### AVIATION TRANSPORT SECURITY REGULATIONS 2005 (SLI NO 18 OF 2005) - REG 4.17

**Methods, techniques and equipment to be used for screening**

         (1)    The Secretary may specify, by written notice, methods, techniques and equipment to be used for screening.

         (2)    A notice under subregulation (1) may specify that it is to be given only to a person or persons responsible for carrying out the relevant screening.

         (3)    A notice under subregulation (1) is binding on a person if and only if it has been served on the person.

         (4)    A person must comply with a notice under subregulation (1) that is binding on him or her.

Penalty:   100 penalty units.

         (5)    A contravention of subregulation (4) is an offence of strict liability.

**AVIATION TRANSPORT SECURITY REGULATIONS 2005 (SLI NO 18 OF 2005)**

# EXPLANATORY STATEMENT

**Select Legislative Instrument 2005 No. 18**

Issued by Authority of the Minister for Transport and Regional Services

Subject:         *Aviation Transport Security Act 2004*

*Aviation Transport Security (Consequential Amendments and Transitional Provisions) Act 2004*

*Aviation Transport Security Regulations 2005*

## Regulation 4.17

## Methods, techniques and equipment to be used in screening

               Pursuant to paragraph 44(2)(j) and subsection 44(3) of the Act, this regulation enables the Secretary to specify, by written notice, methods, techniques and equipment to be used for screening.  A person is required to comply with a notice served on him or her (see paragraph 44(2)(j) of the Act.)  (Regulation 9.02 provides that a notice may be served by facsimile or email.  This is in addition to the methods of service provided for by section 28A of the *Acts Interpretation Act 1901*.)  Contravention is an offence of strict liability and attracts a maximum penalty of 100 penalty units.

## Regulation 4.18

## Notices to be displayed at places of screening of passengers and carry-on baggage

               Subregulation 4.18(2) effectively obliges a screening authority to visibly display a specified sign at an operating screening point.  Contravention is an offence attracting a maximum penalty of 50 penalty units.

**AVIATION TRANSPORT SECURITY ACT 2004 - SECT 44**

**Requirements for screening and clearing**

             (1)  The regulations may, for the purposes of safeguarding against [unlawful interference with aviation](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#unlawful_interference_with_aviation), prescribe requirements in relation to one or more of the following:

                     (a)  screening;

                     (b)  receiving clearance;

                     (c)  the circumstances in which persons, goods (other than [cargo](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#cargo)) or [vehicles](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#vehicle) are required to be [cleared](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#cleared).

             (2)  Without limiting the matters that may be dealt with by regulations made under [subsection](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s74g.html#subsection) (1), the regulations may deal with the following:

                     (a)  the persons who are authorised or required to conduct screening;

                  (aaa)  requirements in relation to the form or issue of identity cards for [screening officers](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#screening_officer);

                    (aa)  the persons or things that must not pass through a [screening point](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#screening_point);

                     (b)  the things to be detected by screening;

                     (c)  the procedures for dealing with things detected by screening;

                     (d)  the circumstances in which persons must be [cleared](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#cleared) in order to:

                              (i)  board an [aircraft](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#aircraft); or

                             (ii)  enter a [landside security zone](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#landside_security_zone), a [landside event zone](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#landside_event_zone), an [airside area](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#airside_area), an [airside security zone](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#airside_security_zone) or an [airside event zone](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#airside_event_zone);

                     (e)  the circumstances in which goods, other than [baggage](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#baggage) and [cargo](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#cargo), must be [cleared](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#cleared) in order to be taken:

                              (i)  onto an [aircraft](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#aircraft); or

                             (ii)  into a [landside security zone](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#landside_security_zone), a [landside event zone](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#landside_event_zone), an [airside area](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#airside_area), an [airside security zone](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#airside_security_zone) or an [airside event zone](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#airside_event_zone);

                      (f)  the circumstances in which [baggage](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#baggage) must be [cleared](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#cleared) in order to be taken:

                              (i)  onto an [aircraft](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#aircraft); or

                             (ii)  into a [landside security zone](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#landside_security_zone), a [landside event zone](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#landside_event_zone), an [airside area](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#airside_area), an [airside security zone](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#airside_security_zone) or an [airside event zone](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#airside_event_zone);

                     (h)  the circumstances in which [vehicles](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#vehicle) must be [cleared](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#cleared) in order to be taken;

                              (i)  onto an [aircraft](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#aircraft); or

                             (ii)  into a [landside security zone](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#landside_security_zone), a [landside event zone](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#landside_event_zone), an [airside area](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#airside_area), an [airside security zone](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#airside_security_zone) or an [airside event zone](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#airside_event_zone);

