

2024 No. 228

CIVIL AVIATION

The Aviation Security (Air Cargo Agents) Regulations 2024

<i>Made</i> - - - -	<i>27th February 2024</i>
<i>Laid before Parliament</i>	<i>28th February 2024</i>
<i>Coming into force</i> - -	<i>21st March 2024</i>

The Secretary of State, in exercise of the powers conferred by section 21F of the Aviation Security Act 1982^(a) and Article 4(3) of Regulation (EC) No 300/2008 of the European Council of 11 March 2008 on common rules in the field of civil aviation security^(b), after consulting organisations appearing to him to represent persons affected by the Regulations, makes the following Regulations.

Citation, commencement and extent

- 1.—(1) These Regulations may be cited as the Aviation Security (Air Cargo Agents) Regulations 2024.
- (2) These Regulations come into force on 21st March 2024.
- (3) These Regulations extend to England and Wales, Scotland and Northern Ireland.

Interpretation

2. In these Regulations—

“the 1982 Act” means the Aviation Security Act 1982;

“the 1990 Act” means the Aviation and Maritime Security Act 1990^(c);

“air cargo agent” means a Known Consignor, a Regulated Agent or a Regulated Supplier;

“applicant” means an air cargo agent who applies for inclusion on the list of security approved air cargo agents, or who applies for renewal of an existing inclusion on the list;

“the Implementing Regulation” means Commission Implementing Regulation (EU) 2015/1998 of 5 November 2015 laying down detailed measures for the implementation of the common basic standards on aviation security^(d).

“Known Consignor” means a consignor who originates cargo for its own account and whose procedures meet security rules and standards sufficient to allow carriage of cargo or mail on any civil aircraft;

^(a) 1982 c. 36; section 21F was inserted by the Aviation and Maritime Security Act 1990 (c. 31), section 6.

^(b) EUR 2008/300, amended by S.I. 2019/547.

^(c) 1990 c. 31.

^(d) EUR 2015/1998, amended by S.I. 2019/547, 2022/497 and 2022/1313.

“list of security approved air cargo agents” means the list referred to in regulation 3;

“Regulated Agent” means an air carrier, agent, freight forwarder or any other entity who ensures security controls in respect of cargo or mail to be carried on-board civil aircraft; and

“Regulated Supplier” means a supplier whose procedures meet security rules and standards sufficient to allow delivery of in-flight supplies directly to a civil aircraft.

List of approved air cargo agents

3.—(1) The Secretary of State may maintain a list of air cargo agents who are approved for purposes relating to aviation security.

(2) The list of security approved air cargo agents may be divided into categories of air cargo agents. In particular, an air cargo agent may be listed as—

- (a) a Regulated Agent;
- (b) a Known Consignor; or
- (c) a Regulated Supplier.

(3) Where an air cargo agent has multiple sites that handle cargo and multiple sites have been approved by the Secretary of State following applications in accordance with regulation 4(2), those sites must be maintained as individual entries on the list of security approved air cargo agents.

(4) The Secretary of State may include an air cargo agent to the list of security approved air cargo agents for the following maximum durations—

- (a) for Regulated Agents, five years;
- (b) for Known Consignors, 18 months; and
- (c) for Regulated Suppliers, five years.

Application for listing as a security approved air cargo agent

4.—(1) Applications for inclusion on the list of security approved air cargo agents and applications for renewing an existing inclusion on the list must be made to the Secretary of State in accordance with this regulation.

(2) An air cargo agent must submit a separate application for each site at which it handles cargo.

(3) Applications must include the following information relating to the applicant—

- (a) where the applicant is a body required by law to be registered by the registrar of companies, the name, registered number and registered office of that body;
- (b) where the applicant is an association or partnership which is not required by law to be so registered, the full name of each member of the association or each partner in the partnership, and the name of the association or partnership, as the case may be;
- (c) where the applicant is a sole proprietor, the full name of that proprietor.

(4) In addition to the information required by paragraph (3), all applications must include the following information relating to the applicant—

- (a) the applicant’s trading name, if different to the name given under paragraph (3) of this regulation;
- (b) the applicant’s VAT registration number, if any;

- (c) the telephone number, email address and address of the principal office, and of all premises where cargo is handled, or aviation security functions are conducted;
- (d) where the applicant is not a sole proprietor, the name, telephone number, email address and address within the United Kingdom of a nominated individual who will accept on behalf of the applicant any written or verbal communication, including any document mentioned in section 24(1) of the 1982 Act, from the Secretary of State relating to the air cargo business;
- (e) details of any criminal convictions under the 1982 Act or the 1990 Act of all of the individuals named in the application;
- (f) whether the applicant is applying for listing as a Regulated Agent, Known Consignor or Regulated Supplier; and
- (g) a copy of the security programme for the site, specifying how the site will be compliant with applicable aviation security regulation, including how the applicant itself will monitor compliance.

