

As applied to the Isle of Man by SD 2018/0279 from 1 January 2019

## Aviation Security Act 1982

### Arrangement of Sections

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**PART I**  
OFFENCES AGAINST THE SAFETY OF AIRCRAFT ETC.

**1 Hijacking**

(1) A person on board an aircraft in flight who unlawfully, by the use of force or by threats of any kind, seizes the aircraft or exercises control of it commits the offence of hijacking, whatever his nationality, whatever the State in which the aircraft is registered and whether the aircraft is in *the Isle of Man* or elsewhere, but subject to subsection (2) below.

(2) If -

- (a) the aircraft is used in military, customs or police service, or
- (b) both the place of take-off and the place of landing are in the territory of the State in which the aircraft is registered,

subsection (1) above shall not apply unless -

- (i) the person seizing or exercising control of the aircraft is a United Kingdom national; or
- (ii) his act is committed in *the Isle of Man*; or
- (iii) the aircraft is registered in *the Isle of Man* or is used *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) A person who commits the offence of hijacking shall be liable, on conviction on *information*, to *custody* for life.

(4) If *the Department* by order declares -

- (a) that any two or more States named in the order have established an organisation or agency which operates aircraft; and
- (b) that one of those States has been designated as exercising, for aircraft so operated, the powers of the State of registration,

the State declared under paragraph (b) of this subsection shall be deemed for the purposes of this section to be the State in which any aircraft so operated is registered; but in relation to such an aircraft subsection (2)(b) above shall have effect as if it referred to the territory of any one of the States named in the order.

(5) For the purposes of this section the territorial waters of any State shall be treated as part of its territory.

**(6) Section 32 of the Legislation Act 2015 (negative Tynwald procedure) applies to regulations under this section.**

## **2 Destroying, damaging or endangering safety of aircraft**

(1) It shall, subject to subsection (4) below, be an offence for any person unlawfully and intentionally -

- (a) to destroy an aircraft in service or so to damage such an aircraft as to render it incapable of flight or as to be likely to endanger its safety in flight; or
- (b) to commit on board an aircraft in flight any act of violence which is likely to endanger the safety of the aircraft.

(2) It shall also, subject to subsection (4) below, be an offence for any person unlawfully and intentionally to place, or cause to be placed, on an aircraft in service any device or substance which is likely to destroy the aircraft, or is likely so to damage it as to render it incapable of flight or as to be likely to endanger its safety in flight; but nothing in this subsection shall be construed as limiting the circumstances in which the commission of any act -

- (a) may constitute an offence under subsection (1) above, or
- (b) may constitute attempting or conspiring to commit, or aiding, abetting, counselling or procuring, or being art and part in, the commission of such an offence.

(3) Except as provided by subsection (4) below, subsections (1) and (2) above shall apply whether any such act as is therein mentioned is committed in *the Isle of Man* or elsewhere, whatever the nationality of the person committing the act and whatever the State in which the aircraft is registered.

(4) Subsections (1) and (2) above shall not apply to any act committed in relation to an aircraft used in military, customs or police service unless -

- (a) the act is committed in *the Isle of Man*,
- (b) where the act is committed outside the *Isle of Man*, the person committing it is a United Kingdom national.

(5) A person who commits an offence under this section shall be liable, on conviction on *information*, to *custody* for life.

(6) In this section unlawfully -

- (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.*

(7) In this section act of violence means -

- (a) *any act done in the Isle of Man which constitutes a serious offence of violence, and*
- (b) any act done outside *the Isle of Man* which, if done in *the Isle of Man*, would constitute such an offence as is mentioned in paragraph (a) above.

### **3 Other acts endangering or likely to endanger safety of aircraft**

(1) It shall, subject to subsection (5) below, be an offence for any person unlawfully and intentionally to destroy or damage any property to which this subsection applies, or to interfere with the operation of any such property, where the destruction, damage or interference is likely to endanger the safety of aircraft in flight.

(2) Subsection (1) above applies to any property used for the provision of air navigation facilities, including any land, building or ship so used, and including any apparatus or equipment so used, whether it is on board an aircraft or elsewhere.

(3) It shall also, subject to subsections (4) and (5) below, be an offence for any person intentionally to communicate any information which is false, misleading or deceptive in a material particular, where the communication of the information endangers the safety of an aircraft in flight or is likely to endanger the safety of aircraft in flight.

(4) It shall be a defence for a person charged with an offence under subsection (3) above to prove -

- (a) that he believed, and had reasonable grounds for believing, that the information was true; or
- (b) that, when he communicated the information, he was lawfully employed to perform duties which consisted of or included the communication of information and that he communicated the information in good faith in the performance of those duties.

(5) Subsections (1) and (3) above shall not apply to the commission of any act unless either the act is committed in *the Isle of Man*, or, where it is committed outside *the Isle of Man* -

- (a) the person committing it is a United Kingdom national; or
- (b) the commission of the act endangers or is likely to endanger the safety in flight of a civil aircraft registered in *the Isle of Man* or chartered by demise to a lessee whose principal place of business, or (if *the lessee* has no place of business) whose permanent residence, is in *the Isle of Man*; or
- (c) the act is committed on board a civil aircraft which is so registered or so chartered; or
- (d) the act is committed on board a civil aircraft which lands in *the Isle of Man* with the

person who committed the act still on board.

(6) Subsection (1) above shall also not apply to any act committed outside *the Isle of Man* and so committed in relation to property which is situated outside *the Isle of Man* and is not used for the provision of air navigation facilities in connection with international air navigation, unless the person committing the act is a United Kingdom national.

(7) A person who commits an offence under this section shall be liable, on conviction on *information*, to *custody* for life.

(8) In this section “civil aircraft” means any aircraft other than an aircraft used in military, customs or police service and unlawfully has the same meaning as in section 2 of this Act.

#### **4 Offences in relation to certain dangerous articles**

(1) It shall be an offence for any person without lawful authority or reasonable excuse (the proof of which shall lie on him) to have with him -

- (a) in any aircraft registered in *the Isle of Man*, whether at a time when the aircraft is in *the Isle of Man* or not, or
- (b) in any other aircraft at a time when it is in, or in flight over, *the Isle of Man*, or
- (c) in any part of an aerodrome in *the Isle of Man*, or
- (d) in any air navigation installation in *the Isle of Man* which does not form part of an aerodrome,

any article to which this section applies.

(2) This section applies to the following articles, that is to say -

- (a) any firearm, or any article having the appearance of being a firearm, whether capable of being discharged or not;
- (b) any explosive, any article manufactured or adapted (whether in the form of a bomb, grenade or otherwise) so as to have the appearance of being an explosive, whether it is capable of producing a practical effect by explosion or not, or any article marked or labelled so as to indicate that it is or contains an explosive; and
- (c) any article (not falling within either of the preceding paragraphs) made or adapted for use for causing injury to or incapacitating a person or for destroying or damaging property, or intended by the person having it with him for such use, whether by him or by any other person.

