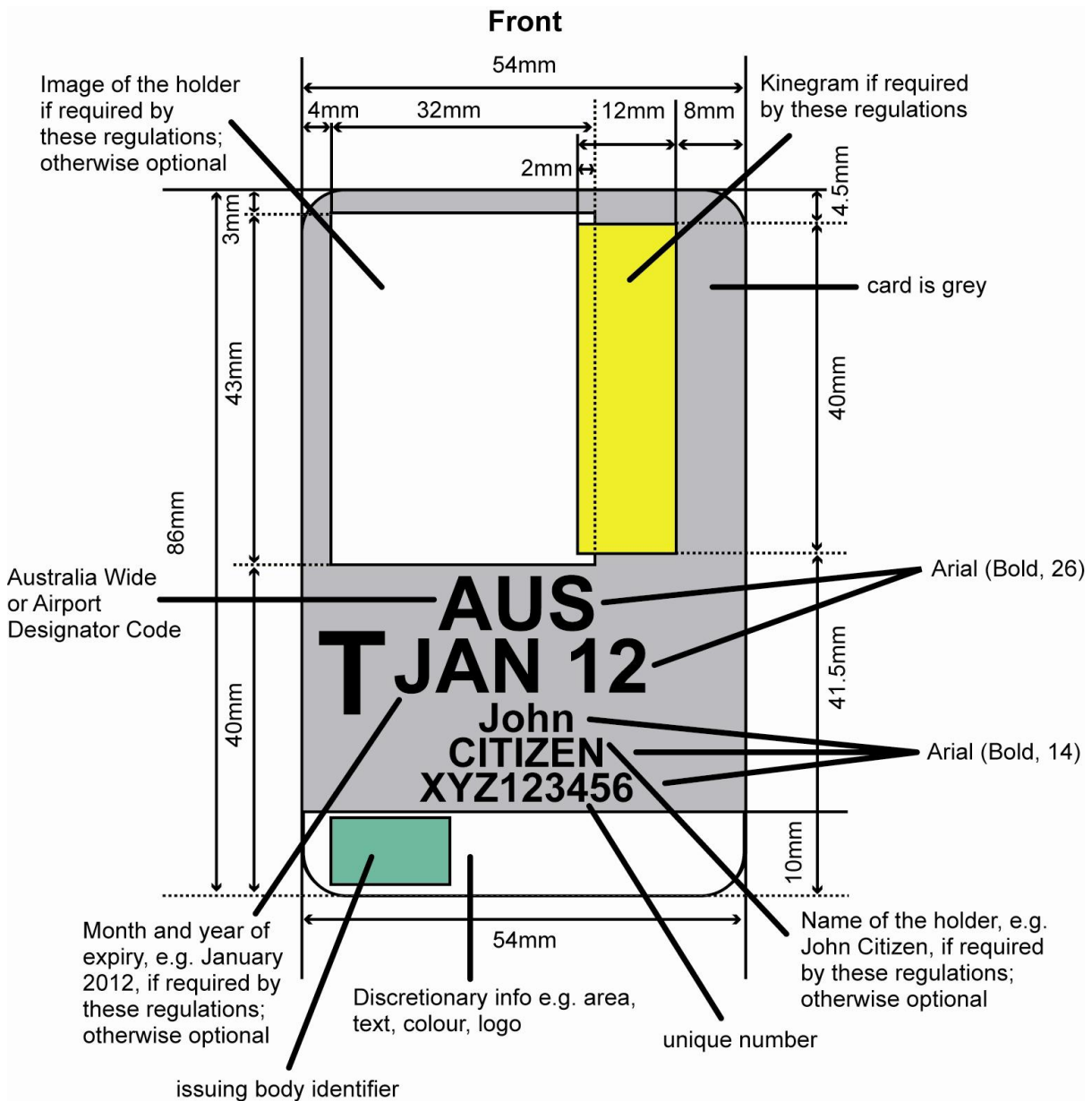
- (1) The form of a temporary red ASIC is as follows:

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**Regulation 6.37**

(2) The form of a temporary grey ASIC is as follows:





**Regulation 6.37**

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- (3) Subject to subregulation (5A), the parts of a temporary ASIC must comply with the following requirements:
- (a) the dimensions of the card, and of each of its parts, must be as shown in the diagram in subregulation (1) or (2), as the case requires;
  - (b) where the diagram indicates a particular colour, type-face or type size, that colour, type-face or type size must be used;
  - (c) the image of the holder (if shown on the card) must be a recent photograph of the holder, showing the holder's full face and his or her head and shoulders;
  - (d) the image (if shown on the card) must be protected against tampering by means of:
    - (i) a Kinegram<sup>®</sup> Hot Stamped Patch Optically Variable Device; or
    - (ii) another means directed by the Secretary by notice in the *Gazette*; and
  - (e) the given name and surname (if shown on the card) must be those that the holder normally uses;
  - (f) the text at the place marked 'Australia Wide or Airport Designator Code' must be:
    - (i) if the ASIC is an Australia-wide ASIC — the letters 'AUS'; or
    - (ii) if the ASIC is an airport-specific ASIC — the ICAO 4-letter code, the ICAO 3-letter code or the IATA 3-letter code for the airport;
  - (g) the number must be unique among ASICs issued by that issuing body;
  - (h) the issuing body identifier must be either the issuing body's logo or:
    - (i) if the body is an airport operator — the ICAO 4-letter code, the ICAO 3-letter code or the IATA 3-letter code for the airport; or
    - (ii) if the body is an aircraft operator — the IATA 2-letter code, or the ICAO 3-letter code, for the operator; or
    - (iii) if the issuing body is Customs and Border Protection — the word 'Customs'; or

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- (iv) for any other issuing body — as directed by the Secretary;  
however, the background to the identifier need not be any particular colour;
  - (i) the expiry date (if shown on the card) must be in the form *abbreviated month abbreviated year*, where ***abbreviated month*** means the first 3 letters of the name of the month of expiry and ***abbreviated year*** means the last 2 digits of the number of the year of expiry.
- (4) A temporary ASIC that is issued to a law enforcement officer or an officer or employee of ASIO may bear the holder's name on the back of the card.
- (5) The Secretary may approve the issue of a temporary ASIC showing the holder's name on the back if the Secretary is satisfied that having the holder's name on the front would put the holder's personal security at risk.
- (5A) If a temporary ASIC is issued for more than 24 hours at a designated airport, or more than 72 hours at an airport that is not a designated airport, the temporary ASIC must contain:
  - (a) the image of the holder as mentioned in paragraph (3) (c); and
  - (b) the given name and surname of the holder of the temporary ASIC as mentioned in paragraph (3) (e); and
  - (c) the expiry date of the temporary ASIC as mentioned in paragraph (3) (i).
- (5B) However, the temporary ASIC does not need to contain the image, name and expiry date mentioned in subregulation (5A) if the holder is displaying a valid ASIC for a different airport.
- (6) An issuing body must not issue a temporary ASIC that does not comply with subregulations (1) to (5A).

Penalty: 50 penalty units.

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

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

**Regulation 6.37B**

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- (8) The discretionary information area at the bottom of a temporary ASIC may be used by the issuing body for its own purposes.

**6.37A Holder of temporary ASIC to be supervised**

- (1) A person who holds a temporary ASIC must be supervised by an ASIC holder whenever the person is required to display an ASIC, if the temporary ASIC does not contain:
- (a) the image of the holder as mentioned in paragraph 6.37 (3) (c); or
  - (b) the given name and surname of the holder of the ASIC as mentioned in paragraph 6.37 (3) (e); or
  - (c) the expiry date of the ASIC as mentioned in paragraph 6.37 (3) (i).
- (2) However, the temporary ASIC holder does not need to be supervised if the holder is displaying a valid ASIC for a different airport.

**Subdivision 6.5.2A Issue and form of TACs**

**6.37B Issue of temporary aircrew card**

- (1) An aircraft operator that conducts regular public transport operations may issue a temporary aircrew card to a person if:
- (a) the person:
    - (i) is an ASIC holder who does not have his or her ASIC on his or her person; or
    - (ii) has applied to an issuing body for an ASIC; and
  - (b) the person is an employee or contractor of the aircraft operator; and
  - (c) the person requires access to more than one security controlled airport.
- (2) A person commits an offence if:
- (a) the person is an aircraft operator that conducts regular public transport operations; and
  - (b) the aircraft operator issues a TAC to a person; and

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**Regulation 6.37C**

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- (c) the aircraft operator's TSP does not set out the process for how the aircraft operator may issue TACs.

Penalty: 50 penalty units.

- (3) The aircraft operator must not issue a TAC that is valid for more than 7 days.
- (4) A person commits an offence if:
  - (a) the person issues a TAC, a card resembling a TAC, or a card apparently intended to be taken to be a TAC; and
  - (b) the person is not an aircraft operator that conducts regular public transport operations.

Penalty: 50 penalty units.

- (5) An offence under subregulation (4) is an offence of strict liability.

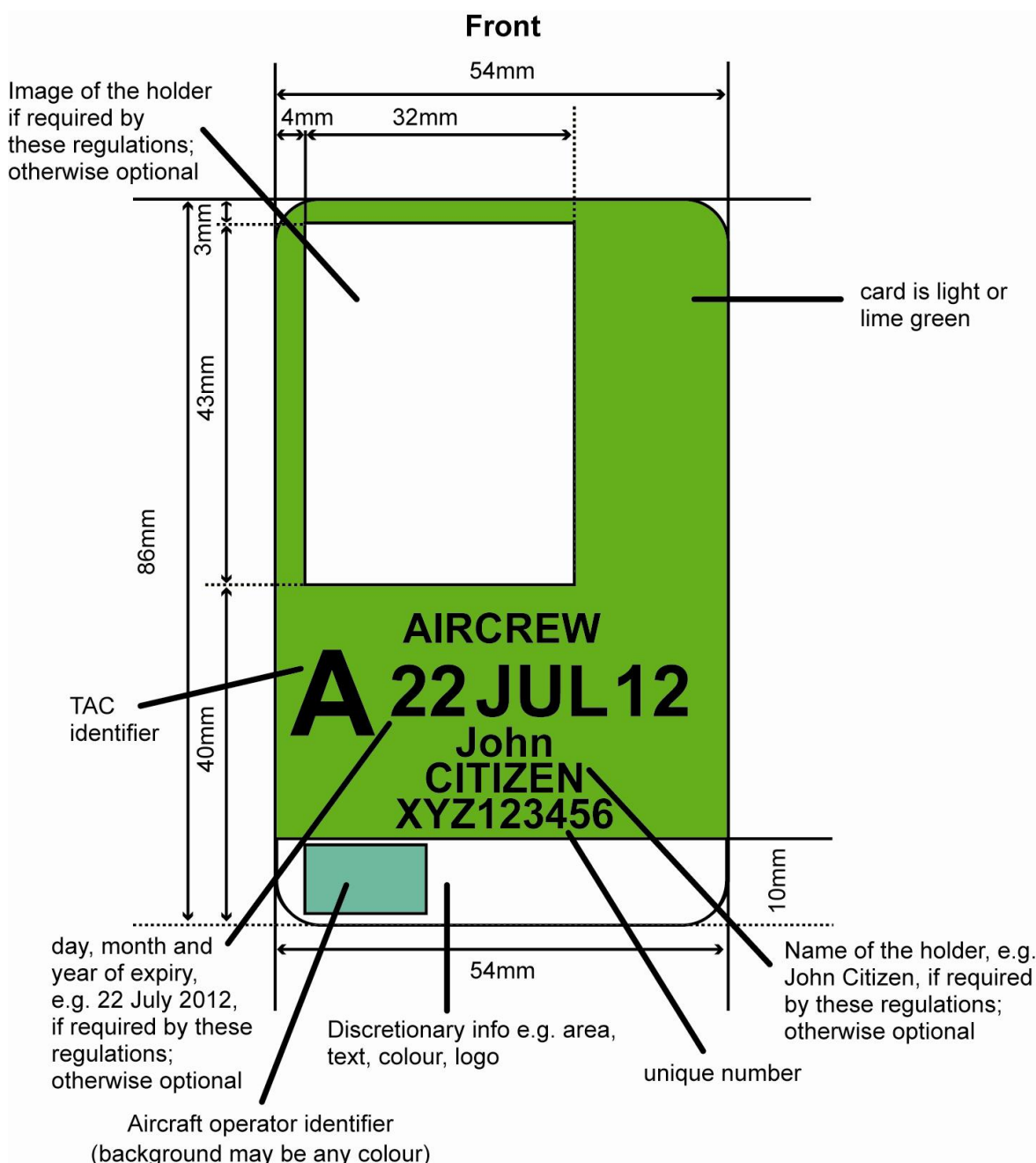
**6.37C Holder of TAC to be supervised**

If a person is issued a TAC, the person must be supervised by an ASIC holder whenever the person is required to display an ASIC.

**6.37D Form of TAC**

- (1) The form of a TAC is as follows:

**Regulation 6.37D**



### Regulation 6.37D

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- (2) Subject to subregulation (3), a TAC must comply with the following requirements:
- (a) the dimensions of the TAC, and of each of its parts, must be as shown in the diagram in subregulation (1);
  - (b) where the diagram indicates a particular colour, type-face or type size, that colour, type-face or type size must be used;
  - (c) the image of the holder (if shown on the card) must be a recent photograph of the holder, showing the holder's full face and his or her head and shoulders;
  - (d) the given name and surname (if shown on the card) must be those that the holder normally uses;
  - (e) the number must be unique among TACs issued by that aircraft operator;
  - (f) the aircraft operator identifier must be the aircraft operator's company name, however the background to the identifier need not be any particular colour;
  - (g) the expiry date (if shown on the card) must be in the form *day abbreviated month abbreviated year*, where ***abbreviated month*** means the first 3 letters of the name of the month of expiry and ***abbreviated year*** means the last 2 digits of the number of the year of expiry.
- (3) If the TAC is valid for more than 72 hours, the TAC must contain:
- (a) the image of the TAC holder as mentioned in paragraph (2) (c); and
  - (b) the given name and surname of the TAC holder as mentioned in paragraph (2) (d); and
  - (c) the expiry date of the TAC as mentioned in paragraph (2) (g).
- (4) A person commits an offence if:
- (a) the person is an aircraft operator; and
  - (b) the person issues a TAC that does not comply with subregulations (1) to (3).

Penalty: 50 penalty units.

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- (5) An offence under subregulation (4) is an offence of strict liability.
- (6) The discretionary information area at the bottom of a TAC may be used by the aircraft operator for its own purposes.

**Subdivision 6.5.3 Issue and form of VICs**

**6.37E Who may issue a VIC**

- (1) A VIC issuer may issue a VIC.
- (2) A person commits an offence if:
  - (a) the person issues a VIC, a card resembling a VIC, or a card apparently intended to be taken to be a VIC; and
  - (b) the person is not a VIC issuer.

Penalty: 50 penalty units.

- (3) An offence under subregulation (2) is an offence of strict liability.

