



Isle of Man

Ellan Vannin

AT 21 of 2021

**ENTERPRISE (AVIATION AND
MERCHANT SHIPPING)
(MISCELLANEOUS AMENDMENTS) ACT
2021**



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Index

Section	Page
PART 1 – INTRODUCTORY	5
1 Short title	5
2 Commencement	5
PART 2 – AMENDMENTS TO AIRPORTS AND CIVIL AVIATION ACT 1987	6
3 Amendment of the Airports and Civil Aviation Act 1987	6
4 Long title amended	6
5 Section 1 (airport functions of Department of Infrastructure) amended	6
6 Section 3 (byelaws, etc supplementary provisions) amended	6
7 Section 6 (power of Department to obtain rights over land) amended	6
8 Section 9 (powers of entry for purposes of survey) amended	6
9 Section 11 (application to Island of civil aviation, etc legislation) amended	6
10 Section 11A (application to Island of EU instruments) amended	7
11 Section 11B (orders not derived from United Kingdom or EU instruments) amended	7
12 Section 11C (trespassing on licensed aerodromes) amended	8
13 Section 11F (provision by others of information for Department) amended	8
14 Section 11H (regulations prohibiting or restricting flying) amended	8
15 Section 11I (power to create offences in secondary legislation) amended	9
16 Sections 11J and 11K inserted	9
17 Section 12 (interpretation) amended	12
PART 3 – AMENDMENTS TO SHIPPING LEGISLATION	12
18 Merchant Shipping (Miscellaneous Provisions) Act 1996 amended	12
19 Repeal	13



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<i>Signed in Tynwald:</i>	<i>20 July 2021</i>
<i>Received Royal Assent:</i>	<i>14 December 2021</i>
<i>Announced to Tynwald:</i>	<i>14 December 2021</i>

AN ACT to amend the Airports and Civil Aviation Act 1987 to amend the powers to make regulations and orders under that Act; amend the enforcement and discretionary powers under that Act; amend the Merchant Shipping (Miscellaneous Provisions) Act 1996 to permit the exemption, discount or deferral of fees payable under that Act; and repeal the Merchant Shipping (Load Lines) Act 1981; and 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:—

PART 1 – INTRODUCTORY

1 Short title

The short title of this Act is the Enterprise (Aviation and Merchant Shipping) (Miscellaneous Amendments) Act 2021.

2 Commencement

This Act comes into operation on the day after Royal Assent for it is announced to Tynwald.

PART 2 – AMENDMENTS TO AIRPORTS AND CIVIL AVIATION ACT 1987

3 Amendment of the Airports and Civil Aviation Act 1987

The *Airports and Civil Aviation Act 1987* is amended in accordance with this Part.

4 Long title amended

In the Long title —

- (a) for “Department of Highways, Ports and Properties” substitute **Department of Infrastructure**;
- (b) for “that Department” substitute **the Department for Enterprise**;
- (c) for “legislation of Parliament” substitute **UK legislation**.

5 Section 1 (airport functions of Department of Infrastructure) amended

In section 1(1), for “in this Act” substitute **in sections 1 to 10**.

6 Section 3 (byelaws, etc supplementary provisions) amended

In section 3(1), for “£1,000” substitute **level 3 on the standard scale**.

7 Section 6 (power of Department to obtain rights over land) amended

In section 6(6) and 6(7), for “£5,000” substitute **level 5 on the standard scale**.

8 Section 9 (powers of entry for purposes of survey) amended

In section 9(3), for “£5,000” substitute **level 5 on the standard scale**.

9 Section 11 (application to Island of civil aviation, etc legislation) amended

In Section 11 —

- (a) in subsection (1), for “, subject to such exceptions, adaptations and modifications as may be specified in the order, any legislation of the United Kingdom” substitute **any UK legislation**;
- (b) in subsections (2) and (5), for “legislation of the United Kingdom” substitute **UK legislation**;
- (c) for subsection (3) substitute —

(2A) An order under subsection (1) may —

- (a) specify the exceptions, adaptations and modifications subject to which the UK legislation applies to the Island; or

- (b) set out the UK legislation applied by the order, incorporating the exceptions, adaptations and modifications subject to which it applies to the Island.
- (3) This section applies to –
 - (a) any provision in UK legislation, which concerns, directly or indirectly –
 - (i) aviation security;
 - (ii) civil aviation;
 - (iii) airports;
 - (iv) air traffic management;
 - (v) aviation safety;
 - (vi) air navigation services;
 - (vii) aircraft and their operation; or
 - (viii) the effect on the environment of airports and civil aviation; or
 - (b) any instrument of a legislative character made or having effect as if made under a provision of UK legislation mentioned in paragraph (a). **22**.

