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STATUTORY INSTRUMENTS

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**1993 No.1073**

**CIVIL AVIATION**

**The Aviation Security (Air Cargo Agents) Regulations 1993**

*Made* - - - - *13th April 1993*  
*Laid before Parliament* *22nd April 1993*  
*Coming into force* - - *1st September, 1993*

The Secretary of State, in exercise of powers conferred on him by section 21F of the Aviation Security Act 1982<sup>(1)</sup> and of all other powers enabling him in that behalf, after consulting organisations appearing to him to represent persons affected by the regulations, hereby makes the following regulations:—

**Citation and commencement**

1. These Regulations may be cited as the Aviation Security (Air Cargo Agents) Regulations 1993 and shall come into force on 1st September 1993.

**Interpretation and service of documents**

2.—(1) In these Regulations unless the context otherwise requires—

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

“the 1990 Act” means the Aviation and Maritime Security Act 1990<sup>(2)</sup>;

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

“cargo” includes mail, courier and express items, and stores other than goods intended for sale or use on the aircraft on which they are carried;

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

“prohibited article” means any of the articles referred to in section 4(2)(b) of the 1982 Act or an incendiary device, which in either case is being carried without lawful authority or reasonable excuse;

“registrar of companies” means the registrar or other officer performing under the Companies Act 1985<sup>(3)</sup> the duty of registration of companies in England and Wales or in Scotland, or

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(1) 1982 c. 36; section 21F was inserted by the Aviation and Maritime Security Act 1990 (c. 31), section 6.

(2) 1990 c. 31.

(3) 1985 c. 6.

the registrar of companies appointed under Article 653 of the Companies (Northern Ireland) Order 1986(4), as the case may require;

“relevant air cargo business” means the business referred to in regulation 4 below, and “relevant air cargo” shall be construed accordingly;

“security approved air cargo agent” means an air cargo agent whose name is included on the list referred to in regulation 3 below.

(2) Any notice authorised or required by these Regulations to be given to any person shall be in writing, and section 24 of the 1982 Act shall apply to such a notice as it applies to any notice authorised or required by any provision of Part II of the 1982 Act to be served on or given to any person; and the date of such notice shall be the date it is made, and not the date of receipt.

### **List of security approved air cargo agents**

3. The Secretary of State may maintain a list of air cargo agents who are approved by him for purposes related to aviation security, which shall be called “the list of security approved air cargo agents”.

### **Air cargo agents who may apply for listing**

4. An air cargo agent may only apply for inclusion on the list of security approved air cargo agents if he carries on the business of:

- (a) handling cargo intended for carriage by civil aircraft; and
- (b) delivering, whether by himself or by a person acting on his behalf, such cargo to an aircraft operator for carriage by such aircraft:
  - (i) from any aerodrome in Great Britain to a destination outside Great Britain, or
  - (ii) from any aerodrome in Northern Ireland.

### **Application for listing as a security approved air cargo agent**

5.—(1) Subject to regulation 4, an air cargo agent may make application to the Secretary of State to be included on the list of security approved air cargo agents, and such application shall 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;

together with the additional information specified in paragraph (2) below.

(2) The additional information referred to in paragraph (1) above is:

- (a) the applicant’s trading name, if different from the name given under paragraph (1) above of this regulation;
- (b) the applicant’s VAT registration number, if any;
- (c) the telephone number, facsimile number if any, and address of the principal office, and of all premises where relevant air cargo is handled by the applicant;

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(4) S.I.1986/1032 (N.I. 6), to which there are amendments not relevant to these Regulations.

- (d) where the applicant is not a sole proprietor, the name, telephone number, facsimile number if any, and address within the United Kingdom of an 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 relevant air cargo business;
- (e) the number of staff engaged by the applicant in the handling of relevant air cargo;
- (f) the number of staff engaged by the applicant in security duties;
- (g) details of any criminal convictions under the 1982 Act or the 1990 Act of:
  - (i) the applicant;
  - (ii) any staff employed by the applicant in the handling of cargo intended for carriage by aircraft;
  - (iii) where the applicant is a body corporate, any director or secretary of that body; and
  - (iv) where the applicant is an unincorporated association or partnership, any member of that association or partner in that partnership.

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

6. The Secretary of State may include an applicant on the list of security approved air cargo agents only if he is satisfied as to each of the following matters:

- (a) that the applicant has delivered to him a description of the applicant's current security procedures and measures in relation to air cargo, and that in the Secretary of State's opinion those procedures and measures are reasonable for the purposes to which Part II of the 1982 Act applies;
- (b) that the applicant has made adequate arrangements to ensure that all parts of premises where the applicant handles relevant air cargo after he has satisfied himself that it contains no prohibited articles are physically secure and have appropriate controls on access; and
- (c) that the applicant is likely to be able to comply with any directions which may be given to him by the Secretary of State under section 13A or 14 of the 1982 Act.