                      (i)  the places where screening is to be conducted;

                      (j)  the methods, techniques and equipment to be used for screening;

                     (k)  the notices that are to be displayed in places where screening is to be conducted;

                      (l)  the supervision and control measures for ensuring that persons, goods (other than [cargo](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#cargo)) and [vehicles](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#vehicle) that have received clearance remain [cleared](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#cleared) in areas or zones that are not [cleared areas](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#cleared_area) or [cleared zones](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#cleared_zone);

Note:          Requirements for [screening officers](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html%22%20%5Cl%20%22screening_officer) may be determined by the [Secretary](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#secretary) including in relation to training and qualifications, uniforms and the use of identity cards (see [section 94A).](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s94a.html)

             (3)  Regulations made under [paragraph](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s74h.html#paragraph) (2)(a), (2)(aaa), (2)(aa), (2)(i) or (2)(j) may provide that some or all of the matters set out in that [paragraph](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s74h.html#paragraph) are to be specified in written notices made by the [Secretary](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#secretary). Such a notice may provide that the notice is only to be given to the persons, or classes of persons, specified in the notice.

          (3A)  Without limiting [paragraph](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s74h.html#paragraph) (2)(j), the equipment to be used for screening may include the following:

                     (a)  metal detection equipment;

                     (b)  explosive trace detection equipment;

                     (c)  body scanning equipment such as an active millimetre wave body scanner.

          (3B)  If:

                     (a)  body scanning equipment is to be used for the screening of a person; and

                     (b)  the equipment produces an image of the person;

the image must only be a generic body image that is gender-neutral and from which the person cannot be identified.

          (3C)  If body scanning equipment is to be used for the screening of a person, the equipment must not store or transmit:

                     (a)  an image of the person that is produced by the equipment; or

                     (b)  personal information (within the meaning of the [*Privacy Act 1988*](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/pa1988108/)) about the person.

             (4)  Regulations made under this section may prescribe penalties for offences against those regulations. The penalties must not exceed:

                     (a)  for an offence committed by an [airport operator](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#airport_operator) or an [aircraft operator](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#aircraft_operator)--200 [penalty](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s74e.html#penalty) units; or

                     (b)  for an offence committed by an [aviation industry participant](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#aviation_industry_participant), other than an [accredited air cargo agent](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#accredited_air_cargo_agent) or a participant covered by [paragraph](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s74h.html#paragraph) (a)--100 [penalty](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s74e.html#penalty) units; or

                     (c)  for an offence committed by an [accredited air cargo agent](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#accredited_air_cargo_agent) or any other person--50 [penalty](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s74e.html#penalty) units.

Note:          If a body corporate is convicted of an offence against regulations made under this section, [subsection](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s74g.html#subsection) 4B(3) of the [*Crimes Act 1914*](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/ca191482/)allows a court to impose fines of up to 5 times the penalties stated above.

**AVIATION TRANSPORT SECURITY ACT 2004 - SECT 9**

**Definitions**

                   In [this Act](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#this_act), unless the contrary intention appears:

***"unlawful interference with aviation"***has the meaning given by [section 10.](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s10.html)

 **AVIATION TRANSPORT SECURITY ACT 2004 - SECT 10**

**Meaning of unlawful interference with aviation**

             (1)  Any of the following done, or attempted to be done, without lawful authority is an [***unlawful interference with***](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#unlawful_interference_with_aviation)[***aviation***](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#unlawful_interference_with_aviation):

                     (a)  taking control of an [aircraft](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#aircraft) by force, or threat of force, or any other form of intimidation or by any trick or false pretence;

                     (b)  destroying an [aircraft](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#aircraft) that is [in service](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#in_service);

                     (c)  causing [damage](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#damage) to an [aircraft](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#aircraft) that is [in service](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#in_service) that puts the safety of the [aircraft](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#aircraft), or any person on board or outside the [aircraft](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#aircraft), at risk;

                     (d)  doing anything on board an [aircraft](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#aircraft) that is [in service](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#in_service) that puts the safety of the [aircraft](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#aircraft), or any person on board or outside the [aircraft](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#aircraft), at risk;

                     (e)  placing, or causing to be placed, on board an [aircraft](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#aircraft) that is [in service](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#in_service) anything that puts the safety of the [aircraft](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#aircraft), or any person on board or outside the [aircraft](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#aircraft), at risk;

                      (f)  putting the safety of [aircraft](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#aircraft) at risk by interfering with, damaging or destroying air navigation facilities;

                     (g)  putting the safety of an [aircraft](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#aircraft) at risk by communicating false or misleading information;

                     (h)  committing an act at an [airport](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#airport), or causing any interference or [damage](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#damage), that puts the safe operation of the [airport](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#airport), or the safety of any person at the [airport](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#airport), at risk.