Requirements for inclusion on the list of security approved air cargo agents

5.—(1) An application for inclusion on the list of security approved air cargo agents or an application for renewal of an existing inclusion on the list, may only be approved if the Secretary of State is satisfied that the following requirements are met—

- (a) the application includes all of the information required in accordance with regulation 4(3) and (4);
- (b) the security programme submitted in accordance with regulation 4(4)(g) is reasonable for the purposes to which Part 2 (Protection of Aircraft, Aerodromes and Air Navigation Installations Against Acts of Violence) of the 1982 Act applies;
- (c) the applicant is likely to be able to comply with any directions which may be given to them by the Secretary of State under sections 13A or 14 of the 1982 Act;
- (d) the applicant is currently, or is otherwise preparing to imminently begin, carrying on a business as an air cargo agent and air cargo is currently, or will imminently be, handled at the site to which to the application relates; and
- (e) the CAA has visited the air cargo agent or the specific site to which the application relates, in order to assess the security arrangements in place.

(2) In determining whether the requirements in paragraph (1) have been met the Secretary of State may, in addition to any other information considered relevant, have regard to—

- (a) any report or recommendations provided by the CAA in relation to the air cargo agent or the specific site to which the application relates; and
- (b) the compliance of the applicant or of any individual named within the application with any aviation security requirements which have been previously applicable.

Notice of inclusion on the list of security approved air cargo agents

6.—(1) The Secretary of State must, upon approving an application for inclusion on the list of security approved air cargo agents, give notice to the applicant of the approval, of the date on which the applicant, or the site to which the application related, was placed on the list and the date on which the listing will expire.

(2) The Secretary of State must, upon approving an application for renewing an existing inclusion on the list of security approved air cargo agents, give notice to the applicant of the approval and the new expiry date of the listing.

Notice of proposal not to include an applicant on the list of security approved air cargo agents

7.—(1) Before making a decision to refuse an application for inclusion on the list of security approved air cargo agents or for renewal of an existing inclusion on the list, the Secretary of State must give notice to the applicant of the proposal to refuse the application and the reasons for it.

(2) The applicant may make representations to the Secretary of State within 28 days from the date of the Secretary of State's notice under paragraph (1) of this regulation.

(3) The Secretary of State must take into account any representations made under paragraph (2) of this regulation before reaching a decision to approve or refuse of the application.

(4) The Secretary of State must, upon deciding to refuse an application for inclusion on the list of security approved air cargo agents or for renewal of an existing inclusion on the list, give notice to the applicant of the decision and the reasons for it.

(5) Where the Secretary of State has refused an application for inclusion on the list of security approved air cargo agents or for renewal of an existing inclusion on the list, the applicant may not reapply for inclusion of the site to which the refused application relates until after the expiry of a period of three months beginning with the date of the Secretary of State's notice under paragraph (4) of this regulation.

Notice of information being rendered inaccurate by a change of circumstances

8. An air cargo agent included on the list of security approved air cargo agents must give notice to the Secretary of State if at any time any information provided to the Secretary of State in accordance with regulation 4(3) or (4) is rendered inaccurate by any change of circumstances. Such notice must be given within seven days of such change occurring and must include the revised information.

Removal of a security approved air cargo agent from the list

9.—(1) The Secretary of State may, subject to paragraph (4) of this regulation, remove an air cargo agent from the list of security approved air cargo agents if the Secretary of State is satisfied that any of the reasons in paragraph (3) of this regulation apply.

(2) If the air cargo agent has multiple sites on the list of security approved air cargo agents in accordance with regulation 3(3) and the Secretary of State is satisfied that the reason in paragraph (3) applies to specific sites, the Secretary of State may only remove the affected sites from the list.

(3) The reasons for the purposes of paragraphs (1) and (2) are—

- (a) the air cargo agent no longer carries on an a business as a Regulated Agent, Known Consignor or Regulated Supplier;
- (b) the air cargo agent is no longer able to comply, or has failed to comply with, any direction given to them by the Secretary of State under sections 13A or 14 of the 1982 Act;
- (c) the duration of the listing has expired and there is no outstanding application for renewal. An outstanding application for renewal only prevents removal of the air cargo agent from the list of security approved air cargo agents pending its resolution if it was made at least 56 days prior to the expiration date of the listing;
- (d) any of the information provided by the air cargo agent in accordance with regulation 4 is materially false;

- (e) the air cargo agent has failed to give notice to the Secretary of State of information being rendered inaccurate by a change of circumstances in accordance with regulation 8;
- (f) the air cargo agent has requested that they be removed from the list of security approved air cargo agents; or
- (g) there is any other good reason for the Secretary of State to remove the air cargo agent from the list.