(3) For the purposes of this section a person who is for the time being in an aircraft, or in part of an aerodrome, shall be treated as having with him in the aircraft, or in that part of the aerodrome, as the case may be, an article to which this section applies if -

- (a) where he is in an aircraft, the article, or an article in which it is contained, is in the aircraft and has been caused (whether by him or by any other person) to be brought there as being, or as forming part of, his baggage on a flight in the aircraft or has been caused by him to be brought there as being, or as forming part of, any other property to be carried on such a flight, or
- (b) where he is in part of an aerodrome (otherwise than in an aircraft), the article, or an article in which it is contained, is in that or any other part of the aerodrome and has been caused

(whether by him or by any other person) to be brought into the aerodrome as being, or as forming part of, his baggage on a flight from that aerodrome or has been caused by him to be brought there as being, or as forming part of, any other property to be carried on such a flight on which he is also to be carried,

notwithstanding that the circumstances may be such that (apart from this subsection) he would not be regarded as having the article with him in the aircraft or in a part of the aerodrome, as the case may be.

(4) A person guilty of an offence under this section shall be liable -

- (a) on summary conviction, to a fine not exceeding *level 5 on the standard scale* or to *custody* for a term not exceeding three months or to both;
- (b) on conviction on *information*, to a fine or to *custody* for a term not exceeding five years or to both.

(5) Nothing in subsection (3) above shall be construed as limiting the circumstances in which a person would, apart from that subsection, be regarded as having an article with him as mentioned in subsection (1) above.

## **5 Jurisdiction of courts in respect of air piracy**

(1) Any court in *the Isle of Man* having jurisdiction in respect of piracy committed on the high seas shall have jurisdiction in respect of piracy committed by or against an aircraft, wherever that piracy is committed.

(2) In subsection (1) above, aircraft has the same meaning as in section 92 of the Civil Aviation Act 1982 (*as that section applies to the Isle of Man*) (application of criminal law to aircraft); and, for the purposes of this definition, section 101 of that Act (Crown aircraft) shall apply to this section as it applies to the said section 92 (*as so applied*).

## **6 Ancillary offences**

(1) Without prejudice to section 92 of the Civil Aviation Act 1982 (*as that section applies to the Isle of Man*) (application of criminal law to aircraft) or to section 2(1)(b) of this act, where a person (of whatever nationality) does on board any aircraft (wherever registered) and while outside *the Isle of Man* any act which, if done in *the Isle of Man* would constitute *a serious offence of violence*, his act shall constitute that offence if it is done in connection with the offence of hijacking committed or attempted by him on board that aircraft.

(2) It shall be an offence for any person in *the Isle of Man* to induce or assist the commission outside *the Isle of Man* of any act which -

- (a) would, but for subsection (2) of section 1 of this Act, be an offence under that section; or
- (b) would, but for subsection (4) of section 2 of this Act, be an offence under that section; or
- (c) would, but for subsection (5) of section 3 of this Act, be an offence under that section.

(3) A person who commits an offence under subsection (2) above shall be liable, on conviction on *information*, to *custody* for life.

(4) Subsection (2) above shall have effect without prejudice to the operation, in relation to any offence under section 1, 2 or 3 of this Act, *of sections 350, 351 or 356 of the Criminal Code 1872 (an Act of Tynwald)*.

## **7 Powers exercisable on suspicion of intended offence under Part I**

(1) Where a constable has reasonable cause to suspect that a person about to embark on an aircraft in *the Isle of Man*, or a person on board such an aircraft, intends to commit, in relation to the aircraft, an offence under any of the preceding provisions of this Part of this Act (other than section 4), the constable may prohibit him from travelling on board the aircraft, and for the purpose of enforcing that prohibition the constable -

- (a) may prevent him from embarking on the aircraft or, as the case may be, may remove him from the aircraft; and
- (b) may arrest him without warrant and detain him for so long as may be necessary for that purpose.

(2) Any person who [intentionally obstructs] a person acting in the exercise of a power conferred on him by subsection (1) above shall be guilty of an offence and liable -

- (a) on summary conviction, to a fine not exceeding *level 5 on the standard scale*;
- (b) on conviction on *information*, to a fine or to *custody* for a term not exceeding two years or to both.

(3) Subsection (1) above shall have effect without prejudice to the operation, in relation to any offence under this Act, *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)*.

## **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.*

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## **PART II**

### **PROTECTION OF AIRCRAFT, AERODROMES AND AIR NAVIGATION INSTALLATIONS AGAINST ACTS OF VIOLENCE**

#### *General purposes*

## **10 Purposes to which Part II applies**

(1) The purposes to which this Part of this Act applies are the protection against acts of violence -

- (a) of aircraft, and of persons or property on board aircraft;

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<sup>1</sup> Words substituted by Aviation and Maritime Security Act 1990 s. 8(1), Sch. 1 para. 1

<sup>2</sup> S. 9 repealed by Extradition Act 1989 Sch. 2 (1989 Act consequently repealed 1<sup>st</sup> January 2004 by Extradition Act 2003)

- (b) of aerodromes, and of such persons or property as (in the case of persons) are at any time present in any part of an aerodrome or (in the case of property) forms part of an aerodrome or is at any time (whether permanently or temporarily) in any part of an aerodrome; and
- (c) of air navigation installations which do not form part of an aerodrome.

**(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).**

[<sup>3</sup>(3) The purpose of protecting civil aviation against acts of unlawful interference that jeopardise the security of civil aviation is to be treated as a purpose to which this Part applies (in so far as it is not a purpose to which this Part applies by virtue of subsection (1)).

(4) The reference in subsection (3) to protecting civil aviation against acts of unlawful interference that jeopardise the security of civil aviation has the same meaning as in the Framework Regulation.]

[<sup>4</sup>Information]

## **11 Power [<sup>5</sup>] to require information**

[<sup>6</sup>(1) *The Department* may, by notice in writing served on any person who -

(a) is the operator of one or more aircraft registered or operating in *the Isle of Man*,

(b) is the manager of an aerodrome in *the Isle of Man*,

(c) occupies any land forming part of an aerodrome in *the Isle of Man*, or

(d) is permitted to have access to a [security restricted area] of an aerodrome for the purposes of the activities of a business carried on by him,

require that person to provide *the Department* with such information specified in the notice as *the Department* may require in connection with the exercise by *the Department* of [<sup>8</sup>functions conferred by or] under this Part of this Act.]

(2) A notice under subsection (1) above shall specify [<sup>9</sup>a period before the end of] which the information required by the notice in accordance with subsection (1) above is to be furnished to *the Department*.

<sup>3</sup> S. 10(3) and (4) added by The Aviation Security Regulations 2010 (SI 2010/902) reg. 4

<sup>4</sup> Words substituted by Civil Aviation Act 2012 Sch.11 para.5

<sup>5</sup> Words repealed by Civil Aviation Act 2012 Sch. 11 para 6(7)

<sup>6</sup> Words substituted by Aviation and Maritime Security Act 1990 s. 8(1), Sch. 1 para. 2(2)

<sup>7</sup> Words substituted by The Aviation Security Regulations 2010 (S.I. 2010/902) reg. 9(a)

<sup>8</sup> Words substituted by Civil Aviation Act 2012 Sch. 11 para. 6(2)(c)

<sup>9</sup> Words substituted by Counter-Terrorism and Security Act 2015 Sch. 5 para. 9(2)(a)



(3) Any such notice [<sup>10</sup>may] also require the person on whom it is served, after he has furnished to *the Department* the information required by the notice in accordance with subsection (1) above, to inform *the Department* if at any time [<sup>11</sup>the information previously furnished to *the Department* (including any information furnished in pursuance of a requirement imposed by virtue of this subsection) is rendered inaccurate by any change of circumstances (including the taking of any further measures for purposes to which this Part of this Act applies or the alteration or discontinuance of any measures already being taken)].

