



CIVIL AVIATION (AIR TRAFFIC SERVICES) ORDER 2020

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Statutory Document No. 2020/0136



Airports and Civil Aviation Act 1987

CIVIL AVIATION (AIR TRAFFIC SERVICES) ORDER 2020¹

Approved by Tynwald: 22 July 2020
Coming into operation in accordance with article 2

The Department for Enterprise makes the following Order under section 11B and 11I of the Airports and Civil Aviation Act 1987.

PART 1

GENERAL PROVISIONS

1 Title

This Order is the Civil Aviation (Air Traffic Services) Order 2020.

2 Commencement

If approved by Tynwald¹ this Order comes into operation immediately upon the revocation of Part 18 (air traffic services), Part 19 (licensing of air traffic controllers) and Part 20 (air traffic services equipment) of the Air Navigation (Isle of Man) Order 2015².

3 Interpretation

A word or expression used in this Order, unless otherwise defined in this Order, has the same meaning as in the Civil Aviation (Miscellaneous Provisions) Order 2020³.

4 Application

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

¹ Tynwald approval is required by section 11(6) of the Airports and Civil Aviation Act 1987

² UK SI 2015 No 870 (Order in Council) as amended by UK SI 2016 No 155

³ SD No. 2020/0134

- (2) Paragraph (1) does not apply to –
- (a) a UK CAA certificated provider of air traffic services and their employees whilst acting in the course of providing –
 - (i) an area control service; or
 - (ii) an approach control service for an aerodrome located in the United Kingdom;
 - (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 in accordance with the framework for a safety management system contained in Schedule 1.
- (2) A person in charge of an air traffic services unit must produce any record required under the safety management system to the Department within 14 days after being requested to do so or such longer period that has been agreed by the Department.

6 Provision of air traffic services

- (1) Subject to paragraph (2), in the case of an aerodrome for which there is an instrument approach procedure, a 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.
- (2) An approach control service is not required to be provided in a case where –
 - (a) the person in charge of the aerodrome presents to the Department a safety case in respect of the instrument approach procedure;
 - (b) the Department is satisfied that the safety case demonstrates that relevant safety risks have been adequately assessed and processes are in place that minimise the risk of accident as far as reasonably practicable; and
 - (c) the Department permits the person in charge of the aerodrome to operate the instrument approach procedure.
- (3) A permission granted under paragraph (2)(c) may include such conditions as the Department may specify in order to minimise the risk of an accident and may be varied.

- (4) A permission has immediate effect and remains valid for the period specified in the permission unless revoked or suspended by the Department.

7 Approval of instrument flight procedures

- (1) A person must not notify an instrument flight procedure 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 for the purpose of the application.
- (4) An approval may include such conditions as the Department may specify to ensure the safe use of the instrument flight procedure by aircraft and may be varied by the Department.
- (5) An approval has immediate effect and remains valid for the period specified in the approval unless revoked or suspended by the Department.

8 Air traffic service equipment

- (1) A person must not establish or use, or cause or permit to be established or used, air traffic service equipment otherwise than in accordance with an approval granted by the Department to the person in charge of the equipment.
- (2) An approval under paragraph (1) may only be granted 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) 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 (4) to be notified.
- (4) 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 aircraft.
- (5) An approval granted under paragraph (1) may include such other conditions as the Department may specify 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 a particular service 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 a particular service in connection with approved equipment.
- (7) An approval under paragraph (6) must not be granted by the Department unless it is satisfied the person is competent to provide the service in connection with approved equipment.
- (8) An approval under paragraph (1) may be varied by the Department.
- (9) For the purposes of paragraphs (1) and (6) an approval has immediate effect and remains valid for the period specified in the approval unless revoked or suspended by the Department.

9 Air traffic service equipment records

- (1) A person in charge of air traffic service equipment and any associated apparatus required under article 10(1) must –
 - (a) keep records for such equipment or apparatus in accordance with Schedule 2; and
 - (b) keep the records for one year or such longer period as the Department may in a particular case specify.
- (2) A person in charge of air traffic service equipment must produce any record required to be kept under this article to the Department within 14 days after being requested to do so or such longer period that has been agreed by the Department.

