

## Part 1 General Provisions

### 1. Title

This Order is the Civil Aviation (Air Traffic Services) Order 2019.

### 2. Commencement

If approved by Tynwald, this Order comes into operation on 1 January 2020.

### 3. Interpretation

(1) For the purposes of this Order –

“Advisory airspace” means an airspace of defined dimensions, or designated route, within which air traffic advisory service is available;

“Aerodrome”—

- (a) means an area of land or water designed, equipped, set apart or commonly used for affording facilities for the landing and departure of aircraft; and
- (b) includes an area or space, whether on the ground, on the roof of a building or elsewhere, that is designed, equipped or set apart for affording facilities for the landing and departure of aircraft capable of descending or climbing vertically, but does not include an area the use of which for affording facilities for the landing and departure of aircraft has been abandoned and has not been resumed;

“Aerodrome control service” means air traffic control service for aerodrome traffic;

“Aerodrome control tower” means a unit established to provide air traffic control service to aerodrome traffic.

“Aerodrome traffic” means all traffic on the manoeuvring area of an aerodrome and all aircraft flying in the vicinity of an aerodrome;

“Aerodrome flight information service” means flight information service and alerting service for aerodrome traffic at an aerodrome;

“Aeronautical radio station” means a radio station on the surface, which transmits or receives signals for the purpose of assisting aircraft;

“Aircraft” means a machine that can derive support in the atmosphere from the reactions of the air other than the reactions of the air against the earth’s surface;

“Air traffic advisory service” means a service provided within advisory airspace to ensure separation, in so far as practical, between aircraft which are operating on IFR flight plans;

“Air traffic control service” means a service provided for the purpose of preventing collisions between aircraft, and, on the manoeuvring area, between aircraft and obstructions, and expediting and maintaining an orderly flow of air traffic;

“Air traffic control unit” means a generic term meaning variously, area control centre, approach control unit or aerodrome control tower;

“Air traffic services” means the various flight information services, alerting services, air traffic advisory services and ATC services (area, approach and aerodrome control services);

“Air traffic services unit” means a generic term meaning variously, air traffic control unit, flight information centre or air traffic services reporting office;

“Air traffic service equipment” means ground based equipment, including an aeronautical radio station, used or intended to be used in connection with the provision of air traffic services excluding any public electronic communications network;

“Air traffic services reporting office” means a unit established for the purpose of receiving reports concerning air traffic services and flight plans submitted before departure;

“Alerting service” means a service provided to notify appropriate organisations regarding aircraft in need of search and rescue aid, and assist such organisations as required;

“Approach control service” means air traffic control service for arriving or departing controlled flights;

“Approach control unit” means a unit established to provide air traffic control service to controlled flights arriving at, or departing from, one or more aerodromes;

“Area control centre” means a unit established to provide air traffic control service to controlled flights in control areas under its jurisdiction;

“Area control service” means air traffic control service for controlled flights in control areas;

“Control area” means a controlled airspace extending upwards from a specified limit above the earth;

“Department” means the Department for Enterprise;

“Fatigue” means a physiological state of reduced mental or physical performance capability resulting from sleep loss, extended wakefulness, circadian phase, and/or workload (mental and/or physical activity) that can impair a person’s alertness and ability to perform safety-related operational duties;

“Flight information centre” means a unit established to provide flight information service and alerting service;

“Flight information service” means a service provided for the purpose of giving advice and information useful for the safe and efficient conduct of flights;

“Hazard” means a condition or an object with the potential to cause or contribute to an aircraft incident or accident;

“Instrument approach procedure” means a series of predetermined manoeuvres by reference to flight instruments with specified protection from obstacles from the initial approach fix, or where applicable, from the beginning of a defined arrival route to a point from which a landing can be completed and thereafter, if a landing is not completed, to a position at which holding or en-route obstacle clearance criteria apply;

“Instrument flight procedure” means —

- (a) a standard instrument arrival;
- (b) an instrument approach procedure;
- (c) a standard instrument departure; or

(d) an omnidirectional departure;

“IFR” means the symbol used to designate the instrument flight rules;

