

Statutory Document No. 2018/0279



Airports and Civil Aviation Act 1987

AVIATION SECURITY (APPLICATION) ORDER 2018¹

Approved by Tynwald: 11 December 2018
Coming into Operation: 1 January 2019

The Department for Enterprise, after consultation with the Secretary of State for Transport, makes the following Order under section 11 of the Airports and Civil Aviation Act 1987.

1 Title

This Order is the Aviation Security (Application) Order 2018.

2 Commencement

If approved by Tynwald, this Order comes into operation on 1 January 2019.

3 Amendment of Civil Aviation (Application) Order 2013

In Part 6 of Schedule 2 to the Civil Aviation (Application) Order 2013¹ after subparagraph (30) insert –

“(30A) In section 95 –

(a) for the figure ‘£5000’ substitute ‘level 5 on the standard scale’, and

(b) insert the following subsection –

“(2) In this section “standard scale” means the standard scale for offences punished summarily prescribed by section 55(1) of the Interpretation Act 2015 (an Act of Tynwald).”.

4 Application of UK Legislation

(1) The Parliamentary enactments specified in Schedule 1 being enactments which relate, directly or indirectly, to civil aviation, air navigation or airports, apply to the Island as part of the law of the Island, subject to the modifications specified in Schedule 2.

¹ SD 0232/13

- (2) Unless the contrary intention appears, references in the legislation applied by this Order to any Parliamentary enactment (including the legislation so applied) or to any provision of any such legislation is to be construed as references to that legislation or provision as it has effect in the Island.

5 Revocation

The enactments specified in Schedule 3 are revoked to the extent specified in column 2 of that Schedule.

6 Transitional provisions

Any direction previously given under any of sections 12, 13, 13A, 14, 15 or 20B of the Aviation Security Act 1982 which is in operation when this Order comes into operation shall continue to have effect as if it were under this Order.

MADE 26 OCTOBER 2018

SCHEDULE 1

LEGISLATION APPLIED BY ARTICLE 4

| <i>Reference</i> | <i>Title</i> | <i>Provisions applied to the Island</i> |
|------------------|---|--|
| 1982 c. 36 | Aviation Security Act 1982 | Sections 1 – 8, Sections 10 – 14, 15, 16, 17, 18 – 20, 20B - 21G, 22A, 24, 24A, 37, 38, 41 |
| 1990 c. 31 | Aviation and Maritime Act 1990 | Sections 1, 3 to 8, 53, 54 Schedule 1 Schedule 4 |
| 2001 c. 24 | Anti-Terrorism, Crime and Security Act 2001 | Section 82, 84, 86, 87, 129 |
| 2004 c. 14 | Statute Law (Repeals) Act 2004 | Section 1, 3 Schedule 1, Part 4 |
| 2012 c. 19 | Civil Aviation Act 2012 | Section 78, 113 Schedule 11 |
| 2015 c. 6 | Counter-Terrorism and Security Act 2015 | Section 25, 53 Schedule 5, Part 2 |
| SI 2006/2190 | Transport Security (Electronic Communications) Order 2006 | Article 1, 3 |
| SI 2010/902 | Aviation Security Regulations 2010 | Regulation 1, 2, 4, 5, 6, 8, 9, 10, 11 |
| SI 2015/930 | Aviation Security Act 1982 (Civil Penalties) Regulations 2015 | Regulation 1 - 7 |

SCHEDULE 2

MODIFICATIONS TO THE LEGISLATION APPLIED BY ARTICLE 3

PART 1

1 General Modifications

Subject to any express provision made by the following provisions of this Schedule, for the words specified in column 1 of the following table substitute the corresponding words specified in column 2 –

| | |
|--|--|
| "the United Kingdom" | "the Isle of Man" |
| "Great Britain" | "the Isle of Man" |
| "the Secretary of State" | "the Department" |
| "the Civil Aviation Authority" and "the CAA" | "the Department" |
| "indictment" | "information" |
| "imprisonment" | "custody" |
| "the statutory maximum" | "level 5 on the standard scale" |
| "£100" | " $\frac{1}{10}$ of level 2 on the standard scale" |
| "one-tenth of level 5 on the standard scale" | " $\frac{1}{10}$ of level 2 on the standard scale" |