10 Section 11A (application to Island of EU instruments) amended

In section 11A(1), for paragraphs (a) to (j) substitute –

- 23**(a) aviation security;
- (b) civil aviation;
- (c) airports;
- (d) air traffic management;
- (e) aviation safety;
- (f) air navigation services;
- (g) aircraft and their operation; or
- (h) the effect on the environment of airports and civil aviation. **22**.

11 Section 11B (orders not derived from United Kingdom or EU instruments) amended

In section 11B –

- (a) in the heading, for “United Kingdom legislation” substitute **23** UK legislation **22**;
- (b) in subsection (2), for “legislation of the United Kingdom” substitute **23** UK legislation **22**;
- (c) in subsection (3) –

- (i) in paragraph (c), after “for the” insert **“a”** certifying, **“a”**;
- (ii) omit paragraph (d);
- (iii) in paragraph (f) after “licenced” insert **“a”** or certified **“a”**.

12 Section 11C (trespassing on licensed aerodromes) amended

In the heading of section 11C and in section 11C(1), after “licensed” insert **“a”** or certified **“a”**.

13 Section 11F (provision by others of information for Department) amended

In section 11F —

- (a) in the heading, after “Department” insert **“a”** for Enterprise **“a”**;
- (b) in subsection (1) —
 - (i) in paragraph (i), after “aerodrome licence” insert **“a”** or certificate **“a”**;
 - (ii) in paragraph (iii), after “aerodrome licence” in both places where it appears insert **“a”** or certificate **“a”**;
 - (iii) in the text after paragraph (iii), for ““aerodrome licence” means a licence” substitute **“a”** “aerodrome licence or certificate” means a licence or certificate **“a”**;
- (c) in subsection (2), after “licence” insert **“a”** or certificate **“a”**.

14 Section 11H (regulations prohibiting or restricting flying) amended

In section 11H —

- (a) for subsection (1)(a), substitute —
 - “(a)** for such period as may be specified in the regulations or for an unlimited period; and **“(a)”**;
- (b) in paragraph (b), for “in” substitute **“a”** in, or in accordance with, **“(a)”**;
- (c) after subsection (1), insert—
 - “(1A)** Regulations under this section may enable the Department for Enterprise, or a person authorised by the Department for Enterprise, to —
 - (a) exempt a person from the application of the regulations made under this section, subject to such conditions as the Department for Enterprise or the person authorised by the Department for Enterprise, as the case may be, may determine;
 - (b) permit a person to enter the specified airspace in respect of which regulations under this section apply at such time, for such purposes or subject to such

- conditions as the Department for Enterprise or the person authorised by the Department for Enterprise, as the case may be, may determine; or
- (c) give an instruction or direction to a person exempted under paragraph (a), or permitted to enter specified airspace under paragraph (b), as the case may be. **22**.

15 Section 11I (power to create offences in secondary legislation) amended

Omit section 11I(3).

16 Sections 11J and 11K inserted

After section 11I insert —

23 11J Power of Department for Enterprise to exercise discretion

- (1) An order made under section 11, 11A or 11B may permit the Department for Enterprise, or a person authorised by the Department for Enterprise, to exercise discretion in respect of a matter described in subsection (2).
- (2) The matters referred to subsection (1) in respect of which an order may provide for the exercise of discretion include, but are not limited to —
 - (a) issuing a direction;
 - (b) modifying, dispensing with, exempting or excepting a requirement;
 - (c) accepting or refusing an application for a matter in a case where such application is not made in accordance with such requirements as may be prescribed under the order;
 - (d) issuing or declining to issue a certificate, licence or other document;
 - (e) authorising, approving, permitting, prohibiting, suspending or otherwise restricting a person, activity or equipment;
 - (f) revoking, suspending or varying a certificate, licence or other document; and
 - (g) correcting, amending or cancelling a certificate, licence or other document or an entry in a register.

11K Powers of entry

- (1) The Department for Enterprise may authorise a person (“authorised officer”) for the purposes of taking any enforcement