“Notified” means set out with the authority of the CAA in a document published by or under an arrangement entered into with the CAA and entitled “United Kingdom Notam” or “United Kingdom Aeronautical Information Publication” and for the time being in force;

“Problematic use of substances” means the use of one or more psychoactive substances by aviation personnel in a way that -

(a) constitutes a direct hazard to the user or endangers the lives, health or welfare of others; and/or

(b) causes or worsens an occupational, social, mental or physical problem or disorder;

“Psychoactive substance” means alcohol, opioids, cannabinoids, sedatives and hypnotics, cocaine, other psychostimulants, hallucinogens, and volatile solvents, excluding coffee and tobacco;

“Public use licence” means an aerodrome licence with a public use condition issued by the Department in accordance with Article 130 of the Air Navigation (Isle of Man) Order 2015 (SI 2015 No 870);

“Safety management system” means a systematic approach to managing safety, including the necessary organisational structures, accountabilities, policies and procedures;

“Safety risk” means the predicted probability and severity of the consequences or outcomes of a hazard;

“UK CAA” means the United Kingdom Civil Aviation Authority;

“Visiting force” means any such body, contingent or detachment of the forces of any country as is a visiting force for the purposes of the Visiting Forces Act 1952—

(a) which apply to that country by virtue of paragraph (a) of section 1(1) of that Act; or

(b) which from time to time apply to that country by virtue of paragraph (b) of section 1(1) and of any Order in Council made or hereafter to be made under section 1 designating that country for the purposes of that Act following section 1(2) of that Act.

#### **4. Applicability**

(1) Subject to paragraph (2), this Order applies to the provision of air traffic services to aircraft within the Isle of Man.

(2) Paragraph (1) does not apply to –

(a) a UK CAA certificated provider of air traffic services with a principle place of operation in the United Kingdom and their employees whilst acting in the course of their duties; or

(b) Her Majesty’s naval, military or air forces or a visiting force.

## **Part 2 – Air Traffic Service Requirements**

### **5. Safety Management Systems**

- (1) A person in charge of an air traffic services unit must establish a safety management system –
  - a. commensurate with the size of the air traffic services unit and the complexity of its services; and
  - b. in accordance with the framework for a safety management systems contained in Schedule 1.

### **6. Provision of air traffic services**

In the case of an aerodrome for which there is an instrument approach procedure, the person in charge of the aerodrome must, during any period and at such times as are notified, cause an approach control service to be provided unless permitted otherwise by the Department.

### **7. Approval of instrument flight procedures**

- (1) An instrument flight procedure must not be notified unless that procedure has been approved by the Department.
- (2) The Department must not approve an instrument flight procedure unless it is satisfied that the procedure is safe for use by aircraft.
- (3) An applicant for approval of an instrument flight procedure must supply such evidence and reports as the Department may require.

### **8. Air traffic service equipment**

- (1) A person must not cause or permit air traffic service equipment to be established or used otherwise than under and in accordance with an approval granted by the Department to the person in charge of the equipment.
- (2) An approval must be granted under paragraph (1) if the Department is satisfied —
  - (a) as to the intended purpose of the equipment;
  - (b) that the equipment is fit for its intended purpose; and
  - (c) that the person is competent to operate the equipment.
- (3) The person in charge of an aeronautical radio station at an aerodrome for which a public use licence has been granted must cause to be notified in relation to the aeronautical radio station the type and availability of operation of a service that is available for use by an aircraft.
- (4) An approval granted under paragraph (1) may include a condition requiring a person in charge of an aeronautical radio station at any other aerodrome or place to cause the information specified in paragraph (3) to be notified.

- (5) An approval granted under paragraph (1) may include such other conditions as the Department thinks fit including—
  - (a) a condition requiring the person in charge of the equipment to use a person approved by the Department under paragraph (6) for the provision of particular services in connection with the equipment; and
  - (b) a condition requiring that the equipment be flight checked by such an approved person.
- (6) The Department may approve a person to provide particular services in connection with approved equipment.
- (7) For the purpose of paragraphs (1) and (6) an approval may be granted for one or more persons or generally.

