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Air Navigation Amendment Regulations 2003 (No. 3)¹

Statutory Rules 2003 No. ²

269

I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Air Navigation Act 1920*.

Dated 21 OCT 2003 2003

P.M. Jeffery

Governor-General

By His Excellency's Command

JOHN ANDERSON
Minister for Transport and Regional Services

1 Name of Regulations

These Regulations are the *Air Navigation Amendment Regulations 2003 (No. 3)*.

2 Commencement

These Regulations commence on 1 November 2003.

3 Amendment of *Air Navigation Regulations 1947*

Schedule 1 amends the *Air Navigation Regulations 1947*.

Schedule 1 Amendments

(regulation 3)

[1] Regulation 78

omit

[2] Subregulation 80 (1)

after

aircraft operator

insert

, an agency of the Commonwealth

[3] Regulation 88, definition of *conviction*, after note 3

insert

Note 4 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 the purposes of an authority assessing whether to issue the convicted person with a security identification card— see the *Crimes Act 1914*, paragraph 85ZZH (k), and the *Crimes Regulations 1990*, regulation 8 and Schedule 4.

[4] Regulation 88, definition of *Subdivision 3 offence*, table, after item 5

insert

- 6 An offence against Part 2 of the *Crimes (Aviation) Act 1991*
- 7 An offence against Part 5.3 of the *Criminal Code*
- 8 An offence constituted by the production, possession, supply, import or export of explosives or explosive devices

[5] Regulations 90 and 91

substitute

90 Security identification cards — issue by issuing body

- (1) An issuing body may issue a security identification card, in accordance with this regulation, to a person for all or part of 1 or more security restricted areas at an airport, or at more than 1 airport.
- (2) An issuing body may issue a security identification card to a person only if:
 - (a) the person needs to enter, for his or her employment, a security restricted area, or part of a security restricted area, to which the card will apply; and
 - (b) he or she is not an unlawful non-citizen; and
 - (c) he or she has verified his or her identity by means of:
 - (i) 2 primary identification documents; or
 - (ii) a primary identification document and a secondary identification document; or
 - (iii) a primary identification document and 2 tertiary identification documents.

Penalty: 45 penalty units.

Note for paragraph (2) (b) For the meaning of **unlawful non-citizen**, see regulation 76.

- (3) An issuing body must not issue a security identification card to a person who has an adverse criminal record unless the Secretary so approves under regulation 92.

Penalty: 45 penalty units.

- (4) For subregulation (3), a person has an *adverse criminal record* if:

- (a) in the case of a person who, immediately before 1 December 1998, held a superseded card (within the meaning given by subregulation 96 (1)) — he or she has been convicted since 1 December 1998 of a Subdivision 3 offence and sentenced to imprisonment for longer than 7 days; and
- (b) in the case of a person who was first issued with a security identification card at some time between 1 December 1998 and 31 October 2003 (inclusive) — he or she has been, at any time, convicted of a Subdivision 3 offence, and sentenced to imprisonment for longer than 7 days; and
- (c) in any other case — he or she has been, at any time, convicted of a Subdivision 3 offence and sentenced to any period of imprisonment.

- (5) The Secretary may direct an issuing body in writing not to issue a security identification card to a person if the Secretary considers that it would constitute a threat to aviation security if the person were to hold a security identification card.

- (6) An issuing body must not issue a security identification card to a person in contravention of a direction under subregulation (5).

Penalty: 45 penalty units.

- (7) An offence against subregulation (2), (3) or (6) is an offence of strict liability.

- (8) A security identification card may be issued subject to a condition, including a condition that the issue cancels a card already held by the holder.

- (9) If a security identification card is issued subject to a condition, notice of the condition must be given to the holder in writing.

[6] Subregulation 94 (2)*omit*

regulation 90,

insert

subregulation 90 (2),

[7] Regulation 95*substitute***95 ASICs — period of issue and expiry**

- (1) An ASIC may be issued for up to 2 years.
- (2) Unless earlier cancelled, a security identification card expires:
 - (a) for a card issued on or after 1 November 2003:
 - (i) if it specifies a day on which it expires, or a period of validity — on that day or at the end of that period; or
 - (ii) if it does not specify such a day or period — at the end of 2 years after its issue; or
 - (b) for a card issued after this regulation commences but before 1 November 2003 — the earlier of:
 - (i) if it specifies a day on which it expires, or a period of validity — on that day or at the end of that period; or
 - (ii) 30 June 2004.
- (3) Unless earlier cancelled, a visitor identification card expires:
 - (a) if it specifies a day on which it expires, or a period of validity — on that day or at the end of that period; or
 - (b) if it does not specify such a day or period — at the time when, or the end of the period after which, the Secretary or issuing body tells the holder that it will expire.