(4) In so far as such a notice requires further information to be furnished to *the Department* in accordance with subsection (3) above, it shall require that information to be furnished to *the Department* before the end of such period [<sup>12</sup>] as is specified in the notice for the purposes of this subsection.

(5) Any person who -

- (a) [<sup>13</sup>] without reasonable excuse, fails to comply with a requirement imposed on him by a notice under this section, or
- (b) in furnishing any information so required, makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular,

shall be guilty of an offence and liable -

- (i) on summary conviction, to a fine not exceeding *level 5 on the standard scale*;
- (ii) on conviction on *information*, to a fine or to *custody* for a term not exceeding two years or to both.

[<sup>14</sup>(5A) Proceedings for an offence under subsection (5) above may not be instituted against a person who has paid a penalty in respect of the same failure, or the same false statement, by virtue of regulations made under section 22A.]

(6) A notice served on a person by *the Department* under subsection (1) above may at any [<sup>15</sup>time -

- (a) be revoked by a notice in writing served on *the person* by *the Department*, or
- (b) be varied by *the Department* by a further notice under subsection (1) above].

### [<sup>16</sup>[<sup>17</sup> *Designation of security restricted areas*

#### [<sup>18</sup>11A *Designation of* [<sup>19</sup>security restricted areas]

(1) The manager of an aerodrome in *the Isle of Man* may, and shall if so requested in writing by *the Department*, apply to *the Department* for the designation of the whole or any part of the

<sup>10</sup> Word substituted by Aviation and Maritime Security Act 1990 s. 8(1), Sch. 1 para. 2(4)(a)

<sup>11</sup> Words substituted by Aviation and Maritime Security Act 1990 s. 8(1), Sch. 1 para. 2(4)(b)

<sup>12</sup> Words in s. 11(4) omitted by virtue of Counter-Terrorism and Security Act 2015 Sch. 5 para. 9(2)(b)

<sup>13</sup> Words repealed by Aviation and Maritime Security Act 1990 s. 8(1), Sch. 1 para. 2(6) Sch. 4

<sup>14</sup> S. 11(5A) inserted by Counter-Terrorism and Security Act 2015 Sch. 5 para. 11(3)

<sup>15</sup> Words substituted by Aviation and Maritime Security Act 1990 s. 8(1), Sch. 1 para.2(7)

<sup>16</sup> S. 11A cross-heading inserted by virtue of Civil Aviation Act 2012 Sch. 11 para 7

<sup>17</sup> S.11A moved under the new heading "Designation of security restricted areas" by Civil Aviation Act 2012 Sch.11 para.7

<sup>18</sup> S.11A inserted by Aviation and Maritime Security Act 1990 s. 8(1), Sch. 1 para 3

<sup>19</sup> Words substituted by The Aviation Security Regulations 2010 (S.I. 2010/902), reg. 9(b)

aerodrome as a [18security restricted area] for the purposes of this Part of this Act.

(2) Where the aerodrome includes an air navigation installation, the manager -

- (a) shall, before making any application under subsection (1) above, consult the authority responsible for the air navigation installation, and
- (b) shall send a copy of the application to that authority.

(3) An application under subsection (1) above shall be in such form, and accompanied by such plans, as *the Department* may require.

(4) If *the Department* approves an application under subsection (1) above, with or without modifications, *it* shall designate the [18security restricted area] accordingly.

(5) Before approving an application with modifications, *the Department* shall consult -

- (a) the manager of the aerodrome, and
- (b) the authority responsible for any air navigation installation which forms part of the aerodrome.

(6) If the manager of an aerodrome is requested in writing by *the Department* to make an application under subsection (1) above within a specified period but fails to do so within that period, *the Department* may designate the whole or any part of the aerodrome as a [18security restricted area].

(7) The whole or any part of the aerodrome may be designated as a [18security restricted area], or part of a [18security restricted area], for specified days or times of day only.

(8) *The Department* shall give notice of any designation under this section to -

- (a) the manager of the aerodrome, and
- (b) the authority responsible for any air navigation installation which forms part of the aerodrome,

and the designation of the [18security restricted area] shall take effect on the giving of the notice.

(9) In relation to an air navigation installation in *the Isle of Man* which does not form part of an aerodrome, this section has effect as if any reference to an aerodrome were a reference to such an air navigation installation and any reference to the manager of an aerodrome were a reference to the authority responsible for such an air navigation installation.

(10) Where the whole or any part of an aerodrome has been designated under this section as a [18security restricted area] -

- (a) subsections (1) to (9) above also have effect in relation to any variation of the designation, and
- (b) the designation may at any time be revoked by *the Department*.]

[<sup>20</sup> *Directions*]

[12 **Power to impose restrictions in relation to aircraft**

(1) For purposes to which this Part of this Act applies, *the Department* may give a direction in writing to the operator of any one or more aircraft registered or operating in *the Isle of Man*, or to the manager of any aerodrome in *the Isle of Man*, requiring him -

- (a) not to cause or permit persons or property to go or be taken on board any aircraft to which the direction relates, or to come or be brought into proximity to any such aircraft, unless such searches of those persons or that property as are specified in the direction have been carried out by constables or by other persons of a description specified in the direction, or
- (b) not to cause or permit any such aircraft to [<sup>21</sup>fly in or into *the Isle of Man* unless such searches (of persons or property or of the aircraft itself)] as are specified in the direction have been carried out by constables or by other persons of a description so specified.

(2) *The Department* may give a direction in writing to the operator of any one or more aircraft registered in *the Isle of Man* requiring him not to cause or permit the aircraft to fly unless such modifications or alterations of the aircraft, or of apparatus or equipment installed in the aircraft, as are specified in the direction have first been carried out, or such additional apparatus or equipment as is so specified is first installed in the aircraft.

(3) *Omitted.*

(4) In giving any direction under subsection (2) above, *the Department* shall allow, and shall specify in the direction, such period as appears to *the Department* to be reasonably required for carrying out the modifications or alterations or installing the additional apparatus or equipment in question; and the direction shall not take effect before the end of the period so specified.

(5) Subject to the following provisions of this Part of this Act, a direction given to an operator of aircraft under subsection (1) above may be given so as to relate -

- (a) either to all the aircraft registered or operating in *the Isle of Man* of which at the time when the direction is given or at any subsequent time he is the operator or only to one or more such aircraft, or to a class of such aircraft, specified in the direction;
- (b) either to all persons or only to one or more persons, or persons of one or more descriptions, specified in the direction; and
- (c) either to property of every description or only to particular property, or property of one or more descriptions, specified in the direction;

and a direction given to an operator of aircraft under subsection (2) above may be given so as to relate either to all aircraft registered in *the Isle of Man* of which at the time when the direction is given or at any subsequent time he is the operator or only to one or more such aircraft, or to a class of such aircraft, specified in the direction.