## **9. Air traffic service equipment records**

The person in charge of air traffic service equipment and any associated apparatus required under article 10 must—

- (a) keep records for such equipment or apparatus in accordance with Schedule 2; and
- (b) preserve the records for one year or such longer period as the Department may in a particular case direct.

## **10. Voice and data communication message recording**

- (1) The person in charge of an air traffic control unit must provide recording apparatus in accordance with paragraph (3).
- (2) The Department may direct the person in charge of any other air traffic services unit to provide recording apparatus in accordance with paragraph (3).
- (3) Subject to paragraph (8), the person in charge of the air traffic services unit for which recording apparatus is required to be provided under paragraph (1) or (2) must ensure that—
  - (a) when operated the apparatus is capable of recording and replaying the terms or content of any voice radio message or signal transmitted or received by or through that equipment; and
  - (b) the apparatus is capable of recording and replaying the terms or content of any voice radio message or signal transmitted to an aircraft either alone or in common with other aircraft or received from an aircraft by the air traffic services unit.
- (4) Subject to paragraph (7), the person in charge of the air traffic services unit for which recording apparatus is required to be provided under paragraph (1) or (2) must—

- (a) ensure that the apparatus is in operation at all times when the equipment is being used in connection with the provision of a service intended to facilitate the navigation of aircraft;
  - (b) ensure that each record made by the apparatus complies with Part 1 of Schedule 3;
  - (c) not cause or permit the apparatus to be used unless it is approved by the Department; and
  - (d) comply with the terms of such an approval.
- (5) In considering whether or not to grant an approval, the Department may have regard to the matters specified in Part 2 of Schedule 3.
- (6) An approval may be granted —
- (a) in addition to any other conditions that may be imposed, subject to conditions relating to the matters to which the Department may have had regard under paragraph (5); and
  - (b) for one or more persons or generally.
- (7) If any apparatus provided in compliance with paragraph (1) or (2) ceases to be capable of recording the matters required by this article to be included in the records, the person required to provide that apparatus must ensure that, so far as practicable—
- (a) a record is kept that complies with Part 1 of Schedule 3; and
  - (b) in the case of apparatus provided in compliance with paragraph (1), a summary of voice communications exchanged between the air traffic services unit and an aircraft are recorded.
- (8) If apparatus provided in compliance with paragraph (1) or (2) becomes unserviceable, the person in charge of the air traffic services unit must ensure that the apparatus is rendered serviceable again as soon as reasonably practicable.
- (9) The person in charge of air traffic services unit must preserve a record made in compliance with paragraph (4) or (7) for 30 days from the date on which the terms or content of the message or signal were recorded or for such longer period as the Department may in a particular case direct.
- (11) The person in charge of air traffic services unit must within a reasonable time after being requested to do so produce any record required to be preserved under this article to the Department.

#### **11. Use of radio call signs by air traffic services units**

The person in charge of an air traffic services unit must not cause or permit any call sign to be used for a purpose other than a purpose for which that call sign has been notified.

### **Part 3 – Additional Requirements for Air Traffic Control**

#### **12. Requirement for an air traffic control approval**

- (1) A person in charge of the provision of an air traffic control service must not cause such a service to be provided unless that person has been given and complies with the terms of an air traffic control approval granted by the Department.
- (2) An approval under paragraph (1) may only be granted by the Department if it is satisfied that the applicant is competent to provide a service that is safe for use by aircraft, having regard to the applicant's organisation, staffing, equipment, maintenance, safety management system and other arrangements.

#### **13. Manual of air traffic services**

A person must not provide an air traffic control services unless —

- (a) the service is provided in accordance with the standards and procedures specified in a manual of air traffic services for that place;
- (b) the manual is produced to the Department within a reasonable time after a request for its production is made by the Department; and
- (c) such amendments or additions are made to the manual as the Department may from time to time require.

