



Aviation Transport Security Amendment (Carriage of Powders) Regulations 2018

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 regulations.

Dated 13 December 2018

Peter Cosgrove
Governor-General

By His Excellency's Command

Linda Reynolds
Assistant Minister for Home Affairs
Parliamentary Secretary to the Minister for Home Affairs

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1 Name

This instrument is the *Aviation Transport Security Amendment (Carriage of Powders) Regulations 2018*.

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.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	19 December 2018.	19 December 2018

Note: This table relates only to the provisions of this instrument as originally made.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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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—Carriage of powders on outbound international air services

Aviation Transport Security Regulations 2005

1 Regulation 1.03

Insert:

authorised powder has the meaning given by regulation 4.22QB.

baby product means:

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

inorganic powder means a powder or powder-like substance that does not consist of, and is not derived from, living matter.

Note: Examples of inorganic powder include salt, sand and some kinds of foot powder.

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

powder means fine dry particles produced by the grinding, crushing or disintegration of a solid substance, and includes such particles presented in a clumpy, grainy or compressed form.

Note: Examples of powder include flour, sugar, ground coffee, spice, powdered milk, baby formula and cosmetics.

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

Note: Examples of therapeutic products include special dietary products and contact lens solution.

2 Subregulation 4.04(3) (note)

Omit "Note", substitute "Note 1".

3 At the end of subregulation 4.04(3)

Add:

Note 2: See Subdivision 4.1.1AB for the requirements for screening for the detection of powder and powder-like substances.

4 At the end of paragraph 4.11(1)(b)

Add "or an impermissible powder".

5 After subregulation 4.11(4)

Insert:

(4A) For the purposes of paragraph (1)(b), a person has an **impermissible powder** in the person's possession if:

- (a) the person has an inorganic powder in the person's possession; and
- (b) none of the following apply:
 - (i) the inorganic powder is in one or more containers that have a total combined volume of 350ml or less;

- (ii) the inorganic powder is needed for the use or care of the person because of an infirmity;
- (iii) the inorganic powder is a tool of trade for the person.

6 Subregulation 4.11(5)

Omit “paragraph (4)(b)”, substitute “the purposes of paragraph (4)(b) and subparagraph (4A)(b)(iii)”.

7 Paragraph 4.18B(1)(a)

Omit “4.22P(2)”, substitute “4.22QL(2)”.

8 Subregulation 4.22C(6)

Repeal the subregulation.

9 Subregulation 4.22I(1) (note)

Omit “Regulation 4.04 sets out the”, substitute “Regulations 4.04 and 4.22QE set out”.

10 Regulation 4.22J (heading)

Repeal the heading, substitute:

4.22J Offence—dealing with LAG product surrendered during screening

11 Subregulations 4.22J(2) and (3)

Repeal the subregulations, substitute:

- (2) A screening authority commits an offence if:
 - (a) the screening authority puts in place procedures for the handling and destruction of LAG products surrendered as a result of screening; and
 - (b) the procedures are not in accordance with any applicable law in the place where screening occurs.

Penalty: 50 penalty units.

- (3) A screening authority commits an offence if:
 - (a) a LAG product is surrendered during screening; and
 - (b) the LAG product is not handled and destroyed in accordance with the procedures put in place under this regulation.

Penalty: 50 penalty units.

12 Regulation 4.22P

Repeal the regulation.

13 Regulation 4.22Q (heading)

Repeal the heading, substitute:

4.22Q Notices by the Secretary—LAG products

14 Subregulation 4.22Q(1)

After “For”, insert “the purposes of paragraph 44(2)(aa) of the Act, and in accordance with”.

15 Subregulation 4.22Q(1)

Omit “regulation be a LAG product,”, substitute “regulation, be a LAG product”.

16 Subregulation 4.22Q(2)

After “For”, insert “the purposes of paragraph 44(2)(aa) of the Act, and in accordance with”.

17 After regulation 4.22Q

Insert:

Subdivision 4.1.1AB—Powder and powder-like substances

4.22QA Definitions

In this Subdivision:

exempt person means:

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

Note: For the meaning of *cleared*, see paragraph 41(2)(b) and subsection 41(3) of the Act. See also regulation 4.10.

international air service does not include a closed charter service.