PART 2

MODIFICATION OF THE AVIATION SECURITY ACT 1982

2. The Aviation Security Act 1982 is modified in accordance with this Part.

3. Hijacking: section 1 modified

- (1) Section 1 is modified as follows.
- (2) In subsection (2)(b)(iii), for the words from "in the military" onwards substitute "by the armed forces of the Crown or in the customs service of the Isle of Man or in the service of the Isle of Man Constabulary".
- (3) In subsection (4), omit "made by statutory instrument".
- (4) After subsection 1(5) insert –

| | |
|-----|---|
| (6) | Section 32 of the Legislation Act 2015 (negative Tynwald procedure) applies to an order under this section.”. |
|-----|---|

4 Destroying, damaging or endangering safety of aircraft: section 2 modified

- (1) Section 2 is modified as follows.
- (2) In subsection (6), for paragraphs (a) and (b) substitute -
 - “(a) in relation to the commission of an act in the Isle of Man, means so as (apart from this Act) to constitute an offence under the law of the Isle of Man, and
 - (b) in relation to the commission of an act outside the Isle of Man, means so that the commission of the act would (apart from this Act) have been an offence under the law of the Isle of Man if it had been committed in the Isle of Man.”.
- (3) For subsection (7)(a) substitute –
 - “(a) any act done in the Isle of Man which constitutes a serious offence of violence.”.

4 Jurisdiction of courts in respect of air piracy: section 5 modified

- (1) Section 5 is modified as follows.
- (2) In subsection (2) –
 - (a) after the words “Civil Aviation Act 1982” insert “(as that section applies to the Isle of Man)”; and
 - (b) after “the said section 92” insert “(as so applied)”.

5 Ancillary offences: section 6 modified

- (1) Section 6 is modified as follows.
- (2) In subsection (1) -
 - (a) after the words “Civil Aviation Act 1982” insert “(as that section applies to the Isle of Man)”; and
 - (b) for the words from "the offence of" to "1883" substitute “a serious offence of violence ”.
- (3) In subsection (4), for paragraphs (a) and (b) substitute “of section 350, 351 or 356 of the Criminal Code 1872 (an Act of Tynwald)”.

5 Powers exercisable on suspicion of intended offence under Part I: section 7 modified

In section 7(3), for paragraphs (a) to (c) substitute “of section 6 of the Criminal Law Act 1981 (an Act of Tynwald) or section 27 of the Police Powers and Procedures Act 1998 (an Act of Tynwald)”.

6 Prosecution of offences and proceedings: section 8 modified

For section 8 substitute –

“8 Prosecution of offences and proceedings

Proceedings for an offence under any of the preceding provisions of this Part of this Act (other than sections 4 and 7) shall not be instituted except by or with the consent of the Attorney General for the Isle of Man.”.

7 Purposes to which Part 2 applies: section 10 modified

For section 10(2) substitute –

“(2) In this Part of this Act “act of violence” means any act (whether actual or potential, and whether done or to be done in the Isle of Man or elsewhere) which either –

(a) being an act done in the Isle of Man, constitutes, or

(b) if done in the Isle of Man would constitute,

a serious offence of violence or an offence under section 1 of the Criminal Damage Act 1981 (an Act of Tynwald)”.

8 Powers to impose restrictions in relation to aircraft: section 12 modified

(1) Section 12 is modified as follows.

(2) In subsection (2), omit "Subject to subsection (3) below,".

(3) Omit subsection (3).

(4) In subsection (4) for “him” substitute “the Department”.

9 Power to require aerodrome managers to promote searches at aerodromes: section 13 modified

For section 13(5) substitute -

“(5) Subsection (3) above shall have effect without prejudice to the operation, in relation to any offence under this Act, of sections 20, 27 and 28 of the Police Powers and Procedures Act 1998 (an Act of Tynwald) or section 6 of the Criminal Law Act 1981 (an Act of Tynwald).”.

10 General or urgent directions under ss. 12 and 14: section 17 modified

In section 17(2) for “he” substitute “the Department”.

11 Operation of directions under Part II in relation to rights and duties under other laws: section 19 modified

For section 19(5) substitute –

“(5) In this section –

“Isle of Man court” means a court exercising jurisdiction in the Isle of Man, and

“Isle of Man contract” means a contract which is either expressed to have effect in accordance with the law of the Isle of Man or (not being so expressed) is a contract, the law applicable to which is the law of the Isle of Man.

(5A) Until the coming into operation of section 2 of the Contracts (Applicable Law) Act 1992 (an Act of Tynwald), the reference in subsection (5) to the law applicable to a contract shall be construed as a reference to the proper law of the contract.”.

