



## **Aviation Transport Security Amendment (Cargo) Regulation 2016**

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I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulation.

Dated 13 October 2016

Peter Cosgrove  
Governor-General

By His Excellency's Command

Darren Chester  
Minister for Infrastructure and Transport

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## 1 Name

This is the *Aviation Transport Security Amendment (Cargo) Regulation 2016*.

## 2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 4 and anything in this instrument not elsewhere covered by this table	1 November 2016.	1 November 2016
2. Schedule 1	1 November 2016.	1 November 2016
3. Schedule 2	1 July 2017.	1 July 2017

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

## 3 Authority

This instrument is made under the *Aviation Transport Security Act 2004*.

## 4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

## Schedule 1—Amendments commencing 1 November 2016

### Part 1—Amendments

#### *Aviation Transport Security Regulations 2005*

##### **1 Regulation 1.03 (definition of AACA security program)**

Repeal the definition, substitute:

*AACA security program* for an AACA means a security program provided by the Secretary to the AACA under regulation 4.51F, and includes such a security program as varied under these Regulations.

##### **2 Regulation 1.03 (definition of *chain of custody statement*)**

Repeal the definition.

##### **3 Regulation 1.03 (definition of *class of regulated businesses*)**

Omit “is examining cargo”, substitute “originates, examines or handles cargo”.

##### **4 Regulation 1.03**

Insert:

*international cargo* means cargo that is destined for a foreign country, but does not include cargo that:

- (a) originates overseas; and
- (b) arrives at an Australian airport on an aircraft operating an inbound international air service; and
- (c) either remains on board the aircraft, or is transferred to another aircraft operating an outbound international air service; and
- (d) if the cargo is transferred—remains in the airside area of the airport during the transfer.

*known consignor security program* for a known consignor means a security program provided by the Secretary to the known consignor under regulation 4.41Z, and includes such a security program as varied under these Regulations.

*originate*, in relation to a known consignor, has a meaning affected by regulation 1.03A.

*RACA security program* for a RACA means a security program provided by the Secretary to the RACA under regulation 4.46, and includes such a security program as varied under these Regulations.

##### **5 Regulation 1.03 (after paragraph (b) of the definition of *regulated business*)**

Insert:

- (ba) a known consignor; or

## 6 Regulation 1.03

Insert:

*regulation 4.41JA notice* has the meaning given by subregulation 4.41JA(2).

*regulation 4.41J notice* has the meaning given by subregulation 4.41J(2).

*security program* means:

- (a) in relation to a known consignor—the known consignor security program for the known consignor; or
- (b) in relation to a RACA—the RACA security program for the RACA; or
- (c) in relation to an AACA—the AACA security program for the AACA; or
- (d) in relation to an aviation industry participant who is an operator of a security controlled airport, an operator of a prescribed air service or Airservices Australia—the TSP for the aviation industry participant.

*unauthorised explosive* means any explosive or explosive device, other than an explosive or explosive device that is to be carried as cargo in relation to which the Secretary has issued a written notice under subparagraph 44B(2)(b)(i) of the Act.

## 7 After regulation 1.03

Insert:

### 1.03A Meaning of *originate* in relation to known consignors

Cargo *originates* with a known consignor in circumstances including the following:

- (a) where the known consignor makes, manufactures, assembles or otherwise produces the goods that are, or are reasonably likely to be, cargo;
- (b) where the known consignor has not made, manufactured, assembled or otherwise produced the goods that are, or are reasonably likely to be, cargo, but the known consignor:
  - (i) is the owner or person in control of the goods; and
  - (ii) the goods are in the known consignor's possession when the goods become, or become reasonably likely to be, cargo.

## 8 Regulation 2.03

Repeal the regulation, substitute:

### 2.03 Aviation industry participants that must have TSPs

For the purposes of paragraph 12(1)(c) of the Act, Airservices Australia is prescribed as an aviation industry participant that is required to have a transport security program.

Note: Operators of security controlled airports and operators of prescribed air services are also required to have a transport security program—see section 12 of the Act.

## 9 Subregulation 2.41(5)

Omit “suspect cargo”, substitute “high risk cargo”.

## 10 Division 2.4

Repeal the Division.

## 11 Regulations 4.41C to 4.41H

Repeal the regulations, substitute:

### 4.41C When cargo that has not been examined may receive clearance

For the purposes of paragraph 44B(2)(b) of the Act, cargo may receive clearance without being examined if:

- (a) the cargo originates with a known consignor; and
- (b) the known consignor handles the cargo in accordance with the requirements under the known consignor's security program that deal with how cargo that has not been examined is to be handled in order to receive clearance.

Note: There may be other circumstances in which cargo may receive clearance without being examined—see section 44B of the Act.

### 4.41CA Requirements for cargo to receive clearance

- (1) For the purposes of subparagraph 44C(1)(a)(iii) of the Act, in order for cargo to receive clearance, the cargo must satisfy the requirements set out in subregulation (2) or (3).

*Cargo examined by RACAs*

- (2) For this subregulation to be satisfied, the cargo must:
  - (a) have been examined by a RACA in accordance with a regulation 4.41J notice or a regulation 4.41JA notice that has been given to the RACA; and
  - (b) be handled by the RACA in accordance with the requirements under the RACA's security program that deal with how cargo is to be handled in order to receive clearance; and
  - (c) have a security declaration; and
  - (d) not contain any explosives.

*Cargo that need not be examined*

- (3) For this subregulation to be satisfied, the cargo must:
  - (a) not require examination to receive clearance in accordance with:
    - (i) regulation 4.41C; or
    - (ii) a written notice issued by the Secretary under subparagraph 44B(2)(b)(i) of the Act; and
  - (b) be handled by a regulated business in accordance with the requirements under the regulated business' security program that deal with how cargo that has not been examined is to be handled in order to receive clearance; and
  - (c) have a security declaration; and
  - (d) not contain any unauthorised explosives.

### 4.41D Meaning of *security declaration*

A *security declaration* is a document that:

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- (a) is in relation to cargo; and
- (b) is issued by a regulated business, when the cargo is in the possession of the regulated business, that is a RACA or a known consignor; and
- (c) includes the following information:
  - (i) the name of the regulated business issuing the document;
  - (ii) the name of the individual issuing the document on behalf of the regulated business;
  - (iii) whether the regulated business is a known consignor or a RACA;
  - (iv) a general description of the contents of the cargo;
  - (v) the cargo's country of origin;
  - (vi) the cargo's country of destination;
  - (vii) the time and date when the document was issued;
  - (viii) if the cargo is required to be examined to receive clearance—the examination method applied to the cargo by the regulated business, including whether the cargo was examined in accordance with a regulation 4.41J notice or a regulation 4.41JA notice;
  - (ix) if the cargo is not required to be examined to receive clearance—a statement of the grounds on which the cargo is not required to be examined to receive clearance;
  - (x) a declaration that the cargo has received clearance.

Note 1: Though subparagraph (viii) refers to examination by a regulated business, cargo may only be examined by a RACA (which is a type of regulated business)—see subregulation 4.41CA(2).

Note 2: For the purposes of subparagraph (ix), the 2 grounds on which cargo may not require examination to receive clearance are:

- (a) in accordance with regulation 4.41C; or
- (b) in accordance with a written notice issued by the Secretary under subparagraph 44B(2)(b)(i) of the Act.

Note 3: Subparagraph (x) refers to cargo having received clearance at the point in time at which the declaration is made. In order for cargo to be cleared at a particular time the cargo must have both received clearance and subsequently at all times have been handled in accordance with these Regulations—see subsection 44B(3) of the Act.

#### **4.41F Offence—issuing a security declaration in certain circumstances**

##### *Known consignors*

- (1) A known consignor commits an offence of strict liability if:
  - (a) the known consignor issues a security declaration for cargo; and
  - (b) the Secretary has not issued a notice under subparagraph 44B(2)(b)(i) of the Act in relation to the cargo; and
  - (c) the cargo did not originate with the known consignor.

Penalty: 100 penalty units.

- (2) A known consignor commits an offence of strict liability if:
  - (a) the known consignor issues a security declaration for cargo; and
  - (b) the known consignor has not handled the cargo in accordance with the known consignor security program in force for the known consignor.

Penalty: 100 penalty units.

*RACAs*

- (3) A RACA commits an offence of strict liability if:
- (a) the RACA issues a security declaration for cargo; and
  - (b) the Secretary has not issued a notice under subparagraph 44B(2)(b)(i) of the Act in relation to the cargo; and
  - (c) the RACA has not examined the cargo in accordance with a regulation 4.41J notice or a regulation 4.41JA notice given to the RACA.

Penalty: 100 penalty units.

- (4) A RACA commits an offence of strict liability if:
- (a) the RACA issues a security declaration for cargo; and
  - (b) the RACA has not handled the cargo in accordance with the RACA security program in force for the RACA.

Penalty: 100 penalty units.

*Persons other than known consignors and RACAs*

- (5) A person commits an offence of strict liability if:
- (a) the person purports to issue a security declaration for cargo; and
  - (b) the person is not a known consignor or a RACA.

Penalty: 50 penalty units.

**4.41G Offence—loading cargo on aircraft if the cargo does not have a security declaration**

- (1) A regulated business commits an offence of strict liability if:
- (a) the regulated business loads cargo onto a prescribed aircraft; and
  - (b) at the time of loading, the cargo is to be unloaded outside Australia; and
  - (c) the regulated business does not have a security declaration for the cargo.

Penalty:

- (a) if the regulated business is an AACA—50 penalty units; or
- (b) in any other case—100 penalty units.

- (2) A regulated business commits an offence of strict liability if:
- (a) the regulated business enters into an arrangement with another business that is not a regulated business to load cargo onto a prescribed aircraft; and
  - (b) the other business loads the cargo onto the prescribed aircraft; and
  - (c) at the time of loading, the cargo is to be unloaded outside Australia; and
  - (d) the regulated business does not have a security declaration for the cargo.

Penalty:

- (a) if the regulated business is an AACA—50 penalty units; or
- (b) in any other case—100 penalty units.

**4.41H Offence—failing to keep records of security declaration**

A person commits an offence of strict liability if:

- (a) the person is or was a regulated business; and

- (b) the person has, as a regulated business, issued a security declaration for cargo; and
- (c) the person does not keep a record of the declaration for 90 days after issuing the declaration.

Penalty: 50 penalty units.

## **12 Regulations 4.41J and 4.41K**

Repeal the regulations, substitute:

### **4.41J Notice for examination of cargo—examination requirements under this regulation**

- (1) This regulation is made for the purposes of subsection 44C(3) of the Act.
- (2) The Secretary may issue a written notice under this regulation (a **regulation 4.41J notice**) that sets out requirements in relation to how cargo must be examined by a RACA for the purposes of this regulation.

Note: In certain circumstances cargo may need to be examined in accordance with other requirements—see regulation 4.41JA.

- (3) Without limiting subregulation (2), the notice may include one or more of the following:
  - (a) the types of cargo that must be examined in accordance with the notice;
  - (b) the methods, techniques and equipment to be used for examination;
  - (c) the places where examination is to be conducted;
  - (d) who may conduct the examination;
  - (e) the things to be detected by examination;
  - (f) the procedures for dealing with cargo that has been examined;
  - (g) the records that must be kept about examination;
  - (h) any other matter the Secretary considers relevant.
- (4) The notice may apply to a RACA or a class of RACAs.
- (5) The Secretary must give the notice to a RACA to which the notice applies if the Secretary is satisfied on reasonable grounds that:
  - (a) the RACA is capable of examining cargo in accordance with the notice; and
  - (b) the RACA intends to examine cargo in accordance with the notice; and
  - (c) issuing the notice to the RACA is in the interests of safeguarding against unlawful interference with aviation.
- (6) A RACA who has been given a notice under this regulation may, for the purposes of examining cargo, open, deconsolidate or unpack the cargo (whether or not the owner of the cargo, or any other person, has consented).

### **4.41JA Notice for examination of cargo—examination requirements under this regulation**

- (1) This regulation is made for the purposes of subsection 44C(3) of the Act.

- (2) The Secretary may issue a written notice under this regulation (a **regulation 4.41JA notice**) that sets out the requirements in relation to how cargo must be examined by a RACA for the purposes of this regulation.

Note: These requirements for examination may apply, for example, in relation to cargo which is to be unloaded in a country which has particular requirements for how inbound cargo is to be examined.

