Consultation on

Airports and Civil Aviation (Amendment) Bill

Views are sought on the amendments proposed to existing aviation and civil aviation legislation, namely the Airports and Civil Aviation Act 1987

Consultation Period: 30th May 2017 to 6th July 2017

Issued by:

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Executive Summary
The primary objective of the Bill is for the Airport and Civil Aviation Act 1987 to be amended to enable the Department of Economic Department to make subordinate legislation for the purpose of:

- meeting the Island’s international obligations in respect of civil aviation;
- regulating the Island’s civil aviation in general.

At present, the Island mainly relies on the UK to make Orders in Council to accomplish these needs; however, this requires the Island to develop the required policy to include in the legislation and to produce the first draft of the Order in Council. In addition, the Island is currently able to apply specific European Union and UK legislation to the Island.

Within the Department of Economic Development, the Director of Civil Aviation is responsible for the day to day operation of the Isle of Man Civil Aviation Administration and the Isle of Man Aircraft Registry. Consequently, the proposals will introduce new legislative process rather than introducing new functions or responsibilities.

The closing date for the receipt of comments on the proposed Bill as detailed in this consultation paper is 5.00 pm on 6th July 2017. Consultation responses and any queries on the contents of this consultation should be sent to caa@gov.im or:

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The Isle of Man Civil Aviation Administration
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St George’s Court
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Introduction
This consultation paper sets out proposals to introduce a new Bill that would make amendments to the existing provisions governing the primary legislative powers of the Department of Economic Development (here on referred to as “the Department”) in relation to the regulation of civil aviation. Within the Department of Economic Development, the Director of Civil Aviation is responsible for the day to day operation of the Isle of Man Civil Aviation Administration and Isle of Man Aircraft Registry.

Background & Current Legislative Arrangements
At present the Island mainly relies on the UK to make Orders in Council using the Civil Aviation Act 1982 as applied to the Island\(^1\) to implement the Chicago Convention\(^2\) and to regulate air navigation in general in the Isle of Man. Whilst this relies on the Isle of Man Civil Aviation Administration and Aircraft Registry to develop the required policy to include in the legislation and to produce the first draft of the Order in Council, this still places a burden on the UK Government and progression of legislation on behalf of the Crown Dependencies is inevitably in competition with wider UK priorities.

The Airports and Civil Aviation Act 1987\(^3\) currently enables the Department by order to apply to the Island as part of the law specific UK and European Union (EU) civil aviation legislation subject to exceptions, adoptions and moderate modifications. Whilst these are useful provisions that must be retained, they are not sufficient to create effective legislation where significant modifications or variations from the UK or EU legislation may be required.

The Isle of Man Civil Aviation Administration and Aircraft Registry have grown and developed in both resource and capability since their establishment in 2007. Development of a range of secondary legislation is required to ensure continued compliance with international civil aviation standards and to maintain and enhance still further the Isle of Man Aircraft Registry’s international reputation and credibility. The ability to progress the required legislation in a timely and efficient manner can only be achieved through the provision of new powers to make domestic secondary legislation.

In addition, the Isle of Man Aircraft Registry’s main concern is to implement international aviation standards rather than the domestic standards of the UK or Europe. Therefore, the Air Navigation (Isle of Man) Order\(^4\), as the main Order in Council governing civil aviation for aircraft registered on the Island as well as those flying to and from the Island, needs to be increasingly divergent from the UK’s Air Navigation Order, thereby further complicating the task undertaken by the UK.

Consequently, the Department is proposing to add a new section 11B into the Airports and Civil Aviation Act 1987 to provide enabling provisions for the Department to make secondary legislation on civil aviation matters. Jersey, Guernsey and Gibraltar already have similar provisions in place+.

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\(^1\) Civil Aviation (Isle of Man) Order 2007 (SI 2007/614) extends elements of Sections 60 and 61 of the Civil Aviation Act 1982 to the Island.
\(^2\) The Chicago Convention, also known as the Convention on International Civil Aviation, sets forth the “principles and arrangements for international civil aviation to be developed in a safe and orderly manner and that international air transport services may be established on the basis of equality of opportunity and operated soundly and economically”.
\(^3\) Sections 11 and 11A
\(^4\) SI 2015/870 as amended by SI 2016/155
However, there is no proposal to amend or add to the existing powers to make secondary legislation governing aviation security as the Island will continue to legislate strictly in accordance with UK and EU requirements, utilising the existing powers under the Airports and Civil Aviation Act 1987. Although not anticipated to be routinely utilised, it is also proposed that Sections 60 and 61 of the Civil Aviation Act 1982 as it has effect in the Isle of Man are retained to provide the UK with additional assurance that their obligations on behalf of the Island under international conventions are able to be met.

**Overview of the Airports and Civil Aviation (Amendment) Bill**

The primary objective of the Bill is for the Airport and Civil Aviation Act 1987 to be amended to provide provision for the Department of Economic Department to make subordinate legislation for the purpose of:

- meeting the Island’s international obligations in respect of civil aviation;
- regulating the Island’s civil aviation in general.