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<sup>20</sup> Ss 12-14 moved under a new heading "Directions" by Civil Aviation Act 2012 Sch.11 para.9

<sup>21</sup> Words substituted by Counter-Terrorism and Security Act 2015 Sch. 5 para. 9(3)

(6) Subject to the following provisions of this Part of this Act, a direction given to the manager of an aerodrome under subsection (1) above may be given so as to relate -

- (a) either to all aircraft which at the time when the direction is given or at any subsequent time are in any part of the aerodrome, or to a class of such aircraft specified in the direction;
- (b) either to all persons or only to one or more persons, or persons of one or more descriptions, specified in the direction; and
- (c) either to property of every description or only to particular property, or property of one or more descriptions, specified in the direction.

(7) Subject to the following provisions of this Part of this Act, any direction given under this section to any person not to cause or permit anything to be done shall be construed as requiring him to take all such steps as in any particular circumstances are practicable and necessary to prevent that thing from being done.

(8) A direction may be given under this section to a person appearing to *the Department* to be about to become -

- (a) such an operator as is mentioned in subsection (1) or (2) above; or
- (b) such a manager as is mentioned in subsection (1) above;

but a direction given to a person by virtue of this subsection shall not take effect until he becomes such an operator or manager, and, in relation to a direction so given, the preceding provisions of this section shall apply with the necessary modifications.

(9) Any person who<sup>[22, without reasonable excuse,]</sup> fails to comply with a direction given to him under this section shall be guilty of an offence and liable -

- (a) on summary conviction, to a fine not exceeding *level 5 on the standard scale*;
- (b) on conviction on *information*, to a fine or to *custody* for a term not exceeding two years or to both.

<sup>[23(9A)]</sup> Proceedings for an offence under subsection (9) above may not be instituted against a person who has paid a penalty in respect of the same failure by virtue of regulations made under section 22A.]

<sup>[24(10)]</sup> Where a person is convicted of an offence under subsection (9) above, then, if without reasonable excuse the failure in respect of which he was convicted is continued after the conviction, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding  $\frac{1}{10}$  of *level 2 of the standard scale* for each day on which the failure continues.]

### <sup>[25]</sup>13 **Power to require aerodrome managers to promote searches at aerodromes**

(1) For purposes to which this Part of this Act applies, *the Department* may give a direction in writing to the manager of any aerodrome in *the Isle of Man* requiring him to use his best endeavours to secure that such searches to which this section applies as are specified in the direction

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<sup>22</sup> Words substituted by Aviation and Maritime Security Act 1990 s. 8(1), Sch. 1 para. 4(2)

<sup>23</sup> S. 12(9A) inserted by Counter-Terrorism and Security Act 2015 Sch. 5 para. 11(4)

<sup>24</sup> S. 12(10) inserted by Aviation and Maritime Security Act 1990 s. 8(1), Sch. 1 para. 4(3)

<sup>25</sup> Ss 12-14 moved under a new heading "Directions" by Civil Aviation Act 2012 Sch.11 para.9

are carried out by constables or by other persons of a description specified in the direction.

- (2) The searches to which this section applies, in relation to an aerodrome, are searches -
- (a) of the aerodrome or any part of it;
  - (b) of any aircraft which at the time when the direction is given or at any subsequent time is in any part of the aerodrome; and
  - (c) of persons or property (other than aircraft) which may at any such time be in any part of the aerodrome.

(3) Without prejudice to section 7(1) of this Act, where a direction given under this section to the manager of an aerodrome is for the time being in force, then if a constable, or any other person specified in the direction in accordance with this section, has reasonable cause to suspect that an article to which section 4 of this Act applies is in, or may be brought into, any part of the aerodrome, he may, by virtue of this subsection and without a warrant, search any part of the aerodrome or any aircraft, vehicle, goods or other moveable property of any description which, or any person who, is for the time being in any part of the aerodrome, and for that purpose -

- (a) may enter any building or works in the aerodrome, or enter upon any land in the aerodrome, if need be by force, and
- (b) may stop any such aircraft, vehicle, goods, property or person and detain it or him for so long as may be necessary for that purpose.

(4) Any person who -

- (a) [26without reasonable excuse] fails to comply with a direction given to him under this section, or
- (b) [27intentionally obstructs] a person acting in the exercise of a power conferred on him by subsection (3) above,

shall be guilty of an offence and liable -

- (i) on summary conviction, to a fine not exceeding *level 5 on the standard scale*;
- (ii) on conviction on *information*, to a fine or to *custody* for a term not exceeding two years or to both.

[28(4ZA) Proceedings for an offence under subsection (4) above may not be instituted against a person who has paid a penalty in respect of the same failure by virtue of regulations made under section 22A.]

[29 (4A) Where a person is convicted of an offence under subsection (4)(a) above, then, if without reasonable excuse the failure in respect of which he was convicted is continued after the conviction, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding <sup>1/10</sup> of *level 2 on the standard scale* for each day on which the failure continues.]

**(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).]**

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<sup>26</sup> Words substituted by Aviation and Maritime Security Act 1990 s. 8(1), Sch. 1 para. 5(2)(a)

<sup>27</sup> Words substituted by Aviation and Maritime Security Act 1990 s. 8(1), Sch. 1 para. 5(2)(b)

<sup>28</sup> S. 13(4ZA) inserted by Counter-Terrorism and Security Act 2015 Sch. 5 para. 11(5)

<sup>29</sup> S. 13(4A) inserted by Aviation and Maritime Security Act 1990 s. 8(1), Sch. 1 para. 5(3)

[<sup>30</sup>13A Power to require other persons to promote searches

(1) For purposes to which this Part of this Act applies, *the Department* may give a direction in writing to any person (other than the manager of an aerodrome) who -

- (a) occupies any land forming part of an aerodrome in *the Isle of Man*, or
- (b) is permitted to have access to a [<sup>31</sup>security restricted area] of such an aerodrome for the purposes of the activities of a business carried on by him,

requiring him to use his best endeavours to secure that such searches to which this section applies as are specified in the direction are carried out by constables or by other persons of a description specified in the direction.

(2) The searches to which this section applies are -

- (a) in relation to a person falling within subsection (1)(a) above, searches -
  - (i) of the land which he occupies within the aerodrome, and
  - (ii) of persons or property which may at any time be on that land; and
- (b) in relation to a person falling within subsection (1)(b) above, searches -
  - (i) of any land which he occupies outside the aerodrome for the purposes of his business, and
  - (ii) of persons or property which may at any time be on that land.

(3) Any person who, without reasonable excuse, fails to comply with a direction given to him under this section shall be guilty of an offence and liable -

- (a) on summary conviction, to a fine not exceeding *level 5 on the standard scale*;
- (b) on conviction on *information*, to a fine or to *custody* for a term not exceeding two years, or to both.

[<sup>32</sup>(3A) Proceedings for an offence under subsection (3) above may not be instituted against a person who has paid a penalty in respect of the same failure by virtue of regulations made under section 22A.]

(4) Where a person is convicted of an offence under subsection (3) above, then, if without reasonable excuse the failure in respect of which he was convicted is continued after the conviction, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding  $\frac{1}{10}$  of *level 2 on the standard scale* for each day on which the failure continues.]