- (3) Without limiting subregulation (2), the notice may include one or more of the following:
- (a) the types of cargo that must be examined in accordance with the notice;
  - (b) the methods, techniques and equipment to be used for examination;
  - (c) the places where examination is to be conducted;
  - (d) who may conduct the examination;
  - (e) the things to be detected by examination;
  - (f) the procedures for dealing with cargo that has been examined;
  - (g) the records that must be kept about the examination;
  - (h) any other matter the Secretary considers relevant.
- (4) The notice may apply to a RACA or a class of RACAs.
- (5) The Secretary must give the notice to a RACA to which the notice applies if the Secretary is satisfied on reasonable grounds that:
- (a) the RACA is capable of examining cargo in accordance with the notice; and
  - (b) the RACA intends to examine cargo in accordance with the notice; and
  - (c) issuing the notice to the RACA is in the interests of safeguarding against unlawful interference with aviation.
- (6) A RACA who has been given a notice under this regulation may, for the purposes of examining cargo, open, deconsolidate or unpack the cargo (whether or not the owner of the cargo, or any other person, has consented).

#### **4.41JB Revocation of notice issued under this Subdivision**

- (1) The Secretary must revoke a notice given to a RACA under this Subdivision if the RACA requests the Secretary, in writing, to revoke the notice.
- (2) The Secretary may revoke a notice given to a RACA, or a class of RACAs, under this Subdivision if the Secretary is satisfied on reasonable grounds that:
- (a) the RACA, or class of RACAs, concerned is not capable of examining cargo in accordance with the notice; or
  - (b) the RACA, or class of RACAs, concerned is not examining cargo in accordance with the notice; or
  - (c) revoking the notice is in the interests of safeguarding against unlawful interference with aviation.
- (3) To avoid doubt, if:
- (a) the Secretary has given a notice under this Subdivision to a class of RACAs; and
  - (b) subregulation (2) applies in relation to a particular RACA within that class; the Secretary may, under that subregulation, revoke the notice given to the particular RACA without revoking the notice given to other RACAs within the class.

#### **4.41K Offence—failure to comply with regulation 4.41J or 4.41JA notice**

A RACA commits an offence of strict liability if:

- (a) the Secretary has given the RACA a regulation 4.41J notice or a regulation 4.41JA notice; and
- (b) the RACA does not comply with the notice.

Penalty: 100 penalty units.

### **13 After Subdivision 4.1A.1A**

Insert:

#### **Subdivision 4.1A.1B—Approving known consignors**

##### **4.41L Known consignors**

For the purposes of paragraph 44C(2)(ha) of the Act, a person is a known consignor if the person:

- (a) carries on a business that engages in originating cargo; and
- (b) is approved as a known consignor under regulation 4.41N.

##### **4.41M Applying for approval as a known consignor**

- (1) A person may apply, in writing, to the Secretary to be approved as a known consignor if the person:
  - (a) carries on a business that engages in originating cargo; or
  - (b) intends to carry on such a business.
- (2) The application must:
  - (a) be in the form approved, in writing, by the Secretary; and
  - (b) include the information required by the form.

*Further information*

- (3) The Secretary may request, in writing, that the applicant provide:
  - (a) further information in relation to the application; or
  - (b) access for inspection of one or more of the applicant's sites to gather further information in relation to the application.
- (4) The notice must specify the period within which the further information or access is to be provided.
- (5) An inspection under paragraph (3)(b) may be conducted by any of the following:
  - (a) an APS employee;
  - (b) a person who is engaged as a consultant or contractor to perform services for the Department;
  - (c) a law enforcement officer.
- (6) The Secretary may refuse to consider the application until the applicant provides the further information or access.

#### 4.41N Decision on application

- (1) The Secretary may, in relation to an application made by an applicant under regulation 4.41M:
  - (a) approve the applicant as a known consignor; or
  - (b) refuse to approve the applicant as a known consignor.

##### *Matters to be taken into account*

- (2) In making a decision on the application, the Secretary may take into account:
  - (a) any further information provided by the applicant under paragraph 4.41M(3)(a); and
  - (b) any further information obtained as a result of any inspections carried out under paragraph 4.41M(3)(b); and
  - (c) any other information the Secretary considers relevant.

##### *Notice of decision*

- (3) The Secretary must:
  - (a) notify the applicant, in writing, of the decision; and
  - (b) do so within 90 days of the application being made.

Note: If the Secretary approves the applicant as a known consignor:

- (a) the notice must include the duration of the approval—see regulation 4.41P; and
- (b) the Secretary must also provide the known consignor with a security program—see regulation 4.41Z.

- (4) If the decision is to refuse the application, the notice must include the reasons for the decision.

##### *Deemed refusal of application*

- (5) If the Secretary does not make a decision under subregulation (1) within 90 days of the application being made the Secretary is taken to have refused to approve the applicant as a known consignor at the end of that period.
- (6) Paragraph (3)(a) does not apply to a decision that is taken to have been made because of subregulation (5).

##### *Stopping the clock*

- (7) If the Secretary has requested:
  - (a) further information under paragraph 4.41M(3)(a); or
  - (b) access for inspection of one or more of the applicant's sites under paragraph 4.41M(3)(b);then, for the purposes of paragraph (3)(b) of this regulation and subregulation (5) of this regulation, the 90 day period is extended, for each request made under subregulation 4.41M(3), by the number of days falling within the period:
  - (c) starting on the day on which the notice was given; and
  - (d) ending on:
    - (i) the day on which the information requested in the notice was received by the Secretary, or the inspection was conducted; or
    - (ii) if the information or access was not provided within the period specified in the notice—the last day of that period.

#### **4.41P Duration of approval**

- (1) A known consignor's approval as a known consignor commences on the day specified in the notice under subregulation 4.41N(3).
- (2) The day specified in the notice must not be earlier than:
  - (a) the day the notice is given; or
  - (b) if the applicant is not already carrying on a business that engages in originating cargo—the day on which the applicant commences carrying on such a business.
- (3) The approval continues in force until the earlier of:
  - (a) the end of the period specified in the notice; and
  - (b) if the approval is revoked under regulation 4.41V, 4.41W or 4.41X—the day the approval is revoked.

Note: If a known consignor applies for the known consignor's approval to be renewed before the end of the period mentioned in paragraph (a), the approval continues in force until a decision is made on the renewal application—see regulation 4.41T.

- (4) The period specified in the notice must be at least 12 months, but not more than 5 years, after the day on which the approval commences.

#### **4.41Q Action by Secretary in relation to approval**

- (1) If there is a change to a known consignor's operations resulting in the known consignor no longer carrying on business in accordance with the requirements of the known consignor's security program, the Secretary may issue a notice, in writing, to the known consignor in accordance with subregulation (2).
- (2) The notice may propose one or more of the following actions:
  - (a) that the known consignor agree to restrict the known consignor's activities to those that are in accordance with the known consignor's security program;
  - (b) that the known consignor agree to the Secretary imposing a condition on the known consignor's approval as a known consignor relating to activities that are not in accordance with the known consignor's security program;
  - (c) that the known consignor agree to comply with a different known consignor security program;
  - (d) that the known consignor's approval as a known consignor be revoked.
- (3) The known consignor must:
  - (a) notify the Secretary, in writing, of which, if any, of the actions proposed in the notice the known consignor will accept; and
  - (b) do so within 14 days of receiving the notice.

Note: The Secretary may revoke the known consignor's approval as a known consignor if the known consignor does not accept a proposed action, or if the known consignor accepts a proposed action but does not complete the action—see regulation 4.41X.

- (4) If:
  - (a) the notice proposes that the known consignor's approval as a known consignor be revoked in accordance with paragraph (2)(d); and
  - (b) the known consignor accepts the proposed action;the known consignor is taken to have requested the Secretary to revoke the known consignor's approval under regulation 4.41V.

#### **4.41R Application for re-approval**

- (1) A known consignor may apply, in writing, to the Secretary for re-approval as a known consignor.
- (2) The application may only be made within the last 12 months of the period for which the known consignor's approval is in force.
- (3) The application must:
  - (a) be in the form approved, in writing, by the Secretary; and
  - (b) include the information required by the form.

##### *Further information*

- (4) The Secretary may request, in writing, that the known consignor provide:
  - (a) further information in relation to the application; or
  - (b) access for inspection of one or more of the known consignor's sites to gather further information in relation to the application.
- (5) The notice must specify the period within which the further information or access is to be provided.
- (6) An inspection under paragraph (4)(b) may be conducted by any of the following:
  - (a) an APS employee;
  - (b) a person who is engaged as a consultant or contractor to perform services for the Department;
  - (c) a law enforcement officer.
- (7) The Secretary may refuse to consider the application until the known consignor provides the further information or access.

#### **4.41S Decision on re-approval application**

- (1) The Secretary may, in relation to an application made by a known consignor under regulation 4.41R:
  - (a) re-approve the known consignor as a known consignor; or
  - (b) refuse to re-approve the known consignor as a known consignor.

##### *Matters to be taken into account*

- (2) In making a decision on the application, the Secretary may take into account:
  - (a) any further information provided by the known consignor under paragraph 4.41R(4)(a); and
  - (b) any further information obtained as a result of any inspections carried out under paragraph 4.41R(4)(b); and
  - (c) any other information the Secretary considers relevant.

##### *Notice of decision*

- (3) The Secretary must:
  - (a) notify the known consignor, in writing, of the decision; and
  - (b) do so within 90 days of the application being made.

Note: If the Secretary re-approves the known consignor as a known consignor, the notice must include the duration of the re-approval—see regulation 4.41U.



- (4) If the decision is to refuse the application, the notice must include the reasons for the decision.

*Deemed refusal of application*

- (5) If the Secretary does not make a decision under subregulation (1) within 90 days of the application being made the Secretary is taken to have refused to re-approve the known consignor as a known consignor at the end of that period
- (6) Paragraph (3)(a) does not apply to a decision that is taken to have been made because of subregulation (5).

*Stopping the clock*

- (7) If the Secretary has requested:
- (a) further information under paragraph 4.41R(4)(a); or
  - (b) access for inspection of one or more of the known consignor's sites under paragraph 4.41R(4)(b);
- then, for the purposes of paragraph (3)(b) of this regulation and subregulation (5) of this regulation, the 90 day period is extended, for each request made under subregulation 4.41R(4), by the number of days falling within the period:
- (c) starting on the day on which the notice was given; and
  - (d) ending on:
    - (i) the day on which the information requested in the notice was received by the Secretary, or the inspection was conducted; or
    - (ii) if the information or access was not provided within the period specified in the notice—the last day of that period.

#### **4.41T Approval continues until decision on re-approval application**

If:

- (a) a known consignor makes an application for re-approval as a known consignor under regulation 4.41R; and
- (b) the Secretary has not made a decision on the application before the known consignor's approval is due to cease to be in force;

the known consignor's approval is taken to continue until:

- (c) if the Secretary re-approves the known consignor as a known consignor—the day specified in the notice under subregulation 4.41S(3) as the day on which the re-approval commences; or
- (d) if the Secretary refuses to re-approve the known consignor as a known consignor—the day the Secretary makes the decision to refuse the application.

#### **4.41U Duration of re-approval**

- (1) A known consignor's re-approval as a known consignor commences on the day specified in the notice under subregulation 4.41S(3) (which must not be earlier than the day the notice is given).
- (2) The re-approval continues in force until the earlier of:
- (a) the end of the period specified in the notice; and
  - (b) if the re-approval is revoked under regulation 4.41V, 4.41W or 4.41X—the day the re-approval is revoked.

- (3) The period specified in the notice must be at least 12 months, but not more than 5 years, after the day on which the re-approval commences.

#### **4.41V Revocation of known consignor approval on request**

*Revocation on request*

- (1) The Secretary must revoke the approval of a person as a known consignor if the person requests, in writing, the Secretary to revoke the approval.

*When revocation has effect*

- (2) The revocation has effect on:
  - (a) the day nominated in the request (which must not be a day before the request is made); or
  - (b) if no such day is specified in the request—the day the Secretary receives the request.

#### **4.41W Revocation of known consignor approval to safeguard against unlawful interference with aviation**

*Revocation to safeguard against unlawful interference with aviation*

- (1) The Secretary may, at any time by notice in writing, revoke the approval of a person as a known consignor if the Secretary is satisfied on reasonable grounds that revoking the approval is in the interests of safeguarding against unlawful interference with aviation.
- (2) The notice must include the reasons for the revocation.

*When revocation has effect*

- (3) The revocation has effect on the day the Secretary gives the person the notice.

#### **4.41X Revocation of known consignor approval on other grounds**

*Revocation on other grounds*

- (1) The Secretary may revoke the approval of a person as a known consignor if:
  - (a) any information given in the known consignor's application under regulation 4.41M is false or misleading in a material particular; or
  - (b) if the known consignor's site has been inspected in accordance with paragraph 4.41M(3)(b) or 4.41R(4)(b)—any information given during the inspection is false or misleading in a material particular; or
  - (c) the known consignor has not accepted an action proposed in a notice issued under regulation 4.41Q; or
  - (d) the known consignor has accepted an action proposed in a notice issued under regulation 4.41Q but the known consignor has not restricted the known consignor's activities, or has not complied with a condition imposed, in accordance with the notice; or
  - (e) if an application has been made for re-approval—any information given in the known consignor's application under regulation 4.41R is false or misleading in a material particular; or

- (f) the known consignor's business no longer engages in originating cargo; or
- (g) the known consignor has failed to comply with the known consignor security program for the known consignor; or
- (h) the known consignor has failed to comply with a direction to vary the known consignor's security program under regulation 4.41ZD; or
- (i) the known consignor has failed to comply with a special security direction under section 73 of the Act.