These provisions may include orders regarding the:

- registration of aircraft on the Island;
- prohibition of flying without certificates of airworthiness;
- licensing, inspection and regulation of aerodromes;
- access to aerodromes, aircraft and aircraft factories for the purpose of inspection;
- conditions under which aircraft may fly within the Island;
- prohibition of persons engaging in or employed in or in connection with air navigation;
- prevention of interference with air navigation apparatus;
- conditions under which passengers and goods may be carried by air;
- safety, efficiency and regularity of air navigation;
- safety of aircraft, persons and property carried;
- prevention of aircraft endangering persons and property and the detention of aircraft;
- issue of certificates and licenses;
- issue of exemptions from the provisions of an order;
- prohibition of aircraft from take-off and landing without certificates of compliance with appropriate noise and emissions standards;
- implementation of the Chicago and Cape Town Conventions;
- reporting of births, deaths and missing persons on aircraft;
- minimum insurance required for an aircraft;
- registration of mortgages for aircraft and aircraft engine.

Such orders may make provisions:

- that incorporate specific internationally recognised technical standards, and make ambulatory reference to such technical standards as they may be amended form time to time or appear in a particular edition;
- in terms of any other document specified by the Department, as may be amended from time to time;
that differ with respect to different classes and circumstances pertaining to aircraft, aerodrome, persons or property.

The Bill would also:

- enable the Department to make regulations prohibiting or restricting flying in specified airspace;
- provide the power to specify offences from non-compliance with the secondary legislation and associated penalties.

Detailed Analysis of the Airports and Civil Aviation (Amendment) Bill

The purpose of this overview is to aid the reader’s understanding of key elements of the draft Bill at Annex A. It is not intended to provide a comprehensive review of the Bill or be a substitute for reading it. The Bill is divided into 6 clauses. **Bold** text is used below to highlight references in the Bill.

The draft Bill is based heavily on the content of the Civil Aviation Act 1982 as amended (the UK’s equivalent legislation, parts of which have been applied to the Island) with minor additions and variations as highlighted below.

**Clauses 2 - Commencement**

The Bill has a commencement provision (Clause 2) which requires consultation with the Department of Infrastructure as they are the Division responsible for the administration of the Airports and Civil Aviation Act 1987.

**Clause 5 – Insertion of New Sections 11B, 11C and 11D**

**International Obligations on Civil Aviation**

**Section 11B (1) and (2)** provide the general provision for the Department to make orders to meet international obligations on civil aviation and to regulate civil aviation in general, and for these orders not to be required to apply the related UK legislation.

**Detailed Provisions**

**Section 11B (3) and (4)** lists particular aspects that such orders may address, but without prejudice to the generality of **Section 11B (1) and (2)** above:

**Registration of Aircraft**

**Section 11B(3)(a)** enable provisions to be made regarding the process of aircraft registration and reflects content specified in the Civil Aviation Act 1982 as it has effect in the Isle of Man. Current examples of such current secondary legislation can be seen in Part 1 of the Air Navigation (Isle of Man) Order 2015 which includes details on who may register an aircraft on the Island and the processes to be followed.

**Certificates of Airworthiness**

**Section 11B(3)(b)** enable provisions to be made regarding the prohibition from aircraft flying unless in possession of a certificate of airworthiness and in accordance with conditions.

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5 Section 60(3)(a)
regarding maintenance and repair. This replicates content specified in the Civil Aviation Act 1982 as it has effect in the Isle of Man. Such provisions are used to ensure that the aircraft possesses the necessary requirements for flying in safe conditions within allowable limits. Current examples of such current secondary legislation can be seen in Part 3 of the Air Navigation (Isle of Man) Order 2015, which includes processes for the issue and renewal of such certificates, and conditions and processes required to ensure the continued airworthiness of aircraft.

**Aerodromes**

In order to ensure compliance with the Aerodrome aspects of the Chicago Convention, it is necessary to license, inspect and regulate aerodromes. Section 11B(3)(c) reflects content specified in the Civil Aviation Act 1982 which was not applied to the Island. Article 129 of the Air Navigation (Isle of Man) Order 2015 currently contains requirements on the licensing of aerodromes and associated conditions.

**Access for Inspection**

Section 11B(3)(d) enable provisions to be made on access to aerodromes, aircraft and aircraft factories for the purpose of inspection and reflects that currently specified in the Civil Aviation Act 1982 as it has effect in the Isle of Man. However the draft also explicitly adds the provision regarding access to aircraft which is implicit in the UK provisions. Such inspections of aircraft, aerodromes, and factories are generally used to ensure that standards are appropriate to ensure public safety. A current example of such secondary legislation can be seen in Article 152 of the Air Navigation (Isle of Man) Order 2015.