10 Voice and data communication message recording

- (1) A person in charge of an air traffic services unit must provide recording apparatus.
- (2) A person in charge of an air traffic services unit must not use, or cause or permit the use of recording apparatus otherwise than in accordance with an approval granted by the Department.
- (3) If satisfied that paragraph (4) is complied with, the Department must give approval to the use of the recording apparatus.
- (4) Subject to paragraph (8), a person in charge of an air traffic services unit for which recording apparatus is required to be provided under paragraph (1) 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;

- (b) the apparatus is capable of recording and replaying the terms or content of any voice radio message or signal that is transmitted to an aircraft either alone or in common with other aircraft or received from an aircraft by the air traffic services unit;
 - (c) 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; and
 - (d) each record made by the apparatus complies with Part 1 of Schedule 3.
- (5) An approval under paragraph (3) may be granted subject to such conditions as the Department may require, having regard to the matters described in Part 2 of Schedule 3.
- (6) An approval may be varied by the Department.
- (7) An approval has immediate effect and remains valid for the period specified in the approval unless revoked or suspended by the Department.
- (8) If any apparatus provided in compliance with paragraph (1) ceases to be capable of recording the matters required by this article to be included in the records, a person required to provide that apparatus must ensure that, so far as practicable, during the period in which it ceases to be capable of recording those matters –
- (a) a record is kept that complies with Part 1 of Schedule 3; and
 - (b) a summary of voice communications exchanged between the air traffic services unit and an aircraft is recorded.
- (9) If apparatus provided in compliance with paragraph (1) becomes unserviceable, a person in charge of an air traffic services unit must ensure that the apparatus is replaced or is rendered serviceable again as soon as reasonably practicable.
- (10) A person in charge of an air traffic services unit must keep a record made in compliance with paragraph (4) or (8) 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 specify.
- (11) A person in charge of an air traffic services unit must produce any record required to be kept under this article to the Department within 14 days after being requested to do so or such longer period that has been agreed by the Department.

11 Use of radio call signs by air traffic services units

A person in charge of an air traffic services unit must not cause or permit call signs 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 SERVICE

12 Requirement for an air traffic control approval

- (1) A person in charge of the provision of an air traffic control service must not provide such a service or cause such a service to be provided otherwise than in accordance with an approval granted by the Department for the provision of that service.
- (2) An approval under paragraph (1) must not be granted by the Department unless it is satisfied that the person to whom it is given 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.
- (3) An approval may include such conditions as the Department may specify to ensure that the service is safe, as described in paragraph (2), and may be varied by the Department.
- (4) An approval has immediate effect and remains valid for the period specified in the approval unless revoked or suspended by the Department.

13 Manual of air traffic services

A person must not provide an air traffic control service at a place 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 14 days after being requested to do so or such longer period that has been agreed by the Department; and
- (c) the person in charge of the provision of the air traffic control service makes such amendments or additions 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 ("approval holder") granted under article 12 must not permit any person to act as a student air traffic controller or an 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 a student air traffic controller or an air traffic controller.

15 Prohibition of unlicensed student air traffic controllers and air traffic controllers

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

16 Fatigue of air traffic controllers

A person must not exercise the privileges of –

- (a) a student air traffic controller licence, specified in Part 1 of Schedule 4; or
- (b) an air traffic controller's licence, specified in Part 2 of Schedule 4,

if the person knows or suspects that he or she is suffering from or, having regard to the circumstances of the period of duty to be undertaken, is 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

A person must not exercise the privileges of a student air traffic controller licence or an air traffic controller licence specified in Schedule 4 whilst under the influence of any psychoactive substance or medicines which might render the person unable to exercise the privileges of his or her licence safely and properly.

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 provide such a service or cause such a service to be provided otherwise than in accordance with an approval granted by the Department for the provision of that service.
- (2) An approval under paragraph (1) must not be granted by the Department unless it is satisfied that the person to whom it is given 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.

- (3) An approval may include such conditions as the Department may specify to ensure that the service is safe, as described in paragraph (2), and may be varied by the Department.
- (4) An approval has immediate effect and remains valid for the period specified in the approval unless revoked or suspended by the Department.

19 Manual of aerodrome flight information service

A person must not provide an aerodrome flight information service unless -

- (a) the service is provided in accordance with the standards and procedures specified in a manual of aerodrome flight information service for that aerodrome;
- (b) the manual is produced to the Department within 14 days after being requested to do so or such longer period that has been agreed by the Department; and
- (c) the person in charge of the provision of the aerodrome flight information service makes such amendments or additions 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 the person holds, and complies with the terms of, a flight information service officer licence issued by the UK CAA authorising the holder to act as such an officer at that aerodrome.
- (2) A person must not hold himself or herself out, whether by use of a radio call sign or in any other way, as a person who may provide an aerodrome flight information service unless the person is authorised to do so in accordance with a flight information service officer licence specified in paragraph (1).