4.22QB Meaning of *authorised powder*

- (1) A powder is an *authorised powder* if it is an organic powder or powder-like substance.

Note: Examples of an organic powder include flour, sugar and spice.

- (2) A powder is also an *authorised powder* if it is an inorganic powder and any of subregulations (3) to (6) apply.
- (3) This subregulation applies if:
 - (a) the inorganic powder is in the possession of a person travelling on an international air service; and
 - (b) the inorganic powder:
 - (i) is in a container that is in a sealed plastic bag; and
 - (ii) was purchased duty-free at a retail outlet or on board an aircraft; and
 - (iii) has a visible proof of purchase that is either attached to the plastic bag or inside the plastic bag.
- (4) This subregulation applies if:

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- (a) the inorganic powder is in the possession of a person travelling on an international air service; and
 - (b) the inorganic powder is any of the following:
 - (i) cremated human or animal remains;
 - (ii) if the person is an infant or toddler—a baby product in a quantity that is reasonable having regard to the duration of the flight;
 - (iii) a medical product for the person;
 - (iv) a therapeutic product for the person in a quantity that is reasonable having regard to the duration of the flight;
 - (v) samples of powder or powder-like substances used for medical research or reproductive health;
 - (vi) material or containers required to maintain the temperature, quality or integrity of anything mentioned in subparagraphs (i) to (v).
- (5) This subregulation applies if:
- (a) the inorganic powder is in the possession of a person; and
 - (b) the inorganic powder is to be used by the person in the course of, or for the purposes of, carrying on a business in a landside security zone; and
 - (c) the inorganic powder is not for the personal use of the person.
- (6) This subregulation applies if:
- (a) the inorganic powder is in the possession of a person specified in column 2 of an item of the table in regulation 4.62; and
 - (b) the inorganic powder is a tool of trade for the person.

4.22QC Offence—inorganic powder passing through LAGs screening point

- (1) For the purposes of paragraph 44(2)(aa) of the Act, a person commits an offence if:
- (a) the person passes through a LAGs screening point; and
 - (b) the person is not an exempt person; and
 - (c) the person has inorganic powder in the person's possession; and
 - (d) the inorganic powder is not in one or more containers that have a total combined volume of 350ml or less; and
 - (e) the inorganic powder is not an authorised powder.

Penalty: 20 penalty units.

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

4.22QD Offence—entering LAGs cleared area other than through screening point with impermissible powder

- (1) For the purposes of subparagraph 44(2)(d)(ii) of the Act, a person commits an offence if:
- (a) the person enters a LAGs cleared area other than through a screening point; and
 - (b) when entering the LAGs cleared area, the person has in the person's possession an inorganic powder; and
 - (c) the inorganic powder is an impermissible powder within the meaning of subregulation 4.11(4A).

Penalty: 20 penalty units.

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

4.22QE Things to be detected by screening—inorganic powder

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

Note: Regulations 4.04 and 4.22I set out other things that are to be detected by screening under these Regulations.

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

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

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

4.22QF Offence—dealing with inorganic powder surrendered during screening

- (1) For the purposes of paragraph 44(2)(c) of the Act, a screening authority must put in place procedures for the handling and destruction of inorganic powder surrendered as a result of screening.

- (2) A screening authority commits an offence if:

- (a) the screening authority puts in place procedures for the handling and destruction of inorganic powder surrendered as a result of screening; and
- (b) the procedures are not in accordance with any applicable law in the place where screening occurs.

Penalty: 50 penalty units.

- (3) A screening authority commits an offence if:

- (a) an inorganic powder is surrendered during screening; and
- (b) the inorganic powder is not handled and destroyed in accordance with the procedures put in place under this regulation.

Penalty: 50 penalty units.

4.22QG Offence—preventing destruction of surrendered inorganic powder

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

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

Penalty: 20 penalty units.

4.22QH Offence—not screening for inorganic powder

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

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- (a) an international air service operates from the airport, or area of the airport, as the case may be; and
 - (b) the screening authority has established a LAGs screening point at the airport, or area of the airport; and
 - (c) the screening authority does not put in place appropriate procedures to ensure that a person does not carry inorganic powder through the LAGs screening point unless:
 - (i) the person is an exempt person; or
 - (ii) the inorganic powder is an authorised powder; or
 - (iii) the inorganic powder is in one or more containers that have a total combined volume of 350ml or less.

