

II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) No 173/2012

of 29 February 2012

amending Regulation (EU) No 185/2010 as regards clarification and simplification of certain specific aviation security measures

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 300/2008 of the European Parliament and of the Council of 11 March 2008 on common rules in the field of civil aviation security and repealing Regulation (EC) No 2320/2002 (¹), and in particular Article 4(3) thereof,

Whereas:

- (1) Experience with the implementation of Commission Regulation (EU) No 185/2010 of 4 March 2010 laying down detailed measures for the implementation of the common basic standards on aviation security (²) has shown the need for small amendments to the implementing modalities of certain common basic standards.
- (2) This concerns the clarification or simplification of certain specific aviation security measures in order to improve legal clarity, standardise the common interpretation of the legislation and further ensure the best implementation of the common basic standards on aviation security.

(3) The amendments concern the implementation of a limited number of measures in relation to access control, surveillance and patrols, screening of passengers and hold baggage, security controls for cargo, mail, in-flight and airport supplies, training of persons and security equipment.

(4) Regulation (EU) No 185/2010 should therefore be amended accordingly.

(5) The measures provided for in this Regulation are in accordance with the opinion of the Committee on Civil Aviation Security,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EU) No 185/2010 is amended in accordance with the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 29 February 2012.

For the Commission

The President

José Manuel BARROSO

(¹) OJ L 97, 9.4.2008, p. 72.

(²) OJ L 55, 5.3.2010, p. 1.

ANNEX

Annex to Regulation (EU) No 185/2010 is amended as follows:

(1) point 1.1.3.4 is replaced by the following:

'1.1.3.4 Whenever unscreened persons or passengers and crew members arriving from third countries other than those listed in Attachment 4-B may have had access to critical parts, a security search of those parts that could have been contaminated shall be carried out as soon as possible in order to reasonably ensure that it does not contain prohibited articles.

Paragraph 1 shall be considered to be met for aircraft that are subject to an aircraft security search.

Paragraph 1 shall not apply when persons covered by point 1.3.2 and point 4.1.1.7 have had access to critical parts.

As far as passengers and crew members arriving from third countries other than those listed in Attachment 4-B are concerned, paragraph 1 shall only apply to those critical parts that are used by screened hold baggage and/or screened departing passengers not departing on the same aircraft as these passengers and crew members.;

(2) the following paragraph is added to point 1.2.2.2:

'Alternatively, access may also be granted after positive identification via biometric data verification.'

(3) the following paragraph is added to point 1.2.2.4:

'Where biometric identification is used, the verification shall ensure that the person seeking access to security restricted areas holds one of the authorisations listed under point 1.2.2.2 and that this authorisation is valid and was not disabled.'

(4) the following point 1.2.6.9 is inserted:

'1.2.6.9 Vehicles that are only used airside and have no permission to drive on public roads may be exempted from application of points 1.2.6.2 to 1.2.6.8 provided that they are clearly marked externally as operational vehicles in use at that airport.'

(5) the following is added at the end of Point 1.2.7.1(c):

'; and

(d) distances between the terminal or access point and the aircraft on which crew members have arrived or will depart.'

(6) point 1.5.2 is replaced by the following:

'1.5.2 The frequency and means of undertaking surveillance and patrols shall be based on a risk assessment and shall be approved by the appropriate authority. They shall take into account:

(a) the size of the airport, including the number and nature of the operations; and

(b) the layout of the airport, in particular the interrelationship between the areas established at the airport; and

(c) the possibilities and limitations of means of undertaking surveillance, and patrols.

The parts of the risk assessment relating to the frequency and means of undertaking surveillance and patrols shall, upon request, be made available in writing for compliance monitoring purposes.'

(7) point 4.1.3.4 is amended as follows:

(a) point (c) is replaced by the following:

'(c) obtained airside beyond the point where boarding passes are controlled from outlets that are subject to approved security procedures as part of the airport security programme, on condition that the LAG is packed in a STEB inside which satisfactory proof of purchase at airside at that airport within the preceding 24 hours is displayed; or'

(b) points (e) and (f) are replaced by the following:

'(e) obtained at another Union airport, on condition that the LAG is packed in a STEB inside which satisfactory proof of purchase at airside at that airport within the preceding 24 hours is displayed; or

(f) obtained on board an aircraft of an EU air carrier, on condition that the LAG is packed in a STEB inside which satisfactory proof of purchase on board that aircraft within the preceding 24 hours is displayed; or;

(8) point 5.3.3.2 is replaced by the following:

'5.3.3.2 Hold baggage that becomes unaccompanied baggage due to factors other than those mentioned in point 5.3.2 shall be removed from the aircraft and rescreened before loading it again.:'

(9) point 6.0.2 is replaced by the following:

'6.0.2 The following shall be considered as prohibited articles in consignments of cargo and mail:

— assembled explosive and incendiary devices that are not carried in accordance with the applicable safety rules';

(10) point 6.0.3 is deleted;

(11) point 6.3.2.6 is replaced by the following:

'6.3.2.6 The documentation shall be available for inspection by the appropriate authority at any point before the consignment is loaded on to an aircraft and afterwards for the duration of the flight or for 24 hours, whichever is the longer and shall provide the following information:

(a) the unique alphanumeric identifier of the regulated agent as received from the appropriate authority;

(b) a unique identifier of the consignment, such as the number of the (house or master) air waybill;

(c) the content of the consignment, except for consignments listed in points 6.2.3(d) and (e) of Commission Decision C(2010) 774 final of 13 April 2010 (*);

(d) the security status of the consignment, stating:

— "SPX", meaning secure for passenger, all-cargo and all-mail aircraft, or

— "SCO", meaning secure for all-cargo and all-mail aircraft only, or

— "SHR", meaning secure for passenger, all-cargo and all-mail aircraft in accordance with high risk requirements;

(e) the reason that the security status was issued, stating:

— "KC", meaning received from known consignor, or

— "AC", meaning received from account consignor, or

— the means or method of screening used, or

— the grounds for exempting the consignment from screening;

(f) the name of the person who issued the security status, or an equivalent identification, and the date and time of issue;

(g) the unique identifier received from the appropriate authority, of any regulated agent who has accepted the security status given to a consignment by another regulated agent.

(*) Not published.;

(12) point 6.3.2.7 shall be replaced by the following:

'6.3.2.7 In the case of consolidations, the requirements of points 6.3.2.5 and 6.3.2.6 will be considered as met if:

(a) the regulated agent performing the consolidation retains the information required under points 6.3.2.6(a) to (g) for each individual consignment for the duration of the flight(s) or for 24 hours, whichever is the longer; and

(b) the documentation accompanying the consolidation includes the alphanumeric identifier of the regulated agent who performed the consolidation, a unique identifier of the consolidation and its security status.

Point (a) shall not be required for consolidations that are always subject to screening or exempted from screening in line with points 6.2.3(d) and (e) of Decision C(2010) 774 if the regulated agent gives the consolidation a unique identifier and indicates the security status and a single reason why this security status was issued.:'

(13) point 6.6.1.1(a) is replaced by the following:

- (a) the consignments shall be packed or sealed by the regulated agent, known consignor or account consignor so as to ensure that any tampering would be evident; where this is not possible alternative protection measures that ensure the integrity of the consignment shall be taken; and';

(14) the following is added at the end of point 6.8.2.3:

'Until July 2014, security status declarations in accordance with point 6.3.2.6(d) for EU-bound cargo or mail may be issued by the ACC3 or an air carrier arriving from a third country listed in Attachment 6Fii; from July 2014 regulated agents referred to under point 6.8.3 may also provide security status declarations in this respect.';

(15) the seventh indent of Attachment 6-A is replaced by the following:

- [name of company] will ensure that all relevant staff receive training in accordance with Chapter 11 of the Annex to Regulation (EU) No 185/2010 and are aware of their security responsibilities under the company's security programme; and';

(16) the second sentence under the header 'Prohibited articles' of Attachment 6-D is deleted;

(17) Attachment 6-E is replaced by the following:

'ATTACHMENT 6-E

HAULIER DECLARATION

In accordance with Regulation (EC) No 300/2008 on common rules in the field of civil aviation security and its implementing acts,

When collecting, carrying, storing and delivering air cargo/mail to which security controls have been applied [on behalf of *name of regulated agent/air carrier applying security controls for cargo or mail/ known consignor/account consignor*], I confirm that the following security procedures will be adhered to:

- All staff who transport this air cargo/mail will have received general security awareness training in accordance with point 11.2.7 of the Annex to Regulation (EU) No 185/2010;
- The integrity of all staff being recruited with access to this air cargo/mail will be verified. This verification shall include at least a check of the identity (if possible by photographic identity card, driving licence or passport) and a check of the curriculum vitae and/or provided references;
- Load compartments in vehicles will be sealed or locked. Curtain sided vehicles will be secured with TIR cords. The load areas of flat bed trucks will be kept under observation when air cargo is being transported;
- Immediately prior to loading, the load compartment will be searched and the integrity of this search maintained until loading is completed;
- Each driver will carry an identity card, passport, driving licence or other document, containing a photograph of the person, which has been issued or recognised by the national authorities;
- Drivers will not make unscheduled stops between collection and delivery. Where this is unavoidable, the driver will check the security of the load and the integrity of locks and/or seals on his return. If the driver discovers any evidence of interference, he will notify his supervisor and the air cargo/mail will not be delivered without notification at delivery;
- Transport will not be sub-contracted to a third party, unless the third party also has a haulier agreement with [same name as above of regulated agent/known consignor/account consignor, or of the appropriate authority which has approved or certified the haulier]; and
- No other services (e.g. storage) will be sub-contracted to any other party other than a regulated agent or an entity that has been certified or approved and listed for the provision of these services by the appropriate authority.

I accept full responsibility for this declaration.

Name:

Position in company:

Name and address of the company:

Date:

Signature: ';

(18) the following point 8.0.4 is added:

'8.0.4 The list of prohibited articles in in-flight supplies is the same as the one set out in Attachment 4-C.;

(19) point 8.1.4.2 is replaced by the following:

'8.1.4.2 In order to be designated as a known supplier, the entity shall submit the "Declaration of commitments – known supplier of in-flight supplies" as contained in Attachment 8-B to each company to whom it delivers. This declaration shall be signed by the legal representative.

The signed declaration shall be retained by the company to whom the known supplier delivers as a means of validation.;

(20) point 8.1.5 is replaced by the following:

'8.1.5 Security controls to be applied by an air carrier, a regulated supplier and a known supplier

8.1.5.1 An air carrier, a regulated supplier and a known supplier of in-flight supplies shall:

- (a) appoint a person responsible for security in the company; and
- (b) ensure that persons with access to in-flight supplies receive general security awareness training in accordance with point 11.2.7 before being given access to these supplies; and
- (c) prevent unauthorised access to its premises and in-flight supplies; and
- (d) reasonably ensure that no prohibited articles are concealed in in-flight supplies; and
- (e) apply tamper-evident seals to, or physically protect, all vehicles and/or containers that transport in-flight supplies.

Point (e) shall not apply during airside transportation.

8.1.5.2 If a known supplier uses another company that is not a known supplier to the air carrier or regulated supplier for transporting supplies, the known supplier shall ensure that all security controls listed in point 8.1.5.1 are adhered to.

8.1.5.3 The security controls to be applied by an air carrier and a regulated supplier shall also be subject to the additional provisions laid down in a separate Commission decision.;

(21) the seventh indent of Attachment 8-A shall be replaced by the following:

'— [name of company] will ensure that all relevant staff receive training in accordance with Chapter 11 of the Annex to Regulation (EU) No 185/2010 and are aware of their security responsibilities under the company's security programme; and';

(22) ATTACHMENT 8-B shall be replaced by the following:

'ATTACHMENT 8-B

DECLARATION OF COMMITMENTS

KNOWN SUPPLIER OF IN-FLIGHT SUPPLIES

In accordance with Regulation (EC) No 300/2008 on common rules in the field of civil aviation security and its implementing acts,

I declare that,

— [name of company] will

- (a) appoint a person responsible for security in the company; and
- (b) ensure that persons with access to in-flight supplies receive general security awareness training in accordance with point 11.2.7 of the Annex to Regulation (EU) No 185/2010 before being given access to these supplies; and
- (c) prevent unauthorised access to its premises and in-flight supplies; and
- (d) reasonably ensure that no prohibited articles are concealed in in-flight supplies; and
- (e) apply tamper-evident seals to, or physically protect, all vehicles and/or containers that transport in-flight supplies (this point will not apply during airside transportation).

When using another company that is not a known supplier to the air carrier or regulated supplier for transporting supplies, [name of company] will ensure that all security controls listed above are adhered to,

- in order to ensure compliance, [name of company] will cooperate fully with all inspections, as required, and provide access to all documents, as requested by inspectors,
- [name of company] will inform [the air carrier or regulated supplier to whom it delivers in-flight supplies] of any serious security breaches and of any suspicious circumstances which may be relevant to in-flight supplies, in particular any attempt to conceal prohibited articles in supplies,
- [name of company] will ensure that all relevant staff receive training in accordance with Chapter 11 of the Annex to Regulation (EU) No 185/2010 and are aware of their security responsibilities, and
- [name of company] will inform [the air carrier or regulated supplier to whom it delivers in-flight supplies] if:
 - (a) it ceases trading; or
 - (b) it can no longer meet the requirements of the relevant EU legislation.

I shall accept full responsibility for this declaration.