95A Form of certain security identification cards

- (1) A security identification card issued on or after 1 November 2003:
 - (a) must include a recent photograph of the holder; and
 - (b) must bear the holder's full name as it appears on his or her primary identification document; and
 - (c) must bear a unique number; and
 - (d) must bear a statement of its date of expiry.
- (2) All of the particulars and things required by subregulation (1) must be on the same side of the card, and must be protected, by means of a Kinegram Hot Stamped Patch Optically Variable Device, against tampering.
- (3) An issuing body must not purport to issue a security identification card that does not comply with subregulations (1) and (2).

Penalty: 50 penalty units.

[8] Paragraph 97 (1) (b)

omit

[9] Subparagraph 97 (1) (c) (iii)

substitute

- (iii) the holder (other than a holder referred to in sub-subparagraph (iv) (A) or (v) (A)) is convicted of a Subdivision 3 offence and sentenced to any period of imprisonment; or
- (iv) if the holder:
 - (A) is a person who, immediately before 1 December 1998, held a superseded card (within the meaning given by subregulation 96 (1)); and
 - (B) is convicted of a Subdivision 3 offence and sentenced to imprisonment for longer than 7 days; or

-
- (v) if the holder:
 - (A) is a person who was first issued with a security identification card at some time between 1 December 1998 and 31 October 2003 (inclusive); and
 - (B) is convicted of a Subdivision 3 offence and sentenced to imprisonment for longer than 7 days; or
 - (vi) the Secretary tells the issuing body in writing that the Secretary considers that it would constitute a threat to aviation security if the holder were to continue to hold the aviation security card; or

[10] Paragraph 99 (1) (b)

omit

[11] Subparagraph 99 (1) (c) (iii)

substitute

- (iii) the holder (other than a holder referred to in sub-subparagraph (iv) (A) or (v) (A)) is convicted of a Subdivision 3 offence and sentenced to any period of imprisonment; or
- (iv) if the holder:
 - (A) is a person who, immediately before 1 December 1998, held a superseded card (within the meaning given by subregulation 96 (1)); and
 - (B) is convicted of a Subdivision 3 offence and sentenced to imprisonment for longer than 7 days; or
- (v) if the holder:
 - (A) is a person who was first issued with a security identification card at some time between 1 December 1998 and 31 October 2003 (inclusive); and

- (B) is convicted of a Subdivision 3 offence and sentenced to imprisonment for longer than 7 days; or
- (vi) the Secretary tells the issuing body in writing that the Secretary considers that it would constitute a threat to aviation security if the holder were to continue to hold the aviation security card; or

[12] Regulation 101

omit

of more than 7 days

Notes

1. These Regulations amend Statutory Rules 1947 No. 112, as amended by 1947 No. 162; 1948 No. 69; 1949 Nos. 6 and 70; 1950 No. 69; 1952 Nos. 30, 46 and 87; 1953 No. 44; 1954 Nos. 26, 32 and 119; 1955 No. 29; 1956 No. 16; 1957 No. 12; 1958 No. 77; 1960 Nos. 21, 96 and 99; 1961 No. 102; 1964 Nos. 61 and 128; 1965 No. 33; 1966 No. 5; 1967 No. 65; 1969 No. 4; 1970 Nos. 21 and 214; 1971 No. 31; 1972 No. 166; 1973 Nos. 182 and 247; 1974 Nos. 36, 54 and 96; 1975 No. 32; 1976 Nos. 67, 77, 11 and 124; 1977 No. 124; 1978 No. 140; 1980 Nos. 67, 106, 136, 187, 204, 247 and 269; 1981 Nos. 32, 77, 253 and 308; Act No. 76, 1981; Statutory Rules 1982 No. 270; 1983 Nos. 39, 149 and 202; 1984 Nos. 208 and 314; 1985 Nos. 203, 276, 300 and 329; 1986 Nos. 141, 284 and 357; 1987 Nos. 207 and 278; 1988 Nos. 159 and 378; 1989 No. 400; 1990 Nos. 255, 299 and 432; 1991 Nos. 74 and 193; 1992 Nos. 104, 153, 221 and 316; 1993 Nos. 265, 318 and 369; 1994 Nos. 148 and 384; 1995 Nos. 29, 342 and 443; 1996 Nos. 113 and 340; 1997 Nos. 336 and 413; 1998 No. 321; 1999 No. 351; 2000 Nos. 96, 217 and 360; Act No. 137, 2000; Statutory Rules 2003 Nos. 5, 97 and 260.
2. Notified in the *Commonwealth of Australia Gazette* on / 2003. 28 October