             (2)  However, [***unlawful interference with aviation***](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#unlawful_interference_with_aviation)**does not include lawful advocacy, protest, dissent** or industrial action that does not result in, or contribute to, an action of a kind mentioned in [paragraphs](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s134.html%22%20%5Cl%20%22paragraph) (1)(a) to (h).

### AVIATION TRANSPORT SECURITY ACT 2004 - SECT 41

**Screening and clearing people**

             (1)  A person is [***screened***](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#screened)when the person undergoes screening in accordance with regulations made under [section 44:](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s44.html)

                     (a)  in preparation for boarding an [aircraft](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#aircraft); or

                     (b)  in order to enter or remain in an area or zone within a [security controlled](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#security_controlled_airport) [airport](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#security_controlled_airport).

             (2)  A person ***receives clearance***if:

                     (a)  after being [screened](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#screened), the person is allowed, by a [screening officer](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#screening_officer), to pass through the [screening point](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#screening_point); or

                     (b)  the person passes through the [screening point](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#screening_point) and the regulations provide, or the [Secretary](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#secretary) by written notice provides, that the person may pass through that [screening point](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#screening_point) without being [screened](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#screened); or

                     (c)  the person enters a [cleared area](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#cleared_area), a [cleared zone](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#cleared_zone) or a [cleared aircraft](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#cleared_aircraft) other than through a [screening point](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#screening_point) and the regulations provide, or the [Secretary](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#secretary) by written notice provides, that the person may enter the area, zone or [aircraft](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#aircraft) that way.

             (3)  A person is [***cleared***](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#cleared)at a particular time if:

                     (a)  the person has received clearance; and

                     (b)  since receiving clearance, the person has at all times been in a [cleared area](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#cleared_area), a [cleared zone](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#cleared_zone) or a [cleared aircraft](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#cleared_aircraft).

             (4)  For the purposes of [paragraph](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s134.html#paragraph) (3)(b), a person is taken to be in a [cleared area](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#cleared_area) or [cleared zone](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#cleared_zone) if the person is under the supervision or control prescribed in the regulations.

             (5)  To avoid doubt:

                     (a)  a notice under [paragraph](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s134.html#paragraph) (2)(b) may provide that a class of persons may pass through a [screening point](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#screening_point) without being [screened](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#screened); and

                     (b)  a notice under [paragraph](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s134.html#paragraph) (2)(c) may provide that a class of persons may enter a [cleared area](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#cleared_area), a [cleared zone](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#cleared_zone) or a [cleared aircraft](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#cleared_aircraft) other than through a [screening point](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#screening_point).

### AVIATION TRANSPORT SECURITY ACT 2004 - SECT 95C

**Screening powers--frisk search general power**

(1) If a [screening officer](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#screening_officer) considers it necessary in order to screen a person properly, the [screening officer](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#screening_officer) may request the person to undergo a [frisk search](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#frisk_search).

(2) If a [screening officer](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#screening_officer) conducts a [frisk search](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#frisk_search) following a request under [subsection](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s111.html#subsection) (1), the [screening officer](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#screening_officer) may conduct the search only to the extent necessary to complete the proper screening of the person.

(3) A [screening officer](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#screening_officer) must not:

(a) require a person to undergo a [frisk search](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#frisk_search) under this section; or

(b) conduct a [frisk search](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#frisk_search) of a person under this section without the person's consent; or

(c) contravene [subsection](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s111.html#subsection) (2).

[Penalty](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s95.html%22%20%5Cl%20%22penalty): 50 [penalty](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s95.html#penalty) units.

(4)  [Subsection](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s111.html#subsection) (3) does not apply if the officer has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in [subsection](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s111.html#subsection) (4) (see [subsection](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s111.html#subsection) 13.3(3) of the *Criminal Code*).

(5)  [Subsection](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s111.html#subsection) (3) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

(6) If:

(a) a [screening officer](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#screening_officer) requests a person to undergo a [frisk search](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#frisk_search) under [subsection](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s111.html#subsection) (1); and

(b) the person refuses to comply with the request; and

(c) the person refuses to undergo a [frisk search](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#frisk_search) in a private room by a [screening](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#screening_officer) [officer](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#screening_officer) of the same sex as the person; and

(d) the **refusals**mean that it is not possible to screen the person properly;

the [screening officer](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#screening_officer) must refuse to allow the person to pass through the [screening point](http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/atsa2004348/s9.html#screening_point).