[<sup>33</sup>14 General power to direct measures to be taken for purposes to which Part II applies

[<sup>34</sup>(1) Subsection (1A) below applies to any person who -

- (a) is the operator of one or more aircraft registered or operating in *the Isle of Man*,
- (b) is the manager of an aerodrome in *the Isle of Man*,
- (c) occupies any land forming part of an aerodrome in *the Isle of Man*, or
- (d) is permitted to have access to a [<sup>35</sup>security restricted area] of such an aerodrome for the

<sup>30</sup> Ss 12-14 moved under a new heading "Directions" by Civil Aviation Act 2012 Sch.11 para.9

<sup>31</sup> Words substituted by The Aviation Security Regulations 2010 (S.I. 2010/902), reg. 9(c)

<sup>32</sup> S. 13A(3A) inserted by Counter-Terrorism and Security Act 2015 Sch. 5 para. 11(6)

<sup>33</sup> Ss 12-14 moved under a new heading "Directions" by Civil Aviation Act 2012 Sch.11 para.9

<sup>34</sup> S. 14(1)(1A)(2) substituted for S. 14(1)(2) by Aviation and Maritime Security Act 1990 s. 3(1)

purposes of the activities of a business carried on by him.

(1A) Subject to the following provisions of this section, *the Department* may give a direction in writing to any person to whom this subsection applies requiring him to take such measures for purposes to which this Part of this Act applies as are specified in the direction -

- (a) in the case of a direction given to a person as the operator of any aircraft, in respect of all the aircraft registered or operating in *the Isle of Man* of which (at the time when the direction is given or at any subsequent time) he is the operator, or in respect of any such aircraft, or any class of such aircraft, specified in the direction;
- (b) in the case of a direction given to a person as the manager of an aerodrome, in respect of that aerodrome;
- (c) in the case of a direction given to a person as a person occupying any land forming part of an aerodrome, in respect of any such land as is specified in the direction; and
- (d) in the case of a direction given to a person as a person who is permitted to have access to a [<sup>34</sup>security restricted area] as mentioned in subsection (1) above, in respect of such activities carried on by that person in [<sup>36</sup>that area] as are specified in the direction.

(2) Without prejudice to the generality of subsection (1A) above, the measures to be specified in a direction given under this section to any person to whom that subsection applies may include the provision by that person of persons charged with the duty (at such times as may be specified in the direction) -

- (a) where the direction is given to a person as the operator of aircraft, of guarding the aircraft against acts of violence;
- (b) where the direction is given to a person as the manager of an aerodrome, of guarding the aerodrome, or persons or property (including aircraft) in any part of the aerodrome, against acts of violence;
- (c) where the direction is given to a person as falling within subsection (1)(c) above, of guarding against acts of violence any aircraft in the aerodrome which is for the time being under his control; or
- (d) where the direction is given to a person as falling within subsection (1)(d) above, of guarding -
  - (i) any land outside the aerodrome occupied by him for the purposes of his business, any vehicles or equipment used for those purposes and any goods which are in his possession for those purposes, and
  - (ii) any aircraft which is for the time being under his control, for purposes to which this Part of this Act applies.]

(3) A direction given under this section may be either of a general or of a specific character, and may require any measures specified in the direction to be taken at such time or within such period as may be so specified.

(4) <sup>37</sup>Omitted

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<sup>35</sup> Words substituted by The Aviation Security Regulations 2010 (S.I. 2010/902) reg. 9(d)

<sup>36</sup> Words substituted by The Aviation Security Regulations 2010 (S.I. 2010/902) reg. 10(a)

<sup>37</sup> S. 14(4) repealed by Aviation and Maritime Security Act 1990 Sch. 4

(5) A direction under this section -

- (a) shall not require any search (whether of persons or of property), and
- (b) shall not require the modification or alteration of any aircraft, or of any of its apparatus or equipment, or the installation of additional apparatus or equipment, or prohibit any aircraft from being caused or permitted to fly without some modification or alteration of the aircraft or its apparatus or equipment or the installation of additional apparatus or equipment.

(6) A direction may be given under this section to a person appearing to *the Department* to be about to become [<sup>38</sup>a person to whom subsection (1A) above applies], but a direction given to a person by virtue of this subsection shall not take effect until he becomes such [<sup>37</sup>a person], and, in relation to a direction so given, the preceding provisions of this section shall apply with the necessary modifications.

(7) Any person -

- (a) who, without reasonable excuse, fails to comply with a direction given to him under this section, or
- (b) [<sup>39</sup>intentionally] interferes with any building constructed or works executed on any land in compliance with a direction under this section or with anything installed on, under, over or across any land in compliance with such a direction,

shall be guilty of an offence and liable -

- (i) on summary conviction, to a fine not **exceeding level 5 on the standard scale**;
- (ii) on conviction on *information*, to a fine or to *custody* for a term not exceeding two years or to both.

[<sup>40</sup>(7ZA) Proceedings for an offence under subsection (7)(a) above may not be instituted against a person who has paid a penalty in respect of the same failure by virtue of regulations made under section 22A.]

[<sup>41</sup>(7A) Where a person is convicted of an offence under subsection (7)(a) above, then, if without reasonable excuse the failure in respect of which he was convicted is continued after the conviction, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding <sup>1/10</sup> of level 2 on the standard scale for each day on which the failure continues.]

(8) The ownership of any property shall not be affected by reason only that it is placed on or under, or affixed to, any land in compliance with a direction under this section.

#### 14A *Omitted*

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<sup>38</sup> Words substituted by Aviation and Maritime Security Act 1990 s. 3(3)

<sup>39</sup> Word substituted by Aviation and Maritime Security Act 1990 Schedule 1 para 6(2)(b)

<sup>40</sup> S. 14(7ZA) inserted by Counter-Terrorism and Security Act 2015 Sch. 5 para. 11(7)

<sup>41</sup> S. 14(7A) inserted by Aviation and Maritime Security Act 1990 s. 8(1), Sch. 1 para. 6(3)



## 15 Matters which may be included in directions under ss. 12 to 14

(1) A direction under subsection (1) of section 12 or under section 13 [<sup>42</sup>or 13A] of this Act may specify the minimum number of persons by whom any search to which the direction relates is to be carried out, the qualifications which persons carrying out any such search are to have, the manner in which any such search is to be carried out, and any apparatus, equipment or other aids to be used for the purpose of carrying out any such search.

[<sup>43</sup>(2) A direction under subsection (2) of section 12 of this Act must require all the persons carrying out any modifications or alterations, or the installation of any additional apparatus or equipment, to be persons approved by *the Department*.]

(3) <sup>44</sup>Omitted

(4) A direction under section 14 of this Act may specify -

- (a) the minimum number of persons to be employed for the purposes of any measures required by the direction to be taken by [<sup>45</sup>the person to whom it is given], and the qualifications which persons employed for those purposes are to have, and
- (b) any apparatus, equipment or other aids to be used for those purposes.

[<sup>46</sup>(5) Where a direction under any of the preceding provisions of this Part of this Act requires searches to be carried out, or other measures to be taken, by constables, the direction may require the person to whom it is given to inform the *Chief Constable* that *the Department* considers it appropriate that constables should be duly authorised to carry, and should carry, firearms when carrying out the searches or taking the measures in question.]