*Notice of proposed revocation*

- (2) Before deciding to revoke a known consignor's approval under subregulation (1), the Secretary must:
  - (a) notify the known consignor, in writing, of:
    - (i) the proposed revocation; and
    - (ii) the reasons for the proposed revocation; and
  - (b) invite the known consignor to:
    - (i) make a submission as to why the known consignor's approval should not be revoked; and
    - (ii) do so within the period specified in the notice.
- (3) The period specified in the notice must be at least 14 days commencing on the day the notice is given (the **response period**).

*Decision on revocation*

- (4) In deciding whether to revoke the known consignor's approval under subregulation (1), the Secretary must consider any submissions made within the response period.
- (5) The Secretary must:
  - (a) notify the known consignor, in writing, of the decision; and
  - (b) do so within 28 days after the end of the response period.
- (6) If the decision is to revoke the known consignor's approval, the notice must include the reasons for the decision.

*Deemed decision to revoke*

- (7) If the notice is not given within 28 days after the end of the response period, the Secretary is taken to have decided to revoke the known consignor's approval at the end of that period.
- (8) Paragraph (5)(a) does not apply to a decision that is taken to have been made because of subregulation (7).

*When revocation has effect*

- (9) If no submissions were made within the response period, the revocation has effect on the day after the last day of the response period.
- (10) If submissions were made within the response period, the revocation has effect on:
  - (a) if the known consignor was given a notice under subregulation (5)—the day after the known consignor was given the notice; or

- (b) if the known consignor was not given a notice under subregulation (5)—the day after the Secretary is taken, under subregulation (7), to have decided to revoke the known consignor’s approval.

#### **4.41Y Secretary’s list of known consignors**

- (1) The Secretary must keep a list of persons approved as known consignors.
- (2) The Secretary may publish the list.

#### **Subdivision 4.1A.1C—Known consignor security programs**

#### **4.41Z Secretary must provide known consignor with security program**

##### *Security program for persons approved as known consignors*

- (1) If the Secretary approves a person as a known consignor under regulation 4.41N, the Secretary must:
  - (a) provide the person with a known consignor security program that:
    - (i) is appropriate for the kind of business that is carried on by the known consignor; and
    - (ii) addresses the requirements set out in subregulation (2); and
  - (b) do so at the same time as the notice of the approval is given under subregulation 4.41N(3).
- (2) The known consignor security program must set out the following requirements:
  - (a) measures and procedures to ensure security of the known consignor’s facilities;
  - (b) measures and procedures to ensure security of the known consignor’s personnel;
  - (c) training requirements and procedures for the known consignor’s personnel;
  - (d) measures and procedures for clearing cargo;
  - (e) measures and procedures to ensure the chain of custody for cargo;
  - (f) measures and procedures for oversight of the operation of the measures, procedures and requirements for paragraphs (a) to (e), including quality assurance and incident response.

##### *Security programs for known consignors that are re-approved*

- (3) The Secretary may provide a known consignor who is re-approved as a known consignor under regulation 4.41S with a known consignor security program that:
  - (a) is appropriate for the kind of business that is carried on by the known consignor; and
  - (b) addresses the requirements set out in subregulation (2).
- (4) However, if:
  - (a) a known consignor is re-approved under regulation 4.41S; and
  - (b) immediately before the known consignor was re-approved there was a known consignor security program in force for the known consignor (the **original security program**); and
  - (c) the Secretary does not provide the known consignor with a known consignor security program under subregulation (3);

the original security program continues in force for the known consignor.

#### **4.41ZA When a known consignor security program is in force**

*When a known consignor security program comes into force*

- (1) A known consignor security program for a known consignor comes into force at the time specified in the security program.
- (2) However, if:
  - (a) the time specified in the security program is earlier than the time at which the security program was given to the known consignor; or
  - (b) no time is specified in the security program as the time when the security program comes into force;

the security program comes into force when the security program is given to the known consignor.

*Known consignor security program remains in force for duration of approval*

- (3) The security program for the known consignor remains in force for so long as the known consignor is approved as a known consignor.

#### **4.41ZB Secretary may vary known consignor security program**

- (1) If:
  - (a) a known consignor security program for a known consignor is in force; and
  - (b) either:
    - (i) the Secretary is no longer satisfied that the security program adequately addresses the requirements set out in subregulation 4.41Z(2); or
    - (ii) the Secretary is satisfied on reasonable grounds that varying the security program is in the interests of safeguarding against unlawful interference with aviation;

the Secretary:

- (c) may vary the security program; and
- (d) must provide a copy of the varied security program to the known consignor.

Note: The Secretary may also direct the known consignor to vary the security program, or the known consignor may request the Secretary to vary the security program—see regulations 4.41ZD and 4.41ZE.

- (2) However, the Secretary must not vary the security program under subregulation (1) unless the Secretary is satisfied that the security program, as varied, would adequately address the requirements set out in subregulation 4.41Z(2).
- (3) The known consignor must, within 14 days of receiving the varied security program (the *response period*):
  - (a) notify the Secretary, in writing, that the known consignor accepts the varied security program; or
  - (b) request the Secretary, in writing, to amend the varied security program; or
  - (c) both:

- (i) notify the Secretary, in writing, that the known consignor rejects the varied security program; and
  - (ii) request the Secretary to revoke, under regulation 4.41V, the known consignor's approval as a known consignor.
- (4) If, within the response period, the known consignor notifies the Secretary that the known consignor accepts the varied security program, the varied security program comes into force 14 days after the day the known consignor notifies the Secretary of the acceptance.

Note: The variation does not affect the period for which the security program is in force—see regulation 4.41ZA.

- (5) If, within the response period, the known consignor requests the Secretary to amend the varied security program, the known consignor must give the Secretary:
- (a) written details of the proposed amendment; and
  - (b) written reasons why the proposed amendment is being requested.
- (6) If, within the response period, the known consignor does not take any of the actions mentioned in subregulation (3), the varied security program comes into force 14 days after the end of the response period.

Note: The variation does not affect the period for which the security program is in force—see regulation 4.41ZA.

#### **4.41ZC Consideration of request to amend known consignor security program as varied by the Secretary**

- (1) The Secretary may, in relation to a request made by a known consignor, under paragraph 4.41ZB(3)(b), to amend a varied known consignor security program:
- (a) approve the request; or
  - (b) refuse the request.

##### *Matters to be taken into account*

- (2) In making a decision on the request, the Secretary must take into account the following:
- (a) whether the varied known consignor security program, as proposed to be amended, addresses the requirements set out in subregulation 4.41Z(2);
  - (b) existing circumstances as they relate to aviation security;
  - (c) the current use of the varied known consignor security program (if any) by a business of the kind carried on by the known consignor;
  - (d) the efficient administration of the known consignor scheme;
  - (e) any other matter the Secretary considers relevant.

##### *Notice of decision*

- (3) The Secretary must:
- (a) notify the known consignor, in writing, of the decision; and
  - (b) do so within 14 days of making the decision.
- (4) If the decision is to refuse the request, the notice must include the reasons for the decision.

*Approved requests*

- (5) If the Secretary approves the request, the Secretary must:
- (a) incorporate the amendment into the varied security program; and
  - (b) provide the varied security program, as amended, to the known consignor with the notice under subregulation (3); and
  - (c) specify in the notice the day on which the varied security program, as amended, comes into force (which must not be earlier than the day of the notice).

Note: The variation does not affect the period for which the security program is in force—see regulation 4.41ZA.

*Refused requests*

- (6) If the Secretary refuses the request, the varied security program comes into force on the day specified in the notice under subregulation (3) (which must not be earlier than the day of the notice).

Note: The variation does not affect the period for which the security program is in force—see regulation 4.41ZA.

*Deemed refusal of request*

- (7) If the Secretary does not make a decision under subregulation (1) within 90 days of the request being made:
- (a) the Secretary is taken to have refused the request; and
  - (b) the varied security program comes into force at the end of the 90 day period.

Note: The variation does not affect the period for which the security program is in force—see regulation 4.41ZA.

- (8) Paragraph (3)(a) does not apply to a decision that is taken to have been made because of subregulation (7).

**4.41ZD Secretary may direct known consignors to vary security programs**

- (1) If:
- (a) a known consignor security program is in force for a known consignor; and
  - (b) either:
    - (i) the Secretary is no longer satisfied that the security program adequately addresses the requirements set out in subregulation 4.41Z(2); or
    - (ii) the Secretary is satisfied on reasonable grounds that varying the security program is in the interests of safeguarding against unlawful interference with aviation;

the Secretary may, by written notice given to the known consignor, direct the known consignor to vary the security program.

Note: The Secretary may also vary the security program himself or herself, or the known consignor may request the Secretary to vary the security program—see regulations 4.41ZB and 4.41ZE.

- (2) However, the Secretary must not give a direction under subregulation (1) unless the Secretary is satisfied that the security program, as varied, would adequately address the requirements set out in subregulation 4.41Z(2).

- (3) In the notice, the Secretary must:
  - (a) set out the variation; and
  - (b) specify the period within which the known consignor must give the Secretary the security program as varied.
- (4) If the known consignor gives the Secretary the security program:
  - (a) varied in accordance with the direction; and
  - (b) within the specified period, or within any further period allowed by the Secretary;the Secretary must, by written notice given to the known consignor, approve the variation. The variation comes into force when the notice is given.

Note 1: As the security program is not replaced, the variation does not affect the period for which the security program is in force. Regulation 4.41ZA deals with the period for which a known consignor security program is in force.

Note 2: If the known consignor does not vary the security program in accordance with the notice the known consignor's approval as a known consignor may be revoked—see regulation 4.41X.

#### **4.41ZE Known consignor may request Secretary to vary known consignor security program**

- (1) A known consignor may request the Secretary to vary the known consignor security program for the known consignor.
- (2) The request must:
  - (a) be in writing; and
  - (b) provide details of the proposed variation; and
  - (c) include reasons why the proposed variation is being requested.

#### **4.41ZF Consideration of request to vary known consignor security program**

- (1) The Secretary may, in relation to a request made by a known consignor, under subregulation 4.41ZE(1), to vary the known consignor security program for the known consignor:
  - (a) approve the request; or
  - (b) refuse the request.

##### *Matters to be taken into account*

- (2) In making a decision on the request, the Secretary must take into account the following:
  - (a) whether the known consignor's security program, as proposed to be varied, addresses the requirements set out in subregulation 4.41Z(2);
  - (b) existing circumstances as they relate to aviation security;
  - (c) the current use of the known consignor security program (if any) by a business of the kind carried on by the known consignor;
  - (d) the efficient administration of the known consignor scheme;
  - (e) any other matter the Secretary considers relevant.

##### *Notice of decision*

- (3) The Secretary must:



- (a) notify the known consignor, in writing, of the decision; and
  - (b) do so within 14 days of making the decision.
- (4) If the decision is to refuse the request, the notice must include the reasons for the decision.

*Approved requests*

- (5) If the Secretary approves the request, the Secretary must:
- (a) incorporate the variation into the security program; and
  - (b) provide the varied security program to the known consignor with the notice under subregulation (3); and
  - (c) specify in the notice the day on which the varied security program comes into force (which must not be earlier than the day of the notice).

Note: The variation does not affect the period for which the security program is in force—see regulation 4.41ZA.

*Deemed refusal of request*

- (6) If the Secretary does not make a decision under subregulation (1) within 90 days of the request being made, the Secretary is taken to have refused the request at the end of the 90 day period.
- (7) Paragraph (3)(a) does not apply to a decision that is taken to have been made because of subregulation (6).

**4.41ZG Offence—failure to comply with known consignor security program**

A known consignor commits an offence of strict liability if:

- (a) there is a known consignor security program in force for the known consignor; and
- (b) the known consignor fails to comply with the security program.

Penalty: 100 penalty units.

**4.41ZH Offence—disclosing known consignor security program information without consent**

A person commits an offence if:

- (a) the person discloses information; and
- (b) the information is about the content of a known consignor security program for a known consignor; and
- (c) the person does not have the consent of the known consignor to disclose the information.

Penalty: 50 penalty units.