Penalty: 50 penalty units.

4.22QJ Notices by the Secretary—authorised powders

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

Subdivision 4.1.1AC—Signs at LAGs screening points

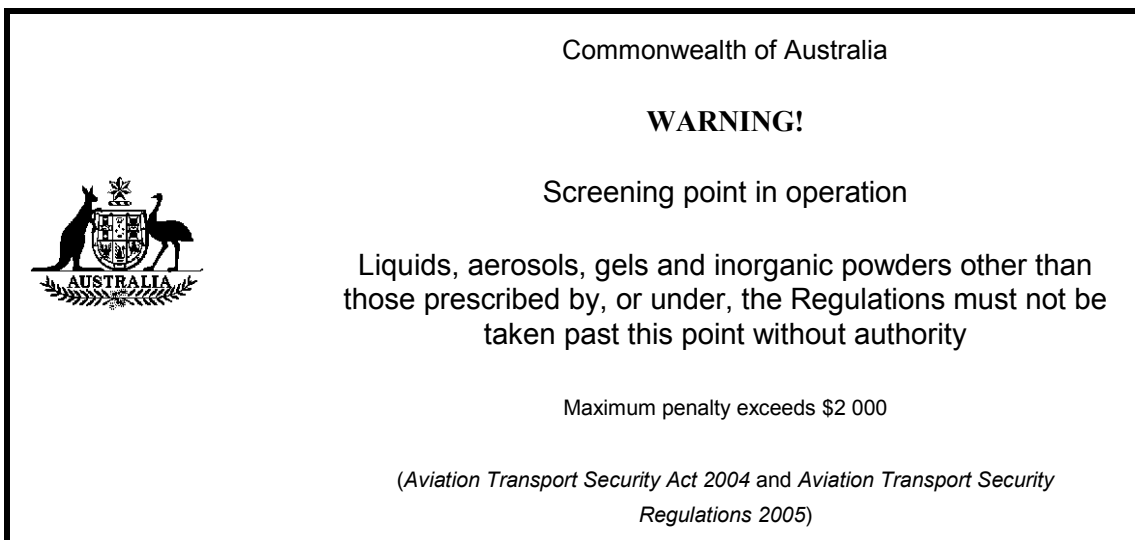
4.22QK Definitions

In this Subdivision:

international air service does not include a closed charter service.

