



Aviation Transport Security Amendment (Screening Information) Regulations 2021

I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 10 June 2021

David Hurley
Governor-General

By His Excellency's Command

Karen Andrews
Minister for Home Affairs

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1 Name

This instrument is the *Aviation Transport Security Amendment (Screening Information) Regulations 2021*.

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	1 August 2021.	1 August 2021

Note: This table relates only to the provisions of this instrument as originally made.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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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

Aviation Transport Security Regulations 2005

1 Paragraph 3.01C(3)(e)

After “for the airport”, insert “or an area of the airport”.

2 After regulation 4.17

Insert:

4.17A Secretary’s requirements for screening using certain types of equipment

- (1) This regulation applies in relation to a screening authority that is responsible for operating a screening point through which persons enter a sterile area of a security controlled airport.
- (2) The Secretary may, by written notice given to the screening authority, specify requirements relating to screening that is carried out at the screening point using any of the following equipment:
 - (a) x-ray equipment fitted with threat image projection software;
 - (b) a walk-through metal detector;
 - (c) body scanning equipment;
 - (d) explosive trace detection equipment.
- (3) Without limiting subregulation (2), requirements specified under that subregulation may include:
 - (a) a requirement that the screening authority use specified performance measures in relation to the screening; or
 - (b) a performance target that must be met in relation to the screening.
- (4) In considering whether to specify a requirement under subregulation (2), the Secretary may have regard to any of the following:
 - (a) Australia’s international obligations relating to aviation security;
 - (b) aviation security intelligence;
 - (c) aviation security information;
 - (d) the findings or recommendations of any audit or other investigation relating to screening at one or more security controlled airports;
 - (e) the number of persons likely to pass through the screening point while the requirement is in force;
 - (f) the information that can be recorded by the equipment used for the screening;
 - (g) any other matter the Secretary considers relevant.
- (5) A notice given under subregulation (2) may be combined with a notice issued under regulation 4.17.
- (6) A person commits an offence of strict liability if:
 - (a) the person is the screening authority that is responsible for operating the screening point; and

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- (b) the Secretary gives the person a notice under subregulation (2) that specifies a requirement relating to screening carried out at the screening point using specified equipment; and
 - (c) screening is carried out at the screening point using that equipment; and
 - (d) the requirement specified in the notice is not complied with in relation to the screening.

Penalty for contravention of this subregulation: 100 penalty units.

3 Subregulation 4.24(1)

Omit “screening authority at”, substitute “screening authority for”.

4 At the end of Division 4.1

Add:

Subdivision 4.1.3—Record-keeping requirements

4.40 Record-keeping requirements relating to Secretary’s notices for screening

- (1) This regulation applies in relation to a screening point through which persons enter a sterile area of a security controlled airport.
- (2) The screening authority that is responsible for operating the screening point must make records, in electronic form, sufficient to demonstrate that:
 - (a) the screening authority complies with any notices issued under regulation 4.17 that:
 - (i) are binding on the screening authority under subregulation 4.17(3); and
 - (ii) relate to screening that is carried out at the screening point; and
 - (b) requirements that:
 - (i) are specified in any notice given to the screening authority under subregulation 4.17A(2); and
 - (ii) relate to screening carried out at the screening point; are complied with.
- (3) A screening authority that makes a record under subregulation (2) must keep the record, in electronic form, for 2 years after the end of the period to which the record relates (even if the screening authority ceases to be a screening authority, or ceases to be responsible for operating the screening point, before the end of the 2 years).
- (4) A person commits an offence of strict liability if:
 - (a) the person is an aviation industry participant; and
 - (b) the person is subject to a requirement under subregulation (2) or (3); and
 - (c) the person engages in conduct; and
 - (d) the person’s conduct breaches the requirement.

Penalty for contravention of this subregulation: 20 penalty units.

4.41 Record-keeping requirements relating to screening equipment

- (1) This regulation applies in relation to screening that is carried out on a day at a screening point through which persons enter a sterile area of a security controlled airport, if any of the following equipment is used for the screening:
 - (a) x-ray equipment fitted with threat image projection software;
 - (b) a walk-through metal detector;
 - (c) body scanning equipment;
 - (d) explosive trace detection equipment.

- (2) The screening authority that is responsible for operating the screening point must make a record of the following information in relation to the screening carried out at the screening point on the day:
 - (a) the airport;
 - (b) the terminal at which the screening point is located;
 - (c) the location of the screening point within the terminal;
 - (d) the day;
 - (e) the number of persons passing through the screening point on the day;
 - (f) if x-ray equipment fitted with threat image projection software is used for the screening:
 - (i) the make and model of the equipment; and
 - (ii) the name and version of the software; and
 - (iii) the time each threat image projected by the software on the day is projected, if the equipment can record the time; and
 - (iv) for each threat image projected on the day—the type of threat and the outcome of the projection;
 - (g) if a walk-through metal detector is used for the screening:
 - (i) the make and model of the detector; and
 - (ii) the number of persons passing through the detector on the day;
 - (h) if body scanning equipment is used for the screening:
 - (i) the make and model of the equipment; and
 - (ii) the number of persons scanned by the equipment on the day; and
 - (iii) the time of each scan, if the equipment can record the time;
 - (i) if explosive trace detection equipment is used for the screening:
 - (i) the make and model of the equipment; and
 - (ii) the number of persons in relation to whom the equipment is used on the day; and
 - (iii) the number of double positive results occurring on the day; and
 - (iv) the time at which each double positive result occurs, if the equipment can record the time.

