

COMMISSION IMPLEMENTING REGULATION (EU) 2019/413**of 14 March 2019****amending Implementing Regulation (EU) 2015/1998 as regards third countries recognised as applying security standards equivalent to the common basic standards on civil aviation security****(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) Commission Regulation (EC) No 272/2009 ⁽²⁾ supplements the common basic standards on civil aviation security laid down in the Annex to Regulation (EC) No 300/2008.
- (2) That same Regulation (EC) No 272/2009 charges the Commission with the recognition of the equivalence of security standards of third countries, in accordance with the criteria set out in Part E of the Annex to that Regulation.
- (3) The Annex to Commission Implementing Regulation (EU) 2015/1998 ⁽³⁾ lists the third countries recognised as applying security standards equivalent to the common basic standards.
- (4) The Commission has received confirmation from the United Kingdom of Great Britain and Northern Ireland that it will maintain its regulations and standards on aviation security equivalent to the Union legislation beyond the date of its withdrawal from the European Union on 30 March 2019.
- (5) The Commission has verified that the United Kingdom of Great Britain and Northern Ireland satisfies the criteria set out in Part E of the Annex to Regulation (EC) No 272/2009.
- (6) The Commission has established an appropriate process to reattribute to the other Member States the responsibility for the designation of air carriers, third country regulated agents and third country known consignors, currently designated by the United Kingdom as ACC3, RA3 and KC3 respectively, and that this process should be regulated through transitional implementing provisions.
- (7) The Commission and the Member States acknowledge the valuable contribution to the functioning of the EU secure supply chain of ACC3, RA3 and KC3 provided by the EU aviation security validators approved by the United Kingdom of Great Britain and Northern Ireland, and the opportunity to provide for the Member States to take over the responsibility for their approval as from 30 March 2019.
- (8) Implementing Regulation (EU) 2015/1998 should therefore be amended accordingly.
- (9) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 19 of Regulation (EC) No 300/2008,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Implementing Regulation (EU) 2015/1998 is amended in accordance with the Annex to this Regulation.

⁽¹⁾ OJ L 97, 9.4.2008, p. 72.⁽²⁾ Commission Regulation (EC) No 272/2009 of 2 April 2009 supplementing the common basic standards on civil aviation security laid down in the Annex to Regulation (EC) No 300/2008 of the European Parliament and of the Council (OJ L 91, 3.4.2009, p. 7).⁽³⁾ 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 (OJ L 299, 14.11.2015, p. 1).

Article 2

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

Article 3

This Regulation shall apply from the day following that of which the Treaties cease to apply to and in the United Kingdom of Great Britain and Northern Ireland pursuant to Article 50(3) of the Treaty on European Union, subject to any possible withdrawal agreement concluded in accordance with Article 50(2) of the Treaty on European Union.

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

Done at Brussels, 14 March 2019.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX

The Annex to Implementing Regulation (EU) 2015/1998 is amended as follows:

(1) In Chapter 3, Attachment 3-B is replaced by the following:

ATTACHMENT 3-B

AIRCRAFT SECURITY

THIRD COUNTRIES, AS WELL AS OTHER COUNTRIES AND TERRITORIES TO WHICH, IN ACCORDANCE WITH ARTICLE 355 OF THE TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION, TITLE VI OF PART THREE OF THAT TREATY DOES NOT APPLY, THAT ARE RECOGNISED AS APPLYING SECURITY STANDARDS EQUIVALENT TO THE COMMON BASIC STANDARDS ON CIVIL AVIATION SECURITY

As regards aircraft security, the following third countries, as well as other countries and territories to which, in accordance with Article 355 of the Treaty on the Functioning of the European Union, Title VI of Part Three of that Treaty does not apply, have been recognised as applying security standards equivalent to the common basic standards on civil aviation security:

Canada

Faroe Islands, in regard to Vagar airport

Greenland, in regard to Kangerlussuaq airport

Guernsey

Isle of Man

Jersey

Montenegro

Republic of Singapore, in regard to Singapore Changi Airport

United Kingdom of Great Britain and Northern Ireland

United States of America

The Commission shall immediately notify the appropriate authorities of the Member States if it has information indicating that security standards applied by the third country or other country or territory concerned with a significant impact on overall levels of aviation security in the Union are no longer equivalent to the common basic standards of the Union.

The appropriate authorities of the Member States shall be notified without delay when the Commission has information about actions, including compensatory measures, confirming that the equivalency of relevant security standards applied by the third country or other country or territory concerned is re-established.;

(2) In Chapter 4, Attachment 4-B is replaced by the following:

ATTACHMENT 4-B

PASSENGERS AND CABIN BAGGAGE

THIRD COUNTRIES, AS WELL AS OTHER COUNTRIES AND TERRITORIES TO WHICH, IN ACCORDANCE WITH ARTICLE 355 OF THE TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION, TITLE VI OF PART THREE OF THAT TREATY DOES NOT APPLY, THAT ARE RECOGNISED AS APPLYING SECURITY STANDARDS EQUIVALENT TO THE COMMON BASIC STANDARDS ON CIVIL AVIATION SECURITY

