Commission Implementing Regulation (EU) 2019/103 of 23 January 2019 amending Implementing Regulation (EU) 2015/1998 as regards clarification, harmonisation and simplification as well as strengthening of certain specific aviation security measures (Text with EEA relevance)

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(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 gained with the implementation of Commission Implementing Regulation (EU) 2015/1998[(2)] has shown the need for minor amendments to the implementing modalities of certain common basic standards.

(2) Certain specific aviation security measures should be clarified, harmonised or simplified in order to improve legal clarity, standardize the common interpretation of the legislation and further ensure the best implementation of the common basic standards on aviation security.

(3) Furthermore, new developments in terms of airport and airline operations, technology and security equipment addressing the changes in the threat and risk picture, as well as the evolution of international Standards and Recommended Practices of International Civil Aviation Organisation (ICAO) require the implementing rules to be amended accordingly.

(4) The amendments concern measures in the areas of airport security, the revision of the rules on background check in order to enhance security culture and resilience, and the introduction, definition of performance standards and use of Shoe Explosive Detection equipment (SED) and Explosive Vapour Detection equipment (EVD).

(5) Implementing Regulation (EU) 2015/1998 should therefore be amended accordingly.

(6) 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:

Changes to legislation: *There are outstanding changes not yet made to Commission Implementing Regulation (EU) 2019/103. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Article 1

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

Article 2

This Regulation shall enter into force on 1 February 2019. However, points 2, 20, 25, 26, 28 to 38, 44 and 45 of the Annex to this Regulation shall apply from **[**F1 31 December 2021**]**.

Textual Amendments

F1 Substituted by Commission Implementing Regulation (EU) 2020/910 of 30 June 2020 amending Implementing Regulations (EU) 2015/1998, (EU) 2019/103 and (EU) 2019/1583 as regards the re-designation of airlines, operators and entities providing security controls for cargo and mail arriving from third countries, as well as the postponement of certain regulatory requirements in the area of cybersecurity, background check, explosive detection systems equipment standards, and explosive trace detection equipment, because of the COVID-19 pandemic (Text with EEA relevance).

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

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ANNEX

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

(1) Point 1.1.3.4 is replaced by the following:

1.1.3.4 A security search of those critical parts that could have been contaminated shall be carried out as soon as possible in order to reasonably ensure that they do not contain prohibited articles, wherever access to critical parts has occurred by any of the following:

(a) unscreened persons;

(b) passengers and crew members arriving from third countries other than those listed in Attachment 4-B;

(c) passengers and crew members arriving from Union airports where the relevant Member State has derogated from the common basic standards as provided for in Article 1 of Commission Regulation (EU) No 1254/2009[3], unless they are met upon their arrival and escorted outside those areas in accordance with point 1.2.7.3.

This point shall be considered to be met for aircrafts that are subject to an aircraft security search, and it 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 points (b) and (c) are concerned, this provision 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) Point 1.2.3 is replaced by the following:

1.2.3 **Requirements for Union crew identification cards and airport identification cards**

1.2.3.1 A crew identification card of a crew member employed by a Union air carrier and an airport identification card may only be issued to a person who has an operational need and has successfully completed an enhanced background check in accordance with point 11.1.3.

1.2.3.2 Crew and airport identification cards shall be issued for a period not exceeding five years.

1.2.3.3 The identification card of a person who fails an enhanced background check shall be immediately disabled or withdrawn, as applicable, and returned to the competent authority, operator or issuing entity, as appropriate.

1.2.3.4 The identification card shall be worn in a visible place at least whenever the holder is in security restricted areas.

A person who is not displaying his identification card in security restricted areas other than those areas where passengers are present shall be challenged by persons responsible for the implementation of point 1.5.1(c) and, as appropriate, be reported.

1.2.3.5 The identification card shall be returned immediately in the following circumstances:

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(a) upon request of the competent authority, operator or issuing entity as appropriate;

(b) upon termination of employment;

(c) upon change of employer;

(d) upon change of the need to have access to areas for which an authorisation has been given;

(e) upon expiry of the card;

(f) upon withdrawal of the card.