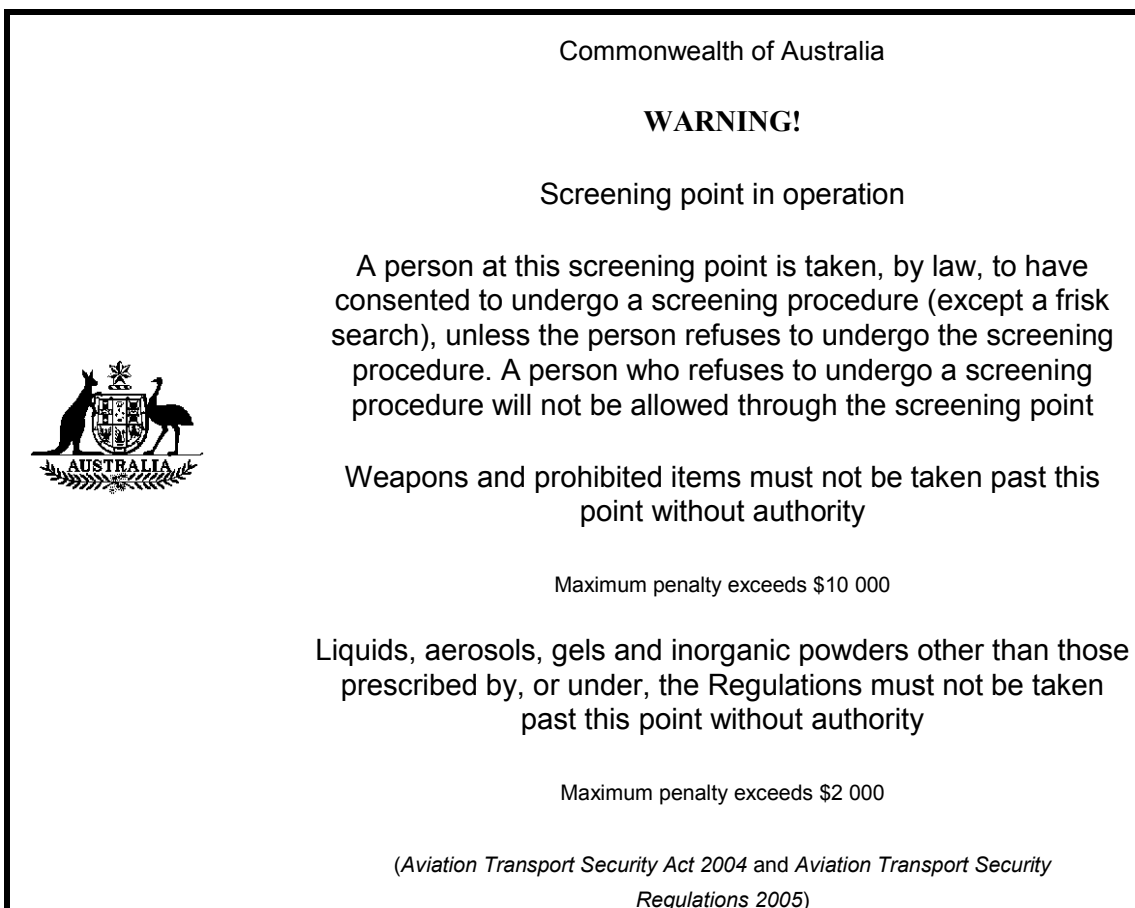
4.22QL Offence—sign at LAGs screening point

- (1) For the purposes of paragraph 44(2)(k) of the Act, a screening authority for a security controlled airport, or an area of a security controlled airport, commits an offence if:
 - (a) an international air service operates from the airport, or area of the airport, as the case may be; and
 - (b) the screening authority has established a LAGs screening point at the airport, or area of the airport; and
 - (c) the screening authority does not display, at the LAGs screening point, a sign that is:
 - (i) at least 0.4 m wide and 0.3 m high; and
 - (ii) in the following form or in the form set out in subregulation (2):



Penalty: 50 penalty units.

(2) For the purposes of subparagraph (1)(c)(ii), the form of the sign is as follows:



18 Regulation 4.22R

Insert:

ICAO Aviation Security Manual means the document titled *Aviation Security Manual*, 10th Edition, 2017, published by the ICAO and as in force on 1 November 2018.

19 Regulation 4.22R (definition of ICAO guidance material)

Repeal the definition.

20 Regulation 4.22R (paragraph (a) of the definition of security tamper-evident bag)

Omit “ICAO guidance material”, substitute “ICAO Aviation Security Manual”.

21 Paragraph 4.22T(1)(a)

After “LAG product”, insert “or inorganic powder”.

22 Subparagraph 4.22T(1)(b)(i)

Omit “ICAO guidance material”, substitute “ICAO Aviation Security Manual”.

23 Subregulation 4.22T(2)

After “LAG products”, insert “or inorganic powder”.

24 In the appropriate position in Part 10

Insert:

Division 12—Amendments made by the Aviation Transport Security Amendment (Carriage of Powders) Regulations 2018

Subdivision A—Preliminary

10.32 Definitions

In this Division:

amending Regulations means the *Aviation Transport Security Amendment (Carriage of Powders) Regulations 2018*.

old Regulations means these Regulations as in force immediately before the commencement of the amending Regulations.

Subdivision B—Amendments made by Schedule 1 to the amending Regulations

10.33 Transitional—sign at LAGs screening point (carriage of powders)

Despite the amendment made by item 17 of Schedule 1 to the amending Regulations, regulation 4.22QL of these Regulations has effect during the period of 1 month starting on the commencement of that item as if the regulation required a sign to be:

- (a) in the form set out in subregulation 4.22QL(1) or (2); or
- (b) in the form set out in subregulation 4.22P(1) or (2) of the old Regulations.