**6.37F Approval of aircraft operators as VIC issuers**

- (1) An aircraft operator that operates a regular public transport operation from a passenger terminal may apply, in writing, to the Secretary for approval to issue VICs.
- (2) The application must set out:
  - (a) the airport or airports for which the aircraft operator wants to issue VICs; and
  - (b) the reasons why the aircraft operator wants to be approved to issue VICs.
- (3) The Secretary may ask the aircraft operator, or the operator of an airport for which the aircraft operator wants to issue VICs (the *relevant airport operator*), for more information.
- (4) When considering whether to give an aircraft operator approval to issue VICs, the Secretary must consider the following:
  - (a) the aircraft operator's reasons for wanting to be approved to issue VICs;

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**6.37G Authorisation of agent of airport operator or  
Secretary-approved VIC issuer**

- (1) An airport operator or a Secretary-approved VIC issuer may authorise, in writing, one or more agents to issue VICs on its behalf only if the TSP of the airport operator or the Secretary-approved VIC issuer specifies that the airport operator or Secretary-approved VIC issuer may authorise agents to issue VICs on its behalf.
- (2) An airport operator or Secretary-approved VIC issuer may only authorise an agent for subregulation (1) if the agent is an appropriate person to issue VICs.
- (3) Without limiting subregulation (2), a person is an appropriate person to issue VICs if the following apply:
  - (a) the person:
    - (i) controls a secure area or part of a secure area; or
    - (ii) reasonably needs access to a secure area or part of a secure area; and
  - (b) the airport operator or Secretary-approved VIC issuer determines that the person is not likely to be a threat to aviation security; and
  - (c) VICs cannot more appropriately be issued by the airport operator or Secretary-approved VIC issuer.
- (4) The airport operator or Secretary-approved VIC issuer must revoke the authorisation of an agent if paragraph (3) (a), (b) or (c) no longer applies to the person.
- (5) An airport operator or Secretary-approved VIC issuer is responsible for the actions of its agents.

*Example*

If an agent issues a VIC to a person without confirming that person's identity under regulation 6.38C, the airport operator or Secretary-approved VIC issuer who authorised the agent commits an offence under subregulation 6.38C (3).

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**Regulation 6.38**

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**6.38 Issue of VICs**

- (1) Subject to subregulation (1A), a VIC issuer may issue a VIC to a person if and only if:
  - (a) he or she needs to enter the secure area of a security controlled airport for a lawful purpose; and
  - (b) he or she will be supervised by the holder of a valid ASIC while in the area.
- (1A) Customs and Border Protection may only issue a VIC to a person in the circumstances mentioned in subregulation (1) if the person is:
  - (a) a law enforcement officer; or
  - (b) an officer or employee of ASIO or the Australian Secret Intelligence Service; or
  - (c) an officer of the Commonwealth or of a State or Territory government.
- (3) Despite subparagraph 6.26A (2) (b) (iii), a VIC holder who is supervised by a representative of a prescribed air service, being a representative who holds an ASIC, may access:
  - (a) an aircraft engaged in a prescribed air service; or
  - (b) passengers boarding, or intending to board, such an aircraft; or
  - (c) anything being loaded, or to be loaded, on board such an aircraft.
- (4) A VIC issuer must not issue a VIC in contravention of subregulation (1).

Penalty: 50 penalty units.

*Note* An airport operator or Secretary-approved VIC issuer is responsible for the actions of its agents under subregulation 6.37G (5).

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

*Persons to whom VIC cannot be issued*

- (6) A VIC issuer must not knowingly issue a VIC to a person who:
  - (a) has been refused an ASIC; or

**Regulation 6.38A**

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- (b) is the holder of an ASIC that has been suspended under regulation 6.42A; or
- (c) was the holder of an ASIC that was cancelled under paragraph 6.43 (2) (b), (ba), (d) or (db).

Penalty: 100 penalty units.

*Note* An airport operator or Secretary-approved VIC issuer is responsible for the actions of its agents under subregulation 6.37G (5).

- (7) A person commits an offence if:
  - (a) the person applies for a VIC; and
  - (b) the person declares that he or she has not:
    - (i) been refused an ASIC; or
    - (ii) had an ASIC suspended or cancelled because he or she had an adverse criminal record; and
  - (c) the person knows that the declaration is not true.

Penalty: 20 penalty units.

**6.38A Statement of reasons for entry to secure area**

- (1) For paragraph 6.38 (1) (a), a person must give the VIC issuer a written statement of the reasons why the person needs to enter the secure area.
- (2) An ASIC holder must give the VIC issuer written confirmation of the person's reasons why the person needs to enter the secure area.
- (3) A person commits an offence if:
  - (a) the person gives a VIC issuer a written statement of the reasons why the person needs to enter a secure area; and
  - (b) the person knows that the statement is false or misleading.

Penalty: 10 penalty units.

- (4) A person commits an offence if:
  - (a) the person is an ASIC holder; and
  - (b) the ASIC holder gives a VIC issuer written confirmation of the reasons why another person needs to enter a secure area; and

**Regulation 6.38B**

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- (c) the ASIC holder knows that the confirmation is false or misleading.

Penalty: 10 penalty units.

- (5) A VIC issuer may approve, or refuse to approve, a reason for why a person needs to enter a secure area.
- (6) A person commits an offence if:
  - (a) the person is a VIC holder; and
  - (b) the person:
    - (i) enters a secure area other than for an approved reason; or
    - (ii) engages in conduct that is inconsistent with the approved reasons for entry.

Penalty: 10 penalty units.

**6.38B Changed reasons for entry**

- (1) This regulation applies if:
  - (a) a person gives a VIC issuer a statement of the reasons why the person needs to enter a secure area; and
  - (b) the person is issued a VIC; and
  - (c) the reasons why the person needs to enter or be in the secure area change.
- (2) The person must give the VIC issuer a written statement of the changed reasons.
- (3) If the person gives the VIC issuer a written statement of the changed reasons, the VIC issuer may approve, or refuse to approve, the changed reasons for entry.

*Note* A person commits an offence under subregulation 6.38A (6) if the person enters a secure area other than for an approved reason, or engages in conduct that is inconsistent with the approved reasons for entry.

**6.38C Proof of identity**

- (1) A VIC issuer must not issue a VIC to a person unless the person confirms his or her identity:

**Regulation 6.38C**

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- (a) by showing the VIC issuer an identification document that:
    - (i) has a recent photograph of the person; and
    - (ii) is a primary identification document or secondary identification document; or
  - (b) by:
    - (i) showing the VIC issuer 2 forms of identification mentioned in subregulation (2), at least 1 of which has a signature of the person; and
    - (ii) verifying the signature by replicating it; or
  - (c) in the manner specified by the Secretary in an instrument made for this paragraph.
- (2) For subparagraph (1) (b) (i), the forms of identification must be:
- (a) a document issued by a government agency, such as a Medicare card; or
  - (b) a document issued by a financial institution, such as a credit card; or
  - (c) a primary, secondary or tertiary identification document.
- (3) However, the person does not need to confirm his or her identity if:
- (a) the person is a person mentioned in paragraph 4.12 (1) (a), (b) or (c); or
  - (b) the person is younger than 18; or
  - (c) the VIC issuer determines that there are exceptional circumstances.
- Example for paragraph (c)*
- There is a plumbing or electrical emergency and the person who is to fix the problem has forgotten to bring his or her identification documents.
- (4) A person commits an offence if:
- (a) the person is a VIC issuer; and
  - (b) the VIC issuer (or its agent) issues a VIC to a person (the **VIC holder**); and

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- (c) at the time of issue, the VIC holder does not confirm his or her identity in accordance with subregulation (1); and
- (d) the VIC holder is not exempt from confirming his or her identity under subregulation (3).

Penalty: 50 penalty units.

*Note* An airport operator or Secretary-approved VIC issuer is responsible for the actions of its agents under subregulation 6.37G (5).

- (5) If a VIC issuer issues a VIC to a person and the person did not confirm his or her identity at the time of issue because the VIC issuer determined that there were exceptional circumstances, the VIC issuer must:
  - (a) record, in writing, the circumstances under which the VIC was issued; and
  - (b) maintain the record for 24 months; and
  - (c) allow an aviation security inspector to inspect the record on request during normal business hours.

- (6) In this regulation:

*primary identification document* has the meaning given by subregulation 6.04 (2).

*secondary identification document* has the meaning given by subregulation 6.04 (3).

*tertiary identification document* has the meaning given by subregulations 6.04 (5) and (6).

### 6.38D Particulars of VICs

#### *Conditions*

- (1) A VIC issuer may issue a VIC subject to a condition.
- (2) The VIC issuer must notify the VIC holder of the condition in writing or orally.

#### *VIC only valid in specific airport*

- (3) A person commits an offence if:
  - (a) the person is an airport operator; and

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- (b) the airport operator (or its agent) issues a VIC:
  - (i) that is valid in more than one airport in Australia; or
  - (ii) for an airport that is not operated by the airport operator.

Penalty: 50 penalty units.

*Note* An airport operator is responsible for the actions of its agents under subregulation 6.37G (5).

- (4) A person commits an offence if:
  - (a) the person is a Secretary-approved VIC issuer; and
  - (b) the Secretary-approved VIC issuer (or its agent) issues a VIC:
    - (i) that is valid in more than 1 airport in Australia; or
    - (ii) that is valid in an airport for which the person is not approved to issue VICs.

Penalty: 50 penalty units.

*Note* A Secretary-approved VIC issuer is responsible for the actions of its agents under subregulation 6.37G (5).

*Period of validity of VIC*

- (5) Subject to subregulation (6), a VIC issuer must not issue a VIC that is valid for more than 28 days.
- (6) Customs and Border Protection must not issue a VIC:
  - (a) that is valid for more than 24 hours; or
  - (b) that is valid in more than 1 airport.

**6.38E The 28 day rule — VICs issued for particular airport**

- (1) This regulation does not apply to Customs and Border Protection.
- (2) A person commits an offence if:
  - (a) the person is a VIC issuer; and
  - (b) the VIC issuer (or its agent) issues a VIC for a particular airport to a person; and

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- (c) the person to whom the VIC is issued has held a VIC for that airport for a total of 28 or more days in the previous 12 months.

Penalty: 50 penalty units.

*Note* An airport operator or Secretary-approved VIC issuer is responsible for the actions of its agents under subregulation 6.37G (5).

- (3) If a person has held a VIC for a particular airport for less than a total of 28 days in the previous 12 months, a VIC issuer may issue a VIC for that airport to the person only if the period for which the VIC will be valid will not result in the person holding a VIC for that airport for more than a total of 28 days in a 12 month period.

*Note* For exceptions to subregulations (2) and (3), see regulations 6.38G to 6.38I.

- (4) A person commits an offence if the person:
  - (a) applies for a VIC for a particular airport; and
  - (b) the person knows that he or she has held a VIC for that airport for a total of 28 or more days in the previous 12 months.

Penalty: 20 penalty units.

- (5) For this regulation, the following must be disregarded when working out how many days a person has held a VIC:
  - (a) a VIC issued by Customs and Border Protection;
  - (b) a VIC issued before 21 November 2011;
  - (c) a VIC issued relying on regulation 6.38G, 6.38H or 6.38I;
  - (d) a VIC issued relying on an exemption under regulation 6.38F.

### **6.38EA The 28 day rule — additional rules for Secretary-approved VIC issuers**

- (1) A person commits an offence if:
  - (a) the person is a Secretary-approved VIC issuer who is approved to issue VICs in more than one airport; and
  - (b) the Secretary-approved VIC issuer (or its agent) issues a VIC to a person; and



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- (c) the person to whom the VIC is issued has held a VIC, issued by or on behalf of the Secretary-approved VIC issuer, for any of those airports for a combined total of 28 or more days in the previous 12 months.

Penalty: 50 penalty units.

*Example*

If a Secretary-approved VIC issuer has, in the previous 12 months, issued a VIC to a person for an airport for a total of 18 days, and issued a VIC to the person for another airport for a total of 10 days, the issuer has issued a VIC to the person for any of the airports for a combined total of 28 days in the previous 12 months.

*Note* An airport operator or Secretary-approved VIC issuer is responsible for the actions of its agents under subregulation 6.37G (5).

- (2) A person commits an offence if the person:
  - (a) applies to a Secretary-approved VIC issuer for a VIC; and
  - (b) the person knows that he or she has held a VIC, issued by or on behalf of the Secretary-approved VIC issuer, for a total of 28 or more days in the previous 12 months.

Penalty: 20 penalty units.

- (3) Subregulation (4) applies if:
  - (a) a Secretary-approved VIC issuer (or its agent) issues VICs for a particular airport during a particular month; and
  - (b) any of the VICs were issued to a person who, by the last day of the month, had held a VIC for the airport for a total of 20 or more days in the previous 12 months; and
  - (c) screened air services are operated from the airport.
- (4) The Secretary-approved VIC issuer must give to the operator of the airport, by the seventh day of the following month, the following details in relation to each VIC mentioned in paragraph (3) (b):
  - (a) the name, date of birth and address of the person to whom the VIC was issued; and
  - (b) the date the VIC was issued; and
  - (c) how many days the VIC is valid for.

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- (5) A Secretary-approved VIC issuer must comply with the Information Privacy Principles set out in section 14 of the *Privacy Act 1988* in relation to information about VICs or VIC holders.
- (6) For this regulation, a VIC issued before 21 November 2011 must be disregarded when working out how many days a person has held a VIC.

**6.38EB The 28 day rule — additional rule for Customs and Border Protection**

- (1) Customs and Border Protection must not issue a VIC to a person if the person has held a VIC, issued by Customs and Border Protection, for a total of 28 or more days in the previous 12 months.
- (2) A person commits an offence if the person:
  - (a) applies to Customs and Border Protection for a VIC; and
  - (b) the person knows that he or she has held a VIC, issued by Customs and Border Protection, for a total of 28 or more days in the previous 12 months.

Penalty: 20 penalty units.

- (3) For this regulation, a VIC issued before 21 November 2011 must be disregarded when working out how many days a person has held a VIC issued by Customs and Border Protection.

**6.38F Temporary exemption from 28 day rule**

- (1) The Secretary may exempt, in writing, a VIC issuer, a class of VIC issuers, or all VIC issuers from subregulations 6.38E (2) and (3) and 6.38EA (1) for a period specified in the exemption.
- (2) An exemption may be subject to conditions.
- (3) A VIC issuer to whom the exemption applies must comply with any conditions specified by the Secretary in the exemption.

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- (4) A VIC issuer may apply, in writing, to the Secretary for an exemption under subregulation (1).

**6.38G VIC issued to applicant for ASIC**

Despite subregulations 6.38E (2) and (3), a VIC issuer may issue a VIC for a particular airport to a person who has held, or will hold, a VIC for that airport for a total of 28 or more days in a 12 month period if:

- (a) the person has applied for an ASIC and the issuing body has not yet issued, or not yet refused to issue, the ASIC; and
- (b) the VIC issuer independently confirms that the issuing body has received the completed application but has not yet issued, or refused to issue, the ASIC.

**6.38H VIC issued to ASIC holder**

- (1) Despite subregulations 6.38E (2) and (3), a VIC issuer may issue a VIC for a particular airport to a person who has held, or will hold, a VIC for that airport for a total of 28 or more days in a 12 month period if:
  - (a) both of the following apply:
    - (i) the person is an ASIC holder and does not have the ASIC on his or her person;
    - (ii) the VIC issuer independently confirms that the person holds a valid ASIC; or
  - (b) both of the following apply:
    - (i) the person is an ASIC holder and has the ASIC on his or her person;
    - (ii) the ASIC is for a different airport.
- (2) If a VIC issuer issues a VIC to a person under subregulation (1), the VIC issuer must ensure that the VIC does not have any expiry date any later than the expiry date of the ASIC.