(6) Nothing in subsections (1) to (5) above shall be construed as limiting the generality of any of the preceding provisions of this Part of this Act.

(7) In this section “qualifications” includes training and experience.

(8) *Omitted.*

## 16 Limitations on scope of directions under ss. 12 to 14

(1) Without prejudice to subsection (5) of section 15 of this Act, a direction shall not require or authorise any person to carry a firearm.

(2) A direction shall not have effect in relation to any aircraft used in military, customs or police service.

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<sup>42</sup> S. 13A inserted by Aviation and Maritime Security Act 1990 s. 8(1), Sch. 1 para. 7(2)

<sup>43</sup> S. 15(2) substituted by Aviation and Maritime Security Act 1990 s. 8(1), Sch. 1 para. 7(3)

<sup>44</sup> S. 15(3) repealed by Aviation and Maritime Security Act 1990 ss. 8(1), Sch. 1 para. 7(4) , Sch. 4

<sup>45</sup> Words substituted by Aviation and Maritime Security Act 1990 s. 8(1), Sch. 1 para. 7(5)

<sup>46</sup> S. 15(5) substituted by Aviation and Maritime Security Act 1990 s. 8(1), Sch. 1 para. 7(6)

(3) A direction shall not have effect in relation to any aircraft of which the operator is the Government of a country outside *the Isle of Man*, or is a department or agency of such a Government, except at a time when any such aircraft is being used for the carriage of passengers or cargo for reward or is for the time being allocated by that Government, department or agency for such use.

(4) A direction (except in so far as it requires any building or other works to be constructed, executed, altered, demolished or removed) shall not be construed as requiring or authorising [47] the person to whom the direction was given, or any person acting as his employee or agent], to do anything which, apart from the direction, would constitute an act of violence; but nothing in this subsection shall restrict the use of such force as is reasonable in the circumstances [48] (whether at the instance of the person to whom the direction was given or otherwise)] by a constable, or its use by any other person in the exercise of a power conferred by section 7(1) or 13(3) of this Act or by any of the following provisions of this Act.

(5) In so far as a direction requires anything to be done or not done at a place outside *the Isle of Man* -

[49] (a) it shall have effect only in relation to -

- (i) aircraft registered in *the Isle of Man*, or
- (ii) a requirement not to cause or permit an aircraft to fly in or into *the Isle of Man* unless certain things have, or have not, been done, and]

(b) it shall not have effect so as to require anything to be done or not done in contravention of any provision of the law (whether civil or criminal) in force at that place, other than any such provision relating to breach of contract.

[50] (6) In so far as a direction given to the manager of an aerodrome or to any person mentioned in section 14(1)(c) or (d) of this Act requires a building or other works to be constructed, executed, altered, demolished or removed on land outside the aerodrome, or requires any other measures to be taken on such land, the direction shall not confer on the person to whom it is given any rights as against a person having -

- (a) an interest in that land, or
- (b) a right to occupy that land, or
- (c) a right restrictive of its use;

and accordingly, the direction shall not be construed as requiring the person to whom it is given to do anything which would be actionable at the suit or instance of a person having such interest or right in his capacity as a person having that interest or right.]

(7) Nothing in this section shall be construed as derogating from any exemption or immunity of the Crown in relation to the provisions of this Part of this Act.

(8) In this section direction means a direction under section 12, 13<sup>[51]</sup>, 13A] or 14 of this Act.

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<sup>47</sup> Words substituted by Aviation and Maritime Security Act 1990 s. 8(1), Sch. 1 para. 8(2)(a)

<sup>48</sup> Words substituted by Aviation and Maritime Security Act 1990 s. 8(1), Sch. 1 para. 8(2)(b)

<sup>49</sup> S. 16(5)(a) substituted by Counter-Terrorism and Security Act 2015 Sch. 5 para. 9(4)

<sup>50</sup> S. 16(6) substituted by Aviation and Maritime Security Act 1990 s. 8(1), Sch. 1 para. 8(3)

<sup>51</sup> S. 13A inserted by Aviation and Maritime Security Act 1990 s. 8(1), Sch. 1 para. 8(4)

**16A** *Omitted*

**17** **General or urgent directions under ss. 12 and 14**

(1) A direction given to any person under section 12<sup>[52]</sup>, 13, 13A or 14] of this Act need not be addressed to that particular person, but may be framed in general terms applicable to all persons to whom such a direction may be given or to any class of such persons to which that particular person belongs.

(2) If it appears to *the Department* that an exception from any direction given under [53any] of those sections is required as a matter of urgency in any particular case *the Department* may, by a notification given (otherwise than in writing) to the person for the time being subject to the direction, authorise that person to disregard the requirements of the direction -

- (a) in relation to such aircraft or class of aircraft, [54in relation to such aerodrome or part of an aerodrome, in relation to such land outside an aerodrome, in relation to such activities,] or in relation to such persons or property or such description of persons or property, and
  - (b) on such occasion or series of occasions, or for such period,
- as *the Department* may specify; and the direction shall have effect in that case subject to any exceptions so specified.

(3) Any notification given to any person under subsection (2) above with respect to any direction shall cease to have effect (if it has not already done so) -

- (a) if a direction in writing is subsequently given to that person varying or revoking the original direction; or
- (b) if no such direction in writing is given within the period of thirty days beginning with the date on which the notification was given, at the end of that period.

(4) Any notification given under subsection (2) above shall be regarded as given to the person to whom it is directed if it is given -

- (a) to any person authorised by that person to receive any such direction or notification;
- (b) where that person is a body corporate, to the secretary, clerk or similar officer of the body corporate; and
- (c) in any other case, to anyone holding a comparable office or position in that person's employment.

**17A** *Omitted*

**18** **Objections to certain directions under s. 14**

(1) This section applies to any direction given under section 14 of this Act which -

- (a) requires a person to take measures consisting of or including the construction, execution, alteration, demolition or removal of a building or other works; and
- (b) does not contain a statement that the measures are urgently required and that

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<sup>52</sup> S. 13, 13A or 14 substituted by Aviation and Maritime Security Act 1990 s. 8(1), Sch. 1 para. 9(2)

<sup>53</sup> Word substituted by Aviation and Maritime Security Act 1990 s. 8(1), Sch. 1 para. 9(3)(a)

<sup>54</sup> Words inserted by Aviation and Maritime Security Act 1990 s. 8(1), Sch. 1 para. 9(3) (b)

accordingly the direction is to take effect immediately.

(2) At any time before the end of the period of thirty days beginning with the date on which a direction to which this section applies is given, the person to whom the direction is given may serve on *the Department* a notice in writing objecting to the direction, on the grounds that the measures specified in the direction, in so far as they relate to the construction, execution, alteration, demolition or removal of a building or other works -

- (a) are unnecessary and should be dispensed with; or
- (b) are excessively onerous or inconvenient and should be modified in a manner specified in the notice.

(3) Where the person to whom such a direction is given serves a notice under subsection (2) above objecting to the direction, *the Department* shall consider the grounds of the objection and, if so required by the objector, shall afford to him an opportunity of appearing before, and being heard by, a person appointed by *the Department* for the purpose, and shall then serve on the objector a notice in writing either -

- (a) confirming the direction as originally given; or
- (b) confirming it subject to one or more modifications specified in the notice under this subsection; or
- (c) withdrawing the direction;

and the direction shall not take effect until it has been confirmed (with or without modifications) by a notice served under this subsection.