**Conditions of Entry and Flight Within Isle of Man**

Section 11B(3)(e) enable provisions to be made to specify conditions for flight into and within the Island and reflects content within Section 60 of the Civil Aviation Act 1982 which was not applied to the Island. Such conditions may include specifications on aircraft equipment such as radio communication and navigation equipment.

**Persons Engaging in or Employed in Civil Aviation**

Section 11B(3)(f) enable provisions to be made to ensure that only appropriate persons undertake specified air navigation tasks and reflects content within the Civil Aviation Act 1982 as it has effect in the Isle of Man. However, it omits the UK exception of maintenance of aircraft at unlicensed aerodromes that are not used for commercial or gainful purposes, as it is felt that persons undertaking such tasks are expected to be undertaken by appropriate persons. An example of such secondary legislation can be seen in relation to flight crew licensing in Part 6 of the Air Navigation (Isle of Man) Order 2015.

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6 Section 60(3)(b)
7 Section 60(3)(c)
8 Section 60(3)(c)
9 Section 60(3)(e)
10 Section 60(3)(d)
Interference with Air Navigation Apparatus

Section 11B(3)(g) enable provisions to be made to ensure minimise or prevent interference with air navigation equipment and replicates content within the Civil Aviation Act 1982\textsuperscript{11} which was not applied to the Island. Such provisions are required as part of the civil aviation regulatory role to ensure that air navigation equipment is appropriately protected and thus ensures the safety of its service.

Conditions on the Carriage of Passengers and Goods by Air

Section 11B(3)(h) enable provisions to be made to set conditions on the carriage of passengers and goods by air and replicates content specified in the Civil Aviation Act 1982 as it has effect in the Isle of Man\textsuperscript{12}. An example of such secondary legislation can be seen in Part 23 of the Air Navigation (Isle of Man) Order 2015 governing commercial air transport and aerial work by foreign registered aircraft. Such provisions ensure that the safety standards are appropriate for public transport.

Safety, Efficiency and Regularity of Air Navigation

Section 11B(3)(i) enable provisions to be made to secure the safety, efficiency and regularity of air navigation - a broad principle that includes specifying airspace arrangements for various aviation activities. This reflects content specified in the Civil Aviation Act 1982 as it has effect in the Isle of Man\textsuperscript{13} with the addition of related content from the Civil Aviation Act 1982\textsuperscript{14} which was not applied to the Island.

Issue and Validation of Certificates, Licences, Documents

Section 11B(3)(j) enable provisions to be made to specify the manner and conditions of the issue, validation, renewal, extension or variation of certificates, licenses and other documents required by the order. This replicates content specified in Section 60 of the Civil Aviation Act 1982 as it has effect in the Isle of Man\textsuperscript{15}. Numerous current examples of such secondary legislation can be seen in the Air Navigation (Isle of Man) Order 2015, including issuing certificates of aircraft airworthiness and registration, aerodrome licenses, and validating flight crew licenses.

Exemptions

Section 11B(3)(j) enable provisions to be made that enable exemptions from the order and replicates that currently specified in the Civil Aviation Act 1982 as it has effect in the Isle of Man\textsuperscript{16}. Exemptions are required on occasions in order to support the efficiency of civil aviation, subject to appropriate mitigations being put in place to secure public safety. Such exemptions are routinely administered by the Isle of Man Civil Aviation Administration and the Isle of Man Aircraft Registry.

\textsuperscript{11} Section 60(3)(g)
\textsuperscript{12} Section 60(3)(f)
\textsuperscript{13} Section 60(3)(h)
\textsuperscript{14} Section 60(3)(ha)
\textsuperscript{15} Section 60(3)(n)
\textsuperscript{16} Section 60(3)(q)
**Noise and Emissions**

Section 11B(3)(h) enable provisions to be made to prohibit aircraft from taking off or landing in the Island without certificates of compliance with noise and emissions standards. This reflects content regarding noise certificates in the Civil Aviation Act 1982\(^{17}\) which was not applied to the Island, but with the addition of ‘emissions’. This provision is needed as part of the civil aviation regulatory role as can be seen by the application of UK aircraft noise and environmental standards regulations\(^{18}\) to the Island; when these regulations are updated it would be beneficial to be able to create orders to replace these rather than being limited to applying the UK or EU regulations.

**Chicago Convention and Cape Town Convention**

Section 11B(4)(a) provides power for the Department to implement any provision or instrument of the Chicago Convention and Cape Town Conventions. This reflects provisions relating to the Chicago Convention specified in the Civil Aviation Act 1982 as it has effect in the Isle of Man\(^{19}\), but allows the incorporation of any instrument rather than being limited to Annexes\(^{20}\). The Aviation (Cape Town Convention) (No.2) Order 2016\(^{21}\) gives effect to the Cape Town Convention\(^{22}\) on the Island by implementing a modified version of the UK’s International Interests in Aircraft Equipment (Cape Town Convention) Regulations 2015\(^{23}\). Whilst there is no foreseeable need for amendments or new legislation in relation to the Cape Town Convention for the foreseeable future, it is desirable to ensure that the new Isle of Man primary powers are future proof to enable such activity if ever necessary.