- (3) For the purposes of this regulation, a record made by a screening authority is taken to be made in accordance with a requirement under subregulation (2) if:
 - (a) the only reason the making of the record is not in accordance with that requirement is that information in the record is not accurate; and
 - (b) the information is not information that can be recorded by the relevant equipment mentioned in paragraph (2)(f), (g), (h) or (i); and
 - (c) the screening authority made all reasonable efforts to ensure that the information was accurate.

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- (4) A screening authority that makes a record under subregulation (2) in relation to screening must keep the record for 2 years after the day on which the screening occurs (even if the screening authority ceases to be a screening authority, or ceases to be responsible for operating the screening point, before the end of the 2 years).
 - (5) A person commits an offence of strict liability if:
 - (a) the person is an aviation industry participant; and
 - (b) the person is subject to a requirement under subregulation (2) or (4); and
 - (c) the person engages in conduct; and
 - (d) the person's conduct breaches the requirement.

Penalty for contravention of this subregulation: 20 penalty units.

5 At the end of Part 6A

Add:

6A.02 Aviation security information—information about screening points

- (1) For the purposes of section 111 of the Act, the following information relating to a screening point through which persons enter a sterile area of a security controlled airport is prescribed:
 - (a) the screening authority that operates the screening point;
 - (b) the airport;
 - (c) the terminal at which the screening point is located;
 - (d) the location of the screening point within the terminal;
 - (e) statistical information relating to screening carried out at the screening point;
 - (f) without limiting paragraph (e)—the following information relating to screening carried out at the screening point:
 - (i) the number of persons passing through the screening point in a period;
 - (ii) if x-ray equipment fitted with threat image projection software is used for the screening—the information specified by subregulation (2);
 - (iii) if a walk-through metal detector is used for the screening—the information specified by subregulation (3);
 - (iv) if body scanning equipment is used for the screening—the information specified by subregulation (4);
 - (v) if explosive trace detection equipment is used for the screening—the information specified by subregulation (5).

X-ray equipment fitted with threat image projection software

- (2) For the purposes of subparagraph (1)(f)(ii), the following information is specified in relation to x-ray equipment that is fitted with threat image projection software and used for the screening:
 - (a) the make and model of the equipment;
 - (b) the name and version of the software;
 - (c) for each threat image projected by the software:
 - (i) the day and time the image is projected; and
 - (ii) the type of the threat; and
 - (iii) the outcome of the projection.

Walk-through metal detector

- (3) For the purposes of subparagraph (1)(f)(iii), the following information is specified in relation to a walk-through metal detector used for the screening:
- (a) the make and model of the detector;
 - (b) the number of persons who pass through the detector in a period.

Body scanning equipment

- (4) For the purposes of subparagraph (1)(f)(iv), the following information is specified in relation to body scanning equipment used for the screening:
- (a) the make and model of the equipment;
 - (b) the number of persons scanned using the equipment in a period;
 - (c) for each scan—the day and time of the scan.

Explosive trace detection equipment

- (5) For the purposes of subparagraph (1)(f)(v), the following information is specified in relation to explosive trace detection equipment used for the screening:
- (a) the make and model of the equipment;
 - (b) the number of persons in relation to whom the equipment is used in a period;
 - (c) the number of double positive results occurring in a period;
 - (d) for each double positive result—the day and time the double positive result occurs.

6 At the end of Part 8

Add:

8.07 Reconsideration of decisions in relation to screening requirements

Applications for reconsideration

- (1) A person who is given a notice under regulation 4.17A specifying a requirement in relation to screening may apply to the Secretary for reconsideration of the decision of the Secretary to specify the requirement.
- (2) The application must be in writing.

Reconsideration

- (3) If:
- (a) a person applies under subregulation (1) of this regulation for reconsideration of a decision; and
 - (b) the application is in accordance with subregulation (2);
- the Secretary must:
- (c) reconsider the decision; and
 - (d) by written notice given to the person:
 - (i) affirm the decision; or
 - (ii) vary the decision; or
 - (iii) set aside the decision and make a decision in substitution for it.

- (4) If the Secretary does not make a decision under paragraph (3)(d) within 30 days after the person makes the application, the Secretary is taken to have affirmed the decision mentioned in paragraph (3)(a) at the end of those 30 days.

AAT review of Secretary's decisions

- (5) Applications may be made to the Tribunal for review of decisions of the Secretary under this regulation to affirm decisions.

7 In the appropriate position in Part 10

Insert:

Division 18—Amendments made by the Aviation Transport Security Amendment (Screening Information) Regulations 2021

10.42 Amendments made by the *Aviation Transport Security Amendment (Screening Information) Regulations 2021*

- (1) Regulations 4.40 and 4.41 apply in relation to screening carried out on or after 1 August 2021.
- (2) For the purposes of regulation 6A.02, it does not matter whether screening occurred before, on or after 1 August 2021.