12 Service of documents: section 24 modified

In section 24 -

(a) in subsection (2)(d) for the words “telex or other similar means” substitute “electronic communications”;

(b) for subsection (2B)(c) substitute –

“(c) a day which is a bank holiday under the Banking and Financial Dealings (Isle of Man) Act 1973 (an Act of Tynwald) in the Isle of Man.”;

(c) for subsection (10) substitute –

“(10) Section 32 of the Legislation Act 2015 (negative Tynwald procedure) applies to regulations under this section.”.

13 Interpretation of Part 2: section 24A modified

In subsection (1) omit the definition of “act of violence”.

14 Interpretation etc.: section 38 modified

(1) Section 38 is modified as follows.

(2) In subsection (1) –

(a) for the definition of “aerodrome” substitute -

““**aerodrome**” means any area of land or water designed, equipped, set apart or commonly used for affording facilities for the landing and departure of aircraft and includes any area or space, whether on the ground, on the roof of a building or elsewhere, which is designed, equipped or set apart for affording facilities for the

- landing and departure of aircraft capable of descending or climbing vertically;”
- (b) after the definition of "constable" insert –
“**“the Department”** means the Department for Enterprise of the Isle of Man Government;”;
- (c) in the definition of "manager", for the words “whether the Civil Aviation Authority, a local authority” substitute “whether a Department, a Statutory Board”;
- (d) in the definition of “operator” at the end insert “(as applied to the Isle of Man)”; and
- (e) after the definition of "property" insert –
““serious offence of violence” means an offence under section 18, 19, 20, 23, 26, 27, 33, 35, 36, 37, 38, 39, 43, 44 or 60 of the Criminal Code 1872 (an Act of Tynwald) or under section 2 of the Explosive Substances Act 1883 (an Act of Tynwald); and
“standard scale” means the standard scale for offences punished summarily prescribed by section 55(1) of the Interpretation Act 2015 (an Act of Tynwald);”.
- (3) For subsection (2) substitute –
“(2) For the purposes of this Act the manager of an aerodrome by whom an air navigation installation is provided, or by whom it is wholly or mainly used, shall be taken to be the authority responsible for that air navigation installation.”.
- (4) For subsection (4) substitute -
“(4) For the purposes of this Act the territorial waters adjacent to the Isle of Man shall be treated as included in the Isle of Man.”.
- (5) Omit subsection (5).
- (6) In subsection (7), for "section 18 of the Interpretation Act 1978" substitute “section 3 of the Criminal Law Act 1981 (an Act of Tynwald)”.
- (7) Omit subsection (8).

15. Short title and commencement: section 41 modified

Omit section 41(2).

PART 3**MODIFICATION OF THE AVIATION AND MARITIME SECURITY ACT 1990****16. The Aviation and Maritime Security Act 1990 is modified as follows.**

In the following provisions, for the words “an authorised person” and “the authorised person” substitute “the Department” -

- section 4 (enforcement notices in respect of directions under Part II of Aviation Security Act 1982);
- section 5 (offences relating to security at aerodromes etc.);
- Schedule 1 (further amendments of the Aviation Security Act 1982).

17. Endangering safety at aerodrome: section 1 modified

(1) Section 1 is modified as follows.

(2) For subsection (7) substitute –

“(7) Proceedings for an offence under this section shall not be instituted except by or with the consent of the Attorney General for the Isle of Man.”.

(3) Omit subsection (8).

(4) In subsection (9) –

(a) for the definition of “aerodrome” substitute –

““**aerodrome**” has the same meaning as in the Aviation Security Act 1982 (as applied to the Isle of Man);

(b) omit the definition of “act of violence”;

(c) in the definition of “military service” after the words “the Aviation Security Act 1982” insert “(as applied to the Isle of Man)”; and

(d) in the definition of “unlawfully”, for paragraphs (a) and (b) substitute –

“(a) in relation to the commission of an act in the Isle of Man, means so as (apart from this section) to constitute an offence under the law of the Isle of Man, and

(b) in relation to the commission of an act outside the Isle of Man, means so that the commission of the act would (apart from this section) have been an offence under the law of the Isle of Man if it had been committed in the Isle of Man.”.

18. Enforcement notices in respect of directions under Part II of Aviation Security Act 1982: section 4 modified

In section 4 in the inserted section 18B(4) for the word “him” substitute “the Department”.

19. Air cargo agents: section 6 modified

In section 6 in the inserted section 21F –

- (a) in subsection (1), omit "made by statutory instrument",
- (b) in subsection (2)(a) for ‘him’ substitute “it” and for “he” substitute “the Department”,
- (c) in subsection (2)(c) for “sections 21A(2), 21B(3) and 32(2)” substitute “sections 21A(2) and 21B(3)”,
- (d) in subsection (3) for “him” substitute “it”, and
- (e) for subsection (4) substitute –
| “(4) Section 32 of the Legislation Act 2015 (negative Tynwald
| procedure) applies to regulations under this section.”.