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

7. Where the Secretary of State decides to include an applicant on the list of security approved air cargo agents, he shall give notice to the applicant of his decision and of the date on which the applicant was placed on such list.

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

8.—(1) Where the Secretary of State proposes not to include an applicant on the list of security approved air cargo agents, he shall give notice to the applicant of such proposal and of 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 shall take into account any representations made under paragraph (2) of this regulation before reaching a decision as to the inclusion of the applicant on the list.

(4) Where the Secretary of State decides not to include an applicant on the list, he shall give notice to the applicant of his decision and of the reasons for it.

(5) Any applicant whom the Secretary of State decides not to include on the list of security approved air cargo agents may not re-apply for such inclusion until after the expiry of the 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 in circumstances**

9. A security approved air cargo agent shall give notice to the Secretary of State if at any time any information provided to the Secretary of State in pursuance of paragraph (1), (2)(a), (c), (d) or (g) of regulation 5 above is rendered inaccurate by any change of circumstances, and shall give such notice to the Secretary of State within 7 days of such change occurring.

#### **Removal of a security approved air cargo agent from the list**

10.—(1) If at any time it appears to the Secretary of State that:

- (a) a security approved air cargo agent no longer carries on a relevant air cargo business;
- (b) a security approved air cargo agent is no longer able or has failed to comply with any direction given to the air cargo agent under section 13A or 14 of the 1982 Act (whether or not he has been prosecuted);
- (c) three years have elapsed from the date of the air cargo agent first being placed on the list of security approved air cargo agents, or from the last three yearly anniversary of that date, or from the last occasion of the air cargo agent being placed on the list (whichever is the later), and he has not applied at least 42 days previously to remain on the list;
- (d) in providing any information required pursuant to regulation 5 above, an air cargo agent has made a statement which is false in a material particular;
- (e) a security approved air cargo agent is in breach of regulation 9 above; or
- (f) there is any other good reason for the security approved air cargo agent to be removed from the list;

the Secretary of State may, subject to paragraph (2) of this regulation, remove that air cargo agent from the list of security approved air cargo agents.

(2) Where the Secretary of State proposes to remove a security approved air cargo agent from the list for a reason specified in paragraph (1) of this regulation, he shall give notice to the air cargo agent of his proposal and of the reasons for it and, where such a 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 shall take into account any representations made under sub-paragraph (a) above before reaching a decision as to the removal of the air cargo agent from the list; and
- (c) the Secretary of State shall give notice to the air cargo agent of his decision to remove him from the list and of the reasons for it, or of his decision to retain him on the list, as the case may be.

(3) Any air cargo agent whom the Secretary of State decides to remove from the list for a reason within paragraph (1) of this regulation other than sub-paragraph (c) of that paragraph, may not re-apply for such inclusion until after the expiry of the period of three months beginning with the date of the Secretary of State's notice under paragraph (2)(c) of this regulation.

(4) The Secretary of State shall remove a security approved air cargo agent from the list upon being requested in writing to do so by that air cargo agent.

### **Application of the provisions of Part II of the 1982 Act to security approved air cargo agents**

11.—(1) Any provision in Part II of the 1982 Act which applies in relation to persons who are permitted to have access to a restricted zone 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 included on the list of security approved air cargo agents, subject to the modification 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 sub-paragraph (1) above, paragraph (d) of subsection (1A) shall have effect as if for the words from “carried on by that person” onwards there were substituted “as are specified in the direction and are carried on by that person at any premises where relevant air cargo is handled by him”.

### **Amendment of sections 21A(2) and 21B(3) of the 1982 Act**

12.—(1) Subsection (2) of section 21A of the 1982 Act shall be amended as follows:

- (a) at the end of paragraph (b), the word “and” shall be omitted; and
- (b) at the end of paragraph (c), there shall be added “and
  - (d) any air cargo agent who is included on the list of security approved air cargo agents maintained by the Secretary of State pursuant to regulations made under section 21F of this Act.”.

(2) Subsection (3) of section 21B of the 1982 Act shall be amended as follows:

- (a) at the end of paragraph (c), the word “and” shall be omitted; and
- (b) at the end of paragraph (d), there shall be added “and
  - (e) any air cargo agent who is included on the list of security approved air cargo agents maintained by the Secretary of State pursuant to regulations made under section 21F of this Act.”.

Signed by authority of the Secretary of State for Transport

13th April 1993

*Caithness*  
Minister of State,  
Department of Transport

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## 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”), and include provisions relating to the application and requirements for listing (regulations 3, 5 and 6). They also include supplementary provisions relating to the refusal of inclusion on such a list, and removal from the list (regulations 8 and 10)

The Regulations extend the provisions of Part II of the Aviation Security Act 1982 which apply to persons permitted to have access to a restricted zone of an aerodrome for the activities of a business, to air cargo agents on this list (regulation 11).

The Regulations also amend the provisions of sections 21A(2) and 21B(3) of the Aviation Security Act 1982 so as to include references to air cargo agents on the list (regulation 12).