1.2.3.6 The issuing entity shall be notified immediately of the loss, theft or failure to return an identification card.

1.2.3.7 An electronic card shall be immediately disabled following return, expiry, withdrawal or notification of loss, theft or failure to return.;

(3) Point 1.2.6.3(b) is replaced by the following:

(b) be linked to the company or individual registered vehicle user through a secure vehicle registration database;

(4) In point 1.2.6.3, the last sentence is replaced by the following:

Electronic vehicle passes shall also be electronically readable airside.;

(5) Point 1.3.1.1(f) is replaced by the following:

(f) explosive trace detection (ETD) equipment combined with hand held metal detection (HHMD) equipment;;

(6) In point 1.3.1.1, the following points (g) and (h) are added:

(g) shoe metal detection (SMD) equipment;

(h) shoe explosive detection (SED) equipment.;

(7) At the end of point 1.3.1.1, the following sentence is added:

SMD and SED equipment may only be used as a supplementary means of screening.;

(8) Point 1.3.1.3 is replaced by the following:

1.3.1.3 Explosive detection dogs, ETD equipment and ETD equipment in combination with SED equipment may only be used as a supplementary means of screening of persons other than passengers or in unpredictable alternation with hand searches, hand searches in combination with SMD equipment, WTMD or security scanners.;

(9) The following sentence is added at the end of point 3.1.3:

Recording of the information as above, may be held in electronic format.;

(10) Point 4.0.3 is replaced by the following:

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4.0.3 Passengers and their cabin baggage arriving from a Member State where the aircraft was in transit after having arrived from a third country not listed in Attachment 4-B or from a Union airport where the relevant Member State has derogated from the common basic standards as provided for in Article 1 of Regulation (EU) No 1254/2009, shall be considered as passengers and cabin baggage arriving from a third country, unless there is a confirmation that these passengers and their cabin baggage were screened in accordance with this Chapter.;

(11) The following point 4.0.6 is added:

4.0.6 Passengers and their cabin baggage arriving from a Union airport where the relevant Member State has derogated from the common basic standards as provided for in Article 1 of Regulation (EU) No 1254/2009 shall be considered as passengers and cabin baggage arriving from a third country, unless there is confirmation that these passengers and their cabin baggage were screened in accordance with this Chapter.;

(12) Point 4.1.1.2(f) is replaced by the following:

(f) ETD equipment combined with hand held metal detection (HHMD) equipment;;

(13) In point 4.1.1.2, the following points (g) and (h) are added:

(g) shoe metal detection (SMD) equipment;

(h) shoe explosive detection (SED) equipment.;

(14) Point 4.1.1.9 is replaced by the following:

4.1.1.9 Explosive detection dogs, ETD equipment, SMD equipment and SED equipment may only be used as a supplementary means of screening.;

(15) Point 4.1.3.1 is replaced by the following:

4.1.3.1 LAGs carried by passengers may be exempted from screening with LEDS equipment upon entry to the SRA if the LAGs are in individual containers with a capacity not greater than 100 millilitres or equivalent in one transparent resealable plastic bag of a capacity not exceeding 1 litre, whereby the contents of the plastic bag fit comfortably and the bag is completely closed.;

(16) Point 4.1.3.2 is deleted;

(17) Point 5.0.3 is amended as follows:

5.0.3 Hold baggage arriving from a Member State where the aircraft was in transit after having arrived from a third country not listed in Attachment 5-A or from a Union airport where the relevant Member State has derogated from the common basic standards as provided for in Article 1 of Regulation (EU) No 1254/2009 shall be considered as hold baggage arriving from a third country, unless there is a confirmation that the hold baggage was screened in accordance with this Chapter.;

(18) The following point 5.0.6 is added:

5.0.6 Hold baggage arriving from a Union airport where the relevant Member State has derogated from the common basic standards as provided for in Article 1 of Regulation (EU) No 1254/2009 shall be considered as hold baggage arriving from a