

2010 No. 902

CIVIL AVIATION

The Aviation Security Regulations 2010

<i>Made</i> - - - -	<i>22nd March 2010</i>
<i>Laid before Parliament</i>	<i>24th March 2010</i>
<i>Coming into force</i> - -	<i>29th April 2010</i>

The Secretary of State for Transport, being a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to air transport, in exercise of the powers conferred by that section, makes the following Regulations:

Citation, Commencement and Interpretation

1.—(1) These Regulations may be cited as the Aviation Security Regulations 2010 and they come into force on 29th April 2010.

(2) In these Regulations “the 1982 Act” means the Aviation Security Act 1982(c).

Designation

2. The Secretary of State for Transport is the designated single authority responsible for the coordination and monitoring of the implementation of security standards for the purposes of Article 9 of Regulation (EC) 300/2008 of the European Parliament and of the Council of 11 March 2008 on common rules in the field of civil aviation security(d).

Amendments to the 1982 Act

3. Part II of the 1982 Act (protection of aircraft, aerodromes and air navigation installations against acts of violence) is amended in accordance with regulations 4 to 11.

Purposes to which Part II applies

4. In section 10 (purposes to which Part II applies), after subsection (2), add—

“(3) The purpose of protecting civil aviation against acts of unlawful interference that jeopardise the security of civil aviation is to be treated as a purpose to which this Part applies (in so far as it is not a purpose to which this Part applies by virtue of subsection (1)).

(4) The reference in subsection (3) to protecting civil aviation against acts of unlawful interference that jeopardise the security of civil aviation has the same meaning as in the Framework Regulation.”

(a) S.I. 1993/2661.
(b) 1972 c.68.
(c) 1982 c.36.
(d) O.J. L 97/72, 9.4.2008.

Inspection of aircraft and aerodromes

5. Section 20 (inspection of aircraft and aerodromes)(a) is amended as follows—

(a) after subsection (3), insert—

“(3A) Subject to subsection (4) below, an authorised person has such powers to enter aircraft, buildings or works or to enter upon land as are necessary for the purpose of accompanying a Commission inspector on a Commission inspection.”;

(b) in subsection (4), for “subsection (3)”, substitute “subsections (3) and (3A)”;

(c) after subsection (4), insert—

“(4A) For the purpose of enabling a Commission inspector to conduct a Commission inspection, the Commission inspector has such powers as an authorised person has for the purpose of an inspection under this section.”; and

(d) after subsection (5), add—

“(6) In this section—

“Commission inspection” means an inspection conducted pursuant to Article 15 of the Framework Regulation;

“Commission inspector” means a person entitled to conduct a Commission inspection.”

Offences relating to authorised persons

6. In section 21E (offences relating to authorised persons)(b), after subsection (3), add—

“(4) The offence in subsection (1) applies in respect of a Commission inspector as it applies in respect of an authorised person.”

Amendment to penalties

7. In the following provisions, for “one-tenth of level 5 on the standard scale” substitute “£100”—

(a) section 12(10) (power to impose restrictions in relation to aircraft)(c);

(b) section 13(4A) (power to require aerodrome managers to promote searches at aerodromes)(d);

(c) section 13A(4) (power to require other persons to promote searches)(e);

(d) section 14(7A) (general power to direct measures to be taken for the purposes to which Part II applies)(f); and

(e) section 18C(2) (offences relating to enforcement notices)(g).

Interpretation

8. Section 24A (interpretation of Part II)(h) is amended as follows—

(a) in subsection (1), omit the “and” following the definition of “enforcement notice”;

(b) in subsection (1), after the definition of “enforcement notice”, insert—

(a) Section 20 was amended by the Aviation and Maritime Security Act 1990 (c.31) (“the 1990 Act”), Schedule 1, paragraph 11(2) to (5).

(b) Section 21E was inserted by the 1990 Act, section 5.

(c) Section 12(10) was inserted by the 1990 Act, Schedule 1, paragraph 4(3).

(d) Section 13(4A) was inserted by the 1990 Act, Schedule 1, paragraph 5(3).

(e) Section 13A was inserted by the 1990 Act, section 2.

(f) Section 14(7A) was inserted by the 1990 Act, Schedule 1, paragraph 6(3).

(g) Section 18C was inserted by the 1990 Act, section 4.

(h) Section 24A was inserted by the 1990 Act, Schedule 1, paragraph 16.

““Framework Regulation” means 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,”;

- (c) in subsection (1), after the definition of “restricted zone”, add
“, and
“security restricted area” has the meaning given by Article 3 of the Framework Regulation.”; and
- (d) after subsection (2), add—
“(3) For the purposes of this Part of this Act, in circumstances where the Framework Regulation does not apply, references to a security restricted area are to be read as references to a restricted zone (and references to that area are to be read accordingly).”