20. Power of Secretary of State to require information: section 7 modified

In section 7 in the inserted section 21G –

- (a) in subsection (1) omit “made by statutory instrument”,
- (b) in subsections (1) and (2) for the word “him” substitute “it”, and
- (b) for subsection (5) substitute –
| “(5) Section 32 of the Legislation Act 2015 (negative Tynwald
| procedure) applies to regulations under this section.”.

21 Short title, commencement and extent: section 54 modified

Omit section 54(3).

22. Further amendments of the Aviation Security Act 1982: Schedule 1 modified

Schedule 1 shall be modified as follows –

- (a) omit paragraphs 13, 14, 17 and 20,
- (b) in paragraph 3 in the inserted section 11A(4) for the word “he” substitute “it”,
- (c) omit paragraph 5(4),
- (d) in paragraph 7(6) in the inserted subsection (5) for the words “the chief officer of police for the police area in which the searches are to be carried out or the other measures taken” substitute “the Chief Constable”,

- (e) omit paragraph 7(7),
- (f) in paragraph 15 in the inserted section 24 –
 - (i) for the words “section 7 of the Interpretation Act 1978 (service of documents by post)” in subsection (4) substitute “Division 5 of Part 4 to the Interpretation Act 2015 (an Act of Tynwald) (service of documents)”, and
 - (ii) for the words “section 7 of the Interpretation Act 1978” in subsection (5) substitute “Division 5 of Part 4 to the Interpretation Act 2015 (an Act of Tynwald)”, and
- (g) in paragraph 16 in the inserted section 24A for the definition of “authorised person” substitute ““authorised person” means a person authorised in writing by the Department for Enterprise for the purposes of Part 2 of this Act”.

23. Provisions relating to compensation: schedule 2 modified

In Schedule 4 omit the entries relating to the Criminal Jurisdiction Act 1975, the Civil Aviation Act 1982 and the Extradition Act 1989.

PART 4

MODIFICATION OF THE ANTI-TERRORISM, CRIME AND SECURITY ACT 2001

The Anti-Terrorism, Crime and Security Act 2001 is modified in accordance with this Part.

24. Arrest without warrant: section 82 modified

- (1) Section 82 is modified as follows.
- (2) After the words “Civil Aviation Act 1982” wherever they appear insert “(as applied to the Isle of Man)”.
- (3) Omit subsections (2) and (3).
- (4) For “this Act is passed” in subsection (4) substitute “this section is applied to the Isle of Man”.
- (5) For subsection (1) substitute –
 - “ (1) Section 27(2) (arrest without warrant) of the Police Powers and Procedures Act 1998 (an Act of Tynwald) applies to -
 - (a) an offence under section 21C(1) or 21D(1) of the Aviation Security Act 1982 (unauthorised presence in security restricted area or on aircraft); and
 - (b) an offence under section 39(1) of the Civil Aviation Act 1982 (as applied to the Isle of Man) (trespass on aerodrome).”.

25. Detention of aircraft: section 86 modified

- (1) Section 86 is modified as follows.
- (2) In section (1) for "20A" substitute "20", and omit the words "(c.36 (aviation security services) (inserted by section 85))".
- (3) Omit section (2).

PART 5**MODIFICATION OF THE CIVIL AVIATION ACT 2012**

The Civil Aviation Act 2012 is modified in accordance with this Part.

26. Aviation Security directions etc: section 78 modified

- (1) Section 78 is modified as follows.
- (2) In subsection (1) after the words "Aviation Security Act 1982" insert "(as applied to the Isle of Man)".
- (3) Omit section 78(2) to (5).

27. Aviation Security Directions etc: minor and consequential amendments: schedule 11 modified

- (1) Schedule 11 is modified as follows.
- (2) Omit –
 - paragraphs 1 to 3
 - paragraph 6(2)(a) and (b)
 - paragraph 6(3) to (7)
 - paragraph 8
 - paragraph 10 to 12
 - paragraph 13(3)
 - paragraph 15, 16 to 18.
- (3) In paragraph 14(2) in the inserted subsection (3A) omit paragraphs (a) and (e).

PART 6**MODIFICATION OF THE COUNTER-TERRORISM AND SECURITY ACT 2015**

The Counter-Terrorism and Security Act 2015 is modified in accordance with this Part.

28. Aviation, maritime and rail security: section 25 modified

- (1) Section 25 is modified as follows.