**14 Regulations 4.42 to 4.44**

Repeal the regulations, substitute:

**4.42 Regulated air cargo agents**

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

- (a) carries on a business that includes:
  - (i) the handling, or making arrangements for transport, of cargo to be carried on a prescribed aircraft; and
  - (ii) the examination, in accordance with a regulation 4.41J notice or a regulation 4.41JA notice given to the person, of cargo to be carried on a prescribed aircraft; and
- (b) is designated as a RACA under regulation 4.43A.

#### **4.43 Applying for designation as a RACA**

- (1) A person may apply, in writing, to the Secretary to be designated as a RACA if the person intends to carry on a business that includes:
  - (a) the handling, or making arrangements for transport, of cargo to be carried on a prescribed aircraft; and
  - (b) the examination, in accordance with a regulation 4.41J notice or a regulation 4.41JA notice, of cargo to be carried on a prescribed aircraft.
- (2) The application must:
  - (a) be in the form approved, in writing, by the Secretary; and
  - (b) include the information required by the form.

##### *Further information*

- (3) The Secretary may request, in writing, that the applicant provide:
  - (a) further information in relation to the application; or
  - (b) access for inspection of one or more of the applicant's sites to gather further information in relation to the application.
- (4) The notice must specify the period within which the further information or access is to be provided.
- (5) An inspection under paragraph (3)(b) may be conducted by any of the following:
  - (a) an APS employee;
  - (b) a person who is engaged as a consultant or contractor to perform services for the Department;
  - (c) a law enforcement officer.
- (6) The Secretary may refuse to consider the application until the applicant provides the further information or access.

#### **4.43A Decision on application**

- (1) The Secretary may, in relation to an application made by an applicant under regulation 4.43:
  - (a) designate the applicant as a RACA; or
  - (b) refuse to designate the applicant as a RACA.

##### *Matters to be taken into account*

- (2) In making a decision on the application, the Secretary may take into account:
  - (a) any further information provided by the applicant under paragraph 4.43(3)(a); and

- (b) any further information obtained as a result of any inspections carried out under paragraph 4.43(3)(b); and
- (c) any other information the Secretary considers relevant.

*Notice of decision*

- (3) The Secretary must:
  - (a) notify the applicant, in writing, of the decision; and
  - (b) do so within 90 days of the application being made.

Note: If the Secretary designates the applicant as a RACA:

- (a) the notice must include the duration of the designation—see regulation 4.43B; and
- (b) the Secretary must also provide the applicant with a RACA security program—see regulation 4.46.

- (4) If the decision is to refuse the application, the notice must include the reasons for the decision.

*Deemed refusal of application*

- (5) If the Secretary does not make a decision under subregulation (1) within 90 days of the application being made the Secretary is taken to have refused to designate the applicant as a RACA at the end of that period.
- (6) Paragraph (3)(a) does not apply to a decision that is taken to have been made because of subregulation (5).

*Stopping the clock*

- (7) If the Secretary has requested:
  - (a) further information under paragraph 4.43(3)(a); or
  - (b) access for inspection of one or more of the applicant's sites under paragraph 4.43(3)(b);then, for the purposes of paragraph (3)(b) of this regulation and subregulation (5) of this regulation, the 90 day period is extended, for each request made under subregulation 4.43(3), by the number of days falling within the period:
  - (c) starting on the day on which the notice was given; and
  - (d) ending on:
    - (i) the day on which the information requested in the notice was received by the Secretary, or the inspection was conducted; or
    - (ii) if the information or access was not provided within the period specified in the notice—the last day of that period.

#### **4.43B Duration of designation**

- (1) A RACA's designation as a RACA commences on the day specified in the notice under subregulation 4.43A(3).
- (2) The day specified in the notice must not be earlier than:
  - (a) the day the notice is given; or
  - (b) if the applicant is not already carrying on a business that includes the handling, or making arrangements for the transport, of cargo—the day on which the applicant commences carrying on such a business.
- (3) The designation continues in force until the earlier of:

- (a) the end of the period specified in the notice; or
- (b) if the designation is revoked under regulation 4.44, 4.44A, 4.44B or 4.44C—the day the designation is revoked.

Note: If a RACA applies for the RACA's designation to be renewed before the end of the period mentioned in paragraph (a), the designation continues in force until a decision is made on the renewal application—see regulation 4.43F.

- (4) The period specified in the notice must be at least 12 months, but not more than 5 years, after the day on which the designation commences.

#### **4.43C Action by Secretary in relation to designation**

- (1) If there is a change to a RACA's operations resulting in the RACA no longer carrying on business in accordance with the requirements of the RACA's security program, the Secretary may issue a notice, in writing, to the RACA in accordance with subregulation (2).
- (2) The notice may propose one or more of the following actions:
  - (a) that the RACA agree to restrict the RACA's activities to those that are in accordance with the RACA's security program;
  - (b) that the RACA agree to the Secretary imposing a condition on the RACA's designation as a RACA relating to activities that are not in accordance with the RACA's security program;
  - (c) that the RACA agree to comply with a different RACA security program;
  - (d) that the RACA's designation as a RACA be revoked.
- (3) The RACA must:
  - (a) notify the Secretary, in writing, of which, if any, of the actions proposed in the notice the RACA will accept; and
  - (b) do so within 14 days of receiving the notice.

Note: The Secretary may revoke the RACA's designation as a RACA if the RACA does not accept a proposed action, or if the RACA accepts a proposed action but does not complete the action—see regulation 4.44B.

- (4) If:
  - (a) the notice proposes that the RACA's designation as a RACA be revoked in accordance with paragraph (2)(d); and
  - (b) the RACA accepts the proposed action;the RACA is taken to have requested the Secretary to revoke the RACA's designation under regulation 4.44.

#### **4.43D Application for designation to be renewed**

- (1) A RACA may apply, in writing, to the Secretary for the RACA's designation as a RACA to be renewed.
- (2) The application may only be made within the last 12 months of the period for which the RACA's designation is in force.
- (3) The application must:
  - (a) be in the form approved, in writing, by the Secretary; and
  - (b) include the information required by the form.

*Further information*

- (4) The Secretary may request, in writing, that the RACA provide:
  - (a) further information in relation to the application; or
  - (b) access for inspection of one or more of the RACA's sites to gather further information in relation to the application.
- (5) The notice must specify the period within which the further information or access is to be provided.
- (6) An inspection under paragraph (4)(b) may be conducted by any of the following:
  - (a) an APS employee;
  - (b) a person who is engaged as a consultant or contractor to perform services for the Department;
  - (c) a law enforcement officer.
- (7) The Secretary may refuse to consider the application until the RACA provides the further information or access.

**4.43E Decision on renewal of designation application**

- (1) The Secretary may, in relation to an application made by a RACA under regulation 4.43D:
  - (a) renew the RACA's designation as a RACA; or
  - (b) refuse to renew the RACA's designation as a RACA.

*Matters to be taken into account*

- (2) In making a decision on the application, the Secretary may take into account:
  - (a) any further information provided by the RACA under paragraph 4.43D(4)(a); and
  - (b) any further information obtained as a result of any inspections carried out under paragraph 4.43D(4)(b); and
  - (c) any other information the Secretary considers relevant.

*Notice of decision*

- (3) The Secretary must:
  - (a) notify the RACA, in writing, of the decision; and
  - (b) do so within 90 days of the application being made.

Note: If the Secretary renews the RACA's designation as a RACA, the notice must include the duration of the renewed designation—see regulation 4.43G.

- (4) If the decision is to refuse the application, the notice must include the reasons for the decision.

*Deemed refusal of application*

- (5) If the Secretary does not make a decision under subregulation (1) within 90 days of the application being made the Secretary is taken to have refused to renew the RACA's designation as a RACA at the end of that period.
- (6) Paragraph (3)(a) does not apply to a decision that is taken to have been made because of subregulation (5).

*Stopping the clock*

- (7) If the Secretary has requested:
- (a) further information under paragraph 4.43D(4)(a); or
  - (b) access for inspection of one or more of the RACA's sites under paragraph 4.43D(4)(b);
- then, for the purposes of paragraph (3)(b) of this regulation and subregulation (5) of this regulation, the 90 day period is extended, for each request made under subregulation 4.43D(4), by the number of days falling within the period:
- (c) starting on the day on which the notice was given; and
  - (d) ending on:
    - (i) the day on which the information requested in the notice was received by the Secretary, or the inspection was conducted; or
    - (ii) if the information or access was not provided within the period specified in the notice—the last day of that period.

**4.43F Designation continues until decision on renewal application**

If:

- (a) a RACA makes an application for renewal of the RACA's designation as a RACA under regulation 4.43D; and
- (b) the Secretary has not made a decision on the application before the RACA's designation is due to cease to be in force;

the RACA's designation is taken to continue until:

- (c) if the Secretary renews the RACA's designation as a RACA—the day specified in the notice under subregulation 4.43E(3) as the day on which the renewed designation commences; or
- (d) if the Secretary refuses to renew the RACA's designation as a RACA—the day the Secretary makes the decision to refuse the application.

**4.43G Duration of renewed designation**

- (1) A RACA's renewed designation as a RACA commences on the day specified in the notice under subregulation 4.43E(3) (which must not be earlier than the day the notice is given).
- (2) The renewed designation continues in force until the earlier of:
  - (a) the end of the period specified in the notice; or
  - (b) if the renewed designation is revoked under regulation 4.44, 4.44A, 4.44B or 4.44C—the day the renewed designation is revoked.
- (3) The period specified in the notice must be at least 12 months, but not more than 5 years, after the day on which the renewed designation commences.

**4.44 Revocation of RACA designation on request**

*Revocation on request*

- (1) The Secretary must revoke the designation of a person as a RACA if the person requests, in writing, the Secretary to revoke the designation.

*When revocation has effect*

- (2) The revocation has effect on:
  - (a) the day nominated in the request (which must not be a day before the request is made); or
  - (b) if no such day is specified in the request—the day the Secretary receives the request.

**4.44A Revocation of RACA designation to safeguard against unlawful interference with aviation**

*Revocation to safeguard against unlawful interference with aviation*

- (1) The Secretary may, at any time by notice in writing, revoke the designation of a person as a RACA if the Secretary is satisfied on reasonable grounds that revoking the designation is in the interests of safeguarding against unlawful interference with aviation.
- (2) The notice must include the reasons for the revocation.

*When revocation has effect*

- (3) The revocation has effect on the day the Secretary gives the person the notice.

**4.44B Revocation of RACA designation on other grounds**

*Revocation on other grounds*

- (1) The Secretary may revoke the designation of a person as a RACA if:
  - (a) any information given in the RACA's application under regulation 4.43 is false or misleading in a material particular; or
  - (b) if the RACA's site has been inspected in accordance with paragraph 4.43(3)(b) or 4.43D(4)(b)—any information given during the inspection is false or misleading in a material particular; or
  - (c) the RACA has not accepted an action proposed in a notice issued under regulation 4.43C; or
  - (d) the RACA has accepted an action proposed in a notice issued under regulation 4.43C but the RACA has not restricted the RACA's activities, or has not complied with a condition imposed, in accordance with the notice; or
  - (e) if an application has been made for renewal of the RACA's designation—any information given in the RACA's application under regulation 4.43D is false or misleading in a material particular; or
  - (f) the RACA's business no longer includes:
    - (i) the handling, or making arrangements for transport, of cargo to be carried on a prescribed aircraft; or
    - (ii) examining cargo, in accordance with a regulation 4.41J notice or a regulation 4.41JA notice given to the RACA, that is to be carried on a prescribed aircraft; or
  - (g) the RACA has failed to comply with the RACA security program for the RACA; or
  - (h) the RACA has failed to comply with a direction to vary the RACA's security program under regulation 4.46D; or

- (i) the RACA has failed to comply with a special security direction under section 73 of the Act.

*Notice of proposed revocation*

- (2) Before deciding to revoke a RACA's designation under subregulation (1), the Secretary must:
  - (a) notify the RACA, in writing, of:
    - (i) the proposed revocation; and
    - (ii) the reasons for the proposed revocation; and
  - (b) invite the RACA to:
    - (i) make a submission as to why the RACA's designation should not be revoked; and
    - (ii) do so within the period specified in the notice.
- (3) The period specified in the notice must be at least 14 days commencing on the day the notice is given (the *response period*).

*Decision on revocation*

- (4) In deciding whether to revoke the RACA's designation under subregulation (1), the Secretary must consider any submissions made within the response period.
- (5) The Secretary must:
  - (a) notify the RACA, in writing, of the decision; and
  - (b) do so within 28 days after the end of the response period.
- (6) If the decision is to revoke the RACA's designation, the notice must include the reasons for the decision.

*Deemed decision to revoke*

- (7) If the notice is not given within 28 days after the end of the response period, the Secretary is taken to have decided to revoke the RACA's designation at the end of that period.
- (8) Paragraph (5)(a) does not apply to a decision that is taken to have been made because of subregulation (7).