Renaming “restricted zone” as “security restricted area”

- 9.** In the following provisions, for “restricted zone” substitute “security restricted area”—
- (a) section 11(1)(d) (power for Secretary of State to require information)(**a**);
 - (b) section 11A (designation of restricted zones), in each place it occurs (including the title)(**b**);
 - (c) section 13A(1)(b) (power to require other persons to promote searches);
 - (d) section 14 (general power to direct measures to be taken for purposes to which Part II applies), in each place it occurs;
 - (e) section 20(1)(c)(ii) (inspection of aircraft and aerodromes);
 - (f) section 21A (false statements relating to baggage, cargo etc)(**c**), in each place it occurs;
 - (g) section 21B(3)(d) (false statements in connection with identity documents)(**d**);
 - (h) section 21C (unauthorised presence in restricted zone)(**e**), in each place it occurs (including the title) apart from subsection (2A) (as inserted by regulation 11);
 - (i) section 21F(2)(b) (air cargo agents)(**f**);
 - (j) section 23(2)(bc) (annual report by Secretary of State as to notices and directions under Part II)(**g**); and
 - (k) section 24A(2) (meaning of access to restricted zone).
- 10.** In the following provisions, for “that zone” substitute “that area”—
- (a) section 14(1A)(d) (general power to direct measures to be taken for purposes to which Part II applies); and
 - (b) section 24A(2) (meaning of access to restricted zone), in each place it occurs.
- 11.** In section 21C (unauthorised presence in restricted zone), after subsection (2), insert—
“(2A) A notice stating that the area concerned was a restricted zone is, for the purposes of subsection (2), to be treated as a notice stating that the area concerned was a security restricted area.”.

Signed by authority of the Secretary of State

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- (a) Section 11(1) was substituted by the 1990 Act, Schedule 1, paragraph 2(2).
 - (b) Section 11A was inserted by the 1990 Act, Schedule 1, paragraph 3.
 - (c) Section 21A was inserted by the 1990 Act, section 5.
 - (d) Section 21B was inserted by the 1990 Act, section 5.
 - (e) Section 21C was inserted by the 1990 Act, section 5.
 - (f) Section 21F was inserted by the 1990 Act, section 6.
 - (g) Section 23(2)(bc) was inserted by the 1990 Act, Schedule 1, paragraph 14.

22nd March 2010

Paul Clark
Parliamentary Under Secretary of State
Department for Transport

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations give effect in the United Kingdom to Regulation (EC) 300/2008 of the European Parliament and of the Council of 11 March 2008 on common rules in the field of civil aviation security (“the Framework Regulation”) insofar as it is necessary to do so.

These Regulations amend Part II of the Aviation Security Act 1982 (“ASA”) to enable directions to be given to comply with the EC requirements imposed by virtue of the Framework Regulation and to extend the powers of inspection to ensure that compliance with the Framework Regulation can be monitored and enforced in the same way as directions currently given under the ASA.

Regulation 4 provides for the purposes of the Framework Regulation as set out in Article 1 of that Regulation to be included as a purpose to which Part II of the ASA applies. This has the effect of allowing the Secretary of State to issue directions and enforcement notices for compliance with both domestic and EC requirements.

Regulation 5 makes provision for Commission inspectors to carry out Commission inspections of the UK’s compliance with the EC requirements imposed by virtue of the Framework Regulation in the same way as departmental inspectors conduct inspections for compliance with directions. The amendment made by this regulation also allows Commission inspectors to be accompanied by authorised persons, in this case, persons authorised as departmental inspectors, during the conduct of Commission inspections in accordance with the EC requirements imposed by virtue of the Framework Regulation.

Regulation 6 provides that the offence of obstructing an authorised person acting in the exercise of their duties, or falsely pretending to be an authorised person, applies in the same way to a Commission inspector as it currently applies to an authorised person under the ASA.

Regulation 7 amends the level of daily penalties so that the current level imposed by the ASA (£500) is reduced in line with the limits set by Schedule 2 to the European Communities Act 1972 in respect of daily fines (currently £100). The effect of this is that there will be no disparity in the penalties for breach of domestic requirements and breach of EC requirements imposed by virtue of the Framework Regulation. The offence in section 21FA of the ASA is not affected by this amendment as that offence relates to a person on a list of “approved air cargo agents”. This list and the concept of air cargo agents do not exist in the EC regulations.

Regulation 8 adds a definition of “Framework Regulation” to the interpretation section of the ASA. A definition of “security restricted area” is added to reflect the terminology adopted by the Framework Regulation. Regulation 8 also adds a new subsection to the interpretation section to provide that references in the ASA to “restricted zone” remain unchanged in circumstances where the Framework Regulation does not have effect. This is the case for example for the Crown Dependencies which are not subject to EC regulations for the purposes of aviation security but to which certain provisions of the ASA are extended by Order in Council. Similarly, the Overseas Territories are not subject to EC regulations in respect of aviation security but are, by Order in Council, subject to certain provisions under the ASA.

Regulations 9 and 10 make provisions for the change in terminology from “restricted zone” to “security restricted area” to reflect the terminology used in the Framework Regulation. Regulation 11 provides that unauthorised access into an area called a “restricted zone” remains an offence

despite the change in terminology from “restricted zone” to “security restricted area” made to the ASA by Regulation 9. The term “restricted zone” is not used in the Framework Regulation but rather “security restricted area”, which has a defined meaning.

An Impact Assessment has been prepared and copies may be obtained from the Transport Security Directorate (TRANSEC), Department for Transport, 5th Floor, Southside, 105 Victoria Street, London SW1E 6DT. A copy has also been placed in the library of each House of Parliament. The Impact Assessment is also annexed to the Explanatory Memorandum which is available alongside these Regulations on the OPSI website www.opsi.gov.uk.

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STATUTORY INSTRUMENTS

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