- (2) In subsection (3)(a) after the words “Aviation Security Act 1982” insert “(as applied to the Isle of Man)”.
- (3) Omit subsection (2) and (3)(b) and (c).
- (4) In Schedule 5 –
 - (a) omit –
 - (i) Part 1,
 - (ii) Part 2, paragraph 10,
 - (iii) Part 2, paragraphs 12 to 14,
 - (b) in paragraph 9(1) of Part 2 to the Schedule after the words “Aviation Security Act 1982” insert “(as applied to the Isle of Man)”,
 - (c) in paragraph 9(5)(b) for the inserted subsection (10) substitute –
“(10) Section 32 of the Legislation Act 2015 (negative Tynwald procedure) applies to regulations under this section.”.
 - (d) in paragraph 11(2) in the inserted section 22A –
 - (i) in subsection (2) for the word “may” substitute “must”; and
 - (ii) for subsections (4) to (7) substitute –
“(4) The regulations must provide that no penalty may be imposed on a person for failure to comply with –
 - (a) the requirements of a notice under section 11, or for making a false statement in furnishing information required by such a notice, where proceedings have been instituted against the person for an offence under section 11(5) in respect of the same failure or false statement, or
 - (b) a direction under any of sections 12 to 14 where proceedings have been instituted against the person for an offence under any of those sections in respect of the same failure.
- (5) Any amount received as a penalty must be paid into and form part of the General Revenue of the Isle of Man.
- (6) Section 30 of the Legislation Act 2015 (approval required Tynwald procedure) applies to regulations under this section.”.

PART 7**MODIFICATION OF THE TRANSPORT SECURITY (ELECTRONIC COMMUNICATIONS) ORDER 2006**

The Transport Security (Electronic Communications) Order 2006 is modified in accordance with this Part.

29. Citation, commencement and interpretation: article 1 modified.

In article 1(2) –

- (a) after the words “Aviation Security Act 1982” and “Aviation and Maritime Security Act 1990” insert “(as applied to the Isle of Man)”; and
- (b) omit the definitions of “the 1993 Act”, “the 1994 Order” and “the 2004 Regulations”.

30. Insertion of definitions into Part 2 of the 1982 Act

In article 3(2) for the definition of “electronic communication” substitute –

“**electronic communication**” has the same meaning as in the Electronic Transactions Act 2000 (an Act of Tynwald);”.

PART 8**MODIFICATION OF THE AVIATION SECURITY REGULATIONS 2010**

The Aviation Security Regulations 2010 are modified in accordance with this Part.

31. Citation, commencement and interpretation: regulation 1 modified

In regulation 1(1), omit the words from "and they" onwards.

32. Renaming “restricted zone” as “security restricted area”: regulation 9 modified

In regulation 9, omit subparagraph (j).

PART 9**MODIFICATION OF THE AVIATION SECURITY ACT 1982 (CIVIL PENALTIES) REGULATIONS 2015**

The Aviation Security Act 1982 (Civil Penalties) Regulations 2015 are modified in accordance with this Part.

33. Citation, commencement and interpretation: regulation 1 modified

Omit regulation 1(2) and (3).

34. Penalty for failure to comply with section 11 of the ASA 1982: regulation 3 modified

In regulation 3(3)(b) for the words “section 5 of the Perjury Act 1911 (false declarations etc., to obtain registration, etc.” substitute “section 6 of the Perjury Act 1952 (an Act of Tynwald) (false declarations etc., to obtain registration, etc. for carrying on a vocation)”.

35. Appeals: regulation 7 modified

- (1) Regulation 7 is modified as follows.
- (2) For paragraph (7) substitute —
 - (7) In this regulation, “**the court**” means any court in the Island of competent jurisdiction.”.
- (3) Omit paragraph (8).

SCHEDULE 3**INSTRUMENTS REVOKED BY ARTICLE 4**

| <i>Reference</i> | <i>Title</i> | <i>Extent of revocation</i> |
|------------------|---|--|
| SD 0232/13 | Civil Aviation (Application) Order 2013 | Schedule 1 Part 1 Schedule 2 Parts 2 to 5 |
| SD 901/08 | Isle of Man (Ronaldsway Airport) (Restricted Zone) Order 2008 | The whole of the instrument |

ENDNOTES

Table of Endnote References

¹ The format of this legislation has been changed as provided for under section 75 of, and paragraph 2 of Schedule 1 to, the Legislation Act 2015. The changes have been approved by the Attorney General after consultation with the Clerk of Tynwald as required by section 76 of the Legislation Act 2015.