

L.N. 286 of 2001

**AIRPORTS AND CIVIL AVIATION (SECURITY) ACT
(CAP. 405)**

Regulated Agents Regulations, 2001

IN exercise of the powers conferred by article 3 of the Airports and Civil Aviation (Security) Act, the Minister for Home Affairs has made the following regulations:–

1. The title of these regulations is the Regulated Agents Regulations, 2001 and they shall come into force on the 1st May, 2002. Citation and commencement.

2. In these regulations, unless the context otherwise requires:– Interpretation.

“the Act” means the Airports and Civil Aviation (Security) Act; Cap. 405.

“applicant” means a regulated agent who applies for inclusion on the list of security approved regulated 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; and “relevant regulated” shall be construed accordingly;

“list of security approved regulated agents” means the list referred to in regulation 3 hereof;

“prohibited article” means any of the articles referred to in article 25(2) (a), (b) and (c) of the 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 appointed in terms of article 400 of the Companies Act and performing the duty of registration of companies in Malta; Cap. 386.

“security approved regulated agent” means a regulated agent whose name is included on the list referred to in regulation 3 hereof.

(2) Any notice authorised or required by these regulations to be given to any person shall be in writing.

List of security approved regulated agents.

3. The Minister shall maintain a list of regulated agents who are approved by him for purposes related to aviation security, which shall be called “the list of security approved regulated agents”.

Regulated agents who may apply for listing.

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

(a) handling cargo intended for carriage by civil aircraft; and

(b) delivering, whether by himself or through a person acting on his behalf, such cargo to an aircraft operator for carriage by such aircraft from Malta International Airport to any destination.

Application for listing as a security approved regulated agent.

5. (1) Subject to regulation 4, a regulated agent may make application to the Minister to be included on the list of security approved regulated 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 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 subregulation (2) hereof.

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

(a) the applicant’s trading name, if different from the name given under subregulation (1) 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 regulated is handled by the applicant;

(d) where the applicant is not a sole proprietor, the name, telephone number, facsimile number, if any, and address of any individual who will accept on behalf of the applicant any written or verbal communication (including any document mentioned in articles 4 and 20 of the Act) from the Minister relating to relevant regulated business;

(e) the number of staff engaged by the applicant in the handling of relevant regulated;

(f) the number of staff engaged by the applicant in security duties;

(g) details of any criminal convictions 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 of partnership, any member of that association or partner in that partnership.

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

Requirements for inclusion on the list of security approved regulated agents.

(a) that the applicant has delivered to him a description of the applicant's current security procedures and measures in relation to regulated, and that in the Minister's opinion those procedures and measures are reasonable for the purpose to which Part III of the Act applies;

(b) that the applicant has made adequate arrangements to ensure that all parts of premises where the applicant handles relevant regulated, 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 Minister under articles 22 and 23 of the Act.

Notice of inclusion
on the list of
security approved
regulated agents.

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

Notice of proposal
not to include an
applicant
on the list of
security approved
regulated agents.

8. (1) Where the Minister proposes not to include an applicant on the list of security approved regulated 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 Minister within 28 days from the date of the Minister's notice under subregulation (1) of this regulation.

(3) The Minister shall take into account any representations made under subregulation (2) of this regulation before reaching a decision as to the inclusion of the applicant on the list.

(4) Where the Minister 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 Minister decides not to include on the list of security approved regulated agents may not re-apply for such inclusion until after the expiry of a period of twelve months starting from the date of the Minister's notice under subregulation (4) of this regulation.

Notice of
information being
rendered
inaccurate by a
change in
circumstances.

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

Removal of a
security approved
regulated agent
from the list.

10. (1) If at any time it appears to the Minister that:

(a) a security approved regulated agent no longer carries on a relevant regulated business;

(b) a security approved regulated agent is no longer able or has failed to comply with any direction given to the regulated agent under article 22(2)(a) or 23 of the Act;

(c) five years have elapsed from the date of the regulated agent first being placed on the list of security approved regulated agents, or from the last five yearly anniversary of that date, or

from the last occasion of the regulated agent being placed on the list that date, or from the last occasion of the regulated 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, a regulated agent has made a statement which is false in a material particular;

(e) a security approved regulated agent is in breach of regulation 9 above; or

(f) there is any other good reason for the security approved regulated agent to be removed from the list,

the Minister may remove that regulated agent from the list of security approved regulated agents.

(2) In a case where the Minister decides to remove a security approved regulated agent from the list of security approved regulated agents he shall forthwith give notice to that agent of that removal and of the reason for it and the agent may, in accordance with subregulations (3) and (4) of this regulation, appeal to the Minister against that decision.

(3) An appeal to the Minister shall be made by notice signed by or on behalf of the regulated agent given to the Minister and stating the grounds on which the appeal is based and the arguments on which the agent relies.

(4) Notice of appeal shall be given within 28 days from the date of the notice referred to in subregulation (2) of this regulation.

(5) The Minister shall give notice to the regulated agent of his decision to maintain the removal of that agent from that list and the notice shall include the reason for that decision.

(6) Any regulated agent whom the Minister decides to remove from the list of security approved regulated agents for a reason within subregulation (1) of this regulation, other than paragraph (c) of that subregulation, may not re-apply for inclusion in that list until after the expiry of the period of twelve months starting from the date of the Minister's notice under subregulation (2) or (5) of this regulation, whichever is the later.

(7) (a) The Minister shall remove a security approved regulated agent from the list of security approved regulated agents upon being requested to do so by the agent.

(b) Subject to paragraph (c) below, if a regulated agent is removed from the list of security approved regulated agents pursuant to paragraph (a) of this subregulation, the Minister may, on the request of the agent, re-include that regulated agent on the list if he is satisfied that it is appropriate to do so.

(c) The Minister may only re-include a regulated agent on the list of security approved regulated agents under paragraph (b) above if he receives a request for such re-inclusion from that regulated agent not less than one month from the date on which that agent was removed from the list.