*When revocation has effect*

- (9) If no submissions were made within the response period, the revocation has effect on the day after the last day of the response period.
- (10) If submissions were made within the response period, the revocation has effect on:
  - (a) if the RACA was given a notice under subregulation (5)—the day after the RACA was given the notice; or
  - (b) if the RACA was not given a notice under subregulation (5)—the day after the Secretary is taken, under subregulation (7), to have decided to revoke the RACA's designation.



#### **4.44C Automatic revocation if RACA accredited as AACCA**

*Automatic revocation if accredited as AACCA*

- (1) The designation of a person as a RACA is automatically revoked if the person is subsequently accredited as an AACCA.

*When revocation has effect*

- (2) The revocation has effect on the day the person is accredited as an AACCA.

#### **15 Regulations 4.45A and 4.46**

Repeal the regulations.

#### **16 After Subdivision 4.1A.2**

Insert:

#### **Subdivision 4.1A.2A—RACA security programs**

#### **4.46 Secretary must provide RACA with security program**

*Security program for persons designated as RACAs*

- (1) If the Secretary designates a person as a RACA under regulation 4.43A, the Secretary must:
  - (a) provide the person with a RACA security program that:
    - (i) is appropriate for the kind of business that is carried on by the RACA; and
    - (ii) addresses the requirements set out in subregulation (2); and
  - (b) do so at the same time as the notice of the designation is given under subregulation 4.43A(3).
- (2) The RACA security program must set out the following requirements:
  - (a) measures and procedures to ensure security of the RACA's facilities;
  - (b) measures and procedures to ensure security of the RACA's personnel;
  - (c) training requirements and procedures for the RACA's personnel;
  - (d) measures and procedures for clearing cargo;
  - (e) measures and procedures to ensure the chain of custody for cargo;
  - (f) measures and procedures for handling high risk cargo;
  - (g) measures and procedures for oversight of the operation of the measures, procedures and requirements for paragraphs (a) to (f), including quality assurance and incident response.

*Security programs for RACAs whose designation is renewed*

- (3) The Secretary may provide a RACA whose designation as a RACA is renewed under regulation 4.43E with a RACA security program that:
  - (a) is appropriate for the kind of business that is carried on by the RACA; and
  - (b) addresses the requirements set out in subregulation (2).
- (4) However, if:
  - (a) a RACA's designation is renewed under regulation 4.43E; and

- (b) immediately before the RACA's designation was renewed there was a RACA security program in force for the RACA (the *original security program*); and
  - (c) the Secretary does not provide the RACA with a RACA security program under subregulation (3);
- the original security program continues in force for the RACA.

#### 4.46A When a RACA security program is in force

*When a RACA security program comes into force*

- (1) A RACA security program for a RACA comes into force at the time specified in the security program.
- (2) However, if:
  - (a) the time specified in the security program is earlier than the time at which the security program was given to the RACA; or
  - (b) no time is specified in the security program as the time when the security program comes into force;the security program comes into force when the security program is given to the RACA.

*RACA security program remains in force for duration of designation*

- (3) The security program for the RACA remains in force for so long as the RACA is designated as a RACA.

#### 4.46B Secretary may vary RACA security program

- (1) If:
  - (a) a RACA security program is in force for a RACA; and
  - (b) either:
    - (i) the Secretary is no longer satisfied that the security program adequately addresses the requirements set out in subregulation 4.46(2); or
    - (ii) the Secretary is satisfied on reasonable grounds that varying the security program is in the interests of safeguarding against unlawful interference with aviation;

the Secretary:

- (c) may vary the security program; and
- (d) must provide a copy of the varied security program to the RACA.

Note: The Secretary may also direct the RACA to vary the security program, or the RACA may request the Secretary to vary the security program—see regulations 4.46D and 4.46E.

- (2) However, the Secretary must not vary the security program under subregulation (1) unless the Secretary is satisfied that the security program, as varied, would adequately address the requirements set out in subregulation 4.46(2).
- (3) The RACA must, within 14 days of receiving the varied security program (the *response period*):

- (a) notify the Secretary, in writing, that the RACA accepts the varied security program; or
- (b) request the Secretary, in writing, to amend the varied security program; or
- (c) both:
  - (i) notify the Secretary, in writing, that the RACA rejects the varied security program; and
  - (ii) request the Secretary to revoke, under regulation 4.44, the RACA's designation as a RACA.

- (4) If, within the response period, the RACA notifies the Secretary that the RACA accepts the varied security program, the varied security program comes into force 14 days after the day the RACA notifies the Secretary of the acceptance.

Note: The variation does not affect the period for which the security program is in force—see regulation 4.46A.

- (5) If, within the response period, the RACA requests the Secretary to amend the varied security program, the RACA must give the Secretary:

- (a) written details of the proposed amendment; and
- (b) written reasons why the proposed amendment is being requested.

- (6) If, within the response period, the RACA does not take any of the actions mentioned in subregulation (3), the varied security program comes into force 14 days after the end of the response period.

Note: The variation does not affect the period for which the security program is in force—see regulation 4.46A.

#### **4.46C Consideration of request to amend RACA security program as varied by the Secretary**

- (1) The Secretary may, in relation to a request made by a RACA, under paragraph 4.46B(3)(b), to amend a varied RACA security program:
- (a) approve the request; or
  - (b) refuse the request.

##### *Matters to be taken into account*

- (2) In making a decision on the request, the Secretary must take into account the following:
- (a) whether the varied RACA security program, as proposed to be amended, addresses the requirements set out in subregulation 4.46(2);
  - (b) existing circumstances as they relate to aviation security;
  - (c) the current use of the varied RACA security program (if any) by a business of the kind carried on by the RACA;
  - (d) the efficient administration of the RACA scheme;
  - (e) any other matter the Secretary considers relevant.

##### *Notice of decision*

- (3) The Secretary must:
- (a) notify the RACA, in writing, of the decision; and
  - (b) do so within 14 days of making the decision.

- (4) If the decision is to refuse the request, the notice must include the reasons for the decision.

*Approved requests*

- (5) If the Secretary approves the request, the Secretary must:
- (a) incorporate the amendment into the varied security program; and
  - (b) provide the varied security program, as amended, to the RACA with the notice under subregulation (3); and
  - (c) specify in the notice the day on which the varied security program, as amended, comes into force (which must not be earlier than the day of the notice).

Note: The variation does not affect the period for which the security program is in force—see regulation 4.46A.

*Refused requests*

- (6) If the Secretary refuses the request, the varied security program comes into force on the day specified in the notice under subregulation (3) (which must not be earlier than the day of the notice).

Note: The variation does not affect the period for which the security program is in force—see regulation 4.46A.

*Deemed refusal of request*

- (7) If the Secretary does not make a decision under subregulation (1) within 90 days of the request being made:
- (a) the Secretary is taken to have refused the request; and
  - (b) the varied security program comes into force at the end of the 90 day period.

Note: The variation does not affect the period for which the security program is in force—see regulation 4.46A.

- (8) Paragraph (3)(a) does not apply to a decision that is taken to have been made because of subregulation (7).

#### **4.46D Secretary may direct RACAs to vary security programs**

- (1) If:
- (a) a RACA security program is in force for a RACA; and
  - (b) either:
    - (i) the Secretary is no longer satisfied that the security program adequately addresses the requirements set out in subregulation 4.46(2); or
    - (ii) the Secretary is satisfied on reasonable grounds that varying the security program is in the interests of safeguarding against unlawful interference with aviation;

the Secretary may, by written notice given to the RACA, direct the RACA to vary the security program.

Note: The Secretary may also vary the security program himself or herself, or the RACA may request the Secretary to vary the security program—see regulations 4.46B and 4.46E.

- (2) However, the Secretary must not give a direction under subregulation (1) unless the Secretary is satisfied that the security program, as varied, would adequately address the requirements set out in subregulation 4.46(2).
- (3) In the notice, the Secretary must:
  - (a) set out the variation; and
  - (b) specify the period within which the RACA must give the Secretary the security program as varied.
- (4) If the RACA gives the Secretary the security program:
  - (a) varied in accordance with the direction; and
  - (b) within the specified period, or within any further period allowed by the Secretary;the Secretary must, by written notice given to the RACA, approve the variation. The variation comes into force when the notice is given.

Note 1: As the security program is not replaced, the variation does not affect the period for which the security program is in force. Regulation 4.46A deals with the period for which a RACA security program is in force.

Note 2: If the RACA does not vary the security program in accordance with the notice the RACA's designation as a RACA may be revoked—see regulation 4.44B.

#### **4.46E RACA may request Secretary to vary RACA security program**

- (1) A RACA may request the Secretary to vary the RACA security program for the RACA.
- (2) The request must:
  - (a) be in writing; and
  - (b) provide details of the proposed variation; and
  - (c) include reasons why the proposed variation is being requested.

#### **4.46F Consideration of request to vary RACA security program**

- (1) The Secretary may, in relation to a request made by a RACA, under subregulation 4.46E(1), to vary the RACA security program for the RACA:
  - (a) approve the request; or
  - (b) refuse the request.

##### *Matters to be taken into account*

- (2) In making a decision on the request, the Secretary must take into account the following:
  - (a) whether the RACA's security program, as proposed to be varied, addresses the requirements set out in subregulation 4.46(2);
  - (b) existing circumstances as they relate to aviation security;
  - (c) the current use of the RACA security program (if any) by a business of the kind carried on by the RACA;
  - (d) the efficient administration of the RACA scheme;
  - (e) any other matter the Secretary considers relevant.

##### *Notice of decision*

- (3) The Secretary must:

- (a) notify the RACA, in writing, of the decision; and
- (b) do so within 14 days of making the decision.

- (4) If the decision is to refuse the request, the notice must include the reasons for the decision.

*Approved requests*

- (5) If the Secretary approves the request, the Secretary must:
  - (a) incorporate the variation into the security program; and
  - (b) provide the varied security program to the RACA with the notice under subregulation (3); and
  - (c) specify in the notice the day on which the varied security program comes into force (which must not be earlier than the day of the notice).

Note: The variation does not affect the period for which the security program is in force—see regulation 4.46A.

*Deemed refusal of request*

- (6) If the Secretary does not make a decision under subregulation (1) within 90 days of the request being made, the Secretary is taken to have refused the request at the end of the 90 day period.
- (7) Paragraph (3)(a) does not apply to a decision that is taken to have been made because of subregulation (6).

#### **4.46G Offence—failure to comply with RACA security program**

A RACA commits an offence of strict liability if:

- (a) there is a RACA security program in force for the RACA; and
- (b) the RACA fails to comply with the security program.

Penalty: 100 penalty units.

#### **4.46H Offence—disclosing RACA security program information without consent**

A person commits an offence if:

- (a) the person discloses information; and
- (b) the information is about the content of a RACA security program for a RACA; and
- (c) the person does not have the consent of the RACA to disclose the information.

Penalty: 50 penalty units.

### **17 Regulations 4.48 to 4.51D**

Repeal the regulations, substitute:

#### **4.48 Applying for accreditation as an AACA**

- (1) A person may apply, in writing, to the Secretary to be accredited as an AACA if the person:

- (a) carries on a business that includes the handling, or making arrangements for the transport, of cargo; or
  - (b) intends to carry on such a business.
- (2) The application must:
- (a) be in the form approved, in writing, by the Secretary; and
  - (b) include the information required by the form.

*Further information*

- (3) The Secretary may request, in writing, that the applicant provide:
- (a) further information in relation to the application; or
  - (b) access for inspection of one or more of the applicant's sites to gather further information in relation to the application.
- (4) The notice must specify the period within which the further information or access is to be provided.
- (5) An inspection under paragraph (3)(b) may be conducted by any of the following:
- (a) an APS employee;
  - (b) a person who is engaged as a consultant or contractor to perform services for the Department;
  - (c) a law enforcement officer.
- (6) The Secretary may refuse to consider the application until the applicant provides the further information or access.

#### **4.49 Decision on application**

- (1) The Secretary may, in relation to an application made by an applicant under regulation 4.48:
- (a) accredit the applicant as an AACA; or
  - (b) refuse to accredit the applicant as an AACA.

*Matters to be taken into account*

- (2) In making a decision on the application, the Secretary may take into account:
- (a) any further information provided by the applicant under paragraph 4.48(3)(a); and
  - (b) any further information obtained as a result of any inspections carried out under paragraph 4.48(3)(b); and
  - (c) any other information the Secretary considers relevant.

*Notice of decision*

- (3) The Secretary must:
- (a) notify the applicant, in writing, of the decision; and
  - (b) do so within 90 days of the application being made.

- Note: If the Secretary accredits the applicant as an AACA:
- (a) the notice must include the duration of the accreditation—see regulation 4.50; and
  - (b) the Secretary must also provide the AACA with an AACA security program—see regulation 4.51F.

- (4) If the decision is to refuse the application, the notice must include the reasons for the decision.