- (1) Despite subregulations 6.38E (2) and (3), a VIC issuer may issue a VIC for a particular airport to a person who has held, or will hold, a VIC for that airport for a total of 28 or more days in a 12 month period if the VIC issuer is satisfied on reasonable grounds that there are exceptional circumstances to justify the issue of the VIC.

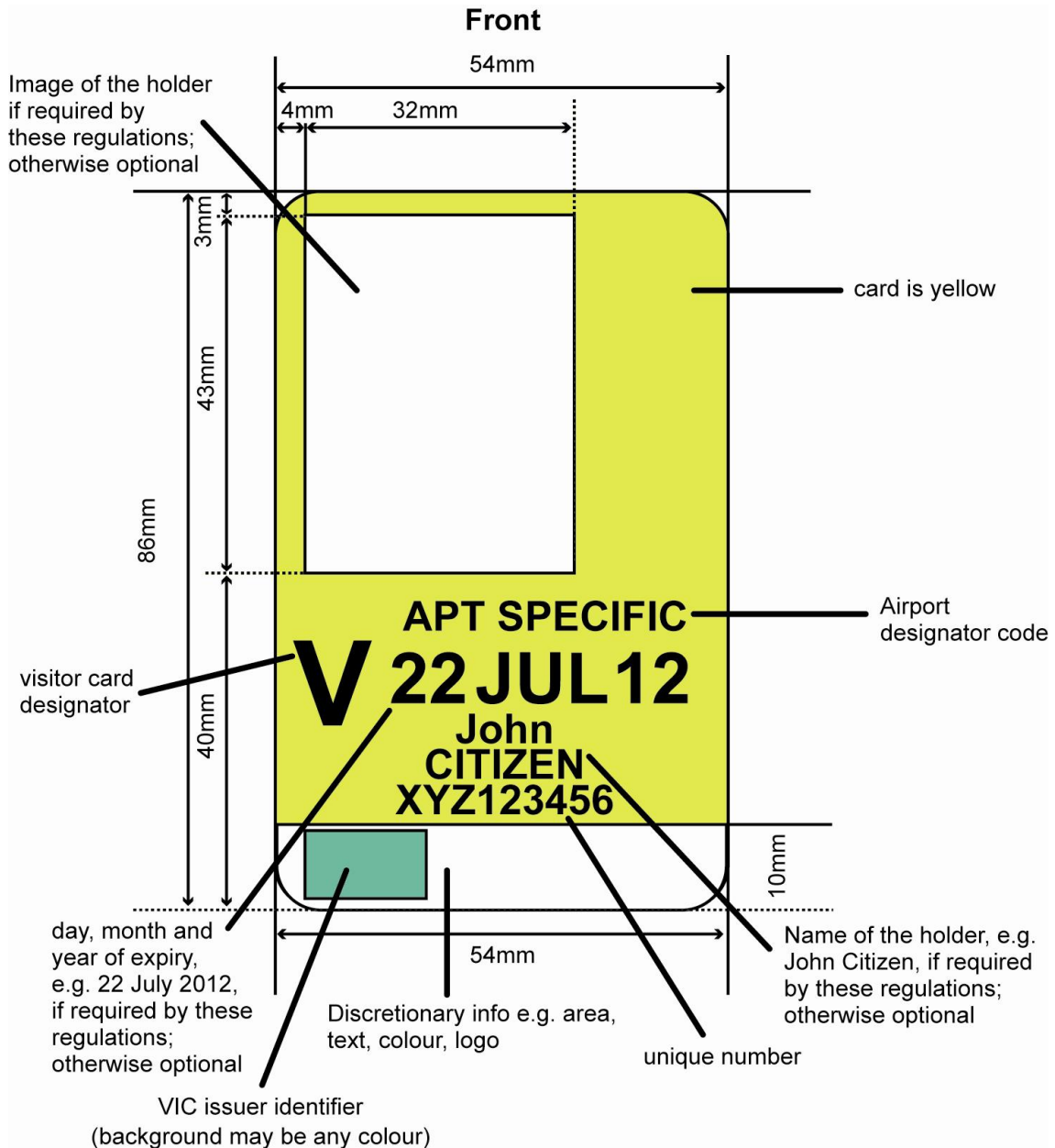
There is a plumbing or electrical emergency and the person requires a VIC to access areas to fix the problem.

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**6.39 Default form of VICs**

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



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- (2) Subject to subregulation (4A), and unless the Secretary approves otherwise, a VIC must comply with the following requirements:
- (a) the dimensions of the VIC, and of each of its parts, must be as shown in the diagram in subregulation (1);
  - (b) where the diagram indicates a particular colour, type-face or type size, that colour, type-face or type size must be used;
  - (c) the image of the holder (if shown on the card) must be a recent photograph of the holder, showing the holder's full face and his or her head and shoulders;
  - (d) the given name and surname (if shown on the card) must be those that the holder normally uses;
  - (e) the number must be unique among VICs issued by that VIC issuer;
  - (f) the ICAO 4-letter code, the ICAO 3-letter code or the IATA 3-letter code for the airport must appear where 'APT SPECIFIC' appears on the diagram in subregulation (1);
  - (g) the VIC issuer identifier must be:
    - (i) if the VIC is issued by an airport operator or its agent:
      - (A) the airport operator's logo; or
      - (B) the ICAO 4-letter code, the ICAO 3-letter code or the IATA 3-letter code for the airport; or
    - (ii) if the VIC is issued by a Secretary-approved VIC issuer or its agent — the aircraft operator's company or trading name; or
    - (iii) if the VIC is issued by Customs and Border Protection — the word 'Customs';however, the background to the identifier may be any colour;
  - (i) the expiry date (if shown on the card) must be in the form *day abbreviated month abbreviated year*, where ***abbreviated month*** means the first 3 letters of the name of the month of expiry and ***abbreviated year*** means the last 2 digits of the number of the year of expiry.

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- (3) A VIC that is issued to a law enforcement officer or an officer or employee of ASIO may bear the holder's name on the back of the card (that is, the side other than the side on which the other particulars and things required by subregulation (2) appear).
- (4) The Secretary may approve the issue of a VIC showing the holder's name on the back if the Secretary is satisfied that having the holder's name on the front would put the holder's personal security at risk.
- (4A) If a VIC is valid for more than 24 hours at a designated airport, or more than 72 hours at an airport that is not a designated airport, the VIC must contain:
  - (a) the image of the VIC holder as mentioned in paragraph (2) (c); and
  - (b) the given name and surname of the VIC holder as mentioned in paragraph (2) (d); and
  - (c) the expiry date of the VIC as mentioned in paragraph (2) (i).
- (5) Unless the Secretary has approved otherwise, a VIC issuer must not issue a VIC that does not comply with subregulations (1) to (4A).

Penalty: 50 penalty units.

*Note* An airport operator or Secretary-approved VIC issuer is responsible for the actions of its agents under subregulation 6.37G (5).

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

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

- (7) The discretionary information area at the bottom of a VIC may be used by the VIC issuer for its own purposes.

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**6.39A Secretary's approval of the issue of VICs in other forms***VICs issued by Customs and Border Protection*

- (1) Customs and Border Protection may apply to the Secretary for approval to issue VICs in a form other than that set out in regulation 6.39.
- (2) The application must be in writing and must set out:
  - (a) the proposed form of VICs; and
  - (b) the reasons for the proposed differences.
- (3) If the Secretary needs more information to deal with an application, the Secretary may ask Customs and Border Protection, in writing, to provide the information.
- (4) Within 30 days after receiving an application (or, if the Secretary has asked for information under subregulation (3), after receiving the information), the Secretary:
  - (a) must approve, or refuse to approve, in writing, the issue of VICs in the proposed form; and
  - (b) must notify Customs and Border Protection in writing of the decision and, if the decision is a refusal, the reasons for the decision.
- (5) If the Secretary has not approved, or refused to approve, the issue of VICs in the proposed form within the period allowed by subregulation (4), the Secretary is taken to have refused to approve the issue of VICs in the proposed form.
- (6) Before approving or refusing to approve the issue of VICs in the proposed form, the Secretary must consider:
  - (a) the justification offered for the difference; and
  - (b) the likely effect of the difference on aviation security in Australia generally; and
  - (c) the likely effect of the difference on aviation security at the airport or airports concerned; and
  - (d) anything else relevant that the Secretary knows about.



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- (7) The Secretary may give an approval subject to a condition, but must notify Customs and Border Protection in writing what the condition is.

*VICs issued by airport operators and aircraft operators*

- (7A) A VIC issuer (other than Customs and Border Protection) may issue VICs in a form that is different from that set out in regulation 6.39 if the Secretary has approved the different form.
- (7B) The Secretary is taken to have approved the different form for subregulation (7A) if:
- (a) the VIC issuer's TSP sets out the different form; and
  - (b) the Secretary has approved the part of the TSP that sets out the different form.
- (7C) If the VIC issuer is an agent of an airport operator or Secretary-approved VIC issuer, the agent may only issue VICs in a form that is different from that set out in regulation 6.39 if:
- (a) the airport operator's or Secretary-approved VIC issuer's TSP sets out:
    - (i) the different form; and
    - (ii) that the agent will issue VICs in the different form; and
  - (b) the Secretary has approved the part of the TSP that sets out the different form and states that the agent will issue VICs in the different form.

*Offence*

- (8) A person commits an offence if:
- (a) the person is a VIC issuer; and
  - (b) the Secretary has approved a different form for VICs issued by that VIC issuer; and
  - (c) the VIC issuer:
    - (i) issues a VIC that does not comply with either the different form or the form set out in regulation 6.39; or

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- (ii) contravenes a condition of the approval of the different form.

Penalty: 50 penalty units.

*Note* An airport operator or Secretary-approved VIC issuer is responsible for the actions of its agents under subregulation 6.37G (5).

- (9) An offence under subregulation (8) is an offence of strict liability.

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

- (10) A person commits an offence if:

- (a) the person is a VIC issuer; and
- (b) the VIC issuer is an airport operator or a Secretary-approved VIC issuer; and
- (c) the VIC issuer's TSP states that the VIC issuer (or its agent) must not issue a VIC in the form set out in regulation 6.39; and
- (d) the VIC issuer (or its agent) issues a VIC in the form set out in regulation 6.39.

Penalty: 50 penalty units.

*Note* An airport operator or Secretary-approved VIC issuer is responsible for the actions of its agents under subregulation 6.37G (5).

### **Subdivision 6.5.3A Obligations of VIC issuer, ASIC holder and issuing body**

#### **6.40 Obligations of VIC issuer**

- (1) If a VIC issuer issues a VIC to a person, the VIC issuer must ensure that the VIC holder is aware of the VIC holder's responsibilities under these Regulations.

*Examples*

- 1 The responsibility under regulation 6.45 to return the VIC.
- 2 The responsibility under regulation 3.09 to leave a secure area if the VIC holder is no longer supervised by an ASIC holder.
- 3 The responsibility under regulation 6.38E to comply with the 28 day rule.

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- (2) A VIC issuer must ensure that the following are kept secure at all times:
  - (a) unissued VICs;
  - (b) software and systems used for producing VICs.
- (3) A VIC issuer must ensure that:
  - (a) all areas used for producing VICs are not accessible by the general public; and
  - (b) access to all areas used for producing VICs is controlled by access control systems or persons employed to issue VICs.
- (4) If a VIC issuer needs to use, transport, store or destroy information about VICs or VIC holders, the information must be used, transported, stored or destroyed securely.
- (5) A VIC issuer must comply with the Information Privacy Principles set out in section 14 of the *Privacy Act 1988* in relation to information about VICs or VIC holders.

**6.41 Obligation of ASIC holders — conviction of aviation-security-relevant offence**

- (1) If the holder of an ASIC is convicted and sentenced for an aviation-security-relevant offence, the holder must notify the issuing body or the Secretary AGD in writing of the following matters within 7 days:
  - (a) his or her name, date of birth and residential address;
  - (b) the number of his or her ASIC or ASICs;
  - (c) the date he or she was convicted and sentenced;
  - (d) the court in which he or she was convicted;
  - (e) whether he or she gives consent for:
    - (i) his or her identity to be confirmed; and
    - (ii) a new background check to be undertaken; and
    - (iii) the outcome of the background check to be provided to the issuing body, if the outcome will adversely affect his or her ability to continue holding the ASIC.

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Penalty: 50 penalty units.

*Note* For the meaning of *aviation-security-relevant offence* and *background check*, see regulation 6.01.

- (2) The issuing body or the Secretary AGD may, if not satisfied that all of the information mentioned in subregulation (1) has been provided, request that the holder provide that information within 14 days.
- (3) For paragraph (1) (e), consent is given if the holder gives consent and information requested to confirm his or her identity to:
  - (a) if the holder notified the issuing body under subregulation (1) — the issuing body; or
  - (b) if the holder notified the Secretary AGD under subregulation (1) — the Secretary AGD.
- (4) The Secretary AGD must tell the issuing body if the holder:
  - (a) notifies the Secretary AGD under subregulation (1); and
  - (b) does not:
    - (i) give his or her consent under paragraph (1) (e); or
    - (ii) comply with:
      - (A) all of the requirements of subregulation (1); and
      - (B) any request under subregulation (2) within 14 days after the request.

#### **6.41A Obligation on issuing body notified under regulation 6.41**

If an issuing body is notified under regulation 6.41 by the holder of an ASIC, the issuing body must apply to the Secretary AGD for a background check on the holder not later than 2 working days after the holder:

- (a) notifies his or her consent under paragraph 6.41 (1) (e); and
- (b) provides any information requested under subregulation 6.41 (2).

Penalty: 100 penalty units.

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**6.42 Obligation of ASIC holders — change of name**

- (1) If the holder of an ASIC changes his or her name, he or she must notify the issuing body that issued the ASIC of the change, in accordance with subregulation (2), within 30 days after the change.

Penalty: 5 penalty units.

- (2) The notification must be in the form of a statutory declaration.
- (3) A contravention of subregulation (1) is an offence of strict liability.
- (4) The issuing body must notify the AFP and ASIO of the change of name within 7 days.

*Note* The issuing body is authorised to issue a replacement ASIC — see regulation 6.35.

**Subdivision 6.5.4 Suspension of ASICs**

**6.42A Suspension of ASICs — Secretary's direction**

- (1) The Secretary may direct an issuing body, in writing, to suspend an ASIC if the holder of the ASIC:
  - (a) is convicted of an aviation-security-relevant offence; and
  - (b) has not yet been sentenced for the offence; and
  - (c) constitutes a threat to aviation security.
- (2) In deciding whether the holder constitutes a threat to aviation security, the Secretary must consider:
  - (a) the type of offence for which the holder was convicted and the circumstances in which the offence was committed; and
  - (b) the effect the suspension may have on the holder's employment; and
  - (c) the location of the secure area where the holder is employed; and
  - (d) whether the holder is employed in a landside security zone or airside area; and
  - (e) anything else relevant that the Secretary knows about.

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- (3) If the Secretary makes a direction under subregulation (1), the Secretary must tell the Secretary AGD, in writing, about the direction.

**6.42B Suspension of ASIC by issuing body**

- (1) An issuing body must immediately suspend an ASIC issued by the body if directed to do so by the Secretary.

Penalty: 100 penalty units.

- (2) As soon as practicable after the issuing body suspends the ASIC, the body must tell the holder of the ASIC, in writing, that the ASIC has been suspended and the reasons for the suspension.

Penalty: 100 penalty units.

- (3) The suspension takes effect when the holder is told about the suspension.
- (4) The holder of the ASIC must return the ASIC to the issuing body for the ASIC not later than 7 days after the holder is told in writing that the ASIC has been suspended.

