



Home Affairs Legislation Amendment (Digital Passenger Declaration) 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 09 December 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 *Home Affairs Legislation Amendment (Digital Passenger Declaration) 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	The day after this instrument is registered.	14 December 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Note: This table relates only to the provisions of this instrument as originally made.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 following:

- (a) the *Customs Act 1901*;
- (b) the *Migration Act 1958*.

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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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

Migration Regulations 1994

1 After paragraph 2.43(1)(n)

Insert:

- (na) the holder of the visa provided a digital passenger declaration of a kind referred to in paragraph 3.03AB(1)(a) (other than a digital passenger declaration that was withdrawn before the time referred to in paragraph 3.03AB(1)(b)) and either or both of the following apply:
 - (i) the digital passenger declaration was incorrect at the time it was provided;
 - (ii) the holder, or a person in charge of the holder on the relevant flight or voyage, has provided incorrect information in relation to the digital passenger declaration;

2 After regulation 3.03AA

Insert:

3.03AB Exemption from requirements to complete a passenger card where digital passenger declaration provided

- (1) The requirements relating to completing or providing a passenger card in these Regulations do not apply to a person who is arriving in Australia if:
 - (a) the person has provided a digital passenger declaration to the departmental system that processes digital passenger declarations; and
 - (b) before an event referred to in subparagraph 172(1)(a)(iii) or (b)(iii) of the Act occurs:
 - (i) the person has not withdrawn the digital passenger declaration; and
 - (ii) a clearance officer does not require the person to provide a completed passenger card under subregulation (2).
- (2) A clearance officer may require the person to provide a completed passenger card if circumstances specified in an instrument under subregulation (3) exist.
- (3) The Minister may, by legislative instrument, specify a matter for the purposes of subregulation (2).

3 Paragraph 4013(2)(d) of Schedule 4

After “(m),”, insert “(na),”.

Schedule 2—Customs amendments

Customs Regulation 2015

1 Section 27

Before “For”, insert “(1)”.

2 Paragraph 27(a)

Omit “or an approved statement”.

3 Paragraph 27(a)

Omit “or statement”.

4 Paragraph 27(b)

Omit “or statement” (wherever occurring).

5 Paragraph 27(c)

Omit “or approved statement”.

6 At the end of section 27

Add:

Digital passenger declaration exemption

- (2) However, a person is not required to provide information about Subdivision AA goods under subsection (1) if:
 - (a) the person has complied with paragraph 27A(2)(a) in relation to the goods; and
 - (b) before a Collector makes a decision under subsection 71AAAB(2) of the Act about the goods, a Collector does not require the person to provide information about the goods under subsection (1).
- (3) For the purposes of paragraph (2)(b), a Collector may require the person to provide information about the goods under subsection (1) if the Collector reasonably suspects that the digital passenger declaration in relation to which the person complied with paragraph 27A(2)(a) is not, or is no longer, accurate or complete.

7 After section 27

Insert:

27A Providing information about Subdivision AA goods—digital passenger declaration

- (1) For the purposes of subsection 71AAAB(1) of the Act, if:
 - (a) a person is the owner of Subdivision AA goods imported into Australia; and

- (b) the person has indicated to a Collector that the person has submitted a digital passenger declaration about the goods to a departmental system that processes digital passenger declarations;
the person must comply with subsection (2).
- (2) The person must:
- (a) provide a Collector with a code generated by the departmental system that processes digital passenger declarations that indicates whether or not the goods are eligible to be authorised for delivery into home consumption under section 71 of the Act, by showing the Collector the code in the form generated by the system; and
 - (b) if the digital passenger declaration about the goods is not, or is no longer, accurate or complete—provide any information required to correct or to complete the declaration to a Collector orally or in writing; and
 - (c) if, before a Collector makes a decision under subsection 71AAAB(2) of the Act about the goods, a Collector requires the person to provide further information to clarify whether or not the goods are eligible to be authorised for delivery into home consumption under section 71 of the Act—provide the further information to a Collector orally or in writing.
- (3) A person in charge of the person on the relevant flight or voyage into Australia may provide an indication, a code or information on behalf of the person for the purposes of this section.

8 Subsection 65(2)

After “passenger card”, insert “or digital passenger declaration”.

9 In the appropriate position in Part 18

160 Amendments made by the *Home Affairs Legislation Amendment (Digital Passenger Declaration) Regulations 2021*

If at a time in the period:

- (a) starting on the day (the *commencement day*) that Schedule 2 to the *Home Affairs Legislation Amendment (Digital Passenger Declaration) Regulations 2021* commences; and
- (b) ending 3 months after the commencement day;

a proprietor displays a sign that meets the requirements in subsection 65(2), as in force immediately before the commencement day, then the proprietor is taken to have complied with subsection 65(2), as amended by that Schedule, in relation to that time.