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(*Acts whose publication is obligatory)*

REGULATION (EC) No 849/2004 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 29 April 2004

amending Regulation (EC) No 2320/2002
establishing common rules in the field of civil aviation security

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 80(2) thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Economic and Social Committee [1],

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty [2],

[1] Opinion delivered on 28 January 2004 (not yet published in the Official Journal).

[2] Opinion of the European Parliament of 11 March 2004 (not yet published in the Official Journal), Council Decision of 29 April 2004.

Whereas:

(1) Regulation (EC) No 2320/2002 [1] establishes harmonised common rules in the field of civil aviation security.

(2) The application of Regulation (EC) No 2320/2002 has demonstrated that there is a need for technical amendments. These amendments do not seek to change the scope of the Regulation, nor do they prejudice in any way the security of civil aviation passengers.

(3) Regulation (EC) No 2320/2002 permits different but adequate levels of security to be set at the smallest airports. It is consistent to permit the same adequate levels of security at both ends of a flight.

(4) Regulation (EC) No 2320/2002 should be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) 2320/2002 is hereby amended as follows:

1) The following definition shall be added to Article 2:

"(4) "demarcated area" shall mean an area that is separated from other security restricted areas of an airport by means of access control.";

[1] OJ L 355, 30.12.2002, p. 1.

2) Article 4 shall be amended as follows:

– paragraph 3 shall be replaced by the following:

"3. The appropriate authority of a Member State may, on the basis of a local risk assessment, and where the application of the security measures specified in the Annex may be disproportionate, or where they cannot be implemented for objective practical reasons, adopt national security measures to provide an adequate level of protection, at airports,:

(a) with a yearly average of no more than 2 commercial flights per day; or

(b) with only general aviation flights; or

(c) with commercial activity limited to aircraft with less than 10 tonnes of Maximum Take Off Weight (MTOW) or fewer than 20 seats,

taking into account the particularities of such small airports.

The Member State concerned shall inform the Commission of these measures.";