Penalty: 10 penalty units.

- (5) An offence against subregulation (4) is an offence of strict liability.

**6.42C Period of suspension of ASIC**

- (1) This regulation applies if:
- (a) an ASIC is suspended under regulation 6.42B; and
  - (b) the holder is sentenced for the offence; and
  - (c) the Secretary AGD has notified the issuing body of the outcome of the holder's background check.
- (2) An ASIC is suspended until it is cancelled under regulation 6.43 if:
- (a) the holder has an adverse criminal record; or

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- (b) the holder has a qualified criminal record and his or her ASIC is to expire later than 1 year after the last day of the month in which the background check, undertaken when the holder applied for his or her ASIC, was completed.
- (3) If subregulation (2) does not apply to the ASIC holder, the ASIC is suspended until the day after the issuing body is informed of the outcome of the holder's background check.

**6.42D Suspension of temporary ASIC**

- (1) This regulation applies if a person holds:
  - (a) an ASIC that is suspended under regulation 6.42B; and
  - (b) a temporary ASIC.
- (2) The temporary ASIC is suspended:
  - (a) when the ASIC is suspended under regulation 6.42B; and
  - (b) for the period the ASIC is suspended.

**6.42E Report to Secretary of suspension of ASIC**

- (1) If an issuing body suspends an ASIC, the body must, not later than 7 days after the ASIC is suspended, tell the Secretary, in writing:
  - (a) about the suspension; and
  - (b) the name, date of birth and residential address of the holder of the ASIC; and
  - (c) if applicable, the name and address of the ASIC holder's employer.
- (2) The Secretary may tell the holder's employer that the ASIC has been suspended if the Secretary considers on reasonable grounds that doing so may help to prevent unlawful interference with aviation.

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**Subdivision 6.5.5 Cancellation and other matters concerning ASICs, VICs and TACs**

**6.42F Definition**

In this Subdivision:

*issuer* means the following:

- (a) for an ASIC — the issuing body that issued the ASIC;
- (b) for a VIC issued by an airport operator or its agent — the airport operator;
- (c) for a VIC issued by a Secretary-approved VIC issuer or its agent — the Secretary-approved VIC issuer;
- (d) for a VIC issued by Customs and Border Protection — Customs and Border Protection;
- (e) for a TAC — the aircraft operator that issued the TAC.

**6.43 Cancellation of ASICs**

- (2) An issuing body must immediately 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) the Secretary has notified the issuing body in writing that a security assessment of the holder was adverse; or
  - (ba) the Secretary or the Secretary AGD has notified the issuing body in writing that the holder is the subject of a qualified security assessment; or
  - (c) the body finds out that the holder is or has become an unlawful non-citizen; or
  - (d) subject to subregulation (2A), the issuing body has received a notice from the Secretary AGD that the holder has an adverse criminal record; or
  - (da) the issuing body has received a notice from the Secretary AGD that the holder has a qualified criminal record and the holder's ASIC is to expire later than 1 year after the last day of the month in which the background check,



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- undertaken when the holder applied for his or her ASIC,  
was completed; or
- (db) the holder does not consent to a background check or does  
not comply with subregulation 6.41 (1) and, if requested,  
subregulation 6.41 (2); or
- (e) the holder no longer has an operational need to enter a  
secure area.
- (2A) For paragraph (2) (d), an issuing body must not cancel an ASIC  
that was:
- (a) issued with the Secretary's approval under regulation 6.29;  
or
- (b) reinstated under regulation 6.43C;  
if the notice that the holder has an adverse criminal record  
relates to an application for a new ASIC.
- (3) An issuing body must cancel an ASIC issued by the body to a  
person who was, at the time of issue, under 18, if, by 3 months  
after the person's 18th birthday, he or she has not given the  
issuing body a signed consent to:
- (a) a criminal records check; and
- (b) a security assessment.
- (3A) An issuing body commits an offence if the issuing body is  
required to cancel an ASIC under subregulation (2) or (3) and  
fails to do so.
- Penalty: 100 penalty units.
- (4) An issuing body may cancel an ASIC issued by the body if:
- (a) the holder contravenes Subdivision 3.2.1, or a condition of  
the ASIC; or
- (b) the ASIC is altered or defaced (permanently or  
temporarily).
- (4A) An issuing body may cancel an ASIC issued by the body if:
- (a) the ASIC included a condition that it would be cancelled if  
the holder changed employer, contractor for services or  
volunteer organisation; and
- (b) the holder changed employer, contractor for services or  
volunteer organisation.

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- (5) For paragraph (4) (a), the issuing body must consider:
  - (a) the kind and seriousness of each contravention; and
  - (b) whether the holder has previously contravened Subdivision 3.2.1 or a condition of the ASIC.
- (6) As soon as practicable after an issuing body cancels an ASIC under subregulation (2), (3), (4) or (4A), the issuing body must:
  - (a) tell the holder, in writing, that the card has been cancelled and the reasons for the cancellation; and
  - (b) tell the Secretary AGD about the cancellation, using the AusCheck facility.

Penalty: 10 penalty units.

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

- (7) A cancellation under subregulation (2), (3) or (4) takes effect when the holder is notified of it in writing.

**6.43A Reinstatement of cancelled ASIC — application**

- (1) This regulation applies if an ASIC is cancelled by an issuing body in accordance with paragraph 6.43 (2) (ba) or (d).
- (2) The former holder of the ASIC or the issuing body may apply to the Secretary, in writing, for the cancellation to be set aside.
- (3) The application must be made not later than 28 days after the former holder of the ASIC is told about the cancellation.
- (4) The Secretary may, on application in writing by the former holder of the ASIC or the issuing body, extend the time for making the application.
- (5) If the Secretary needs more information to deal with an application, the Secretary may ask the former holder of the ASIC or the issuing body, in writing, for the information.
- (6) If the Secretary receives an application under subregulation (2), the Secretary may request information about the former holder of the ASIC from the Secretary AGD.

**Regulation 6.43B**

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- (7) If the Secretary has asked for more information under subregulation (5), and does not receive the information within 30 days of asking for it, the Secretary may close the application and regulations 6.43B and 6.43C do not apply.

*Note* Closing an application is not a refusal to issue an ASIC.

- (8) The Secretary may, on application in writing by the former holder of the ASIC or the issuing body, extend the time for providing the information.
- (9) If an application was closed under subregulation (7) and the Secretary extends the time in which the former holder of the ASIC or the issuing body may provide the information, the application is not reopened until the Secretary receives the information.

**6.43B Reinstatement of ASIC cancelled for qualified security assessment — Secretary's decision**

- (1) This regulation applies if:
- (a) an ASIC is cancelled in accordance with paragraph 6.43 (2) (ba); and
  - (b) the Secretary receives:
    - (i) an application mentioned in subregulation 6.43A (2) from the former holder of the ASIC or the issuing body for the ASIC; or
    - (ii) any information for which the Secretary asks the former holder of the ASIC or the issuing body under subregulation 6.43A (5).
- (2) If the Secretary is satisfied on reasonable grounds that setting aside the cancellation of the ASIC would not constitute a threat to aviation security, the Secretary must set aside the cancellation.
- (3) If the Secretary is satisfied on reasonable grounds that setting aside the cancellation of the ASIC would constitute a threat to aviation security, the Secretary must refuse to set aside the cancellation.

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**Regulation 6.43B**

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- (4) Subject to subregulation (5), within 30 days after the Secretary receives the application or, if subparagraph (1) (b) (ii) applies, within 30 days after the Secretary receives the information, the Secretary must:
- (a) decide whether to set aside the cancellation of the ASIC; and
  - (b) if the Secretary decides to set aside the cancellation — tell the following persons, in writing, about the decision and any condition under regulation 6.43D to which the setting aside is subject:
    - (i) the former holder of the ASIC;
    - (ii) the issuing body;
    - (iii) the Secretary AGD; and
  - (c) if the Secretary refuses to set aside the cancellation:
    - (i) tell the former holder of the ASIC, in writing, about the decision and the reasons for it; and
    - (ii) if the application mentioned in subregulation 6.43A (2) was made by the issuing body — tell the issuing body, in writing, about the decision.
- Note* For a person's notification and review rights in relation to a qualified security assessment, see section 38 and Division 4 of Part IV of the *Australian Security Intelligence Organisation Act 1979*.
- (5) The Secretary may extend the period for making a decision mentioned in paragraph (4) (a) by a further period not exceeding 60 days if the Secretary:
- (a) tells the person who made the application mentioned in subregulation 6.43A (2), in writing, about extending the period for making the decision; and
  - (b) tells the person mentioned in paragraph (a) within 30 days after the Secretary receives the application or, if subparagraph (1) (b) (ii) applies, within 30 days after the Secretary receives the requested information.
- (6) If the Secretary does not make a decision mentioned in paragraph (4) (a) within the period mentioned in subregulation (4) or, if the period is extended under subregulation (5), within the extended period, the Secretary is taken to have refused to set aside the cancellation of the ASIC.

**Regulation 6.43C**

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**6.43C Reinstatement of ASIC cancelled for adverse criminal record — Secretary's decision**

- (1) This regulation applies if:
  - (a) an ASIC is cancelled in accordance with paragraph 6.43 (2) (d); and
  - (b) the Secretary receives:
    - (i) an application mentioned in subregulation 6.43A (2) from the former holder of the ASIC or the issuing body for the ASIC; or
    - (ii) any information for which the Secretary asks the former holder of the ASIC or the issuing body under subregulation 6.43A (5).
- (2) Within 30 days after the Secretary receives the application or, if subparagraph (1) (b) (ii) applies, within 30 days after the Secretary receives the information, the Secretary must:
  - (a) decide whether there is a threat to aviation security if the cancellation of the ASIC was set aside; and
  - (b) decide whether to set aside the cancellation of the ASIC; and
  - (c) if the Secretary decides to set aside the cancellation — tell the following persons, in writing, about the decision and any condition under regulation 6.43D to which the setting aside is subject:
    - (i) the former holder of the ASIC;
    - (ii) the issuing body;
    - (iii) the Secretary AGD; and
  - (d) if the Secretary refuses to set aside the cancellation:
    - (i) tell the former holder of the ASIC, in writing, about the decision and the reasons for it; and
    - (ii) if the application mentioned in subregulation 6.43A (2) was made by the issuing body — tell the issuing body, in writing, about the decision.
- (3) Before making a decision mentioned in paragraph (2) (a), the Secretary must consider:
  - (a) the type and length of any term of imprisonment imposed on the former holder; and

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**Regulation 6.43D**

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- (b) if the former holder has served the term, or part of the term — how long it is, and the former holder's conduct, since the term was served; and
  - (c) the nature of the offence, or offences, for which the former holder was convicted; and
  - (d) whether the former holder was convicted of the offence before becoming the holder of an ASIC; and
  - (e) the effect on the former holder's employment of cancellation of the ASIC; and
  - (f) the location of the secure area where the former holder was employed; and
  - (g) whether the former holder is or was employed in a landside security zone or airside area; and
  - (h) anything else relevant that the Secretary knows about.
- (4) If the Secretary does not make a decision mentioned in paragraph (2)(b) within the period mentioned in subregulation (2), the Secretary is taken to have refused to set aside the cancellation of the ASIC.

**6.43D Reinstatement of ASIC subject to condition**

The Secretary may set aside a cancellation mentioned in regulation 6.43B or 6.43C subject to a condition.

*Example*

A condition that background checking is conducted at stated intervals.

**6.43E When issuing body must reinstate cancelled ASIC**

If an issuing body is notified by the Secretary under subparagraph 6.43B (4) (b) (ii) or 6.43C (2) (c) (ii), the issuing body must:

- (a) reinstate to the former holder his or her ASIC; and
- (b) tell the Secretary AGD about the ASIC being reinstated, using the AusCheck facility.

Penalty: 10 penalty units.

**Regulation 6.43F**

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**6.43F Cancellation of VICs and TACs**

- (1) An issuer must immediately cancel a VIC or TAC issued by the issuer (or its agent) if the issuer finds out that:
  - (a) the VIC or TAC was not issued in accordance with this Division; or
  - (b) if the issuer is an airport operator or a Secretary-approved VIC issuer — the VIC or TAC was not issued in accordance with the TSP of the issuer; or
  - (c) the VIC or TAC holder has, at any time, had an ASIC cancelled under paragraph 6.43 (2) (b), (c), (d) or (db).
- (2) However, paragraph (1) (c) does not apply if the cancellation was set aside and the ASIC reinstated.
- (3) An issuer must cancel a VIC or TAC issued by the issuer (or its agent) if:
  - (a) the holder of the VIC or TAC also holds an ASIC; and
  - (b) the issuer finds out that the Secretary has directed the issuing body that issued the ASIC to suspend the ASIC under regulation 6.42A.
- (4) An issuer commits an offence if the issuer is required to cancel a VIC or TAC under subregulation (1) or (3) and fails to do so.

Penalty: 100 penalty units.
- (5) An issuer may cancel a VIC or TAC issued by the issuer (or its agent) if:
  - (a) the holder of the VIC or TAC contravenes Subdivision 3.2.1; or
  - (b) if the card is a VIC — the holder of the VIC contravenes a condition of the VIC; or
  - (c) the VIC or TAC is altered or defaced (permanently or temporarily).
- (6) For paragraphs (5) (a) and (b), the issuer must consider:
  - (a) the kind and seriousness of each contravention; and
  - (b) whether the holder of the VIC or TAC has previously contravened Subdivision 3.2.1 or a condition of any ASIC or VIC the person has held.

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- (7) As soon as practicable after an issuer cancels a VIC or TAC under this regulation, the issuer must tell the holder of the VIC or TAC that the VIC or TAC has been cancelled and the reasons for the cancellation.

Penalty: 10 penalty units.

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

- (8) A cancellation under this regulation takes effect when the holder is notified of the cancellation.

#### **6.44 Report of cancellation of ASICs, VICs and TACs in certain cases**

- (1) If an issuer cancels:
- (a) an ASIC in the circumstances mentioned in paragraph 6.43 (2) (c) or (d); or
  - (b) a VIC or TAC because the issuer finds out the holder has had an ASIC cancelled in the circumstances mentioned in paragraph 6.43 (2) (c) or (d);
- the issuer must, within 7 days of the cancellation, give the Secretary a written report that sets out the holder's name, address and date of birth, and the reasons for the cancellation.
- (2) The Secretary may pass the information on to other issuers if the Secretary thinks that doing so will help to prevent unlawful interference with aviation.

#### **6.44A Notifying airport operator of suspended or cancelled ASIC**

If an ASIC is suspended or cancelled by an issuing body that is not the airport operator of the airport where the ASIC was valid, the Secretary may notify the airport operator, or the employer of the former ASIC holder, of the suspension or cancellation.



**Regulation 6.45**

**6.45 Return of ASICs, VICs and TACs that have expired etc**

- (1) A person commits an offence if:
  - (a) the person is the holder of an ASIC; and
  - (b) the holder does not return the ASIC to the issuing body within 1 month after:
    - (i) the ASIC expires; or
    - (ii) the holder is notified that the ASIC has been cancelled; or
    - (iii) the ASIC has been damaged, altered or defaced (permanently or temporarily); or
    - (iv) the holder no longer has an operational need to enter the relevant secure area.

Penalty: 10 penalty units.