As regards passengers and cabin baggage, the following third countries, as well as other countries and territories to which, in accordance with Article 355 of the Treaty on the Functioning of the European Union, Title VI of Part Three of that Treaty does not apply, have been recognised as applying security standards equivalent to the common basic standards on civil aviation security:

Canada

Faroe Islands, in regard to Vagar airport

Greenland, in regard to Kangerlussuaq airport

Guernsey

Isle of Man

Jersey

Montenegro

Republic of Singapore, in regard to Singapore Changi Airport

United Kingdom of Great Britain and Northern Ireland

United States of America

The Commission shall immediately notify the appropriate authorities of the Member States if it has information indicating that security standards applied by the third country or other country or territory concerned with a significant impact on overall levels of aviation security in the Union are no longer equivalent to the common basic standards of the Union.

The appropriate authorities of the Member States shall be notified without delay when the Commission has information about actions, including compensatory measures, confirming that the equivalency of relevant security standards applied by the third country or other country or territory concerned is re-established.;

(3) In Chapter 5, Attachment 5-A is replaced by the following:

ATTACHMENT 5-A

HOLD BAGGAGE

THIRD COUNTRIES, AS WELL AS OTHER COUNTRIES AND TERRITORIES TO WHICH, IN ACCORDANCE WITH ARTICLE 355 OF THE TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION, TITLE VI OF PART THREE OF THAT TREATY DOES NOT APPLY, THAT ARE RECOGNISED AS APPLYING SECURITY STANDARDS EQUIVALENT TO THE COMMON BASIC STANDARDS ON CIVIL AVIATION SECURITY

As regards hold baggage, the following third countries, as well as other countries and territories to which, in accordance with Article 355 of the Treaty on the Functioning of the European Union, Title VI of Part Three of that Treaty does not apply, have been recognised as applying security standards equivalent to the common basic standards on civil aviation security:

Canada

Faroe Islands, in regard to Vagar airport

Greenland, in regard to Kangerlussuaq airport

Guernsey

Isle of Man

Jersey

Montenegro

Republic of Singapore, in regard to Singapore Changi Airport

State of Israel, in regard to Ben Gurion International Airport

United Kingdom of Great Britain and Northern Ireland

United States of America

The Commission shall notify without delay the appropriate authorities of the Member States if it has information indicating that security standards applied by the third country or other country or territory concerned with a significant impact on overall levels of aviation security in the Union are no longer equivalent to the common basic standards of the Union.

The appropriate authorities of the Member States shall be notified without delay when the Commission has information about actions, including compensatory measures, confirming that the equivalency of relevant security standards applied by the third country or other country or territory concerned is re-established.;

(4) In chapter 6, the following point 6.8.1.6 is added:

‘6.8.1.6 Following the notification by the United Kingdom of Great Britain and Northern Ireland of its intention to withdraw from the European Union pursuant to Article 50 of the TEU, the ACC3 designations issued by this Member State are subject to the following provisions:

- (a) The responsibility for the current designations is transferred to the appropriate authority of the Member State listed in the Annex to Commission Regulation (EC) No 748/2009, as amended for the purposes of the withdrawal of the United Kingdom from the Union.
- (b) The responsibility for ACC3 designations of air carriers not listed in the Annex to Commission Regulation (EC) No 748/2009, as amended, is transferred to the appropriate authority as identified in point 6.8.1.1 (c).
- (c) The appropriate authority of the Member State as described in points (a) and (b) may agree with its counterpart in another Member State, for the latter to accept responsibility for the ACC3 designation of a given air carrier. In doing so, the concerned Member States shall promptly inform the Commission.
- (d) The Commission will inform the appropriate authority of the United Kingdom about the Member States taking over the responsibility of its ACC3 designations.
- (e) The appropriate authority of the United Kingdom shall make available to the appropriate authority of the receiving Member State, copy of the necessary documentation on which basis it had designated the air carriers listed in point (a) as ACC3. This shall include, at least, the complete validation report, the security programme and if applicable, the roadmap that was agreed with the relevant air carrier.
- (f) Provided the obligations in point (e) are satisfied, the transfer of responsibility for ACC3 designations shall occur on the day of withdrawal of the United Kingdom from the European Union.
- (g) ACC3 designations of air carriers operating exclusively to the United Kingdom shall be discontinued.
- (h) ACC3 designations transferred shall remain valid until their expiry and the receiving Member State takes over the responsibilities and obligations described in this Regulation.
- (i) The Commission will facilitate the administrative transition including the listing of the ACC3 details into the Union database on supply chain security.’