- action required under regulations under section 11H or an order under sections 11, 11A or 11B.
- (2) An authorised officer who has reasonable grounds for suspecting that an offence has been committed or there has been any other contravention of regulations under section 11H or an order under sections 11, 11A or 11B, as the case may be, upon producing, if so required, some duly authenticated document showing the officer's authority, has a right at all reasonable hours —
- (a) to enter any premises for the purpose of ascertaining whether there is or has been on the premises any contravention of a provision of regulations under section 11H or an order under section 11, 11A or 11B; and
- (b) to enter any business premises for the purpose of ascertaining whether there is on the premises any evidence of any contravention of any such provisions.
- (3) Subject to subsection (4), admission to any premises used only as a private dwelling may not be demanded as of right unless 24 hours' notice of the intended entry has been given to the occupier and the occupier has given his or her consent to the authorised officer to enter.
- (4) If a justice of the peace, on sworn information in writing, is satisfied that there is reasonable ground for entry into any premises for any such purpose as is mentioned in subsection (2) and either —
- (a) that admission to the premises has been refused, or a refusal is anticipated, and that notice of the intention to apply for a warrant has been given to the occupier; or
- (b) that an application for admission, or the giving of such a notice, would defeat the object of the entry, or that the case is one of urgency, or that the premises are unoccupied or the occupier temporarily absent,
- the justice may by warrant signed by the justice authorise the authorised officer to enter the premises, if need be by reasonable force.
- (5) Every warrant granted under this section continues in force for a period of one month.
- (6) An authorised officer must not enter any premises, by virtue of this section or of a warrant issued under it, that is used only as a private dwelling, unless the authorised officer is accompanied by a constable.
- (7) An authorised officer entering any premises by virtue of this section, or of a warrant issued under it may take with him or her such other persons as that authorised officer considers necessary,

and on leaving any unoccupied premises which the authorised officer has entered must leave them as effectively secured against unauthorised entry as he or she found them.

(8) An authorised officer entering premises by virtue of this section, or of a warrant issued under it, may inspect any documents (in whatever form they are held) relating to a matter in regulations under section 11H or an order under section 11, 11A or 11B, and, where any such documents are kept by means of a computer —

(a) may have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in use in connection with the documents; and

(b) may require any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material to afford the officer such assistance as he or she may reasonably require.

(9) An authorised officer exercising any power conferred by subsection (8) may —

(a) seize and detain any documents which the officer has reason to believe may be required as evidence in proceedings or other enforcement action under regulations under section 11H or an order under sections 11, 11A or 11B; and

(b) where the documents are kept by means of a computer, may require the documents to be produced in a form in which they may be taken away.

(10) A person who wilfully obstructs an authorised officer acting in pursuance of his or her powers under this section is guilty of an offence.

(11) Nothing in this section —

(a) compels a person to supply any privileged information; or

(b) confers a right on a person who enters premises in exercise of the powers in this section to seize such information.

(12) A person (“P”) who discloses to any person any privileged information obtained by P while exercising a power under this section is guilty of an offence, unless the disclosure was made in the performance of P’s duty.

(13) In this section “privileged information” means information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

(14) A person guilty of an offence under subsection (10) or (12) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

- (15) Where an order under section 11, 11A or 11B provides for a safety investigation to be conducted into an accident or incident involving any aircraft, nothing in this section is to be construed as limiting the powers specified in such an order of —
- (a) the Chief Inspector of the Air Accidents Investigation Branch appointed by the Secretary of State for the Department for Transport;
 - (b) the Deputy Chief Inspector of that Branch; or
 - (c) an Inspector of that Branch. **22**.

17 Section 12 (interpretation) amended

In section 12(1) —

- (a) in the definition of “airport official”, after “Department” insert **23** of Infrastructure **22**;
- (b) after the definition of “owner”, insert —

23 “premises”, for the purposes of sections 11 to 11K, includes any of the following —

- (a) an aerodrome including hangars, aprons, fuel storage facilities, cargo handling areas and places where aircraft land;
- (b) an aircraft;
- (c) a building or other place from which an air navigation service is provided or at which air navigation services equipment is located;
- (d) the offices of an aircraft operator;
- (e) any place containing aviation training facilities;
- (f) any place containing workshops of approved aviation maintenance organisations; and
- (g) any places at which a meteorological service for air navigation is provided. **22**.

PART 3 –AMENDMENTS TO SHIPPING LEGISLATION

18 Merchant Shipping (Miscellaneous Provisions) Act 1996 amended

After section 17(2) of the *Merchant Shipping (Miscellaneous Provisions) Act 1996* insert —

- 24**(2A) The Department for Enterprise, subject to any conditions that the Department for Enterprise considers appropriate, may —
- (a) grant an exemption from a provision of any regulations made under subsection (1); or

- (b) grant a discount or deferral in respect of any fee payable under such regulations.
- (2B) The Department for Enterprise may amend or cancel such exemption, discount or deferral –
 - (a) where a condition upon which it is granted is not satisfied; or
 - (b) in any other circumstances, subject to giving reasonable notice to a person to whom the exemption, discount or deferral under subsection (2A) applies. **22**.

19 Repeal

The *Merchant Shipping (Load Lines) Act 1981* is repealed.

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