#### [<sup>55</sup>18A Enforcement notices

(1) Where *the Department* is of the opinion that any person has failed to comply with any general requirement of a direction given to him under section 12, 13, 13A or 14 of this Act, *the Department* may serve on that person a notice (in this Part of this Act referred to as an enforcement notice) -

- (a) specifying those general requirements of the direction with which he has, in the opinion of *the Department*, failed to comply, and
- (b) specifying, subject to section 18B of this Act, the measures that ought to be taken in order to comply with those requirements.

(2) For the purposes of this section a requirement of a direction given by *the Department* under section 12, 13, 13A or 14 of this Act is a general requirement if the provision imposing the requirement -

- (a) has been included in two or more directions given to different persons (whether or not at the same time), and
- (b) is framed in general terms applicable to all the persons to whom those directions are given.

[<sup>56</sup>(3) Omitted]

[<sup>57</sup>(4) – (5) *Omitted*]

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<sup>55</sup> Ss. 18A–18E inserted by Aviation and Maritime Security Act 1990 s. 4

<sup>56</sup> S. 18A(3) omitted by Civil Aviation Act 2012 Sch. 11 para. 13(2)

#### [<sup>58</sup>18B Contents of enforcement notice

(1) An enforcement notice may specify in greater detail measures which are described in general terms in those provisions of the direction to which it relates which impose general requirements, but may not impose any requirement which could not have been imposed by a direction given by *the Department* under the provision under which the direction was given.

(2) An enforcement notice may be framed so as to afford the person on whom it is served a choice between different ways of complying with the specified general requirements of the direction.

(3) Subject to subsection (4) below, an enforcement notice which relates to a direction given under section 12 of this Act must require the person to whom the direction was given not to cause or permit things to be done as mentioned in subsection (1)(a) or (b) or (2) of that section, as the case requires, until the specified measures have been taken.

(4) In serving an enforcement notice which relates to a direction under section 12(2) of this Act, *the Department* shall allow, and shall specify in the notice, such period as appears to *the Department* to be reasonably required for taking the measures specified in the notice; and the notice shall not take effect before the end of the period so specified.

(5) An enforcement notice which relates to a direction given under section 13, 13A or 14 of this Act must either -

- (a) require the person to whom the direction was given to take the specified measures within a specified period which -
  - (i) where the measures consist of or include the construction, execution, alteration, demolition or removal of a building or other works, must not be less than thirty days beginning with the date of service of the notice, and
  - (ii) in any other case, must not be less than seven days beginning with that date; or
- (b) require him not to do specified things, or cause or permit specified things to be done, until the specified measures have been taken.

(6) Subject to section 18E(2) of this Act, an enforcement notice requiring a person not to cause or permit anything to be done shall be construed as requiring him to take all such steps as in any particular circumstances are practicable and necessary to prevent that thing from being done.]

#### [<sup>59</sup>18C Offences relating to enforcement notices

(1) Any person who, without reasonable excuse, fails to comply with an enforcement notice served on him shall be guilty of an offence and liable -

- (a) on summary conviction, to a fine not exceeding *level 5 on the standard scale*;
- (b) on conviction on *information*, to a fine.

(2) Where a person is convicted of an offence under subsection (1) above, then, if without reasonable

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<sup>57</sup> S. 18A(4) & (5) inserted by Civil Aviation Act 2012 Sch. 11 para. 13(3)

<sup>58</sup> Ss. 18A–18E inserted by Aviation and Maritime Security Act 1990 s. 4

<sup>59</sup> Ss. 18A–18E inserted by Aviation and Maritime Security Act 1990 s. 4

excuse the failure in respect of which he was convicted is continued after the conviction, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding  $\frac{1}{10}$  of level 2 on *the standard scale* for each day on which the failure continues.

(3) Any person who intentionally interferes with any building constructed or works executed on any land in compliance with an enforcement notice or with anything installed on, under, over or across any land in compliance with such notice shall be guilty of an offence and liable -

- (a) on summary conviction, to a fine not exceeding *level 5 on the standard scale*;
- (b) on conviction on *information*, to a fine.]

#### [<sup>60</sup>18D **Objections to enforcement notices**

(1) The person on whom an enforcement notice is served may serve on *the Department* a notice in writing of his objection to the enforcement notice, specifying the grounds of the objection.

(2) Any notice of objection under subsection (1) above must be served -

- (a) where the enforcement notice specifies measures falling within section 18B(5)(a)(i) of this Act, before the end of the period of thirty days beginning with the date on which the enforcement notice was served, or
- (b) in any other case, before the end of the period of seven days beginning with that date.

(3) The grounds of objection to an enforcement notice are -

- (a) that the general requirements of the direction which are specified in the notice for the purposes of section 18A(1)(a) of this Act have been complied with,
- (b) that the notice purports to impose a requirement which could not have been imposed by a direction given under the provision under which the direction to which the notice relates was given, or
- (c) that any requirement of the notice -
  - (i) is unnecessary for complying with the general requirements specified as mentioned in paragraph (a) above and should be dispensed with, or
  - (ii) having regard to the terms of those general requirements, is excessively onerous or inconvenient and should be modified in a manner specified in the notice of objection under subsection (1) above.

[<sup>61</sup>(3A) On receipt of an objection to an enforcement notice under subsection (1) *the Department* must -

- (a) *omitted*,
- (b) consider the objection,
- (c) allow the person making the objection to make written or oral representations to *the Department* or a person appointed by *the Department*, and
- (d) give a decision notice to the person who made the objection.
- (e) *omitted*.]

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<sup>60</sup> Ss. 18A–18E inserted by Aviation and Maritime Security Act 1990 s. 4

<sup>61</sup> S. 18D(3A) inserted by Civil Aviation Act 2012 s. 110(1) Sch. 11 para. 14(2)

- [<sup>62</sup>(4) In this section “decision notice” means] a notice in writing either -
- (a) confirming the enforcement notice as originally served, or
  - (b) confirming it subject to one or more modifications specified in the [<sup>63</sup>decision notice], or
  - (c) cancelling the enforcement notice.
- (5) An enforcement notice to which an objection has been made under subsection (1) above -
- (a) if it contains such a requirement as is mentioned in section 18B(3) or (5)(b) of this Act, shall continue to have effect as originally served until it has been cancelled, or it has been confirmed subject to modification by [<sup>64</sup>a decision notice], and
  - (b) in any other case, shall not take effect until it has been confirmed (with or without modification) by [<sup>65</sup>a decision notice].