(5) In chapter 6, the following point 6.8.4.10 is added:

‘6.8.4.10 Following the notification by the United Kingdom of Great Britain and Northern Ireland of its intention to withdraw from the European Union pursuant to Article 50 of the TEU, designations of RA3 and KC3 issued by this Member State are subject to the following provisions:

- (a) The responsibility for RA3 or KC3 designation of an entity consisting of a branch or a subsidiary company of an airline operator, or of an air carrier itself, is transferred to the appropriate authority of the Member State identified in point 6.8.1.1 of this Regulation;
- (b) The responsibility for RA3 or KC3 designation of an entity not directly linked to an air carrier is transferred to the appropriate authority of the Member State identified in point 6.8.1.1 as holding the responsibility for the national or major air carrier of the third country where the RA3 or KC3 operates.
- (c) The responsibility for RA3 or KC3 designation of an entity not falling under points (a) or (b), is transferred to the appropriate authority of the Member State identified in point 6.8.1.1 as holding the responsibility for one of the Union air carriers operating from the airport where the RA3 or KC3 operates, or the closest airport to the site of this entity.
- (d) The appropriate authority of the Member State as described in points (a) to (c) may agree with its counterpart in another Member State, for the latter to accept responsibility for the RA3 or KC3 designation of a given entity or airline operator. In doing so, the concerned Member States shall promptly inform the Commission.
- (e) The Commission will inform the appropriate authority of the United Kingdom about the Member States taking over the responsibility of its RA3 and KC3 designations.
- (f) The appropriate authority of the United Kingdom shall make available to the appropriate authority of the receiving Member State, copy of the necessary documentation on which basis it had designated an entity or an airline operator as RA3 or KC3. This shall include, at least, the complete validation report and the security programme of the relevant entity or airline operator.

- (g) Provided the obligations in point (f) are satisfied, the transfer of responsibility for RA3 and KC3 designations shall occur on the day of withdrawal of the United Kingdom from the European Union.
 - (h) RA3 and KC3 designations transferred shall remain valid until their expiry and the receiving Member State takes over the responsibilities and obligations described in this Regulation.
 - (i) The Commission will facilitate the administrative transition including the listing of the RA3 and KC3 details into the Union database on supply chain security.'
- (6) In Chapter 6, Attachment 6-F is replaced by the following:

'ATTACHMENT 6-F

CARGO AND MAIL

6-Fi

THIRD COUNTRIES, AS WELL AS OTHER COUNTRIES AND TERRITORIES TO WHICH, IN ACCORDANCE WITH ARTICLE 355 OF THE TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION, TITLE VI OF PART THREE OF THAT TREATY DOES NOT APPLY, THAT ARE RECOGNISED AS APPLYING SECURITY STANDARDS EQUIVALENT TO THE COMMON BASIC STANDARDS ON CIVIL AVIATION SECURITY

As regards cargo and mail, the following third countries have been recognised as applying security standards equivalent to the common basic standards on civil aviation security:

Montenegro

United Kingdom of Great Britain and Northern Ireland

The Commission shall notify without delay the appropriate authorities of the Member States if it has information indicating that security standards applied by the third country or other country or territory concerned with a significant impact on overall levels of aviation security in the Union are no longer equivalent to the common basic standards of the Union.

The appropriate authorities of the Member States shall be notified without delay when the Commission has information about actions, including compensatory measures, confirming that the equivalency of relevant security standards applied by the third country or other country or territory concerned is re-established.

6-Fii

THIRD COUNTRIES, AS WELL AS OTHER COUNTRIES AND TERRITORIES TO WHICH, IN ACCORDANCE WITH ARTICLE 355 OF THE TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION, TITLE VI OF PART THREE OF THAT TREATY DOES NOT APPLY, FOR WHICH ACC3 DESIGNATION IS NOT REQUIRED, ARE LISTED IN COMMISSION IMPLEMENTING DECISION C(2015)8005.

6-Fiii

VALIDATION ACTIVITIES OF THIRD COUNTRIES, AS WELL AS OF OTHER COUNTRIES AND TERRITORIES TO WHICH, IN ACCORDANCE WITH ARTICLE 355 OF THE TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION, TITLE VI OF PART THREE OF THAT TREATY DOES NOT APPLY, THAT ARE RECOGNISED AS EQUIVALENT TO EU AVIATION SECURITY VALIDATION.

No provisions adopted yet.;

- (7) In chapter 11, the following points 11.6.3.9 and 11.6.3.10 are added:

'11.6.3.9 As from the date of withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union pursuant to Article 50 of the TEU, the following provisions apply in respect of EU aviation security validators approved by this Member State to perform validations in respect of airlines, operators and entities seeking respectively ACC3, RA3 and KC3 designation:

- (a) they are no longer recognised in the Union;
- (b) the EU aviation security validations performed before the date of withdrawal of the United Kingdom from the Union, including the EU validation reports issued before that date remain valid for the purpose of the designation of air carriers, operators and entities they have validated;

- 11.6.3.10 Individuals and entities indicated in the previous point may seek approval as EU aviation security validator by the appropriate authority of a Member State. The approving Member State shall:
- (a) Obtain from the appropriate authority of the United Kingdom the necessary documentation on which basis the individual or legal entity had been approved as EU aviation security validator;
 - (b) Verify that the applicant fulfils the Union requirements in this Chapter. If the appropriate authority is satisfied, it may approve the individual or the entity as EU aviation security validator for a period not exceeding the approval that was granted by the appropriate authority of the United Kingdom;
 - (c) Promptly inform the Commission that will ensure the listing of the EU aviation security validator into the Union database on supply chain security.'
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