**Births, Deaths and Missing Persons**

Section 11B(4)(b) enable provisions to be made that place requirements on the pilot and owner of an aircraft to report births, deaths, and missing persons on aircraft registered in the Island. Currently, these requirements are specified in the Island through the application of UK regulations\(^{24}\) which require the Isle of Man Aircraft Registry to maintain records of such events. However, the current regulations will require overhaul in due course and the proposed primary powers will enable bespoke Island legislation to be created.

**Aircraft Insurance**

Section 11B(4)(c) and (d) enables provisions to be made to specify minimum insurance required for an aircraft registered on the Island and aircraft operating in the Island.

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\(^{17}\) Section 60(3)(r)

\(^{18}\) Aeroplane Noise Regulations 1999 (SI 1999/1452) and Air Navigation (Environmental Standards) Order 2002 (SI 2002/798) as modified and applied to the Isle of Man by SD909/06

\(^{19}\) Section 60(2)(a)

\(^{20}\) Therefore this includes ICAO Annexes, Procedures for Air Navigation Services (PANS), Documents, and Circulars

\(^{21}\) SD 2016/0229 as applied to the Isle of Man

\(^{22}\) The aim of the Cape Town Convention is to reduce the cost of raising finance for large, high value mobile assets which routinely cross borders. The Convention provides an over-arching framework for high value mobile assets, whilst the accompanying protocols address issues raised in financing a specific type of asset. There are three protocols currently in existence – aircraft equipment, rolling railway stock and space objects.

\(^{23}\) SI 2015/912

\(^{24}\) The Civil Aviation (Births, Deaths and Missing Persons) Regulations 1948 (SI 1948 No 1411), as amended by SI 1972/323 and as applied to the Isle of Man
Currently, these requirements are specified in the Island through the application of UK\textsuperscript{25} and EU\textsuperscript{26} regulations. In due course these will require update and the proposed primary powers will enable bespoke Island legislation to be created rather than only being able to apply UK or EU regulations.

\textbf{Aircraft and Engine Mortgages}

\textbf{Section 11B(4)(e) and (f)} enable provisions to be made concerning the registration of aircraft and aircraft engine mortgages. The Isle of Man Aircraft Registry currently provides a register of aircraft mortgages and the process is enabled through the application of a UK regulation\textsuperscript{27} which would benefit from replacement with bespoke Island legislation. At this time the Aircraft Registry does not offer a register of aircraft engine mortgages but this is possible in the future and would require supporting secondary legislation.

\textbf{Technical Standards}

\textbf{Section 11B(4)(g)} enables the provision of internationally recognised technical standards into Island law by referencing these within an order. This will provide benefit by not having to reproduce extensive technical text. A typical example of such a technical document is the ICAO\textsuperscript{28} Technical Instructions on Dangerous Goods\textsuperscript{29}.

\textbf{Ambulatory References}

The ability to make ambulatory references as specified in \textbf{Section 11B(4)(h)} allows a referenced technical standard to remain valid in law when the technical standard is updated by an amendment or new edition. This removes the need to make new legislation when such technical standards are updated and ensures that the latest standards are always immediately applicable. For example, the ICAO Technical Instructions on Dangerous Goods are routinely updated every 2 years.

\textbf{Any Other Document}

The ability to make provisions in terms of any other document as specified in \textbf{Section 11B(4)(i)} enables documents other than internationally recognised technical standards to be applicable in Island law. Such documents would typically be Isle of Man Civil Aviation Administration or Isle of Man Aircraft Registry policy documents. \textbf{Section 11B(4)(i)} also enables the specified document to be amended from time to time and to still remain valid in law without the need for further legislation.

\textbf{Differing Provisions}

\textbf{Section 11B(4)(j)} enables different provisions in terms of differing classes of aircraft, aerodromes, persons or property and reflects content specified in the Civil Aviation Act 1982.

\textsuperscript{25}Civil Aviation (Insurance) Regulations 2005 (SI 2005/1089) as modified and applied to the Isle of Man by Civil Aviation (Subordinate Legislation) (Application) Order 2006 (SD 909/06)
\textsuperscript{26}Regulation (EC) No 785/2004 as modified and applied to the Isle of Man by the Civil Aviation (Insurance Regulation) (Application) Order 2006 (SD 911/06)
\textsuperscript{27}The Civil Aviation Mortgaging of Aircraft Order 1972 (SI 1972 No 1268) as amended by SI 1981/611 and as modified and applied to the Isle of Man by Civil Aviation (Subordinate Legislation) (Application) Order 2006 (SD 909/06)
\textsuperscript{28}International Civil Aviation Organisation
\textsuperscript{29}The Technical Instructions contain all the detailed instructions necessary for the safe international transport of dangerous goods by air.
as it has effect in the Isle of Man\textsuperscript{30}. This is required due to the variable nature of these characteristics and to ensure that aviation legislation is proportionate and reasonable for the particular class.