*Deemed refusal of application*

- (5) If the Secretary does not make a decision under subregulation (1) within 90 days of the application being made the Secretary is taken to have refused to accredit the applicant as an AACA at the end of that period.
- (6) Paragraph (3)(a) does not apply to a decision that is taken to have been made because of subregulation (5).

*Stopping the clock*

- (7) If the Secretary has requested:
- (a) further information under paragraph 4.48(3)(a); or
  - (b) access for inspection of one or more of the applicant's sites under paragraph 4.48(3)(b);
- then, for the purposes of paragraph (3)(b) of this regulation and subregulation (5) of this regulation, the 90 day period is extended, for each request made under subregulation 4.48(3), by the number of days falling within the period:
- (c) starting on the day on which the notice was given; and
  - (d) ending on:
    - (i) the day on which the information requested in the notice was received by the Secretary, or the inspection was conducted; or
    - (ii) if the information or access was not provided within the period specified in the notice—the last day of that period.

#### **4.50 Duration of accreditation**

- (1) An AACA's accreditation as an AACA commences on the day specified in the notice under subregulation 4.49(3).
- (2) The day specified in the notice must not be earlier than:
- (a) the day the notice is given; or
  - (b) if the applicant is not already carrying on a business that includes the handling, or making arrangements for the transport, of cargo—the day on which the applicant commences carrying on such a business.
- (3) The accreditation continues in force until the earlier of:
- (a) the end of the period specified in the notice; or
  - (b) if the accreditation is revoked under regulation 4.51D, 4.51DA, 4.51DB or 4.51DC—the day the accreditation is revoked.

Note: If an AACA applies for the AACA's accreditation to be renewed before the end of the period mentioned in paragraph (a), the accreditation continues in force until a decision is made on the renewal application—see regulation 4.51C.

- (4) The period specified in the notice must be at least 12 months, but not more than 5 years, after the day on which the accreditation commences.

#### **4.51 Action by Secretary in relation to 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 the AACA's



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 the AACA's activities to those that are in accordance with the AACA's security program;
  - (b) that the AACA agree to the Secretary imposing a condition on the AACA's accreditation as an AACA 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's accreditation as an AACA be revoked.

Note: The Secretary may revoke the AACA's accreditation as an AACA if the AACA does not accept a proposed action, or if the AACA accepts a proposed action but does not complete the action—see regulation 4.51DB.

- (3) The AACA must:
  - (a) notify the Secretary, in writing, of which, if any, of the actions proposed in the notice the AACA will accept; and
  - (b) do so within 14 days of receiving the notice.
- (4) If:
  - (a) the notice proposes that the AACA's accreditation as an AACA be revoked in accordance with paragraph (2)(d); and
  - (b) the AACA accepts the proposed action;the AACA is taken to have requested the Secretary to revoke the AACA's accreditation under regulation 4.51D.

#### **4.51A Application for accreditation to be renewed**

- (1) An AACA may apply, in writing, to the Secretary for the AACA's accreditation as an AACA to be renewed.
- (2) The application may only be made within the last 12 months of the period for which the AACA's accreditation is in force.
- (3) The application must:
  - (a) be in the form approved, in writing, by the Secretary; and
  - (b) include the information required by the form.

##### *Further information*

- (4) The Secretary may request, in writing, that the AACA provide:
  - (a) further information in relation to the application; or
  - (b) access for inspection of one or more of the AACA's sites to gather further information in relation to the application.
- (5) The notice must specify the period within which the further information or access is to be provided.
- (6) An inspection under paragraph (4)(b) may be conducted by any of the following:
  - (a) an APS employee;
  - (b) a person who is engaged as a consultant or contractor to perform services for the Department;

(c) a law enforcement officer.

- (7) The Secretary may refuse to consider the application until the AACA provides the further information or access.

#### **4.51B Decision on renewal of accreditation application**

- (1) The Secretary may, in relation to an application made by an AACA under regulation 4.51A:
- (a) renew the AACA's accreditation as an AACA; or
  - (b) refuse to renew the AACA's accreditation as an AACA.

##### *Matters to be taken into account*

- (2) In making a decision on the application, the Secretary may take into account:
- (a) any further information provided by the AACA under paragraph 4.51A(4)(a); and
  - (b) any further information obtained as a result of any inspections carried out under paragraph 4.51A(4)(b); and
  - (c) any other information the Secretary considers relevant.

##### *Notice of decision*

- (3) The Secretary must:
- (a) notify the AACA, in writing, of the decision; and
  - (b) do so within 90 days of the application being made.

Note: If the Secretary renews the AACA's accreditation as an AACA, the notice must include the duration of the renewed accreditation—see regulation 4.51CA.

- (4) If the decision is to refuse the application, the notice must include the reasons for the decision.

##### *Deemed refusal of application*

- (5) If the Secretary does not make a decision under subregulation (1) within 90 days of the application being made the Secretary is taken to have refused to renew the AACA's accreditation as an AACA at the end of that period.
- (6) Paragraph (3)(a) does not apply to a decision that is taken to have been made because of subregulation (5).

##### *Stopping the clock*

- (7) If the Secretary has requested:
- (a) further information under paragraph 4.51A(4)(a); or
  - (b) access for inspection of one or more of the AACA's sites under paragraph 4.51A(4)(b);
- then, for the purposes of paragraph (3)(b) of this regulation and subregulation (5) of this regulation, the 90 day period is extended, for each request made under subregulation 4.51A(4), by the number of days falling within the period:
- (c) starting on the day on which the notice was given; and
  - (d) ending on:
    - (i) the day on which the information requested in the notice was received by the Secretary, or the inspection was conducted; or

- (ii) if the information or access was not provided within the period specified in the notice—the last day of that period.

#### **4.51C Accreditation continues until decision on renewal application**

If:

- (a) an AACA makes an application for renewal of the AACA's accreditation as an AACA under regulation 4.51A; and
- (b) the Secretary has not made a decision on the application before the AACA's accreditation is due to cease to be in force;

the AACA's accreditation is taken to continue until:

- (c) if the Secretary renews the AACA's accreditation as an AACA—the day specified in the notice under subregulation 4.51B(3) as the day on which the renewed accreditation commences; or
- (d) if the Secretary refuses to renew the AACA's accreditation as an AACA—the day the Secretary makes the decision to refuse the application.

#### **4.51CA Duration of renewed accreditation**

- (1) An AACA's renewed accreditation as an AACA commences on the day specified in the notice under subregulation 4.51B(3) (which must not be earlier than the day the notice is given).
- (2) The renewed accreditation continues in force until the earlier of:
  - (a) the end of the period specified in the notice; or
  - (b) if the renewed accreditation is revoked under regulation 4.51D, 4.51DA, 4.51DB or 4.51DC—the day the renewed accreditation is revoked.
- (3) The period specified in the notice must be at least 12 months, but not more than 5 years, after the day on which the renewed accreditation commences.

#### **4.51D Revocation of AACA accreditation on request**

*Revocation on request*

- (1) The Secretary must revoke the accreditation of a person as an AACA if the person requests, in writing, the Secretary to revoke the accreditation.

*When revocation has effect*

- (2) The revocation has effect on:
  - (a) the day nominated in the request (which must not be a day before the request is made); or
  - (b) if no such day is specified in the request—the day the Secretary receives the request.

#### **4.51DA Revocation of AACA accreditation to safeguard against unlawful interference with aviation**

*Revocation to safeguard against unlawful interference with aviation*

- (1) The Secretary may, at any time by notice in writing, revoke the accreditation of a person as an AACA if the Secretary is satisfied on reasonable grounds that

revoking the accreditation is in the interests of safeguarding against unlawful interference with aviation.

- (2) The notice must include the reasons for the revocation.

*When revocation has effect*

- (3) The revocation has effect on the day the Secretary gives the person the notice.

#### **4.51DB Revocation of AACA accreditation on other grounds**

*Revocation on other grounds*

- (1) The Secretary may revoke the accreditation of person as an AACA if:
- (a) any information given in the AACA's application under regulation 4.48 is false or misleading in a material particular; or
  - (b) if the AACA's site has been inspected in accordance with paragraph 4.48(3)(b) or 4.51A(4)(b)—any information given during the inspection is false or misleading in a material particular; or
  - (c) the AACA has not accepted an action proposed in a notice issued under regulation 4.51; or
  - (d) the AACA has accepted an action proposed in a notice issued under regulation 4.51 but the AACA has not restricted the AACA's activities, or has not complied with a condition imposed, in accordance with the notice; or
  - (e) if an application has been made for renewal of the AACA's accreditation—any information given in the AACA's application under regulation 4.51A is false or misleading in a material particular; or
  - (f) the AACA's business no longer includes the handling, or making arrangements for the transport, of cargo; or
  - (g) the AACA has failed to comply with the AACA security program for the AACA; or
  - (h) the AACA has failed to comply with a direction to vary the AACA's security program under regulation 4.51FD; or
  - (i) the AACA has failed to comply with a special security direction under section 73 of the Act.

*Notice of proposed revocation*

- (2) Before deciding to revoke an AACA's accreditation under subregulation (1), the Secretary must:
- (a) notify the AACA, in writing, of:
    - (i) the proposed revocation; and
    - (ii) the reasons for the proposed revocation; and
  - (b) invite the AACA to:
    - (i) make a submission as to why the AACA's accreditation should not be revoked; and
    - (ii) do so within the period specified in the notice.
- (3) The period specified in the notice must be at least 14 days commencing on the day the notice is given (the *response period*).

*Decision on revocation*

- (4) In deciding whether to revoke the AACA's accreditation under subregulation (1), the Secretary must consider any submissions made within the response period.
- (5) The Secretary must:
  - (a) notify the AACA, in writing, of the decision; and
  - (b) do so within 28 days after the end of the response period.
- (6) If the decision is to revoke the AACA's accreditation, the notice must include the reasons for the decision.

*Deemed decision to revoke*

- (7) If the notice is not given within 28 days after the end of the response period, the Secretary is taken to have decided to revoke the AACA's accreditation at the end of that period.
- (8) Paragraph (5)(a) does not apply to a decision that is taken to have been made because of subregulation (7).

*When revocation has effect*

- (9) If no submissions were made within the response period, the revocation has effect on the day after the last day of the response period.
- (10) If submissions were made within the response period, the revocation has effect on:
  - (a) if the AACA was given a notice under subregulation (5)—the day after the AACA was given the notice; or
  - (b) if the AACA was not given a notice under subregulation (5)—the day after the Secretary is taken, under subregulation (7), to have decided to revoke the AACA's accreditation.

**4.51DC Automatic revocation if AACA designated as a RACA**

*Automatic revocation if designated as a RACA*

- (1) The accreditation of a person as an AACA is automatically revoked if the person is subsequently designated as a RACA.

*When revocation has effect*

- (2) The revocation has effect on the day the person is designated as a RACA.

**18 Subdivision 4.1A.4**

Repeal the Subdivision, substitute:

## Subdivision 4.1A.4—AACA security programs

### 4.51F Secretary must provide AACA with security program

#### *Security program for persons accredited as AACAs*

- (1) If the Secretary accredits a person as an AACA under regulation 4.49, the Secretary must:
  - (a) provide the person with an AACA security program that is appropriate for the kind of business that is carried on by the AACA; and
  - (b) do so at the same time as the notice of the accreditation is given under subregulation 4.49(3).
- (2) Without limiting subregulation (1), the AACA security program may set out requirements in relation to the following:
  - (a) measures and procedures to ensure security of the AACA's facilities;
  - (b) measures and procedures to ensure security of the AACA's personnel;
  - (c) training requirements and procedures for the AACA's personnel;
  - (d) measures and procedures for handling cleared cargo;
  - (e) measures and procedures to ensure the chain of custody for cargo;
  - (f) measures and procedures for handling high risk cargo;
  - (g) measures and procedures for oversight of the operation of the measures, procedures and requirements for paragraphs (a) to (f), including quality assurance and incident response.

#### *Security programs for AACAs whose accreditation is renewed*

- (3) The Secretary may provide an AACA whose accreditation as an AACA is renewed under regulation 4.51B with an AACA security program that is appropriate for the kind of business that is carried on by the AACA.
- (4) However, if:
  - (a) an AACA's accreditation is renewed under regulation 4.51B; and
  - (b) immediately before the AACA's accreditation was renewed there was an AACA security program in force for the AACA (the **original security program**); and
  - (c) the Secretary does not provide the AACA with an AACA security program under subregulation (3);the original security program continues in force for the AACA.

### 4.51FA When an AACA security program is in force

#### *When an AACA security program comes into force*

- (1) An AACA security program for an AACA comes into force at the time specified in the security program.
- (2) However, if:
  - (a) the time specified in the security program is earlier than the time at which the security program was given to the AACA; or
  - (b) no time is specified in the security program as the time when the security program comes into force;

the security program comes into force when the security program is given to the AACA.