(4) Before making a decision to remove an air cargo agent from the list of security approved air cargo agents for a reason specified in paragraph (3) of this regulation, other than sub-paragraph (f), the Secretary of State must give notice to the air cargo agent of the proposal and of the reasons for it. Where such notice is given—

- (a) the air cargo agent may make representations to the Secretary of State within 28 days from the date of such notice;
- (b) the Secretary of State must take into account any representations made under sub-paragraph (a) before reaching a decision as to the removal of the air cargo agent from the list; and
- (c) the Secretary of State must give notice to the air cargo agent of the decision to remove them from the list and of the reasons for it, or of the decision to retain them on the list, as the case may be.

(5) An air cargo agent that the Secretary of State decides to remove from the list of security approved air cargo agents for a reason within paragraph (3) of this regulation other than sub-paragraphs (c) or (f) of that paragraph, may not re-apply for inclusion on the list until after the expiry of three months beginning with the date of the Secretary of State's notice under paragraph 4(c) of this regulation.

(6) If the Secretary of State has, in the case of an air cargo agent with multiple sites, decided to remove specific sites from the list of security approved air cargo agents for a reason within paragraph (3) of this regulation, other than sub-paragraphs (c) or (f) of that paragraph, the prohibition on re-applying for inclusion on the list until after the expiry of three months beginning with the date of the Secretary of State's notice under paragraph 4(c) of this regulation shall apply only to those specific sites.

Application of the provisions of Part 2 of the 1982 Act to security approved air cargo agents

10.—(1) Any provision in Part 2 of the 1982 Act which applies to persons who are permitted to have access to the security restricted area of an aerodrome for the purposes of the activities of a business (including any provision which creates a criminal offence) shall also apply to any air cargo agent on the list of security approved air cargo agents, subject to the modification as set out in paragraph (2) of this regulation.

(2) In the application of section 14 of the 1982 Act to an air cargo agent in accordance with paragraph (1) of this regulation, paragraph (d) of subsection (1A) shall have effect as if it reads:

“(d) in the case of a direction given to an air cargo agent, in respect of such activities carried on by that air cargo agent as are specified in the direction.”

Revocations and amendments

11.—(1) The following instruments are revoked—

- (a) the Aviation Security (Air Cargo Agents) Regulations 1993(a);

(a) S.I. 1993/1073, amended by S.I. 1996/1607, S.I. 1998/1152 and S.I. 2023/727.

- (b) the Aviation Security (Air Cargo Agents) (Amendment) Regulations 1996^(a);
 - (c) the Aviation Security (Air Cargo Agents) (Amendment) Regulations 1998^(b); and
 - (d) the Aviation Security (Air Cargo Agents) (Amendment) Regulations 2023^(c).
- (2) The following provisions of the Annex to the Implementing Regulation are omitted—
- (a) point 6.3.1 (approval of regulated agents);
 - (b) point 6.4.1 (approval of known consignors);
 - (c) Attachment 6-A (declaration of commitments - regulated agents);
 - (d) Attachment 6-B (guidance for known consignors);
 - (e) Attachment 6-C (validation checklist for known consignors);
 - (f) point 8.1.3 (approval of regulated suppliers); and
 - (g) Attachment 8-A (declaration of commitments - regulated supplier of in-flight supplies).

Transitional provisions

12.—(1) Where a Regulated Agent was included on the list maintained in accordance with regulation 3 of the Aviation Security (Air Cargo Agents) Regulations 1993 immediately prior to the commencement of these Regulations, the Secretary of State must add that Regulated Agent to the list of security approved air cargo agents without the requirement for an application under regulation 4 of these Regulations.

(2) Where a Known Consignor was included on the database of supply chain security in accordance with point 6.4.1 of the Annex to the Implementing Regulation immediately prior to the commencement of these Regulations, the Secretary of State must add them to the list of security approved air cargo agents without the requirement for an application under regulation 4 of these Regulations.

(3) Where a Regulated Supplier was included on the database of supply chain security in accordance with point 8.1.3 of the Annex to the Implementing Regulation immediately prior to the commencement of these Regulations, the Secretary of State must add them to the list of security approved air cargo agents without the requirement for an application under regulation 4 of these Regulations.

(4) Any Regulated Agent, Known Consignor or Regulated Supplier added to the list of security approved air cargo agents in accordance with paragraphs (1) to (3) of this regulation shall remain on the list until the expiry of the original listing, unless any of the reasons for removal in regulation 9 are applicable.