\textit{Tynwald Procedure}

\textbf{Section 11B(5)} specifies that orders under this section will not come into operation until it has been approved by Tynwald. This procedure ensures appropriate scrutiny of the development of the secondary legislation.

\textbf{Regulations}

\textbf{Section 11C (1) and (2)} enable provisions to be made that allow the prohibition or restriction of flying in specified airspace of the Island and reflects content within the Civil Aviation Act 1982\textsuperscript{31} not applied to the Island. Such measures are put in place to impose additional constraints and conditions in response to particular temporary or short term needs that are in the public interest. These prohibitions/restrictions are currently made in the Isle of Man using powers specified in the Air Navigation (Isle of Man) Order 2015\textsuperscript{32} which enable the Department to make Air Navigation (Restriction of Flying) Regulations. Examples of where these are routinely used for pre-planned events include:

- Tynwald Day.
- Isle of Man TT and Festival of Motorcycling.
- Red Arrows air displays.

In addition, the powers are designed to put measures in place that can impose airspace prohibitions or restrictions in response to land or sea emergencies. This may be required to protect aircraft from the harmful effects of the event or to protect rescue activities from adjacent aviation activity causing interference. The Tynwald procedure for such regulations must enable these regulations to be made at very short notice, at any time of the day and without undue delay, hence \textbf{Section 11C(2)} states that such regulations are to be laid before Tynwald as soon as practicable.

\textbf{Offences}

There is a need to be able to prescribe penalties for breaches of secondary legislation made under the new primary powers. This is provided for in \textbf{Clause 11D} and generally reflects content and the penalties specified in the Civil Aviation Act 1982 as it has effect in the Isle of Man\textsuperscript{33}.

\textbf{Clause 6 - Amendment}

\textbf{Clause 6} ensures that the Act is amended to contain new interpretations necessary to support the amendment.

\textbf{Consultation Process}

\textsuperscript{30} Section 60(4)
\textsuperscript{31} Section 60(3)(i)
\textsuperscript{32} Article 92 of SI 2015/870 as amended by SI 2016/155
\textsuperscript{33} Section 61(1) and (2)
The Department would welcome your views on the content of the draft Bill (see Annex A) and associates Impact Assessment (see Annex B), including any unintended consequences, practical enforcement and implementation issues, and any proposed alternative approaches. The closing date for the receipt of comments on the proposed Bill as detailed in this consultation paper is 5.00 pm on 6th July 2017.

If you are responding on behalf of a group it would be helpful to make your position clear and to provide a summary of the people/organisations represented. To ensure that the process is open and honest, responses can only be accepted if you provide your full name with your response.

Consultation responses and any queries on the contents of this consultation should be sent (preferably by email) to:

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The Isle of Man Civil Aviation Administration  
Department of Economic Development  
St George’s Court  
Upper Church Street  
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The Department will publish a summary of the responses within 3 months of the closing date for this consultation.

The purpose of consultation is not to be a referendum, but is an information, views and evidence gathering exercise from which to take an informed decision on the content of proposed legislation. As with any consultation exercise, the responses received do not guarantee changes will be made to the draft legislation.

Unless specifically requested otherwise, responses received may be published either in part or in their entirety, together with the name of the person or body submitting the response; if you do not consent to this, you must clearly request that your response be treated as confidential. Any confidentiality disclaimer generated by your IT system in email responses will not be treated as such a request. Information provided in response to the consultation will be dealt with in accordance with the Guidance on the Code of Practice on Consultation and the Code of Practice on Access to Information. Respondents should also be aware that there may be circumstances in which the Department will be required to communicate information to third parties on request, in order to comply with obligations under the Freedom of Information Act 2015.

This paper has been developed in accordance with the Isle of Man Code of Practice on Consultations Criteria as follows:

- Consult widely throughout the process, allowing a minimum of 6 weeks for a minimum of one written consultation at least once during the development of the legislation or policy.
• Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
• Ensure your consultation is clear, concise and widely accessible.
• Give feedback regarding the responses received and how the consultation process influenced the policy.
• Monitor your Department’s effectiveness at consultation.
• Ensure your consultation follows best practice, including carrying out an Impact Assessment if appropriate.

**Impact Assessment**

A copy of the draft Impact Assessment is at Annex B. This will be updated as necessary to take account of responses made to this consultation.

The proposals will introduce new Island legislative process on civil aviation rather than introducing new functions or responsibilities. No business sectors/organisations or individuals will be directly impacted from the Bill, but there will be subsequent impact as a result of the secondary legislation made under the proposed primary enabling powers.