Legal representative

Name:

Date:

Signature: ';

(23) the following point 9.0.4 is added:

'9.0.4 The list of prohibited articles in airport supplies is the same as the one in Attachment 4-C.';

(24) point 9.1.1.1 is replaced by the following:

'9.1.1.1 Airport supplies shall be screened before being allowed into security restricted areas, unless:

- (a) the required security controls have been applied to the supplies by an airport operator that delivers these to its own airport and the supplies have been protected from unauthorised interference from the time that those controls were applied until delivery to the security restricted area; or
- (b) the required security controls have been applied to the supplies by a known supplier and the supplies have been protected from unauthorised interference from the time that those controls were applied until delivery to the security restricted area.';

(25) point 9.1.3.2 is replaced by the following:

'9.1.3.2 In order to be designated as a known supplier, the entity shall submit the "Declaration of commitments – known supplier of airport supplies" as contained in Attachment 9-A to the airport operator. This declaration shall be signed by the legal representative.

The signed declaration shall be retained by the airport operator as a means of validation.'

(26) point 9.1.4 is replaced by the following:

'9.1.4 Security controls to be applied by a known supplier or airport operator

A known supplier of airport supplies or airport operator delivering airport supplies to the security restricted area shall:

- (a) appoint a person responsible for security in the company; and
- (b) ensure that persons with access to airport supplies receive general security awareness training in accordance with point 11.2.7 before being given access to these supplies; and

- (c) prevent unauthorised access to its premises and airport supplies; and
- (d) reasonably ensure that no prohibited articles are concealed in airport supplies; and
- (e) apply tamper-evident seals to, or physically protect, all vehicles and/or containers that transport airport supplies.

Point (e) shall not apply during airside transportation.

If a known supplier uses another company that is not a known supplier to the airport operator for transporting supplies to the airport, the known supplier shall ensure that all security controls listed in this point are adhered to.;

(27) Attachment 9-A is replaced by the following:

'ATTACHMENT 9-A'

DECLARATION OF COMMITMENTS

KNOWN SUPPLIER OF AIRPORT SUPPLIES

In accordance with Regulation (EC) No 300/2008 on common rules in the field of civil aviation security and its implementing acts,

I declare that,

— [name of company] will

- (a) appoint a person responsible for security in the company; and
- (b) ensure that persons with access to airport supplies receive general security awareness training in accordance with point 11.2.7 of the Annex to Regulation (EU) No 185/2010 before being given access to these supplies; and
- (c) prevent unauthorised access to its premises and airport supplies; and
- (d) reasonably ensure that no prohibited articles are concealed in airport supplies; and
- (e) apply tamper-evident seals to, or physically protect, all vehicles and/or containers that transport airport supplies (this point will not apply during airside transportation).

When using another company that is not a known supplier to the airport operator for transporting supplies, [name of company] will ensure that all security controls listed above are adhered to,

- in order to ensure compliance, [name of company] will cooperate fully with all inspections, as required, and provide access to all documents, as requested by inspectors,
- [name of company] will inform [the airport operator] of any serious security breaches and of any suspicious circumstances which may be relevant to airport supplies, in particular any attempt to conceal prohibited articles in supplies,
- [name of company] will ensure that all relevant staff receive training in accordance with Chapter 11 of the Annex to Regulation (EU) No 185/2010 and are aware of their security responsibilities, and
- [name of company] will inform [the airport operator] if:
 - (a) it ceases trading; or
 - (b) it can no longer meet the requirements of the relevant EU legislation.

I shall accept full responsibility for this declaration.

Legal representative

Name:

Date:

Signature: ';

(28) the following point 11.2.7 is added:

'11.2.7 Training of persons requiring general security awareness'

General security awareness training shall result in the following competencies:

- (a) knowledge of previous acts of unlawful interference with civil aviation, terrorist acts and current threats;

- (b) awareness of the relevant legal requirements;
- (c) knowledge of the objectives and organisation of aviation security in their working environment, including the obligations and responsibilities of persons implementing security controls;
- (d) knowledge of reporting procedures; and
- (e) ability to respond appropriately to security related incidents.

Each person undergoing general security awareness training shall be required to demonstrate understanding of all subjects referred to in this point before taking up duty.';

(29) point 11.4.2(a) is replaced by the following:

- '(a) for competencies acquired during initial basic, specific and security awareness training, at least once every 5 years or, in cases where the competencies have not been exercised for more than 6 months, before return to security duties; and';

(30) point 12.7.2.2 is replaced by the following:

'12.7.2.2 All equipment for the screening of LAGs shall meet standard 1.

Standard 1 shall expire on 29 April 2016.'
