

EXPLANATORY STATEMENT

Select Legislative Instrument 2009 No. 394

Issued by the Authority of the Minister for Infrastructure, Transport, Regional Development and Local Government

Aviation Transport Security Act 2004
Aviation Transport Security Amendment Regulations 2009 (No. 6)

Section 133 of the *Aviation Transport Security Act 2004* (the ATSA) provides that the Governor-General may make regulations, prescribing matters required or permitted by the ATSA to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the ATSA.

More specifically, section 9 of the ATSA provides that the regulations may prescribe certain items that may potentially pose a threat to aviation security as ‘prohibited items’.

The purpose of the Regulations is to remove certain items from the current list of prohibited items (PIs) under regulation 1.07 of the *Aviation Transport Security Regulations 2005* (the ATSR).

The amendments represent one of the aviation security initiatives announced by the Government in its *National Aviation Policy White Paper: Flight Path to the Future*.

Since the commencement of the aviation security legislative framework on 10 March 2005, the PIs list has remained unchanged, but a number of new security measures have been introduced, including hardened cockpit doors on aircraft with a seating capacity of 30 passengers or more. Many other existing security measures have also been strengthened, including enhanced security screening. These measures have provided Australia with a robust, layered aviation security system.

Given the considerable enhancement of aviation security since 10 March 2005, the items being considered for removal reflect the current nature and level of threat, while also bringing Australia more closely into line with international practice.

Details of the amendments to the ATSR are set out in the Attachment.

The Regulations are legislative instruments for the purposes of the *Legislative Instruments Act 2003*.

The amendments contained in the *Aviation Transport Security Amendment Regulations 2009 (No. 6)* each commence on the day after they are registered on the Federal Register of Legislative Instruments.

ATTACHMENT

Details of the Aviation Transport Security Amendment Regulations 2009 (No. 6)

Regulation 1 – Name of Regulations

This regulation provides that the title of the Regulations is the *Aviation Transport Security Amendment Regulations 2009 (No. 6)*.

Regulation 2 – Commencement

This regulation provides for the Regulations to commence on the day after the day that they are registered.

Regulation 3 – Amendment of Aviation Transport Security Regulations 2005

This regulation provides that the *Aviation Transport Security Regulations 2005* (the ATSR) are amended as set out in Schedule 1.

Schedule 1 – Amendments

Items [1] to [4] – Regulation 1.07, table 1.07

Regulation 1.07 defines which things are ‘prohibited items’ (PIs).

Items [1] to [4] removes the following items as PIs from table 1.07 of regulation 1.07 of the ATSR:

- Umbrellas with metal points
- Knitting and crochet needles
- Pointed metal nail files
- Corkscrews; and
- Racquets used in squash, tennis, badminton or any other sport.

Item [5] – Subregulations 1.07(5) and (6)

This item repeals and replaces subregulations 1.07(5) and (6).

Item [5] provides that safety razors and hypodermic needles which are necessary for medical reasons are exceptions to the definition of a PI.

Item [5] also creates a new exception for certain metal cutlery. To establish that a particular metal cutlery is an exception to the PIs list, it must have rounded ends with no sharp points,

and have to be provided in a landside security zone for use by person in the landside security zone, or on an aircraft for use by persons on the aircraft.

Item [6] – Subregulation 1.07(13)

Item [6] replaces subregulation 1.07(13) to clarify that a plastic cutlery knife is not a PI.

Item [7] – After subregulation 1.07(14)

Section 54 of the ATSA sets out the circumstances for when a person would commit an offence for having in their possession a PI in an airside or landside security zone.

Item [7] inserts new subregulation 1.07(15) to the ATSR. This item effectively provides that a person, in the airside security zone, is authorised to have metal cutlery with 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.

This subregulation allows, for example, aircraft operators to provide metal cutlery stores on their aircraft.

Item [7] also inserts new subregulation 1.07(16) to the ATSR. Under this new subregulation, a person is able to pass through a screening point with metal cutlery with 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.

The purpose of new subregulation 1.07(16) is to facilitate suppliers of specified metal cutlery to deliver such goods, through a screening point, to the intended business in the landside security zone. It allows, for example, restaurants operating in the landside security zone to provide specified metal cutlery to its customers.

However, generally speaking, a passenger is still prevented from carrying metal cutlery through a screening point, even if the cutlery has rounded ends.