#### **14. Duty of person in charge to be satisfied as to competence of controllers**

The holder of an approval granted under article 12 must not permit any person to act as an air traffic controller or a student air traffic controller in the provision of the service under the approval unless—

- (a) that person holds an appropriate licence in accordance with article 15; and
- (b) the approval holder is satisfied that the person is competent to perform the duties of an air traffic controller or a student air traffic controller.

#### **15. Prohibition of unlicensed student air traffic controllers and air traffic controllers**

- (1) A person must not provide air traffic control service unless authorised to do so in accordance with either a student air traffic controller licence or an air traffic controller licence specified in paragraph (3).
- (2) A person must not hold themselves out, whether by use of a radio call sign or in any other way, as a person who may provide air traffic control service unless authorised to do so in accordance with either a student air traffic controller licence or an air traffic controller licence specified in paragraph (3).
- (3) A student air traffic controller licence or air traffic controller licence referred to in paragraphs (1) and (2) is a licence issued by the UK CAA.

#### **16. Fatigue of air traffic controllers**

- (1) A person must not exercise the privileges of a student air traffic controller licence or an air traffic controller licence if they know or suspect that they are suffering from or, having regard to the circumstances of the period of duty to be undertaken, are likely to suffer from, such fatigue as may endanger the safety of any aircraft to which an air traffic control service may be provided.

#### **17. Acting under the influence of psychoactive substances or medicines**

- (1) A person must not exercise the privileges of a student air traffic controller licence or an air traffic controller licence whilst under the influence of any psychoactive substance or medicines which might render them unable to exercise the privileges of their licence safely and properly.
- (2) Holders of student air traffic controller licence or an air traffic controller licence must not engage in any problematic use of substances.

### **Part 4 – Additional Requirements for Aerodrome Flight Information Service**

#### **18. Requirement for an aerodrome flight information service approval**

- (1) A person in charge of the provision of an aerodrome flight information service must not cause such a service to be provided unless that person has been given and complies with the terms of an aerodrome flight information service approval granted by the Department.
- (2) An approval under paragraph (1) may only be granted by the Department if it is satisfied that the applicant is competent to provide a service that is safe for use by aircraft, having regard to the applicant's organisation, staffing, equipment, maintenance, safety management system and other arrangements.

#### **19. Aerodrome flight information service manual**

Subject to paragraph (2), the holder of an approval granted under article 19 must not provide an aerodrome flight information service unless —

- (a) the service is provided in accordance with the standards and procedures specified in a flight information service manual for that aerodrome;
- (b) the manual is produced to the Department within a reasonable time after a request for its production is made by the Department; and
- (c) such amendments or additions have been made to the manual as the Department may from time to time require.

#### **20. Prohibition of unlicensed flight information service officers**

- (1) A person must not provide an aerodrome flight information service unless—



- (a) they hold and comply with the terms of a flight information service officer's licence granted by the UK CAA authorising the holder to act as such an officer at that aerodrome; and
- (b) they have identified themselves in such a manner as may be notified.

## **Part 5 – Powers and Penalties**

### **21. Making of an air traffic direction in the interests of safety**

- (1) The Department may, in the interests of safety, direct the person in charge of an aerodrome that there must be provided for that aerodrome such an air traffic control service, a flight information service or a means of two way radio communication as the Department considers appropriate.
- (2) The Department may specify in the direction the periods during which, the times at which, the manner in which and the airspace within which such service or such means must be provided.
- (3) The person who has been directed must cause such a service or means to be provided in accordance with the direction.
- (4) The Department may, pending inquiry into or consideration of the case, make a provisional air traffic direction.
- (5) A provisional air traffic direction—
  - (a) may contain any of the requirements which may be included in an air traffic direction made in accordance with paragraph (1);
  - (b) has effect as though it were an air traffic direction made in accordance with paragraph (1).

### **22. Right of access**

- (1) The Department and an authorised person each has the right of access at all reasonable times to a building or place from which it is reasonably believed that air traffic services are being provided.
- (2) A person must not intentionally obstruct or impede a person who is exercising their right of access under this article.

### **23. Exemptions**

The Department may exempt from any provisions of this Order subject to any conditions it thinks fit.