- (2) A person commits an offence if:
  - (a) the person is the holder of a VIC; and
  - (b) the holder does not return the VIC to the VIC issuer within 7 days after:
    - (i) the VIC expires, and subregulation (3) does not apply; or
    - (ii) the holder is notified that the VIC has been cancelled; or
    - (iii) the VIC has been damaged, altered or defaced (permanently or temporarily); or
    - (iv) the holder no longer needs to enter the relevant secure area.

Penalty: 10 penalty units.

- (3) The holder of the VIC does not need to return the VIC to the VIC issuer within 7 days after the VIC expires if:
  - (a) all of the following apply:
    - (i) the VIC was issued by an airport operator (or its agent) or a Secretary-approved VIC issuer (or its agent);

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- (ii) the issuer's TSP sets out circumstances in which a VIC does not need to be returned to the VIC issuer within 7 days after the VIC expires;
  - (iii) the Secretary has approved the part of the TSP that sets out the circumstances;
  - (iv) one or more of the circumstances apply to the VIC holder; or
- (b) all of the following apply:
  - (i) Customs and Border Protection issued the VIC;
  - (ii) the Secretary has notified Customs and Border Protection, in writing, that, in particular circumstances, a VIC does not need to be returned to Customs and Border Protection within 7 days after the VIC expires;
  - (iii) one or more of the circumstances apply to the VIC holder.
- (4) If the holder of a VIC does not return the VIC to the VIC issuer, the VIC issuer must take reasonable steps to tell any of the following that the VIC needs to be returned:
  - (a) the VIC holder;
  - (b) the ASIC holder who supervised the VIC holder;
  - (c) the VIC holder's employer.
- (5) A person commits an offence if:
  - (a) the person is the holder of a TAC; and
  - (b) the holder does not return the TAC to the issuer within 7 days after:
    - (i) the TAC expires; or
    - (ii) the holder is notified that the TAC has been cancelled; or
    - (iii) the TAC has been damaged, altered or defaced (permanently or temporarily); or
    - (iv) the holder no longer needs to enter the relevant secure area.

Penalty: 10 penalty units.

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- (6) An offence under subregulation (1), (2) or (5) is an offence of strictly liability.
- (7) For this regulation, if a VIC was issued by an agent of an airport operator or a Secretary-approved VIC issuer, the ***VIC issuer*** is either the agent, or the airport operator or Secretary-approved VIC issuer who authorised the agent.

**6.46 Notification of lost, stolen or destroyed ASICs, VICs and TACs**

- (1) A person commits an offence if:
  - (a) the person is the holder of an ASIC, VIC or TAC; and
  - (b) the ASIC, VIC or TAC has been lost, stolen or destroyed; and
  - (c) the holder of the ASIC, VIC or TAC knows about the loss, theft or destruction; and
  - (d) the holder does not make a report, in the form of a statutory declaration, of the loss to the issuer of the ASIC, VIC or TAC within 7 days of becoming aware of the loss, theft or destruction.

Penalty: 10 penalty units.

- (2) Strict liability applies to paragraph (1) (d).
- (3) Subregulation (1) does not apply if the ASIC, VIC or TAC has been destroyed by the issuer that issued it.

**6.47 Cancellation of ASICs, VICs or TACs at holder's request**

- (1) An issuer must cancel an ASIC, a VIC or a TAC it issued if the holder of the ASIC, VIC or TAC asks the issuer to cancel it.
- (2) A cancellation under subregulation (1) takes effect when the ASIC, VIC or TAC is returned to the issuer.

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**Regulation 6.48**

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**6.48 Disqualification from holding ASICs for contravening display requirements**

- (1) If regulation 3.03 is contravened by the holder of an ASIC 3 times or more within a period of 2 years, he or she is disqualified from holding an ASIC for the longer of:
  - (a) the remaining period of validity of the ASIC; or
  - (b) 1 year.
- (2) The holder must return the ASIC to the issuing body within 1 month.

Penalty: 5 penalty units.

**6.49 Minister may recall ASICs, VICs and TACs**

- (1) The Minister may direct in writing that all ASICs, VICs or TACs (or classes of ASICs, VICs or TACs) are cancelled.
- (2) For subregulation (1), a class of ASICs, VICs or TACs may be defined by reference to the issuer that issued them or in any other way.
- (3) A direction under subregulation (1) must be published:
  - (a) in the *Gazette*; and
  - (b) on 2 separate occasions at least 1 week apart in a daily newspaper that circulates throughout Australia, or in 2 or more daily newspapers that together circulate throughout Australia.
- (4) A direction under subregulation (1) has effect 1 month after the second or last publication required by paragraph (3) (b).

**6.50 Sample ASICs, VICs and TACs for training purposes**

- (1) An issuer may issue a sample ASIC, VIC or TAC bearing the name and image of a fictitious person, or otherwise not conforming to the design of a genuine ASIC, VIC or TAC, for use in training.
- (2) A sample ASIC, VIC or TAC must be clearly marked to distinguish it from a genuine ASIC, VIC or TAC.

- (3) Subject to subregulation (2), the form and content of a sample ASIC, VIC or TAC may be decided by the issuer.

## **Division 6.6 Powers of security officers in relation to ASICs, VICs and TACs**

### **6.52 Definition — *security officer***

In this Division:

*security officer* means:

- (a) a law enforcement officer; or
- (b) an airport security guard; or
- (c) an aviation security inspector.

### **6.53 Directions to show valid ASICs, VICs and TACs**

- (1) In this regulation:

*exempt person*, in relation to a part of the secure area of a security controlled airport, means somebody who, under the Act or these Regulations, is not required to properly display a valid ASIC, valid VIC or valid TAC in that part of that area.

- (2) Subject to subregulation (2A), if:

- (a) a security officer knows, or has reason to believe, that a person who is in a part of a security controlled airport is required under these Regulations to properly display a valid ASIC, valid VIC or valid TAC; but
- (b) the person is apparently not properly displaying a valid ASIC, valid VIC or valid TAC;

the security officer may (unless the security officer knows the person to be an exempt person in relation to that part of the airport) direct the person to show him or her a valid ASIC, valid VIC or valid TAC.

- (2A) At a security controlled airport from or to which no screened air service operates, subregulation (2) applies only during a traffic period for the airport.

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- (3) Before giving a person a direction under subregulation (2), a security officer must show the person:
  - (a) the officer's identity card; or
  - (b) another appropriate form of identification.
- (4) A person (other than a person who is an exempt person for the area or part) must comply with a direction of a security officer under subregulation (2).

Penalty: 10 penalty units.

- (5) If an exempt person is given a direction by a security officer under subregulation (2), the exempt person must show the security officer identification that establishes that he or she is an exempt person.

Penalty: 10 penalty units.

## **Division 6.7                      Security designated authorisations**

### **6.54              Definitions for Division**

- (1) In this Division:  
*issue*, used in relation to a security designated authorisation, includes grant.
- (2) For the purposes of this Division, an *aviation security status check* of a person includes:
  - (a) if the person is not an Australian citizen, a check as to whether the person is an unlawful non-citizen; and
  - (b) a check of police records to find out whether the person has a criminal record; and
  - (c) a security assessment of the person.
- (3) Unless the contrary intention appears:
  - (a) an expression used in this Division that is also used in Division 9 of Part 4 of the Act has the same meaning in this Division as in that Division of the Act; and

- (b) an expression used in this Division that is also used in regulations made under the *Civil Aviation Act 1988* has the same meaning in this Division as in those regulations.

*Note* The holder of a flight crew licence must hold an ASIC (and therefore must have a background check done) to enter the secure area of a security controlled airport — see regulation 3.03.

### **6.55 Exercise of privileges of flight crew licences etc**

- (1) A person who holds a security designated authorisation must not perform a duty that is essential to the operation of an aircraft while the aircraft is in Australian territory if the Secretary:
  - (a) has determined that the person has an adverse aviation security status; and
  - (b) has given a copy of the determination to the person.

Penalty: 20 penalty units.

*Note* A pilot licence, a flight engineer licence and a special pilot licence are security designated authorisations — see regulation 1.08 and the Act, section 74G.

- (2) Subject to subregulation (4), a person who is over 18, and holds a security designated authorisation, must not perform a duty that is essential to the operation of an aircraft while the aircraft is in Australian territory unless:
  - (a) his or her aviation security status check is current; or
  - (b) he or she has requested an aviation security status check.

Penalty: 20 penalty units.

- (3) For paragraph (2) (a), a person's aviation security status check is current at a particular time if:
  - (a) it was carried out no more than 5 years before that time; or
  - (b) he or she has requested that a new check be carried out; or
  - (c) within the previous 2 years, he or she underwent a background check for the issue of an ASIC.
- (4) If a security designated authorisation is issued to a person who is under 18, subregulation (2) does not have effect in relation to him or her until 3 months after his or her 18th birthday.

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**6.55A    Functions of CASA**

- (1) For paragraph 74H (1) (j) of the Act, CASA may collect, on behalf of the Commonwealth, any fee payable for the determination by the Secretary of the aviation security status of an applicant for, or the holder of, a security designated authorisation.
- (2) For paragraph 74H (1) (k) of the Act, the function is conferred upon CASA of determining, under subsection 74G (1) of the Act, that a person has an adverse aviation security status.
- (3) For paragraph 74H (1) (l) of the Act, the Director of CASA may delegate any or all of CASA's functions and powers under this Division to a person holding, or performing the duties of, an office or position within CASA that is at a level equivalent to that of an SES employee.
- (4) For paragraphs 74H (1) (k) and (m) of the Act, the following functions, incidental to the function referred to in subregulation (2), are conferred upon CASA:
  - (a) obtaining checks by the Australian Federal Police and the Immigration Department, and security assessments, in relation to holders of, or applicants for, security designated authorisations;
  - (b) assessing the results of those checks and assessments.

**6.56    Request for aviation security status check**

- (1) The holder of a security designated authorisation, or an applicant for such an authorisation, who is over 18 may request that an aviation security status check be carried out.
- (2) The application:
  - (a) must be in writing on the form approved by CASA for the purpose; and
  - (b) must be accompanied by the applicable fee prescribed by the *Civil Aviation (Fees) Regulations 1995*.



**6.56A Authorisation of certain disclosures of personal information**

- (1) For the purpose of carrying out an aviation security status check in relation to a person, CASA and the Department are authorised to disclose personal information about the person to the following:
  - (a) the Australian Federal Police;
  - (b) the Immigration Department;
  - (c) the Australian Security Intelligence Organisation.
- (2) For that purpose, the Australian Federal Police is authorised to disclose personal information about the person to the police force or police service of each State and Territory.
- (3) For the purpose of enabling CASA or the Secretary to determine a person's aviation security status:
  - (a) each agency mentioned in paragraphs (1) (a), (b) and (c) is authorised to disclose personal information about the person to CASA and the Department; and
  - (b) the police force or police service of each State and Territory is authorised to disclose personal information about the person to the Australian Federal Police.

**6.57 Flight crew licences etc — requirements in relation to issue**

- (1) Despite anything in regulations under the *Civil Aviation Act 1988*, and subject to subregulations (2) and (3), CASA is not to issue a security designated authorisation to a person unless:
  - (a) the person has verified his or her identity by showing CASA:
    - (i) a primary identification document; and
    - (ii) either:
      - (A) a secondary identification document; or
      - (B) 2 tertiary identification documents; and
  - (b) either:
    - (i) he or she has shown CASA his or her Australian birth certificate, Australian passport or Australian naturalisation certificate; or

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- (ii) CASA is satisfied that he or she is not an unlawful non-citizen; and
- (c) an aviation security status check has shown that the person does not have an adverse criminal record; and
- (d) CASA has been notified in writing that a security assessment of the person has been made, and is not adverse or qualified.

*Note* If the Secretary has determined that the person has an adverse aviation security status, CASA must refuse the application — see the Act, section 74G.

- (2) In the case of a person who is under 18, CASA may issue the authorisation to him or her despite paragraphs (1) (c) and (d) if he or she meets the criteria in paragraphs (1) (a) and (b).
- (3) In the case of a person who holds an ASIC that is less than 2 years old, CASA may issue the authorisation to him or her despite anything in subregulation (1).
- (4) For paragraph (1) (c), a person has an ***adverse criminal record*** if he or she:
  - (a) is, after 10 March 2005, convicted of an aviation-security-relevant offence (other than an offence against Part 2 of the *Crimes (Aviation) Act 1991* or Part 5.3 of the *Criminal Code*) and sentenced to imprisonment; or
  - (b) is convicted of an offence against Part 2 of the *Crimes (Aviation) Act 1991* or Part 5.3 of the *Criminal Code* and sentenced to imprisonment.

**6.58      Secretary's determination whether a person has adverse aviation security status**

- (1) This regulation sets out what the Secretary must consider in determining that a person has, or does not have, an adverse aviation security status.
- (2) If the person is an unlawful non-citizen, the Secretary must determine that the person has an adverse aviation security status.

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- (3) If a security assessment of the person was adverse, the Secretary must determine that the person has an adverse aviation security status.

*Note* If an adverse or qualified security assessment about a person is provided to a Commonwealth body, the body must notify the person in writing within 14 days (including a copy of the assessment) and must notify him or her how to apply to the Administrative Appeals Tribunal for review of the assessment — see the *Australian Security Intelligence Organisation Act 1979*, section 38.

- (4) If a security assessment of the person was qualified, the Secretary must consider the reasons for the assessment being qualified, and whether the holding of a security designated authorisation by the person would constitute a threat to aviation security.
- (5) If the person has an adverse criminal record (within the meaning given by subregulation 6.57 (4)), 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.

**6.58A Matters to which CASA must have regard in determining aviation security status**

- (1) Regulation 6.58 has effect in relation to the determination by CASA of a person's aviation security status as if each reference in that regulation to the Secretary were a reference to CASA.
- (2) In the interests of consistent decision-making, the Secretary may give advice or directions in writing as to principles or policies to be followed in determining whether a person who has an adverse criminal record, or is the subject of a qualified security assessment, has an adverse aviation security status.

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- (3) In determining whether such a person has an adverse aviation security status, CASA must have regard to any such advice or directions of the Secretary.

**6.58B      Notice by CASA of certain decisions**

If CASA determines that a person has an adverse aviation security status, CASA must inform the Secretary of:

- (a) the person's name; and
- (b) the determination and the reasons for it.

**6.59      Conviction of holders of security designated  
authorisation of aviation-security-relevant offences**

If the holder of a security designated authorisation is convicted of an aviation-security-relevant offence, he or she must notify CASA in writing of the conviction and any sentence within 7 days.

Penalty: 20 penalty units.

*Note* For the meaning of *aviation-security-relevant offence*, see regulation 6.01.

## Part 7                      Enforcement

### 7.01      Purpose and effect of Part

- (1) The purpose of this Part is to create a system of infringement notices for offences against the Act and these Regulations as an alternative to prosecution.
- (2) This Part 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.

### 7.02      Definition for Part — *authorised person*

In this Part:

*authorised person* means:

- (a) a law enforcement officer; or
- (b) an airport security guard; or
- (c) an aviation security inspector.

### 7.03      Amount of penalty if infringement notice issued

The penalty for an offence payable under an infringement notice issued to the person for the offence is one-fifth of the maximum penalty that a court could impose on the person for the offence.

**Regulation 7.04**

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**7.04 Authorised persons may issue infringement notices**

- (1) In this regulation:

*infringement notice offence* means an offence:

- (a) against any provision of the Act (other than subsection 13 (1), 46 (1), 47 (1), 48 (1), 54 (1), 55 (1) or 56 (1)) a contravention of which is an offence of strict liability; or
- (b) that is an offence of strict liability, against a provision of these Regulations.