The content of the new primary powers reflects those provisions currently used to create secondary legislation that has effect on the Island through UK process; additional provisions generally reflect further UK domestic primary powers that had not been applied to the Island. Other new aspects cover subject areas which are currently legislated through the application of UK and or EU regulation to the Island under current provisions in the Airports and Civil Aviation Act 1982.
A BILL to amend the Airports and Civil Aviation Act 1987 to provide enabling powers for the making of Isle of Man secondary legislation that is not derived from related secondary legislation enacted in the United Kingdom; to authorise the enactment of Isle of Man secondary legislation that gives effect to international obligations of the Island in relation to civil aviation; and for connected purposes.

BE IT ENACTED by the Queen’s Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

1 Short title

The short title of this Act is the Airports and Civil Aviation (Amendment) Act 2017.

2 Commencement

(1) This Act (except sections 1 and 3 and this section) comes into operation on such day or days as the Department of Economic Development may, after consultation with the Department of Infrastructure, by order appoint.

(2) An order under subsection (1) may make such consequential, incidental, supplementary and transitional provisions as appear to the Department of Economic Development to be necessary or expedient for the purposes of the order.

3 Expiry

(1) The provisions of this Act expire on the day after the promulgation of the Act.

(2) The expiry does not —

(a) affect the continuing operation of the amendments made by this Act; or

(b) revive any provision not in operation when the amendments took effect.
4 Airports and Civil Aviation Act 1987 amended

The Airports and Civil Aviation Act 1987 is amended as follows.

5 Insertion of new sections 11B, 11C and 11D

Immediately after section 11A of the Airports and Civil Aviation Act 1987 (Application to Island of Community instruments), insert the following —

**Orders not derived from United Kingdom legislation**

(1) The Department of Economic Development may make one or more orders for the purpose of —

(a) incorporating into the legislation of the Island any of the Island’s international obligations in respect of civil aviation; or
(b) regulating within the Island civil aviation in general.

(2) The Department of Economic Development, when making an order under subsection (1), is not required to apply to the Island the provisions of any related legislation of the United Kingdom.

(3) Without prejudice to the generality of subsection (1) or to any other provision of this Act, an order under this section may contain provision —

(a) as to the registration of aircraft in the Island;
(b) for prohibiting aircraft from flying unless certificates of airworthiness issued or validated under an order are in force with respect to them and except upon compliance with such conditions as to maintenance or repair as may be specified in the order;
(c) for the licensing, inspection and regulation of aerodromes;
(d) for access to —

(i) aerodromes and places where aircraft have landed,
(ii) aircraft for the purpose of inspecting the aircraft; or
(iii) aircraft factories for the purpose of inspecting work therein carried on in relation to aircraft or parts thereof;
(e) as to the conditions under which, and in particular the aerodromes to or from which, aircraft entering or leaving the Island may fly,
and as to the conditions under which aircraft may fly from one part of the Island to another;

(f) for prohibiting persons from engaging in, or being employed in or in connection with, air navigation in such capacities as may be specified in the order except in accordance with provisions in that behalf contained in the order, and for the licensing of those employed at aerodromes licensed under the order in the inspection or supervision of aircraft;

(g) for minimising or preventing interference with the use or effectiveness or apparatus used in connection with air navigation, and for prohibiting or regulating the use of such apparatus as aforesaid and the display of signs and lights liable to endanger aircraft;

(h) as to the conditions under which passengers may be carried by air and under which aircraft may be used for other commercial, industrial or gainful purposes, as to the conditions under which goods may be carried by air, for prohibiting the carriage by air of goods of such classes as may be specified in the order, and for conferring, on such persons as may be so specified, powers relating to the enforcement of any such condition or prohibition (including powers to examine, take samples of, seize and detain any goods, powers to open any baggage or packages containing goods or to require them to be opened and powers to require the production of any documents);

(i) generally for securing the safety, efficiency and regularity of air navigation and the safety of aircraft and persons and property carried therein, for safeguarding the health of persons on board aircraft, for preventing aircraft endangering other persons and property and, in particular, for the detention of aircraft for any of the purposes specified in this paragraph;

(j) as to the manner and conditions of the issue, validation, renewal, extension or variation of any certificate, licence or other document required by the order (including the examinations and tests to be undergone), and as to the form, custody, production, cancellation,
suspension, endorsement and surrender of any such document;

(k) for exempting from the provisions of the order or any of them any aircraft or persons or classes of aircraft or persons;

(l) for prohibiting aircraft from taking off or landing in the Island unless there are in force in respect of those aircraft such certificates of compliance with standards as to noise and emissions as may be specified in the order and except upon compliance with the conditions of those certificates.