### **24. Penalties**

- (1) A person who contravenes a provision of Part 1 of Schedule 4 is guilty of an offence and liable on summary conviction to a fine not exceeding Level 5 on the standard scale.

- (2) A person who contravenes a provision of Part 2 of Schedule 4 is guilty of an offence and liable on summary conviction, to a fine not exceeding Level 5 on the standard scale and on conviction on information, to a fine or to custody for a term not exceeding 5 years, or to both.

## Schedule 1 - Framework for A Safety Management System – Article 5

### Part 1 Safety policy and objectives

#### 1. Management commitment

- (1) A safety policy which -
  - (a) reflects the organisational commitment regarding safety, including the promotion of a positive safety culture;
  - (b) includes a clear statement about the provision of the necessary resources for the implementation of the safety policy;
  - (c) includes safety reporting procedures;
  - (d) clearly indicates which types of behaviours are unacceptable related to the operator's aviation activities and include the circumstances under which disciplinary action would not apply;
  - (e) is signed by the accountable executive of the organisation;
  - (f) is communicated, with visible endorsement, throughout the organisation;
  - (g) is periodically reviewed to ensure it remains relevant and appropriate to the operator.
- (2) Defined safety objectives which -
  - (a) form the basis for safety performance monitoring and measurement;
  - (b) reflect the organisation's commitment to maintain or continuously improve the overall effectiveness of the safety management system;
  - (c) are communicated throughout the organisation; and
  - (d) are periodically reviewed to ensure they remain relevant and appropriate to the service provider.

#### 2. Safety accountability and responsibilities

Defined safety accountabilities and responsibilities which -

- (a) identify the accountable executive who, irrespective of other functions, is accountable on behalf of the organisation for the implementation and maintenance of an effective safety management system;
- (b) clearly define the lines of safety accountability throughout the organisation, including a direct accountability for safety on the part of senior management;
- (c) identify the responsibilities of all members of management, irrespective of other functions, as well as of employees, with respect to the safety performance of the organisation;
- (d) document and communicate safety accountability, responsibilities and authorities throughout the organisation;

- (e) define the levels of management with authority to make decisions regarding safety risk tolerability.

### **3. Appointment of key safety personnel**

The nomination of a safety manager who is responsible for the implementation and maintenance of the safety management system.

### **4. Coordination of emergency response planning**

An emergency response plan for accidents, incidents and aviation emergencies.

### **5. Safety Management System Documentation**

- (1) A safety management system manual that describes the -
  - (a) safety policy and objectives;
  - (b) safety management system requirements;
  - (c) safety management system processes and procedures;
  - (d) accountability, responsibilities and authorities for safety management system processes and procedures.
- (2) Operational records as part of the documentation of the delivery of the safety management system.

## **Part 2 Safety risk management**

### **6. Hazard identification**

A process to identify hazards associated with the operation of aircraft. Hazard identification shall be based on a combination of reactive and proactive methods.

### **7. Safety risk assessment and mitigation**

A process that ensures analysis, assessment and control of the safety risks associated with identified hazards.

## **Part 3 Safety assurance**

### **8. Safety performance monitoring and measurement**

- (1) The means to verify safety performance and to validate the effectiveness of safety risk controls.
- (2) The safety performance shall be verified in reference to the safety performance indicators and safety performance targets of the safety management system in support of the organisation's safety objectives.

### **9. The management of change**

A process to identify changes which may affect the level of safety risk associated with the aircraft operation and to identify and manage the safety risks that may arise from those changes.

## **10. Continuous improvement of the safety management system**

Monitoring and assessment of the safety management system processes to maintain or continuously improve its overall effectiveness.

### **Part 4 Safety promotion**

## **11. Training and education**

A safety training programme that ensures that personnel are trained and competent to perform their safety management system duties.

## **12. Safety communication.**

A formal means for safety communication that -

- (a) ensures personnel are aware of the safety management system to a degree commensurate with their positions;
- (b) conveys safety-critical information;
- (c) explains why particular actions are taken to improve safety;
- (d) explains why safety procedures are introduced or changed.