- (2) If an authorised person has reason to believe that a person has committed an infringement notice offence, the authorised person may issue a notice (called an infringement notice) to the person for the offence.

**7.05 Contents of infringement notice**

- (1) An infringement notice:

- (a) must bear a unique number; and
- (b) must state the name of the authorised person who issued it, and:
  - (i) if he or she is a law enforcement officer — the name of the police force or police service of which he or she is a member, protective service officer or special protective service officer; or
  - (ii) if he or she is an airport security guard or an aviation security inspector — that fact; and
- (c) must state its date of issue; and
- (d) must state the full name, or the surname and initials, and the address, of the person to whom it is issued; and
- (e) must give brief details of the offence for which it is issued, including:
  - (i) the date and time of the offence; and
  - (ii) where the offence happened; and
  - (iii) the provision of the Act or these Regulations contravened; and
- (f) must state the penalty for the offence payable under the notice; and

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**Regulation 7.06**

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- (g) must state where and how that penalty can be paid (including, if the penalty can be paid by posting the payment, the place to which it should be posted); and
  - (h) must state that if the person to whom it is issued (the **recipient**) pays the penalty within 28 days after the day when the notice is served (or any longer time allowed in writing by an aviation security inspector), then (unless the infringement notice is subsequently withdrawn and any penalty paid refunded):
    - (i) any liability of the recipient for the offence will be discharged; and
    - (ii) the recipient will not be prosecuted in a court for the offence; and
    - (iii) the recipient will not be taken to have been convicted of the offence; and
  - (i) must state the greatest penalty that a court could impose on the recipient for the offence; and
  - (j) must state that if the recipient is prosecuted in court and found guilty of the offence, the recipient 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
  - (k) must state how and to whom the recipient can apply to be allowed more time to pay the penalty; and
  - (l) must be signed by the authorised person who issued it.
- (2) An infringement notice may contain any other information that the authorised person who issues it thinks necessary.

**7.06 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, fax 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 who issues it; or

**Regulation 7.07**

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- (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 who issues it 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, fax 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 who issues it has reason to believe is, an officer or employee of the corporation.

**7.07 Time for payment of penalty**

The penalty stated 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.

**7.08 Extension of time to pay penalty**

- (1) The person to whom an infringement notice is issued (the *recipient*) may apply, in writing, to an aviation security inspector for a further period of up to 28 days in which to pay the penalty stated in the notice.



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**Regulation 7.10**

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- (2) Within 14 days after receiving the application, the aviation security inspector must:
  - (a) grant or refuse a further period not longer than the period sought; and
  - (b) notify 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.

**7.09 Effect of payment of penalty**

- (1) 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.
- (2) 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 penalty stated in any of the notices.

**7.10 Withdrawal of infringement notice**

- (1) 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.
- (2) Within 14 days after receiving the application, the Secretary must:
  - (a) withdraw or refuse to withdraw the notice; and
  - (b) notify the person in writing of the decision and, if the decision is a refusal, the reasons for the decision.

**Regulation 7.11**

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- (3) If the Secretary has not approved, or refused to approve, the withdrawal of the notice within the period allowed by subregulation (2), the Secretary is taken to have refused to approve the withdrawal of the notice.
- (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 the Act or 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 relevant matter.
- (5) The Secretary may also withdraw an infringement notice without an application having been made.

**7.11 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 the person.
- (2) A notice withdrawing an infringement notice served on a person for an offence:
  - (a) must 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
  - (b) must state that the notice is withdrawn; and
  - (c) if the Secretary intends to prosecute the person in a court for the offence, must state that the person may be prosecuted in a court for the offence.

**Regulation 7.12**

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**7.12 Refund of penalty**

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

**Regulation 8.01**

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## **Part 8                      Review of decisions**

### **8.01        Definitions**

In this Part:

*AAT Act* means the *Administrative Appeals Tribunal Act 1975*.

*decision* has the same meaning as in the AAT Act.

*Tribunal* means the Administrative Appeals Tribunal.

### **8.02        Review of decisions in relation to ASICs and related matters — decisions of Secretary**

#### *Decisions in relation to issuing bodies*

- (1) Application may be made under the AAT Act to the Tribunal for review of a decision of the Secretary:
  - (a) to refuse to authorise a person as an issuing body; or
  - (b) to impose a condition on an issuing body; or
  - (c) to direct an issuing body to vary its ASIC program; or
  - (d) to refuse to approve a variation of an issuing body's ASIC program; or
  - (e) to refuse to exempt an issuing body from giving effect to its ASIC program in a particular case or respect; or
  - (f) to impose a condition on an exemption; or
  - (g) to revoke an issuing body's authorisation; or
  - (h) to refuse to revoke an issuing body's authorisation.

#### *Decisions in relation to adverse aviation security status*

- (2) Application may be made under the AAT Act to the Tribunal for review of a decision of the Secretary that on the basis of a qualified security assessment, a person has an adverse aviation security status.

*Note* For review of a decision not to issue a security designated authorisation on grounds other than a person's adverse aviation security status, see Part 16 of the *Civil Aviation Regulations 1988*.

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**Regulation 8.02**

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*Decisions in relation to issue, suspension and cancellation of ASICs*

- (3) Application may be made under the AAT Act to the Tribunal for review of a decision of the Secretary:
- (aa) to direct an issuing body not to issue an ASIC to a person; or
  - (a) to refuse to approve the issue of an ASIC; or
  - (b) to impose a condition on an ASIC; or
  - (c) to direct an issuing body to cancel an ASIC; or
  - (d) to refuse to exempt an issuing body from giving effect to a direction from the Secretary to cancel an ASIC; or
  - (e) to direct the suspension of an ASIC; or
  - (f) to give the issuing body for an ASIC a direction under subregulation 6.31 (3); or
  - (g) to refuse to set aside the cancellation of an ASIC under regulation 6.43B or 6.43C; or
  - (h) to set aside the cancellation of an ASIC subject to a condition under regulation 6.43D; or
  - (i) to grant, or to refuse to grant, an issuing body an exemption from needing the relevant airport operator's approval to issue an airport-specific ASIC to a person for an airport, under regulation 6.27A.

*Decisions in relation to wearing and use of ASICs*

- (4) Application may be made under the AAT Act to the Tribunal for review of a decision of the Secretary:
- (a) to refuse to exempt somebody from displaying a valid ASIC in a secure area, or part of such an area; or
  - (b) to impose a condition on such an exemption.

*Decisions in relation to the substituted exercise of the powers of an issuing body*

- (5) Application may be made under the AAT Act to the Tribunal for review of a decision of the Secretary:
- (a) to authorise, or refuse to authorise, a person to perform the functions, or exercise the powers, of an issuing body; or

**Regulation 8.03**

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- (b) to authorise a person to perform the functions or exercise the powers of an issuing body subject to a condition.

**8.03 Review of decisions in relation to ASICs and related matters — decisions of issuing bodies**

Application may be made under the AAT Act to the Tribunal for review of a decision of an issuing body:

- (a) to refuse to issue an ASIC to somebody; or
- (b) to issue an ASIC subject to a condition; or
- (c) to cancel an ASIC.

**8.04 Review of decisions in relation to regulated air cargo agents**

Application may be made under the AAT Act to the Tribunal for review of a decision by the Secretary:

- (a) to refuse to designate an applicant as a RACA; or
- (b) to revoke the designation of a person as a RACA.

**8.05 Review of decisions in relation to AACAs**

Application may be made under the AAT Act to the Tribunal for review of a decision by the Secretary:

- (a) to refuse to accredit a person as an AACA; or
- (b) to revoke an AACA's accreditation; or
- (c) to refuse to accept amendments to an AACA security program.

**8.06 Review of decisions in relation to VIC issuers**

Application may be made under the AAT Act to the Tribunal for review of a decision by the Secretary not to approve an aircraft operator as a VIC issuer.

## **Part 9                      Miscellaneous**

### **9.01       Threats regarding aviation security**

- (1) A person must not, while at a security controlled airport or on board an aircraft, engage in conduct that a reasonable person could interpret as a threat to commit an act of unlawful interference with aviation.

Penalty: 50 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.

*Examples of conduct for subregulation (1)*

Making jokes about bombs in baggage

Leaving articles of baggage unattended.

### **9.02       Service of notices**

A notice required under these Regulations may be served by fax or e-mail.

## Schedule 1      Forms

(regulation 4.73)

### Form 1      Notice of proposed movement of person in custody

*Note* This form is intended to be printed on the front and back of a single sheet or on 2 separate sheets. A version of the form is available from: <http://www.dotars.gov.au>.

## Notice of the Proposed Movement of a Person in Custody

### Part A To be completed for all movements

To:	Requesting officer:
Airline:	Office/Section:
Phone:	Phone:
Fax:	Fax:
Date:	Agency Name:

#### Requested form of travel *(tick as appropriate)*

☐ Supervised departure

For a supervised departure complete page 1 only —  
6 hours notice to airline.

☐ Escorted travel

Complete both pages — 48 hours notice to airline.

☐ Domestic travel in immigration  
detention

For domestic travel in immigration detention complete  
both pages — 24 hours notice to airline.



<b><u>Passenger Details</u></b>	<b><u>Flight Details</u></b>
Name:	Flight Number/s:
Sex:	Date of departure:
Date of Birth:	Departing from:
Place of Birth:	Destination:
<i>For international travel:</i>	
Nationality:	
Passport No:	
Passport expiry:	
Country of issue:	

**To be completed for supervised departures only** (for escorted travel, see page 2)

Is the person cooperative and likely to comply with transit arrangements?	Yes	No	Unknown
Does the person have any medical conditions which may affect travel?	Yes	No	Unknown
Does the person have any known history of violence or aggression?	Yes	No	Unknown
Does the person have any known family members/associates who may attempt intervention in the departure?	Yes	No	Unknown

(Responses are to the best of the department's knowledge.)

Additional information on affirmative answers is attached. ☐

**To approve** the travel outlined please sign this page and return by fax. If any clarification is required, please contact the requesting officer as soon as possible. If the person is undertaking escorted travel, further information is on page 2.

*Signature of Requesting Officer*

**To be completed and returned by airline**

**APPROVED**

Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Position: \_\_\_\_\_

## Part B To be completed only for movements requiring escort

### Escorted travel

- ❖ A dangerous person in custody must have a minimum of two escorts one of whom must be of the same sex as the person in custody. A copy of this risk assessment, endorsed by the airline to confirm its approval, must be faxed to the airport operator no less than 12 hours before the intended start of the relevant flight.
- ❖ The *Aviation Transport Security Regulations 2005* limit the number of escorted persons in custody on a flight. No more than 2 escorted persons in custody (of which only 1 can be 'dangerous'), can be carried on a flight unless approved in writing by the Secretary of the Department of Transport and Regional Services (\*). There are exemptions for 'family units' as determined by the enforcement agency.
- ❖ The Secretary's approval is also required for unescorted travel under Subdivision 4.5.3 of the *Aviation Transport Security Regulations 2005* (Persons in custody otherwise than under Migration Act). \*

### **Proposed escorts**

Name:  
Sex:  
Type/Employed by

Name:  
Sex:  
Type/Employed by

Name:  
Sex:  
Type/Employed by

Name:  
Sex:  
Type/Employed by

### **Information for escorted travel**

Reason for travel:			
Reason he or she is in custody			
	<i>Please circle</i>		<i>Please circle</i>
Has he or she been involved in an attempt to escape from custody?	YES / NO	Is he or she likely to attempt to escape during transportation?	YES / NO
Has he or she a history of physical abuse or ever been charged with, or convicted of, a crime involving violence?	YES / NO	Has he or she been involved in violence or rioting while in detention?	YES / NO
Is he or she likely to be offensive or disruptive towards crew, passengers or escorts?	YES / NO	Has he or she ever engaged in sexually-related criminal activity?	YES / NO

Is an attempt by a third party to release him or her likely?	YES / NO	Is an attempt by a third party to harm him or her likely?	YES / NO
Has the person previously required restraint while being transported?	YES / NO	May it be necessary to handcuff the person at any stage during the flight?	YES / NO
Is the person currently addicted to an illegal substance, or has the person had a history of substance abuse?	YES / NO	Is the person required to take prescribed medication before or during the flight?	YES / NO
Is the person in a mental state requiring special attention?	YES / NO	Has the person a history of self-harm?	YES / NO
Are additional security measures necessary for embarkation and disembarkation?	YES / NO	Do law enforcement authorities (other than an authority represented by the escort) intend to apprehend the person at the destination port?	YES / NO
Is the person likely to attempt to commit an unlawful interference with aviation?	YES / NO		
<b>Is he or she considered to be 'dangerous' within the definition in the Aviation Transport Security Regulations 2005?</b>			<b>YES / NO</b>

*(Responses are to the best of the requesting agency's knowledge.)*

Additional information on affirmative answers is attached. ☐

***\*If approval by the Secretary to the Department of Transport and Regional Services is required:***

**APPROVED**

Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Position: \_\_\_\_\_

**Table of Instruments****Notes to the *Aviation Transport Security Regulations 2005*****Note 1**

The *Aviation Transport Security Regulations 2005* (in force under the *Aviation Transport Security Act 2004* and the *Aviation Transport Security (Consequential Amendments and Transitional Provisions) Act 2004*) as shown in this compilation comprise Select Legislative Instrument 2005 No. 18 amended as indicated in the Tables below.

For all relevant information pertaining to application, saving or transitional provisions *see* Table A.