(4) Without limiting either subsection (1) or subsection (3), an order made under this section may include, but need not be limited to, provisions —

(a) incorporating into the law of the Island any provision of the Chicago Convention or the Cape Town Convention, or of any instrument associated with either Convention;

(b) placing requirements on the pilot in command and owner of an aircraft to report births, deaths and missing persons on aircraft registered in the Island;

(c) specifying the minimum insurance required in respect of liability for passengers, associated duties of applicants for registration of an aircraft on the Island, duties of the Department of Economic Development and associated enforcement powers and penalties;

(d) establishing the minimum level of insurance required for aircraft operating in the Island, dictated by maximum take-off mass and numbers of passengers carried;

(e) specifying the process for registration of mortgages for aircraft registered on the Island;

(f) enabling the registration of mortgages for aircraft engines;

(g) incorporating specific internationally recognised technical standards into the law of the Island by means of reference within the order to documents containing such standards, thereby obviating the need to reproduce the text of these documents in the order;
(h) making ambulatory reference to technical standards referred to in paragraph (g), as they may —

(i) be stipulated or amended from time to time; or

(ii) appear in a particular edition of a publication in which they are set out,

and providing that those technical standards have the force of law in the Island without the need for further legislation whenever they are amended or a new edition of the publication is produced;

(i) in terms of any other document, as such document may be amended from time to time, which the Department of Economic Development or another person considers relevant.

(5) An order under this section may make different provision with respect to different classes of aircraft, aerodromes, persons or property and with respect to different circumstances.

(6) An order under this section will not come into operation until it has been approved by Tynwald.

(7) In this section a reference to goods includes a reference to animals.

11C Regulations

(1) The Department of Economic Development may make regulations prohibiting or restricting flying in specified airspace of the Island or any part thereof —

(a) for such period as must be specified in the regulations; and

(b) subject to such conditions as may be specified in the regulations.

(2) Regulations under this section must be laid before Tynwald as soon as practicable after they are made, and if Tynwald at the sitting at which the regulations are laid or at the next following sitting resolves that they are to be annulled, they cease to have effect.

11D Power to create offences in secondary legislation

(1) An order under section 11B or regulations under section 11C may, for the purpose of securing compliance with its provisions, provide that a person commits an offence in such circumstances as may be specified in the order.
or regulations, as the case may be, and to be liable on conviction of any such offence to such penalty as may be so specified.

(2) The power conferred by virtue of subsection (1) does not include power —

(a) to provide for offences to be triable summarily only;
(b) to authorise the imposition, on summary conviction of any offence, of any term of custody or of a fine exceeding level 5 on the standard scale;
(c) to authorise the imposition, on conviction on information of an offence, of a term of custody exceeding [2 years].

(3) All sums received by way of fees paid under an order under section 11B or regulations under section 11C must be paid into the general revenue of the Island.

6 Amendment of section 12

Section 12 of the Airports and Civil Aviation Act 1987 (Interpretation) is amended in subsection (1) by inserting the following definitions in the appropriate alphabetical sequence —

“the Cape Town Convention” means the Convention on International Interests in Mobile Equipment signed at Cape Town on 16th November 2001;

“the Chicago Convention” means the Convention on International Civil Aviation which was, on 7th December 1944, signed on behalf of the Government of the United Kingdom at the International Civil Aviation Conference held at Chicago;
Annex B – Draft Impact Assessment

DEPARTMENT: Department of Economic Development

IMPACT ASSESSMENT OF: Proposal to amend the Airports and Civil Aviation Act 1987, adding a new section providing enabling powers for the Department to make domestic secondary aviation legislation

Stage: Consultation Version: 2 Date: 26 May 2017
Related Publications:

Responsible Officer: Deputy Director Civil Aviation
Email Address: colin.gill@gov.im Telephone: 687141

SUMMARY: INTERVENTION AND OPTIONS

Briefly summarise the proposal’s purpose and the intended effects

It is proposed that the Airports and Civil Aviation (Amendment) Bill would amend the Airports and Civil Aviation Act 1987 by inserting a new section 11B into the Act. The new section would provide enabling powers for the Department to make secondary legislation to meet the Island’s international obligations in respect of civil aviation and to regulate the Island’s civil aviation in general. However, there is no proposal to amend or add to the existing powers to make secondary legislation governing aviation security as the Island will continue to legislate strictly in accordance with UK and EU requirements, utilising the existing powers under the Airports and Civil Aviation Act 1987.

The proposed new power will enable the Department to bring forward secondary legislation with the minimum of delay. Such legislation will significantly help to maintain and enhance the international reputation and competitiveness of the Aircraft Registry.

What are the options that have been considered [Note A]

1. Progress with the Airports and Civil Aviation (Amendment) Bill.
2. Maintain the status quo. This option would leave the Registry at a severe disadvantage against our competitors, would lead to increased risks and would be likely to detrimentally affect the Island’s financial and professional service sectors.

Link to Government Strategic Plan

Programme for Government:

The proposal complies with the Programme for Government’s Guiding Principle “Responsible Island” with the associated outcome that “we have more responsive legislation and regulation”. The proposal will facilitate this outcome by removing the present requirement to rely on scarce UK resources to make civil aviation legislation on behalf of the Island.