(5) Where an application by a Regulated Agent for inclusion on the list maintained in accordance with regulation 3 of the Aviation Security (Air Cargo Agents) Regulations 1993 was pending immediately prior to the commencement of these Regulations, that application must be considered in accordance with the requirements of the Aviation Security (Air Cargo Agents) Regulations 1993 as they applied at the time of the application. If approved, the Regulated Agent must be added to the list of security approved air cargo agents maintained under regulation 3(1) of these Regulations.

(6) Where an application by a Known Consignor for inclusion on the database of supply chain security made in accordance with point 6.4.1.2 of the Implementing Regulation was pending immediately prior to the commencement of these Regulations, that application must be considered in accordance with the requirements of the Implementing Regulation as it applied at the time of

(a) S.I. 1996/1607.
(b) S.I. 1998/1152.
(c) S.I. 2023/727.

the application. If approved, the Known Consignor must be added to the list of security approved air cargo agents maintained under regulation 3(1) of these Regulations.

(7) Where an application by a Regulated Supplier for inclusion on the database of supply chain security made in accordance with point 8.1.3.2 of the Implementing Regulation was pending immediately prior to the commencement of these Regulations, that application must be considered in accordance with the requirements of the Implementing Regulation as it applied at the time of the application. If approved, the Regulated Supplier must be added to the list of security approved air cargo agents maintained under regulation 3(1) of these Regulations.

Signed by authority of the Secretary of State for Transport

27th February 2024

Davies of Gower
Parliamentary Under Secretary of State
Department for Transport

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations enable the Secretary of State to maintain a list of air cargo agents who are approved for purposes related to aviation security (referred to as the “list of security approved air cargo agents”). They revoke and replace previous regulations which enabled such a list for only discrete types of air cargo agents.

Regulation 3 enables the Secretary of State to maintain the list of security approved air cargo agents and provides for the list to be sub-divided into three separate categories of air cargo agents, namely Regulated Agents, Known Consignors and Regulated Suppliers. Regulation 3 also requires each individual site that handles relevant air cargo to be included as a separate listing.

Regulation 4 sets out the requirements for applying for inclusion on the list of security approved air cargo agents.

Regulation 5 sets out the requirements that the Secretary of State must be satisfied are met in order to approve an application for inclusion on the list of security approved air cargo agents.

Regulation 6 requires the Secretary of State to give notice to an air cargo agent when their application for inclusion on the list of security approved air cargo agents has been approved.

Regulation 7 requires the Secretary of State to give notice of a proposal to refuse an application for inclusion on the list of security approved air cargo agents and enables the air cargo agent in question to make representations to the Secretary of State which must be considered before a final decision is made.

Regulation 8 requires air cargo agents on the list of security approved air cargo agents to give the Secretary of State notice of any changes to the information provided as part of the application, as well as details of the corrected information.

Regulation 9 sets out the conditions under which the Secretary of State may remove an air cargo agent from the list of security approved air cargo agents, as well requiring the Secretary of State to give notice of a proposal to remove an air cargo agent from the list. An air cargo agent is permitted to make representations to the Secretary of State which must be considered before a final decision is made.

Regulation 10 extends the provisions of Part 2 of the Aviation Security Act 1982, which apply to persons permitted to have access to a security restricted area of an aerodrome for the activities of a business, to air cargo agents on the list of security approved air cargo agents with appropriate modification.

Regulation 11 revokes previous Statutory Instruments relating to the list of security approved air cargo agents, the content of which is being replaced, with amendments, through these Regulations. Regulation 11 also omits a number of points from assimilated regulations which provided an alternative basis and criteria for the maintenance of lists of approved air cargo agents, referred to as “the database of supply chain security”.

Regulation 12 makes transitional provision requiring the Secretary of State to add Regulated Agents who were on the previous list of security approved air cargo agents immediately before the revocation of the relevant regulations to the new list without requiring a further application. Similar provision is made to require the Secretary of State to add Known Consignors and Regulated

Suppliers who were on the database of supply chain security immediately before the omission of the relevant provisions of assimilated law to the new list of security approved air cargo agents without requiring a further application. Transitional provision is also made to ensure that any applications for inclusion on the list of security approved air cargo agents under the Aviation Security (Air Cargo Agents) Regulations 1993, or for inclusion of the database of supply chain security immediately before the commencement of these regulations are considered in accordance with the rules applicable at the time the application was made. An air cargo agent approved through such an application will be added to the new list of security approved air cargo agents.

A full impact assessment has not been produced for this instrument as no, or no significant impact on the private or voluntary sectors is foreseen. An Explanatory Memorandum has been published alongside these Regulations on www.legislation.gov.uk.

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