**Table of Instruments**

<b>Year and number</b>	<b>Date of FRLI registration</b>	<b>Date of commencement</b>	<b>Application, saving or transitional provisions</b>
2005 No. 18	25 Feb 2005 (see F2005L00366)	10 Mar 2005 (see r. 1.02)	
2005 No. 198	26 Aug 2005 (see F2005L02343)	31 Aug 2005	—
2005 No. 222	10 Oct 2005 (see F2005L02901)	11 Oct 2005	—
2005 No. 223	10 Oct 2005 (see F2005L02969)	11 Oct 2005	—
2005 No. 289	2 Dec 2005 (see F2005L03743)	3 Dec 2005	—
2005 No. 320	16 Dec 2005 (see F2005L04098)	Rr. 1–3 and Schedule 1: 1 Jan 2006 Remainder: 6 Mar 2006	—
2006 No. 40	20 Feb 2006 (see F2006L00564)	27 Feb 2006	—
2006 No. 45	6 Mar 2006 (see F2006L00654)	(a)	R. 4
2006 No. 100	10 May 2006 (see F2006L01457)	11 May 2006	—
2006 No. 224	25 Aug 2006 (see F2006L02777)	26 Aug 2006	—
2006 No. 320	1 Dec 2006 (see F2006L03921)	4 Dec 2006	—
2007 No. 13	19 Feb 2007 (see F2007L00391)	20 Feb 2007	—

**Table of Instruments**

<b>Year and number</b>	<b>Date of FRLI registration</b>	<b>Date of commencement</b>	<b>Application, saving or transitional provisions</b>
2007 No. 170	26 June 2007 (see F2007L01802)	Rr. 1–3 and Schedule 1: 1 July 2007 Remainder: 3 Sept 2007	—
2007 No. 276	11 Sept 2007 (see F2007L03485)	(b)	R. 4
2007 No. 317	28 Sept 2007 (see F2007L03847)	30 Sept 2007	—
2008 No. 58	14 Apr 2008 (see F2008L01057)	15 Apr 2008	—
2008 No. 190	22 Sept 2008 (see F2008L03477)	1 Oct 2008	—
2008 No. 271	18 Dec 2008 (see F2008L04625)	19 Dec 2008	—
2009 No. 24 (c)	2 Mar 2009 (see F2009L00695)	12 Mar 2009	—
2009 No. 85	15 May 2009 (see F2009L01814)	16 May 2009	—
2009 No. 172	13 July 2009 (see F2009L02635)	14 July 2009	—
2009 No. 275	9 Oct 2009 (see F2009L03774)	10 Oct 2009	—
2009 No. 377	16 Dec 2009 (see F2009L04406)	17 Dec 2009	—
2009 No. 394	24 Dec 2009 (see F2009L04729)	25 Dec 2009	—
2010 No. 80 (d)	11 May 2010 (see F2010L01200)	12 May 2010	—
2010 No. 176	2 July 2010 (see F2010L01808)	3 July 2010	—
2010 No. 200	12 July 2010 (see F2010L01867)	13 July 2010	—
2010 No. 201	12 July 2010 (see F2010L01868)	13 July 2010	—
2010 No. 298	26 Nov 2010 (see F2010L03064)	1 Dec 2010	R. 4
2011 No. 61	17 May 2011 (see F2011L00777)	Rr. 1–3 and Schedule 1: 18 May 2011 R. 4 and Schedule 2: 21 Nov 2011	R. 4
2011 No. 264	9 Dec 2011 (see F2011L02608)	10 Dec 2011	—
2012 No. 5	10 Feb 2012 (see F2012L00266)	11 Feb 2012	—

**Table of Instruments**

<b>Year and number</b>	<b>Date of FRLI registration</b>	<b>Date of commencement</b>	<b>Application, saving or transitional provisions</b>
2012 No. 30	13 Mar 2012 (see F2012L00565)	14 Mar 2012	—
(a) Regulation 2 of the <i>Aviation Transport Security Amendment Regulations 2006</i> (No. 2) provides as follows:			
These Regulations commence immediately after the commencement of Schedule 2 to the <i>Aviation Transport Security Amendment Regulations 2005</i> (No. 5).			
<i>Note</i> Schedule 2 to the <i>Aviation Transport Security Amendment Regulations 2005</i> (No. 5) commences on 6 March 2006.			
(b) Regulation 2 of the <i>Aviation Transport Security Amendment Regulations 2007</i> (No. 3) provides as follows:			
(1) These Regulations commence immediately after the commencement of items 1 to 33 of Schedule 2 to the <i>Aviation Transport Security Amendment Act 2006</i> .			
(2) However, item 6 of Schedule 1 commences immediately after item 5 of that Schedule.			
Items 1 to 33 of Schedule 2 to the <i>Aviation Transport Security Amendment Act 2006</i> commenced on 14 September 2007.			
(c) Select Legislative Instrument 2009 No. 24 was disallowed by the Senate on 10 September 2009.			
(d) Select Legislative Instrument 2010 No. 80 was disallowed by the Senate on 24 June 2010.			

**Table of Amendments****Table of Amendments**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

<b>Provision affected</b>	<b>How affected</b>
<b>Part 1</b>	
R. 1.03 .....	am. 2005 No. 222; 2007 No. 317; 2008 No. 190; 2009 Nos. 85 and 377; 2010 Nos. 200 and 298; 2011 No. 61; 2012 Nos. 5 and 30
R. 1.04 .....	am. 2011 No. 61
Heading to r. 1.05 .....	rs. 2011 No. 61
R. 1.05 .....	am. 2010 No. 298; 2011 No. 61
R. 1.07 .....	am. 2009 No. 394; 2010 No. 200
<b>Part 2</b>	
<b>Division 2.1</b>	
R. 2.03 .....	am. 2005 No. 198; 2011 No. 264
<b>Division 2.2</b>	
R. 2.14 .....	am. 2009 No. 172
R. 2.16 .....	am. 2011 No. 61
R. 2.18A .....	ad. 2009 No. 172
R. 2.24 .....	rep. 2009 No. 275
<b>Division 2.3</b>	
R. 2.32 .....	am. 2009 No. 172; 2011 No. 61
R. 2.35A .....	ad. 2009 No. 172
R. 2.38 .....	am. 2009 No. 377
R. 2.41 .....	rs. 2007 No. 276
R. 2.46 .....	rep. 2009 No. 275
<b>Division 2.4</b>	
R. 2.48 .....	rs. 2007 No. 276
R. 2.51 .....	am. 2007 No. 276; 2008 No. 190
R. 2.54 .....	am. 2007 No. 276
R. 2.55 .....	am. 2008 No. 190
R. 2.56 .....	rep. 2008 No. 190
R. 2.59 .....	rs. 2008 No. 190
R. 2.61 .....	am. 2005 No. 223
Division 2.5 .....	rep. 2005 No. 198
Rr. 2.62–2.74 .....	rep. 2005 No. 198
<b>Part 3</b>	
<b>Division 3.1A</b>	
Div. 3.1A of Part 3 .....	ad. 2011 No. 264
R. 3.01A .....	ad. 2011 No. 264

**Table of Amendments**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

<b>Provision affected</b>	<b>How affected</b>
R. 3.01B.....	ad. 2011 No. 264
R. 3.01C.....	ad. 2011 No. 264
<b>Division 3.1</b>	
R. 3.01 .....	am. 2009 No. 172
R. 3.02A.....	ad. 2006 No. 320
R. 3.02B.....	ad. 2006 No. 320
<b>Division 3.2</b>	
<b>Subdivision 3.2.1</b>	
Heading to Subdiv. 3.2.1..... of Div. 3.2	rs. 2011 No. 61
R. 3.03 .....	am. 2005 Nos. 222 and 289; 2009 No. 275; 2011 No. 61
Note to r. 3.03 (1) .....	rs. 2011 No. 61
R. 3.06 .....	rs. 2007 No. 170
R. 3.07 .....	am. 2010 No. 298; 2011 No. 61
R. 3.07A.....	ad. 2005 No. 289
R. 3.07B.....	ad. 2011 No. 61
Note to r. 3.08 (6).....	rep. 2005 No. 289
Heading to r. 3.09 .....	rs. 2011 No. 61
R. 3.09 .....	am. 2011 No. 61
Heading to r. 3.10 .....	rs. 2011 No. 61
R. 3.10 .....	am. 2011 No. 61
R. 3.11 .....	am. 2011 No. 61
<b>Subdivision 3.2.2</b>	
Heading to Subdiv. 3.2.2..... of Div. 3.2	rs. 2011 No. 61
R. 3.12 .....	am. 2005 No. 222
Note to r. 3.12 (1).....	rs. 2011 No. 61
<b>Division 3.3</b>	
<b>Subdivision 3.3.1</b>	
Heading to Subdiv. 3.3.1..... of Div. 3.3	ad. 2009 No. 172
R. 3.13 .....	am. 2006 No. 45; 2009 No. 172; 2010 No. 298
R. 3.14 .....	rs. 2009 No. 172
R. 3.15 .....	am. 2005 No. 222; 2009 No. 275; 2011 No. 61
<b>Subdivision 3.3.2</b>	
Heading to Subdiv. 3.3.2..... of Div. 3.3	ad. 2009 No. 172
R. 3.16 .....	am. 2005 No. 222; 2009 No. 275; 2011 No. 61
<b>Subdivision 3.3.3</b>	
Subdiv. 3.3.3 of Div. 3.3.....	ad. 2009 No. 172



**Table of Amendments**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

<b>Provision affected</b>	<b>How affected</b>
R. 3.16A.....	ad. 2009 No. 172
R. 3.16B.....	ad. 2009 No. 172
R. 3.16C.....	ad. 2009 No. 172
R. 3.16D.....	ad. 2009 No. 172
<b>Subdivision 3.3.4</b>	
Heading to Subdiv. 3.3.4..... of Div. 3.3	ad. 2009 No. 172
R. 3.17A.....	ad. 2009 No. 172
R. 3.17B.....	ad. 2009 No. 172
R. 3.17C.....	ad. 2009 No. 172
<b>Subdivision 3.3.5</b>	
Heading to Subdiv. 3.3.5..... of Div. 3.3	ad. 2009 No. 172
R. 3.18 .....	am. 2009 No. 172; 2010 No. 298; 2011 No. 61
<b>Division 3.4</b>	
R. 3.20 .....	am. 2005 No. 222; 2009 Nos. 85 and 275; 2011 No. 61
R. 3.21 .....	am. 2005 No. 222; 2011 No. 61
R. 3.26 .....	am. 2011 No. 61
<b>Division 3.5</b>	
R. 3.27 .....	rep. 2011 No. 61
<b>Part 3A</b>	
Part 3A.....	ad. 2006 No. 320
<b>Division 3A.1</b>	
R. 3A.01 .....	ad. 2006 No. 320
<b>Division 3A.2</b>	
<b>Subdivision 3A.2.1</b>	
R. 3A.02.....	ad. 2006 No. 320
R. 3A.03.....	ad. 2006 No. 320
R. 3A.04.....	ad. 2006 No. 320
<b>Subdivision 3A.2.2</b>	
R. 3A.05.....	ad. 2006 No. 320 am. 2011 No. 61
<b>Subdivision 3A.2.3</b>	
R. 3A.06.....	ad. 2006 No. 320
R. 3A.07.....	ad. 2006 No. 320
<b>Division 3A.3</b>	
<b>Subdivision 3A.3.1</b>	
R. 3A.08.....	ad. 2006 No. 320
R. 3A.09.....	ad. 2006 No. 320

**Table of Amendments**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

<b>Provision affected</b>	<b>How affected</b>
R. 3A.10.....	ad. 2006 No. 320
<b>Subdivision 3A.3.2</b>	
R. 3A.11.....	ad. 2006 No. 320 am. 2011 No. 61
<b>Subdivision 3A.3.3</b>	
R. 3A.12.....	ad. 2006 No. 320
R. 3A.13.....	ad. 2006 No. 320
<b>Part 4</b>	
<b>Division 4.1</b>	
<b>Subdivision 4.1.1</b>	
R. 4.02.....	am. 2010 No. 176; 2011 No. 264
R. 4.04.....	am. 2009 No. 172
Note to r. 4.04.....	ad. 2007 No. 317
R. 4.05.....	am. 2009 No. 172
R. 4.09.....	am. 2009 No. 85 rs. 2009 No. 172
Heading to r. 4.10.....	rs. 2009 No. 172
Heading to r. 4.11.....	rs. 2009 No. 172
R. 4.11.....	am. 2009 No. 172 rs. 2010 No. 200 am. 2011 No. 61
R. 4.12.....	rs. 2009 No. 85
R. 4.12A.....	ad. 2009 No. 85 am. 2011 No. 61
Heading to r. 4.13.....	rs. 2005 No. 223
R. 4.13.....	am. 2005 No. 223; 2010 No. 200
R. 4.13A.....	ad. 2010 No. 200
Note to r. 4.15.....	ad. 2009 No. 85
R. 4.18.....	am. 2009 No. 275
Note to r. 4.19 (1).....	ad. 2008 No. 58
R. 4.21.....	am. 2009 No. 377
R. 4.21A.....	ad. 2009 No. 377
<b>Subdivision 4.1.1A</b>	
Subdiv. 4.1.1A of Div. 4.1....	ad. 2007 No. 317
R. 4.22A.....	ad. 2007 No. 317
R. 4.22B.....	ad. 2007 No. 317
R. 4.22C.....	ad. 2007 No. 317 am. 2010 No. 200
R. 4.22D.....	ad. 2007 No. 317

**Table of Amendments**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

<b>Provision affected</b>	<b>How affected</b>
R. 4.22E .....	ad. 2007 No. 317 am. 2010 No. 200
R. 4.22F .....	ad. 2007 No. 317 am. 2010 No. 200
R. 4.22G.....	ad. 2007 No. 317
R. 4.22H.....	ad. 2007 No. 317
R. 4.22HA .....	ad. 2010 No. 200
R. 4.22I .....	ad. 2007 No. 317
R. 4.22J.....	ad. 2007 No. 317
R. 4.22K.....	ad. 2007 No. 317
R. 4.22L .....	ad. 2007 No. 317
R. 4.22M .....	ad. 2007 No. 317
R. 4.22N.....	ad. 2007 No. 317
R. 4.22O.....	ad. 2007 No. 317
R. 4.22P .....	ad. 2007 No. 317
R. 4.22Q.....	ad. 2007 No. 317
<b>Subdivision 4.1.1B</b>	
Subdiv. 4.1.1B of Div. 4.1....	ad. 2010 No. 200
R. 4.22R.....	ad. 2010 No. 200
R. 4.22S .....	ad. 2010 No. 200
R. 4.22T .....	ad. 2010 No. 200
<b>Subdivision 4.1.2</b>	
R. 4.23 .....	rs. 2008 No. 58
R. 4.24 .....	rs. 2008 No. 58
Rr. 4.29–4.35 .....	rep. 2008 No. 58
R. 4.36 .....	rep. 2009 No. 85
R. 4.37 .....	am. 2009 No. 275
Subdiv. 4.1.3 of Div. 4.1A....	rep. 2007 No. 276
Rr. 4.40–4.48 .....	rep. 2007 No. 276
Subdiv. 4.1.4 of Div. 4.1A....	rep. 2007 No. 276
Rr. 4.49–4.51 .....	rep. 2007 No. 276
<b>Division 4.1A</b>	
Division 4.1A.....	ad. 2007 No. 276
<b>Subdivision 4.1A.1</b>	
R. 4.40 .....	ad. 2007 No. 276 am. 2008 No. 190
R. 4.41 .....	ad. 2007 No. 276
<b>Subdivision 4.1A.2</b>	
R. 4.42 .....	ad. 2007 No. 276

**Table of Amendments**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

<b>Provision affected</b>	<b>How affected</b>
R. 4.43 .....	ad. 2007 No. 276 am. 2008 No. 190
R. 4.44 .....	ad. 2007 No. 276 am. 2008 No. 190
R. 4.45 .....	ad. 2007 No. 276
R. 4.45A .....	ad. 2008 No. 190
R. 4.46 .....	ad. 2007 No. 276 rs. 2008 No. 190
<b>Subdivision 4.1A.3</b>	
Subdiv. 4.1A.3 of..... Div. 4.1A	ad. 2008 No. 190
R. 4.47 .....	ad. 2008 No. 190
R. 4.48 .....	ad. 2008 No. 190
R. 4.49 .....	ad. 2008 No. 190
R. 4.50 .....	ad. 2008 No. 190
R. 4.51 .....	ad. 2008 No. 190
R. 4.51A .....	ad. 2008 No. 190
R. 4.51B .....	ad. 2008 No. 190
R. 4.51C .....	ad. 2008 No. 190
R. 4.51D .....	ad. 2008 No. 190
R. 4.51E .....	ad. 2008 No. 190
<b>Subdivision 4.1A.4</b>	
Subdiv. 4.1A.4 of..... Div. 4.1A	ad. 2008 No. 190
R. 4.51F .....	ad. 2008 No. 190
<b>Subdivision 4.1A.5</b>	
Subdiv. 4.1A.5 of..... Div. 4.1A	ad. 2008 No. 190
R. 4.51G .....	ad. 2008 No. 190
R. 4.51H .....	ad. 2008 No. 190
<b>Division 4.2</b>	
R. 4.53 .....	am. 2011 No. 61
R. 4.54 .....	am. 2011 No. 61
R. 4.55 .....	am. 2009 No. 172
Note 2 to r. 4.55 .....	am. 2011 No. 61
R. 4.59A .....	ad. 2008 No. 271
<b>Division 4.3</b>	
R. 4.62 .....	am. 2011 No. 61
R. 4.65 .....	am. 2011 No. 61