*AACA security program remains in force for duration of accreditation*

- (3) The security program for the AACA remains in force for so long as the AACA is accredited as an AACA.

#### **4.51FB Secretary may vary AACA security program**

- (1) If:
- (a) an AACA security program is in force for an AACA; and
  - (b) the Secretary is satisfied on reasonable grounds that varying the security program is in the interests of safeguarding against unlawful interference with aviation;
- the Secretary:
- (c) may vary the security program; and
  - (d) must provide a copy of the varied security program to the AACA.
- Note: The Secretary may also direct the AACA to vary the security program, or the AACA may request the Secretary to vary the security program—see regulations 4.51FD and 4.51FE.
- (2) The AACA must, within 14 days of receiving the varied security program (the **response period**):
- (a) notify the Secretary, in writing, that the AACA accepts the varied security program; or
  - (b) request the Secretary, in writing, to amend the varied security program; or
  - (c) both:
    - (i) notify the Secretary, in writing, that the AACA rejects the varied security program; and
    - (ii) request the Secretary to revoke, under regulation 4.51D, the AACA's accreditation as an AACA.
- (3) If, within the response period, the AACA notifies the Secretary that the AACA accepts the varied security program, the varied security program comes into force 14 days after the day the AACA notifies the Secretary of the acceptance.
- Note: The variation does not affect the period for which the security program is in force—see regulation 4.51FA.
- (4) If, within the response period, the AACA requests the Secretary to amend the varied security program, the AACA must give the Secretary:
- (a) written details of the proposed amendment; and
  - (b) written reasons why the proposed amendment is being requested.
- (5) If, within the response period, the AACA does not take any of the actions mentioned in subregulation (2), the varied security program comes into force 14 days after the end of the response period.
- Note: The variation does not affect the period for which the security program is in force—see regulation 4.51FA.

#### **4.51FC Consideration of request to amend AACA security program as varied by the Secretary**

- (1) The Secretary may, in relation to a request made by an AACA, under paragraph 4.51FB(2)(b), to amend a varied AACA security program:
  - (a) approve the request; or
  - (b) refuse the request.

##### *Matters to be taken into account*

- (2) In making a decision on the request, the Secretary must take into account the following:
  - (a) existing circumstances as they relate to aviation security;
  - (b) the current use of the varied AACA security program (if any) by a business of the kind carried on by the AACA;
  - (c) the efficient administration of the AACA scheme;
  - (d) any other matter the Secretary considers relevant.

##### *Notice of decision*

- (3) The Secretary must:
  - (a) notify the AACA, in writing, of the decision; and
  - (b) do so within 14 days of making the decision.
- (4) If the decision is to refuse the request, the notice must include the reasons for the decision.

##### *Approved requests*

- (5) If the Secretary approves the request, the Secretary must:
  - (a) incorporate the amendment into the varied security program; and
  - (b) provide the varied security program, as amended, to the AACA with the notice under subregulation (3); and
  - (c) specify in the notice the day on which the varied security program, as amended, comes into force (which must not be earlier than the day of the notice).

Note: The variation does not affect the period for which the security program is in force—see regulation 4.51FA.

##### *Refused requests*

- (6) If the Secretary refuses the request, the varied security program comes into force on the day specified in the notice under subregulation (3) (which must not be earlier than the day of the notice).

Note: The variation does not affect the period for which the security program is in force—see regulation 4.51FA.

##### *Deemed refusal of request*

- (7) If the Secretary does not make a decision under subregulation (1) within 90 days of the request being made:
  - (a) the Secretary is taken to have refused the request; and



- (b) the varied security program comes into force at the end of the 90 day period.

Note: The variation does not affect the period for which the security program is in force—see regulation 4.51FA.

- (8) Paragraph (3)(a) does not apply to a decision that is taken to have been made because of subregulation (7).

#### **4.51FD Secretary may direct AACAs to vary security programs**

- (1) If:
  - (a) an AACA security program is in force for an AACA; and
  - (b) the Secretary is satisfied on reasonable grounds that varying the security program is in the interests of safeguarding against unlawful interference with aviation;

the Secretary may, by written notice given to the AACA, direct the AACA to vary the security program.

Note: The Secretary may also vary the security program himself or herself, or the AACA may request the Secretary to vary the security program—see regulations 4.51FB and 4.51FE.

- (2) In the notice, the Secretary must:
  - (a) set out the variation; and
  - (b) specify the period within which the AACA must give the Secretary the security program as varied.

- (3) If the AACA gives the Secretary the security program:
  - (a) varied in accordance with the direction; and
  - (b) within the specified period, or within any further period allowed by the Secretary;

the Secretary must, by written notice given to the AACA, approve the variation. The variation comes into force when the notice is given.

Note 1: As the security program is not replaced, the variation does not affect the period for which the security program is in force. Regulation 4.51FA deals with the period for which an AACA security program is in force.

Note 2: If the AACA does not vary the security program in accordance with the notice the AACA's accreditation as an AACA may be revoked—see regulation 4.51DB.

#### **4.51FE AACA may request Secretary to vary AACA security program**

- (1) An AACA may request the Secretary to vary the AACA security program for the AACA.
- (2) The request must:
  - (a) be in writing; and
  - (b) provide details of the proposed variation; and
  - (c) include reasons why the proposed variation is being requested.

#### **4.51FF Consideration of request to vary AACA security program**

- (1) The Secretary may, in relation to a request made by an AACA, under subregulation 4.51FE(1), to vary the AACA security program for the AACA:
  - (a) approve the request; or

- (b) refuse the request.

*Matters to be taken into account*

- (2) In making a decision on the request, the Secretary must take into account the following:
  - (a) existing circumstances as they relate to aviation security;
  - (b) the current use of the AACA security program (if any) by a business of the kind carried on by the AACA;
  - (c) the efficient administration of the AACA scheme;
  - (d) any other matter the Secretary considers relevant.

*Notice of decision*

- (3) The Secretary must:
  - (a) notify the AACA, in writing, of the decision; and
  - (b) do so within 14 days of making the decision.
- (4) If the decision is to refuse the request, the notice must include the reasons for the decision.

*Approved requests*

- (5) If the Secretary approves the request, the Secretary must:
  - (a) incorporate the variation into the security program; and
  - (b) provide the varied security program to the AACA with the notice under subregulation (3); and
  - (c) specify in the notice the day on which the varied security program comes into force (which must not be earlier than the day of the notice).

Note: The variation does not affect the period for which the security program is in force—see regulation 4.51FA.

*Deemed refusal of request*

- (6) If the Secretary does not make a decision under subregulation (1) within 90 days of the request being made, the Secretary is taken to have refused the request at the end of the 90 day period.
- (7) Paragraph (3)(a) does not apply to a decision that is taken to have been made because of subregulation (6).

## **19 Subregulations 4.51G(2) and (3)**

Repeal the subregulations.

## **20 Regulation 4.51H**

Repeal the regulation, substitute:

### **4.51H Offence—disclosing AACA security program information without consent**

A person commits an offence if:

- (a) the person discloses information; and

- (b) the information is about the content of an AACA security program for an AACA; and
- (c) the person does not have the consent of the AACA to disclose the information.

Penalty: 50 penalty units.

## **21 At the end of Division 4.1A**

Add:

### **Subdivision 4.1A.6—Other matters**

#### **4.51J Offence—disclosure of information**

- (1) A person commits an offence if:
  - (a) the person is an aviation industry participant (other than a known consignor, a RACA or an AACA); and
  - (b) the person discloses to another person details about the airline or flight on which particular cargo will be carried; and
  - (c) the disclosure is not in accordance with a security program.

Penalty: 50 penalty units.

- (2) If:
  - (a) an aviation industry participant (other than a known consignor, a RACA or an AACA) discloses to another person details about the airline or flight on which particular cargo will be carried; and
  - (b) the disclosure is in accordance with a security program;the aviation industry participant must:
  - (c) make a record of the person who is given the airline or flight information; and
  - (d) keep the record for 90 days.

- (3) A person commits an offence if the person contravenes subregulation (2).

Penalty: 20 penalty units.

## **22 After regulation 8.03**

Insert:

### **8.03A Review of decisions in relation to known consignors**

Application may be made under the AAT Act to the Tribunal for review of a decision by the Secretary:

- (a) to refuse to approve an applicant as a known consignor; or
- (b) to revoke the approval of a person as a known consignor; or
- (c) to refuse to accept amendments to a known consignor security program.

## **23 At the end of regulation 8.04**

Add:

; or (c) to refuse to accept amendments to a RACA security program.

## **Part 2—Application and transitional provisions**

### *Aviation Transport Security Regulations 2005*

#### **24 Part 10 (heading)**

Repeal the heading, substitute:

## **Part 10—Application and transitional matters**

#### **25 Before regulation 10.01**

Insert:

### **Division 1—Amendments made by the Customs and Other Legislation Amendment (Australian Border Force) Regulation 2015**

#### **26 Before regulation 10.02**

Insert:

### **Division 2—Amendments made by the Aviation Transport Security Amendment (2015 Measures No. 1) Regulation 2015**

#### **27 Before regulation 10.03**

Insert:

### **Division 3—Amendments made by the Transport Security Legislation Amendment (Job Ready Status) Regulation 2015**

#### **28 In the appropriate position in Part 10**

Insert:

### **Division 4—Amendments made by the Aviation Transport Security Amendment (Cargo) Regulation 2016**

#### **Subdivision A—Preliminary**

##### **10.04 Definitions**

In this Division:

*amending Regulation* means the *Aviation Transport Security Amendment (Cargo) Regulation 2016*.

*old Regulations* means these Regulations as in force immediately before 1 November 2016.

**Subdivision B—Amendments made by Schedule 1 to the Aviation  
Transport Security Amendment (Cargo) Regulation 2016**

**10.05 Continuation of existing designations for RACAs who have a notice given  
under regulation 4.41J**

*Persons to whom this regulation applies*

- (1) This regulation applies to a person if:
  - (a) immediately before 1 November 2016 the person was designated as a RACA under regulation 4.43 of the old Regulations (the **previous designation**); and
  - (b) the RACA had been given a notice under regulation 4.41J of the old Regulations; and
  - (c) before 1 November 2016 the notice had not been revoked for the RACA; and
  - (d) immediately before 1 November 2016 a TSP for the RACA was in force.

*Previous designations continue*

- (2) Subject to this regulation, the previous designation has effect, on and after 1 November 2016, as if the previous designation were a designation of the person as a RACA by the Secretary under regulation 4.43A, as inserted by Schedule 1 to the amending Regulation.

*Period during which designations remain in force*

- (3) If:
  - (a) the previous designation of a person as a RACA is taken to continue because of subregulation (2); and
  - (b) the TSP for the RACA would have remained in force under subsection 20(3) of the Act until on or after 1 July 2017 (the **remaining period**) if the amending Regulation had not been made;the previous designation has effect until the end of the remaining period, unless revoked earlier under regulation 4.44, 4.44A, 4.44B or 4.44C, as inserted by Schedule 1 to the amending Regulation.
- (4) If:
  - (a) the previous designation of a person as a RACA is taken to continue because of subregulation (2); and
  - (b) the TSP for the RACA would have remained in force under subsection 20(3) of the Act until a day between 1 November 2016 and 30 June 2017 (the **remaining period**) if the amending Regulation had not been made;the previous designation has effect until the day specified by the Secretary by written notice, unless revoked earlier under regulation 4.44, 4.44A, 4.44B or 4.44C, as inserted by Schedule 1 to the amending Regulation.
- (5) The Secretary:
  - (a) must give the notice under subregulation (4) by 15 November 2016; and
  - (b) must not specify a day before the notice is given.

### **10.06 Security programs for RACAs whose designation has been continued under regulation 10.05**

- (1) This regulation applies to the TSP for a RACA (a *previous TSP*) whose designation as a RACA is continued under regulation 10.05.
- (2) Subject to this regulation, the previous TSP has effect, on and after 1 November 2016, as if:
  - (a) the previous TSP were a RACA security program for the RACA provided by the Secretary under regulation 4.46, as amended by Schedule 1 to the amending Regulation; and
  - (b) the measures and procedures for handling and treating suspect cargo under subregulation 2.41(5) of the old Regulations were measures and procedures for handling high risk cargo.
- (3) The Secretary may, by written notice given to the RACA, direct the RACA to vary the RACA security program that is taken to exist because of subregulation (2).
- (4) In the notice, the Secretary must:
  - (a) set out the variation; and
  - (b) specify the period within which the RACA must give the Secretary the security program as varied.
- (5) Despite subregulation 4.46D(4), as inserted by Schedule 1 to the amending Regulation, the variation comes into force when the notice is given to the RACA.
- (6) If the RACA does not vary the security program in accordance with the notice, the Secretary may immediately revoke the RACA's designation as a RACA.