PART 5

EXEMPTIONS AND PENALTIES

21 Exemptions

- (1) The Department may exempt a person or a class of person from the provisions in Part 2, Part 3 (excluding article 16 and article 17) and Part 4 subject to such conditions as it considers appropriate.
- (2) An exemption must only be granted by the Department if the exemption and any associated control measures imposed ensure that an equivalent

level of safety or an alternative means of compliance, or both, is achieved.

- (3) The Department may request documented safety risk assessments or aeronautical studies in support of an exemption.
- (4) An exemption may include such limitations, conditions or mitigation measures as the Department may specify.
- (5) An exemption remains valid for the period specified in the exemption unless revoked or suspended by the Department.

22 Offences and Penalties

- (1) Subject to paragraphs (2) and (3), a person who contravenes any provision of this Order commits an offence and is liable -
 - (a) on summary conviction, to a fine not exceeding level 5 on the standard scale; or
 - (b) on conviction on information, to a fine or to a term of custody not exceeding five years, or to both.
- (2) A person is not to be taken to have contravened a provision specified in paragraph (1) if the person proves that -
 - (a) the contravention occurred without the person's consent or connivance; and
 - (b) the person exercised all due diligence to prevent the contravention.
- (3) If it is proved that an act or omission of a person that would otherwise have been a contravention by the person of a provision specified in paragraph (1) was due to any cause not avoidable by the exercise of reasonable care by the person, the act or omission is to be taken not to be a contravention by the person of the provision.

MADE 3 JUNE 2020

SCHEDULE 1**FRAMEWORK FOR A SAFETY MANAGEMENT SYSTEM**

[Article 5]

PART 1**SAFETY POLICY AND OBJECTIVES****1 Management commitment**

- (1) A safety management system must have a safety policy which –
 - (a) reflects the organisational commitment to 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 with regard to the air traffic services unit's aviation activities and includes 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; and
 - (g) is periodically reviewed to ensure it remains relevant and appropriate to the person in charge of the air traffic services unit.
- (2) A safety management system must have 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

A safety management system must have 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; and
- (e) define the levels of management with authority to make decisions regarding safety risk tolerability.

3 Appointment of key safety personnel

A safety management system must include 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

A safety management system must have an emergency response plan for accidents, incidents and aviation emergencies.

5 Safety Management System Documentation

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

PART 2

SAFETY RISK MANAGEMENT

6 Hazard identification

- (1) A safety management system must have a process to identify hazards associated with the operation of aircraft.
- (2) Hazard identification must be based on a combination of reactive and proactive methods.

7 Safety risk assessment and mitigation

A safety management system must have 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) A safety management system must have the means to verify safety performance and to validate the effectiveness of safety risk controls.
- (2) The safety performance must 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 safety management system must have a process to identify changes which may affect the level of safety risk associated with aviation operations and to identify and manage the safety risks that may arise from those changes.

10 Continuous improvement of the safety management system

A safety management system must have a system for monitoring and assessing the safety management system processes to maintain or continuously improve its overall effectiveness.

PART 4

SAFETY PROMOTION

11 Training and education

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

12 Safety communication

A safety management system must have 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; and
- (d) explains why safety procedures are introduced or changed.

SCHEDULE 2**AIR TRAFFIC SERVICE: EQUIPMENT RECORDS TO BE KEPT**

[Article 9]

AIR TRAFFIC SERVICE EQUIPMENT RECORDS TO BE KEPT

- (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 -
 - (a) must be kept in a legible form or be capable of being reproduced in a legible form; and
 - (b) must be produced by the person required to keep the record if requested by the Department.
- (3) In any particular case the Department may specify the form in which the record must be kept.

SCHEDULE 3**AIR TRAFFIC SERVICE: VOICE AND DATA COMMUNICATION RECORDS
AND MATTERS TO WHICH THE DEPARTMENT MAY HAVE REGARD**

[Article 10]

PART 1**Records required in accordance with article 10(4)(d) and (8)(a)**

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

- (a) the identification of the air traffic services unit;
- (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**AIR TRAFFIC CONTROLLER LICENCES**

[Articles 16 and 17]

PART 1**1 Student Air Traffic Controller Licence**

The privileges of a student air traffic controller licence are to act as an air traffic controller under the supervision of another person who is present at the time and who -

- (a) is the holder of an air traffic controller licence entitling the holder to provide unsupervised the type of air traffic control service which is being provided by the student air traffic controller; and
- (b) is an on-the-job training instructor.

PART 2**2 Air Traffic Controller Licence**

The privileges of an air traffic controller licence are to –

- (a) act as an air traffic controller for any sector or operational position for which a valid rating, rating, endorsement and current unit endorsement are included in the licence; and
- (b) exercise the privileges of a student air traffic controller licence.

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.