Link to Department/Statutory Board/Office Aims and Objectives

Department of Economic Development Business Plan 2016/17:

- Priorities: Secure and safe – our commitment to safety and security within a free and
democratic society for both individuals and businesses remains a vital part of the Isle of Man’s appeal.

- Established Sectors Plan: Enact legislation to conform to the latest international standards and confirm the Isle of Man as a modern, well regulated jurisdiction.

Responsible Departmental Member

Mr Martyn Perkins MHK

Ministerial sign off [Note B]

I have read the Impact Assessment and I am satisfied that the balance between the benefit and any costs is the right one in the circumstances.

Signed by the Responsible Minister

Date:

SUMMARY: ANALYSIS AND EVIDENCE

IMPACT OF PROPOSAL

Resource Issues - Financial (including manpower) [Note C]

Statement

The current legislative process whereby Orders are made by the Queen in Privy Council which apply to the Island already relies on the Isle of Man Civil Aviation Administration and Aircraft Registry to develop the required policy to include in the legislation and to produce the first draft of the Order in Council. The development of secondary legislation utilising the proposed new primary enabling powers is expected to have resource implications only with respect to potential additional drafting checks required by the AG Chambers’ legislative drafters (please see below).

Likely Financial Costs [Note D] Nil (Attorney General’s Chambers Legislative Drafter’s time)

Likely Financial Benefits [Note D] Nil

The current legislative process whereby the UK makes Orders in Council which apply in the Island already relies on the Isle of Man Civil Aviation Administration and Aircraft Registry to develop the relevant policies and to produce the first draft of the legislation. Additionally, drafting of secondary aviation legislation is already contracted out for certain projects and will continue to be undertaken by contractors when required.

The development of secondary legislation utilising the proposed extension of the Island’s primary powers would require some additional checking by one of the team of legislative drafters at the AGC.

The Attorney General’s Chambers’ Chief Legislative Drafter has been consulted and acknowledges the rationale for the proposal and is supportive of move towards the Department having greater
autonomy in our legislative powers over aviation. He also recognised the potential for a significant amount of secondary legislation to be proposed under the new primary powers and that the full impact on Chambers’ resources is difficult to ascertain in detail at this stage. However, it is anticipated that aviation secondary legislation made under the proposed new primary powers would be introduced using a phased approach for specific aviation subjects, which will allow prioritisation taking account of available resources.

Are there any costs or benefits that are not financial i.e. social [Note E]

Costs: No

Benefits: The proposed new power will enable the Department to bring forward secondary legislation that meets the Island’s international obligations with the minimum of delay. Such legislation will also significantly help to maintain and enhance the international reputation and competitiveness of the Aircraft Registry.

Which Business sectors/organisations will be impacted, if any, and has any direct consultation taken place?

No business sectors or organisations will be impacted directly from the Bill. Indirect effect will be as a result of exercising the primary enabling powers.

Does the proposal comply with privacy law? Please provide a brief statement as to any issue of privacy or security of personal information. [Note F]

Yes

Has Treasury Concurrence been given for the preferred option [Note G]  N/A

Date of Treasury Concurrence N/A

Key Assumptions / Sensitivities / Risks [Note H]

Risks: Without the proposed new powers it is probable that the Island will become unable to comply with international requirements. This would significantly disadvantage the Aircraft Registry compared to competing jurisdictions, resulting in reduced aviation business for the Island’s financial and professional services sectors.

Approximate date for legislation to be implemented if known [Note I]

It is estimated that the Bill will be implemented in early 2018.

SUMMARY: CONSULTATION  [Note J]

Consultation in line with Government standard consultation process  Yes/No  - Full public consultation currently in progress.

Date
1st Consultation In progress            2nd Consultation ........................................

Summary of Responses:
N/A
**EVIDENCE BASE**

The Civil Aviation Act 1982, as it applies in the Island, enables the Queen in Council to make an Air Navigation Order having effect within the jurisdiction of the Island. The Order may carry out the Chicago Convention, any Annex thereto relating to international Standards and Recommended Practices and any amendment of the Convention or any such Annex made in accordance with the Convention, or generally for regulating air navigation.

The process of the Queen making Orders in Council to implement the international aviation standards for the Island is a lengthy process and competes with wider UK priorities.

The Airports and Civil Aviation Act 1987 (an Act of Tynwald) currently enables the Island to apply specific UK and EU civil aviation legislation subject to exceptions, adaptations and modifications. Whilst this is a useful mechanism that must be retained, it is not sufficient to create effective legislation where significant modification or variation is required.

Jersey, Guernsey and Gibraltar already have powers in place for making secondary legislation similar to those proposed for the Island.

The Department have identified a wide range of legislative developments that are required to ensure continued compliance with international obligations established by the Chicago Convention and its Annexes and which would also contribute to maintaining and enhancing the Registry's globally competitive status and reputation.