#### *Period during which security programs remain in force*

- (7) To avoid doubt, a RACA security program for a RACA that is taken to exist because of subregulation (2) has effect, and may be dealt with, for so long as the RACA is designated as a RACA.

#### *Other variation powers not affected*

- (8) This regulation does not limit the power of the Secretary to:
  - (a) vary a RACA security program under regulation 4.46B, as inserted by Schedule 1 to the amending Regulation; or
  - (b) direct a RACA to vary a RACA security program under regulation 4.46D, as inserted by Schedule 1 to the amending Regulation.

### **10.07 Transition of existing designations for RACAs who do not have a notice given under regulation 4.41J**

- (1) This regulation applies to a person if:
  - (a) immediately before 1 November 2016 the person was designated as a RACA under regulation 4.43 of the old Regulations (the *previous designation*); and
  - (b) either:
    - (i) the RACA had not been given a notice under regulation 4.41J of the old Regulations; or

- (ii) before 1 November 2016 the RACA has been given a notice under regulation 4.41J of the old Regulations but the notice has been revoked for the RACA; and
- (c) immediately before 1 November 2016 a TSP for the RACA was in force.

*Previous designations continue as AACA accreditations*

- (2) Subject to this regulation, the previous designation has effect, on and after 1 November 2016, as if the Secretary had accredited the person as an AACA under regulation 4.49, as amended by Schedule 1 to the amending Regulation.

*Period during which transitional designations remain in force*

- (3) If:
  - (a) a person who was a RACA is taken to be an AACA because of subregulation (2); and
  - (b) the TSP for the RACA would have remained in force under subsection 20(3) of the Act until on or after 1 July 2017 (the **remaining period**) if the amending Regulation had not been made;the accreditation of the person as an AACA has effect until the end of the remaining period, unless revoked earlier under regulation 4.51D, 4.51DA, 4.51DB or 4.51DC, as inserted by Schedule 1 to the amending Regulation.
- (4) If:
  - (a) a person who was a RACA is taken to be an AACA because of subregulation (2); and
  - (b) the TSP for the RACA would have remained in force under subsection 20(3) of the Act until a day between 1 November 2016 and 30 June 2017 (the **remaining period**) if the amending Regulation had not been made;the accreditation of the person as an AACA has effect until the day specified by the Secretary by written notice, unless revoked earlier under regulation 4.51D, 4.51DA, 4.51DB or 4.51DC, as inserted by Schedule 1 to the amending Regulation.
- (5) The Secretary must:
  - (a) give the notice under subregulation (4) by 15 November 2016; and
  - (b) must not specify a day before the notice is given.

**10.08 Security programs for RACAs whose designation has been transitioned to accreditation as an AACA under regulation 10.07**

- (1) This regulation applies to the TSP for a RACA (a **previous TSP**) whose designation as a RACA is transitioned to accreditation as an AACA (the **transitioned AACA**) under regulation 10.07.
- (2) Subject to this regulation, the previous TSP has effect, on and after 1 November 2016, as if:
  - (a) the previous TSP were an AACA security program for the transitioned AACA provided by the Secretary under regulation 4.51F, as amended by Schedule 1 to the amending Regulation; and

- (b) the measures and procedures for handling and treating suspect cargo under subregulation 2.41(5) of the old Regulations were measures and procedures for handling high risk cargo.
- (3) The Secretary may, by written notice given to the transitioned AACA, direct the transitioned AACA to vary the AACA security program that is taken to exist because of subregulation (2).
- (4) In the notice, the Secretary must:
  - (a) set out the variation; and
  - (b) specify the period within which the transitioned AACA must give the Secretary the security program as varied.
- (5) Despite subregulation 4.51FD(3), as inserted by Schedule 1 to the amending Regulation, the variation comes into force when the notice is given to the transitioned AACA.
- (6) If the transitioned AACA does not vary the security program in accordance with the notice, the Secretary may immediately revoke the transitioned AACA's accreditation as an AACA.

*Period during which transitional security programs remain in force*

- (7) To avoid doubt, an AACA security program for an AACA that is taken to exist because of subregulation (2) has effect, and may be dealt with, for so long as the AACA is accredited as an AACA.

*Other variation powers not affected*

- (8) This regulation does not limit the power of the Secretary to:
  - (a) vary an AACA security program under regulation 4.51FB, as amended by Schedule 1 to the amending Regulation; or
  - (b) direct an AACA to vary an AACA security program under regulation 4.51FD, as amended by Schedule 1 to the amending Regulation.

**10.09 Revocation of existing designations for RACAs who do not have a TSP in force immediately before 1 November 2016**

- (1) This regulation applies to a person if, immediately before 1 November 2016:
  - (a) the person was designated as a RACA under regulation 4.43 of the old Regulations (the *previous designation*); and
  - (b) a TSP for the RACA was not in force.

*Previous designation is revoked*

- (2) The previous designation is:
  - (a) taken to have been revoked under regulation 4.44, as amended by Schedule 1 to the amending Regulation; and
  - (b) the revocation has effect on 1 November 2016.



### **10.10 Continuation of existing accreditations for AACAs**

- (1) This regulation applies to a person if immediately before 1 November 2016 the person was accredited as an AACA under regulation 4.51A of the old Regulations (a *previous accreditation*).

*Previous accreditations continue*

- (2) Subject to this regulation, the previous accreditation has effect, on and after 1 November 2016, as if the previous accreditation were an accreditation of the person as an AACA by the Secretary under regulation 4.49, as amended by Schedule 1 to the amending Regulation.

*Period during which transitional accreditations remain in force*

- (3) The previous accreditation that is taken to continue because of subregulation (2) has effect until the day specified by the Secretary by written notice, unless revoked earlier under regulation 4.51D, 4.51DA, 4.51DB or 4.51DC, as inserted by Schedule 1 to the amending Regulation.
- (4) The Secretary:
- (a) must give the notice under subregulation (3) by 30 June 2017; and
  - (b) must not specify a day before the notice is given.

### **10.11 Security programs for AACAs whose accreditation has been continued under regulation 10.10**

The Secretary must:

- (a) provide a person whose accreditation as an AACA is continued under regulation 10.10 with an AACA security program under regulation 4.51F, as amended by Schedule 1 to the amending Regulation; and
- (b) do so by 15 November 2016.

### **10.12 Application of offence of loading cargo without security declaration**

Regulation 4.41G, as amended by Schedule 1 to the amending Regulation, applies in relation to cargo that is loaded onto a prescribed aircraft on or after 1 November 2016, whether or not a security declaration for the cargo was made before that day.

### **10.13 Notices issued under regulation 4.41J**

- (1) This regulation applies to a notice if:
- (a) the notice was issued under regulation 4.41J of the old Regulations; and
  - (b) the notice was in force immediately before 1 November 2016.
- (2) Between 1 November 2016 and 30 June 2017 the notice has effect (and may be dealt with) as if the notice had been issued under:
- (a) regulation 4.41J, as amended by Schedule 1 to the amending Regulation; or
  - (b) regulation 4.41JA, as inserted by Schedule 1 to the amending Regulation.

### **10.14 High risk cargo**

The amendment made by item 9 in Schedule 1 to the amending Regulation applies in relation to a TSP for an operator of a prescribed air service that is prepared or varied on or after 1 November 2016.

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## **Schedule 2—Amendments commencing 1 July 2017**

### **Part 1—Amendments**

#### *Aviation Transport Security Regulations 2005*

##### **1 Regulation 1.03**

Insert:

*category 1 destination* means a destination within the United States of America.

*category 2 destination* means a destination other than a category 1 destination.

##### **2 Paragraph 4.41CA(2)(a)**

Repeal the paragraph, substitute:

- (a) have been examined by a RACA in accordance with:
  - (i) if the cargo is to be unloaded at a category 1 destination—a regulation 4.41JA notice given to the RACA; or
  - (ii) if the cargo is to be unloaded at a category 2 destination—a regulation 4.41J notice, or a regulation 4.41JA notice, given to the RACA; and

##### **3 Subparagraph 4.41D(c)(viii)**

Repeal the subparagraph, substitute:

- (viii) if the cargo is required to be examined to receive clearance and the cargo is to be unloaded at a category 1 destination—the examination method applied to the cargo by the regulated business and a statement that the cargo was examined in accordance with a regulation 4.41JA notice;
- (viiiia) if the cargo is required to be examined to receive clearance and the cargo is to be unloaded at a category 2 destination—the examination method applied to the cargo by the regulated business, including whether the cargo was examined in accordance with a regulation 4.41J notice or a regulation 4.41JA notice;

##### **4 Regulation 4.41D (note 1)**

Omit “subparagraph (viii) refers”, substitute “subparagraphs (viii) and (viiiia) refer”.

##### **5 Paragraph 4.41F(3)(c)**

Repeal the paragraph, substitute:

- (c) either:
  - (i) if the cargo is to be unloaded at a category 1 destination—the RACA has not examined the cargo in accordance with a regulation 4.41JA notice given to the RACA; or
  - (ii) if the cargo is to be unloaded at a category 2 destination—the RACA has not examined the cargo in accordance with a regulation 4.41J notice, or a regulation 4.41JA notice, given to the RACA.

##### **6 Regulation 4.41J (heading)**

Repeal the heading, substitute:

#### **4.41J Notice for examination of cargo—category 2 destinations**

##### **7 Subregulation 4.41J(2)**

Omit “requirements in relation to how cargo must be examined by a RACA for the purposes of this regulation”, substitute “requirements in relation to how cargo that is to be unloaded at a category 2 destination must be examined by a RACA”.

##### **8 Subregulation 4.41J(2) (note)**

Note: Cargo that is to be unloaded at a category 2 destination may instead be examined in accordance with a regulation 4.41JA notice—see regulation 4.41CA.

##### **9 Regulation 4.41JA (heading)**

Repeal the heading, substitute:

#### **4.41JA Notice for examination of cargo—category 1 destinations**

##### **10 Subregulation 4.41JA(2)**

Omit “requirements in relation to how cargo must be examined by a RACA for the purposes of this regulation”, substitute “requirements in relation to how cargo that is to be unloaded at a category 1 destination must be examined by a RACA”.

##### **11 Subregulation 4.41JA(2) (note)**

Repeal the note, substitute:

Note: Though these requirements for examination must be met in relation to cargo which is to be unloaded at a category 1 destination, they may also be applied in relation to cargo which is to be unloaded at a category 2 destination—see regulation 4.41CA.

## **Part 2—Application and transitional provisions**

### *Aviation Transport Security Regulations 2005*

#### **12 At the end of Division 4 of Part 10**

Add:

#### **Subdivision C—Amendments made by Schedule 2 to the Aviation Transport Security Amendment (Cargo) Regulation 2016**

##### **10.15 Offence of loading cargo without security declaration—from 1 July 2017**

*Persons to whom this regulation applies*

- (1) This regulation applies in relation to cargo that:
  - (a) is loaded onto a prescribed aircraft on or after 1 July 2017; and
  - (b) is required to be examined to receive clearance.

*Cargo to be unloaded at a category 1 destination*

- (2) For the purposes of regulation 4.41G on and after 1 July 2017, if the cargo is to be unloaded at a category 1 destination, the cargo must have a security declaration that states that the cargo has been examined in accordance with a regulation 4.41JA notice.

*Cargo to be unloaded at a category 2 destination*

- (3) For the purposes of regulation 4.41G on and after 1 July 2017, if the cargo is to be unloaded at a category 2 destination, the cargo must have a security declaration that states that the cargo has been examined in accordance with either:
  - (a) a regulation 4.41J notice; or
  - (b) a regulation 4.41JA notice.

*Security declaration may be issued before 1 July 2017*

- (4) To avoid doubt, for the purposes of this regulation it does not matter whether the security declaration was issued before, on or after 1 July 2017.

##### **10.16 Notices issued under regulation 4.41J—from 1 July 2017**

- (1) This regulation applies to a notice if:
  - (a) the notice was issued under regulation 4.41J, as amended by Schedule 1 to the amending Regulation; and
  - (b) the notice was in force immediately before 1 July 2017.
- (2) The notice has effect (and may be dealt with) on and after 1 July 2017 as if the notice had been issued under regulation 4.41J, as amended by Schedule 2 to the amending Regulation.

**10.17 Notices issued under regulation 4.41JA—from 1 July 2017**

- (1) This regulation applies to a notice if:
  - (a) the notice was issued under regulation 4.41JA, as inserted by Schedule 1 to the amending Regulation; and
  - (b) the notice was in force immediately before 1 July 2017.
- (2) The notice has effect (and may be dealt with) on and after 1 July 2017 as if the notice had been issued under regulation 4.41JA, as amended by Schedule 2 to the amending Regulation.