**Table of Amendments**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

<b>Provision affected</b>	<b>How affected</b>
<b>Division 4.5</b>	
<b>Subdivision 4.5.2</b>	
R. 4.75 .....	rs. 2011 No. 61
R. 4.76 .....	am. 2011 No. 61
R. 4.77 .....	am. 2011 No. 61
R. 4.78 .....	am. 2011 No. 61
R. 4.79 .....	am. 2011 No. 61
R. 4.80 .....	am. 2011 No. 61
R. 4.81 .....	am. 2011 No. 61
R. 4.83 .....	am. 2011 No. 61
R. 4.84 .....	am. 2011 No. 61
<b>Part 5</b>	
<b>Division 5.1</b>	
R. 5.02 .....	rep. 2009. No. 275
<b>Division 5.2</b>	
R. 5.03 .....	am. 2007 No. 13; 2009 No. 275 rs. 2010 No. 201
R. 5.04 .....	am. 2010 No. 201
R. 5.05 .....	am. 2010 No. 201
<b>Division 5.3</b>	
R. 5.06 .....	am. 2007 No. 13 rs. 2010 No. 201
R. 5.07 .....	am. 2010 No. 201
R. 5.08 .....	am. 2010 No. 201
<b>Division 5.4</b>	
Div. 5.4 of Part 5 .....	ad. 2010 No. 201
R. 5.09 .....	ad. 2010 No. 201
R. 5.10 .....	ad. 2010 No. 201
R. 5.11 .....	ad. 2010 No. 201
<b>Part 6</b>	
<b>Division 6.1</b>	
R. 6.01 .....	am. 2005 No. 320; 2007 No. 170; 2011 No. 61
R. 6.02 .....	rs. 2006 Nos. 45 and 100 am. 2007 No. 170 rep. 2007 No. 170
R. 6.04 .....	am. 2005 No. 222; 2007 No. 170
R. 6.05 .....	am. 2005 No. 289 rs. 2005 No. 320
<b>Division 6.2</b>	
R. 6.06 .....	am. 2011 No. 61

**Table of Amendments**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

<b>Provision affected</b>	<b>How affected</b>
Note to r. 6.07 (6).....	am. 2005 No. 222
R. 6.08 .....	rep. 2011 No. 61
Note to r. 6.10 (3).....	am. 2005 No. 222
R. 6.11 .....	am. 2005 No. 222 rep. 2009 No. 275 ad. 2011 No. 61
<b>Division 6.3</b>	
Heading to r. 6.12 .....	am. 2011 No. 61
R. 6.12 .....	am. 2011 No. 61 rs. 2011 No. 61
R. 6.12A.....	ad. 2005 No. 222 rep. 2011 No. 61
R. 6.13 .....	am. 2005 No. 222 rs. 2011 No. 61
R. 6.14 .....	rep. 2011 No. 61
Note to r. 6.13 (5).....	rs. 2005 No. 222
Note to r. 6.14 (7).....	am. 2005 No. 222
Heading to r. 6.15 .....	rs. 2011 No. 61
R. 6.15 .....	am. 2005 No. 222; 2011 No. 61
R. 6.16 .....	am. 2011 No. 61
Note to r. 6.16 (2).....	am. 2005 No. 222
R. 6.17 .....	am. 2007 No. 170
R. 6.19 .....	am. 2011 No. 61
Note to r. 6.19 (5).....	am. 2005 No. 222
R. 6.19A.....	ad. 2011 No. 61
R. 6.20 .....	rs. 2011 No. 61
R. 6.22 .....	rs. 2011 No. 61
R. 6.22A.....	ad. 2011 No. 61
<b>Division 6.4</b>	
Heading to r. 6.23 .....	rs. 2011 No. 61
R. 6.23 .....	am. 2007 No. 170; 2010 No. 298; 2011 No. 61
Heading to r. 6.24 .....	rs. 2011 No. 61
R. 6.24 .....	am. 2011 No. 61
Heading to r. 6.25 .....	rs. 2011 No. 61
R. 6.25A.....	ad. 2011 No. 61
R. 6.25B.....	ad. 2011 No. 61
<b>Division 6.5</b>	
Heading to Div. 6.5 ..... of Part 6	rs. 2010 No. 298; 2011 No. 61

**Table of Amendments**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

<b>Provision affected</b>	<b>How affected</b>
<b>Subdivision 6.5.1</b>	
Heading to Subdiv. 6.5.1 ..... of Div. 6.5	rs. 2011 No. 61
Subdiv. 6.5.1 of Div. 6.5 .....	ad. 2006 No. 100
R. 6.26A .....	ad. 2006 No. 100 am. 2006 No. 224; 2007 No. 170 rs. 2010 No. 298 am. 2011 No. 61
<b>Subdivision 6.5.2</b>	
Heading to Subdiv. 6.5.2 .... of Div. 6.5	ad. 2006 No. 100  rs. 2011 No. 61
R. 6.26 .....	am. 2006 No. 45; 2007 No. 170 rs. 2007 No. 170
R. 6.27 .....	rs. 2011 No. 61
Notes 1–3 to r. 6.27 .....	rep. 2009 No. 275
R. 6.27AA .....	ad. 2007 No. 170 am. 2010 No. 298
R. 6.27A .....	ad. 2006 No. 45 am. 2006 No. 100; 2007 No. 170 rep. 2007 No. 170 ad. 2011 No. 61
R. 6.27B .....	ad. 2007 No. 170 rep. 2011 No. 61
R. 6.28 .....	am. 2005 Nos. 222 and 320; 2006 Nos. 45 and 100; 2007 No. 170 rs. 2007 No. 170 am. 2010 No. 298; 2011 No. 61
Note to r. 6.28 (4) .....	rep. 2010 No. 298
Note to r. 6.28 (6) .....	ad. 2010 No. 298
R. 6.29 .....	am. 2007 No. 170; 2010 No. 298; 2011 No. 61
Note to r. 6.29 (3) .....	am. 2005 No. 222
R. 6.29A .....	ad. 2010 No. 298
R. 6.30 .....	am. 2006 No. 45
R. 6.31 .....	am. 2006 No. 45; 2007 No. 170 rs. 2007 No. 170 am. 2010 No. 298
Note to r. 6.31 (1) .....	ad. 2010 No. 298
Note to r. 6.31 (6) .....	rep. 2010 No. 298
R. 6.31A .....	ad. 2007 No. 170
R. 6.32 .....	am. 2005 No. 320; 2010 No. 298
R. 6.33 .....	am. 2006 No. 224; 2011 No. 61
R. 6.34 .....	rep. 2011 No. 61

**Table of Amendments**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

<b>Provision affected</b>	<b>How affected</b>
R. 6.35 .....	am. 2007 No. 170; 2010 No. 298
R. 6.37 .....	am. 2006 No. 224; 2011 No. 61
R. 6.37A .....	ad. 2011 No. 61
<b>Subdivision 6.5.2A</b>	
Subdiv. 6.5.2A of Div. 6.5....	ad. 2011 No. 61
R. 6.37B .....	ad. 2011 No. 61
R. 6.37C .....	ad. 2011 No. 61
R. 6.37D .....	ad. 2011 No. 61
<b>Subdivision 6.5.3</b>	
Subdiv. 6.5.3 of Div. 6.5 .....	ad. 2011 No. 61
R. 6.37E .....	ad. 2011 No. 61
R. 6.37F .....	ad. 2011 No. 61
R. 6.37G .....	ad. 2011 No. 61
Heading to r. 6.38 .....	rs. 2011 No. 61
R. 6.38 .....	am. 2010 No. 298; 2011 No. 61
Note to r. 6.38 (4) .....	ad. 2011 No. 61
Note to r. 6.38 (6) .....	ad. 2011 No. 61
R. 6.38A .....	ad. 2011 No. 61
R. 6.38B .....	ad. 2011 No. 61
R. 6.38C .....	ad. 2011 No. 61
R. 6.38D .....	ad. 2011 No. 61
R. 6.38E .....	ad. 2011 No. 61
R. 6.38EA .....	ad. 2011 No. 61
R. 6.38EB .....	ad. 2011 No. 61
R. 6.38F .....	ad. 2011 No. 61
R. 6.38G .....	ad. 2011 No. 61
R. 6.38H .....	ad. 2011 No. 61
R. 6.38I .....	ad. 2011 No. 61
R. 6.39 .....	rs. 2005 No. 289 am. 2006 No. 224; 2011 No. 61
Note to r. 6.39 (5) .....	ad. 2011 No. 61
R. 6.39A .....	ad. 2005 No. 289 am. 2011 No. 61
Note to r. 6.39A .....	rep. 2011 No. 61
<b>Subdivision 6.5.3A</b>	
Heading to Subdiv. 6.5.3A .. of Div. 6.5	ad. 2011 No. 61
R. 6.40 .....	rs. 2011 No. 61



**Table of Amendments**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

<b>Provision affected</b>	<b>How affected</b>
Subdiv. 6.5.3 of Div. 6.5 .....	ad. 2006 No. 100 rep. 2009 No. 275
R. 6.41 .....	am. 2010 No. 298; 2011 No. 61
R. 6.41A .....	ad. 2010 No. 298
R. 6.42A .....	ad. 2006 No. 100 am. 2007 No. 170 rep. 2009 No. 275
Note to r. 6.42A .....	rep. 2007 No. 170
R. 6.42B .....	ad. 2006 No. 100 rep. 2009 No. 275
R. 6.42C .....	ad. 2006 No. 100 rep. 2009 No. 275
R. 6.42D .....	ad. 2006 No. 100 am. 2007 No. 170 rep. 2009 No. 275
R. 6.42E .....	ad. 2006 No. 100 rep. 2009 No. 275
R. 6.42F .....	ad. 2006 No. 100 rep. 2009 No. 275
R. 6.42G .....	ad. 2006 No. 100 rep. 2009 No. 275
<b>Subdivision 6.5.4</b>	
Heading to Subdiv. 6.5.4..... of Div. 6.5	ad. 2006 No. 100 rs. 2010 No. 298; 2011 No. 61
R. 6.42A .....	ad. 2010 No. 298
R. 6.42B .....	ad. 2010 No. 298
R. 6.42C .....	ad. 2010 No. 298
R. 6.42D .....	ad. 2010 No. 298
R. 6.42E .....	ad. 2010 No. 298
<b>Subdivision 6.5.5</b>	
Subdiv. 6.5.5 of Div. 6.5 .....	ad. 2011 No. 61
R. 6.42F .....	ad. 2011 No. 61
Heading to r. 6.43 .....	rs. 2011 No. 61
R. 6.43 .....	am. 2005 No. 320; 2006 No. 100; 2007 No. 170; 2010 No. 298; 2011 No. 61
Note to r. 6.43 (2) .....	rep. 2011 No. 61
Note to r. 6.43 (6) .....	am. 2005 No. 222 rs. 2010 No. 298
R. 6.43A .....	ad. 2006 No. 100 rs. 2010 No. 298 am. 2011 No. 61
R. 6.43B .....	ad. 2010 No. 298

**Table of Amendments**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

<b>Provision affected</b>	<b>How affected</b>
R. 6.43C.....	ad. 2010 No. 298
R. 6.43D.....	ad. 2010 No. 298
R. 6.43E.....	ad. 2010 No. 298
R. 6.43F.....	ad. 2011 No. 61
R. 6.44.....	am. 2007 No. 170 rs. 2011 No. 61
R. 6.44A.....	ad. 2011 No. 61
R. 6.45.....	am. 2007 No. 170 rs. 2011 No. 61
R. 6.46.....	rs. 2011 No. 61
R. 6.47.....	rs. 2011 No. 61
Heading to r. 6.49.....	rs. 2011 No. 61
R. 6.49.....	am. 2011 No. 61
R. 6.50.....	am. 2005 No. 222; 2006 No. 224 rep. 2009 No. 275 ad. 2011 No. 61
R. 6.51.....	am. 2006 No. 224 rep. 2009 No. 275
<b>Division 6.6</b>	
Heading to Div. 6.6.....	rs. 2011 No. 61
Heading to r. 6.53.....	rs. 2011 No. 61
R. 6.53.....	am. 2005 No. 222; 2011 No. 61
<b>Division 6.7</b>	
Note to r. 6.54.....	am. 2007 No. 170
R. 6.55.....	rs. 2005 No. 320
R. 6.55A.....	ad. 2005 No. 222 am. 2011 No. 61
R. 6.56.....	am. 2005 No. 222
R. 6.56A.....	ad. 2005 No. 222 am. 2011 No. 61
R. 6.58A.....	ad. 2005 No. 222
R. 6.58B.....	ad. 2005 No. 222
<b>Part 8</b>	
R. 8.02.....	am. 2006 Nos. 45 and 100; 2010 No. 298; 2011 No. 61
R. 8.05.....	ad. 2008 No. 190
R. 8.06.....	ad. 2011 No. 61
<b>Part 9</b>	
R. 9.01.....	rs. 2006 No. 40

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<b>Table A</b>	<b>Application, saving or transitional provisions</b>
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**Select Legislative Instrument 2006 No. 45****4 Transitional**

The amendments made by items [3], [6], [7], [8], [9] and [10] of Schedule 1 apply in relation to an application for the issue of an ASIC:

- (a) made, but not finally determined, before 6 March 2006; or
  - (b) made after 5 March 2006.
- 

**Select Legislative Instrument 2007 No. 276****4 Transitional**

A person that, immediately before the commencement of this regulation, was a RACA under regulation 4.43 is taken to continue to be a RACA for regulation 4.43.

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**Select Legislative Instrument 2010 No. 298****4 Transitional**

- (1) The amendment made by item [11] of Schedule 1 applies to an ASIC cancelled, suspended or returned to the issuing body after the commencement of these Regulations.
- (2) The amendment made by item [19] of Schedule 1 applies to an ASIC cancelled after the commencement of these Regulations.
- (3) The amendments made by items [22] to [26] of Schedule 1 apply to an application for the issue of an ASIC:
  - (a) made before the commencement of these Regulations if:

**Table A**

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- (i) the outcome of the applicant's background check includes unfavourable criminal history advice and the applicant has not been told of that unfavourable criminal history advice under subregulation 8 (6) of the *AusCheck Regulations 2007* before the commencement of these Regulations; or
    - (ii) the issuing body has not been advised of the outcome of the applicant's background check under regulation 9 of the *AusCheck Regulations 2007* before the commencement of these Regulations; or
  - (b) made after the commencement of these Regulations.
- (4) The amendments made by items [30] and [31] of Schedule 1 apply to an application for the issue of an ASIC:
- (a) made before the commencement of these Regulations if the issuing body is advised of the outcome of the applicant's background check under regulation 9 of the *AusCheck Regulations 2007* after the commencement of these Regulations; or
  - (b) made after the commencement of these Regulations.
- (5) The amendments made by items [36] and [37] of Schedule 1 apply to a conviction recorded after the commencement of these Regulations.
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## **Select Legislative Instrument 2011 No. 61**

### **4 Transitional**

The amendments made by Schedule 2 do not affect the validity of a visitor identification card (within the meaning given by regulation 1.03 of the *Aviation Transport Security Regulations 2005*) that was issued before 21 November 2011 and was still valid on 21 November 2011.

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