**SCHEDULE 2 – Air traffic service equipment records to be kept–  
Article 9(a)**

1. A record of any functional tests, flight checks and detailed information about any maintenance, repair, overhaul, replacement or modification.
2. Subject to paragraph 3, the record must be kept in a legible or a non-legible form. If the record is kept in a non-legible form it must be capable of being reproduced in a legible form and it must be so reproduced by the person required to keep the record if requested by the Department.
3. In any particular case the Department may direct that the record is kept or be capable of being reproduced in such a form as it may specify.

**SCHEDULE 3 – Air traffic service equipment - Voice and data communication message records and matters to which the Department may have regard – Article 10**

**PART 1 – Records required in accordance with article 10(4)(b) and 7(a)**

Each record made by the apparatus must be adequately identified and in particular must include—

- (a) the identification of the aeronautical radio station;
- (b) the date or dates on which the record was made;
- (c) a means of determining the time at which each message or signal was transmitted or received;
- (d) the identity of the aircraft to or from which and the radio frequency on which the message or signal was transmitted or received; and
- (e) the time at which the record started and finished.

**PART 2 – Matters to which the Department may have regard in granting an approval of apparatus in accordance with article 10(5)**

- 1. The purpose for which the apparatus is to be used.
- 2. The manner in which the apparatus has been specified and produced in relation to the purpose for which it is to be used.
- 3. The adequacy, in relation to the purpose for which the apparatus is to be used, of the operating parameters of the apparatus (if any).
- 4. The manner in which the apparatus has been or will be operated, installed, modified, maintained, repaired and overhauled.
- 5. The manner in which the apparatus has been or will be inspected.

## **SCHEDULE 4 – Penalties – Article 23**

### **Part 1 – Provisions referred to in article 23 (1)**

Article of Order	Subject matter
6	Provision of air traffic services
8(1)(3)	Air traffic service equipment
12(1)	Requirement for ATC approval
18(1)	Requirement for an aerodrome flight information service approval
22	Right of access

### **Part 2 – Provisions referred to in article 23 (2)**

Article of Order	Subject matter
15(1)(2)	Prohibition of unlicensed student air traffic controllers and air traffic controllers
17(1)(2)	Acting under the influence of psychoactive substances or medicines
20(1)	Prohibition of unlicensed flight information service officers



## **Explanatory Notes**

*(This note is not part of the Order)*

This Order defines air traffic services and the provision of such services in the Isle of Man.

Part 2 specifies the requirements applicable to all air traffic service providers -

- Article 5 requires the establishment of a safety management system in accordance with a specified framework. The framework meets the requirements of the International Civil Aviation Organisation.
- Article 6 requires that any aerodrome promulgates instrument approach procedures must also put in place an approach control service unless permitted otherwise by the Department.
- Article 7 requires the approval by the Department of any instrument flight procedure before it is promulgated for use.
- Article 8 requires any air traffic service equipment to be approved by the Department before it is established or used and sets out the administration of such approvals.
- Article 9 sets the requirement for air traffic service equipment record keeping.
- Article 10 sets the requirements for and capability of voice and data communication message recording.

Part 3 sets additional requirements for the provision of air traffic control –

- Article 12 establishes the need for persons in charge of the provision of an air traffic control service to hold an approval granted by the Department and the considerations of the Department in considering issuing such an approval.
- Article 13 requires a manual of air traffic services to be in place and its administration.
- Articles 14 and 15 regulate who may act as an air traffic controller or student air traffic controller.
- Articles 16 and 17 prohibits air traffic controllers and student air traffic controllers to perform their duties whilst fatigued or under the influence of psychoactive substances.

Part 4 Part 3 sets additional requirements for the provision of flight information service.

- Article 18 establishes the need for persons in charge of the provision of a flight information service to hold an approval granted by the Department and the considerations of the Department in considering issuing such an approval.

- Article 13 requires a flight information service manual to be in place and its administration.
- Article 20 regulates who may act as a flight information service officer.

Part 5 details the powers of the Department to make a direction in the interests of safety, for right of access and sets the penalties for breaches of particular articles.