[<sup>66</sup>**18E Enforcement notices: supplementary**

- (1) An enforcement notice served on any person -
- (a) may be revoked by a notice served on him by *the Department*, and
  - (b) may be varied by a further enforcement notice.
- (2) Sections 15 and 16 of this Act apply to an enforcement notice as they apply to the direction to which the notice relates.
- (3) The ownership of any property shall not be affected by reason only that it is placed on or under or affixed to, any land in compliance with an enforcement notice.
- (4) Where *the Department* has served an enforcement notice specifying the general requirements of a direction with which the person on whom it is served has, in the opinion of *the Department*, failed to comply, the person on whom the notice is served shall not be taken, for the purposes of section 12(9), 13(4), 13A(3) or 14(7) of this Act, to have failed to comply with the direction by reason of the matters specified in the notice.
- (5) Subsection (4) above does not apply in relation to any proceedings commenced before the service of the enforcement notice.
- (6) Where an enforcement notice has been served in relation to a direction, the fact that the notice specifies certain general requirements of the direction as those with which the person on whom the notice is served has, in the opinion of *the Department*, failed to comply shall not in any proceedings be evidence that any other requirement of the direction has been complied with.
- (7) In this section “direction” means a direction under section 12, 13, 13A or 14 of this Act.]

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<sup>62</sup> Words substituted by Civil Aviation Act 2012 Sch. 11 para. 14(3)(a)

<sup>63</sup> Words substituted by Civil Aviation Act 2012 Sch. 11 para. 14(3)(b)

<sup>64</sup> Words substituted by Civil Aviation Act 2012 Sch. 11 para. 14(4)

<sup>65</sup> Words substituted by Civil Aviation Act 2012 Sch.11 para.14(4)

<sup>66</sup> Ss. 18A–18E inserted by Aviation and Maritime Security Act 1990 s. 4

## 19 Operation of directions under Part II in relation to rights and duties under other laws

(1) The following provisions of this section, where they refer to a direction under any of the preceding provisions of this Part of this Act, shall be construed as referring to that direction as it has effect subject to any limitation imposed on its operation -

- (a) by section 16 of this Act, or
- (b) by any exemption or immunity of the Crown;

and any reference in those provisions to compliance with such a direction shall be construed as a reference to compliance with it subject to any limitation so imposed.

(2) In so far as any such direction requires anything to be done or not done in *the Isle of Man*, the direction shall have effect notwithstanding anything contained in any contract (whether *an Isle of Man* contract or not) or contained in, or having effect by virtue of, any other Act or any rule of law; and accordingly no proceedings (whether civil or criminal) shall lie against any person in any *Isle of Man* court by reason of anything done or not done by him or on his behalf in compliance with such a direction.

(3) In so far as such a direction requires anything to be done or not done at a place outside *the Isle of Man*, the direction shall have effect notwithstanding anything contained in any contract (whether *an Isle of Man* contract or not); and accordingly, where such a direction is inconsistent with anything in such a contract, it shall (without prejudice to any proceedings in a court other than *an Isle of Man* court) be construed as requiring compliance with the direction notwithstanding that compliance would be in breach of that contract.

(4) No proceedings for breach of contract shall lie against any person in *an Isle of Man* court by reason of anything done or not done by him or on his behalf at a place outside *the Isle of Man* in compliance with any such direction, if the contract in question is *an Isle of Man* contract.

[<sup>67</sup>(4A) Any reference in this section to a direction under any of the preceding provisions of this Part of this Act includes a reference to an enforcement notice.]

(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.*

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<sup>67</sup> S. 19(4A) inserted by Aviation and Maritime Security Act 1990 s. 8(1), Sch. 1 para. 10



## 20 Inspection of aircraft and aerodromes

(1) For the purpose of enabling *the Department* to determine whether to give a direction to any person under any of the preceding provisions of this Part of this Act, or of ascertaining whether any such direction [<sup>68</sup>or any enforcement notice] is being or has been complied with, [<sup>69</sup>an authorised person] shall have power, on production (if required) of his credentials, to inspect -

- (a) any aircraft registered or operating in *the Isle of Man*, at a time when it is in *the Isle of Man*, or
- (b) any part of any aerodrome in *the Isle of Man* [<sup>70</sup>or
- (c) any land outside an aerodrome which is occupied for the purposes of a business by a person who -
  - (i) also occupies (or appears to the authorised person to be about to occupy) land within an aerodrome for the purposes of that business, or
  - (ii) is permitted (or appears to the authorised person to be about to be permitted) to have access to a [<sup>71</sup>security restricted area] of an aerodrome for the purposes of the activities of that business.]

(2) An authorised person inspecting an aircraft<sup>[72, any part of an aerodrome or any land outside an aerodrome]</sup> under subsection (1) above shall have power -

- (a) to subject any property found by him in the aircraft (but not the aircraft itself or any apparatus or equipment installed in it) or, as the case may be, to subject that part of the aerodrome or any property found by him there [<sup>73</sup>or on that land], to such tests, or [<sup>74</sup>(aa)to take such steps -
  - (i) to ascertain what practices or procedures are being followed in relation to security, or
  - (ii) to test the effectiveness of any practice or procedure relating to security,]
- (b) to require the operator of the aircraft, [<sup>75</sup>the manager of the aerodrome or the occupier of the land], to furnish to him such information,

as the authorised person may consider necessary for the purpose for which the inspection is carried out.

(3) Subject to subsection (4) below, the authorised person, for the purpose of exercising any power conferred on him by the preceding provisions of this section in relation to an aircraft<sup>[76, in relation to an aerodrome or in relation to any land outside an aerodrome]</sup>, shall have power -

- (a) for the purpose of inspecting an aircraft, to enter it and to take all such steps as are necessary to detain it, or
- (b) for the purpose of inspecting any part of an aerodrome, to enter any building or works in the aerodrome or enter upon any land in the aerodrome [<sup>77</sup>or

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<sup>68</sup> Words inserted by Aviation and Maritime Security Act 1990 s. 8(1), Sch. 1 para. 11(2)(a)

<sup>69</sup> Words substituted by Aviation and Maritime Security Act 1990 s. 8(1), Sch. 1 para. 11(2)(b)

<sup>70</sup> S. 20(1)(c) inserted by Aviation and Maritime Security Act 1990 s. 8(1), Sch. 1 para. 11(2)(c)

<sup>71</sup> Words substituted by The Aviation Security Regulations 2010 (S.I.2010/902) reg. 9(e)

<sup>72</sup> Words substituted by Aviation and Maritime Security Act 1990 s. 8(1), Sch. 1 para. 11(3)(a)

<sup>73</sup> Words inserted by Aviation and Maritime Security Act 1990 s. 8(1), Sch. 1 para. 11(3)(b)

<sup>74</sup> S. 20(2)(aa) inserted by Aviation and Maritime Security Act 1990 s. 8(1), Sch. 1 para. 11(3)(c)

<sup>75</sup> Words substituted by Aviation and Maritime Security Act 1990 s. 8(1), Sch. 1 para. 11(3)(d)

<sup>76</sup> Words substituted by Aviation and Maritime Security Act 1990 s. 8(1), Sch. 1 para. 11(4)(a)

<sup>77</sup> Words inserted by Aviation and Maritime Security Act 1990 s. 8(1), Sch. 1 para. 11(4)(b)

- (c) for the purpose of inspecting any land outside an aerodrome, to enter upon the land and to enter any building or works on the land.]

[<sup>78</sup>(3A) Subject to subsection (4) below, an authorised person has such powers to enter aircraft, buildings or works or to enter upon land as are necessary for the purpose of accompanying a Commission inspector on a Commission inspection.]

(4) The powers conferred by [<sup>79</sup>subsections (3) and (3A)] above shall not include power for an authorised person to use force for the purpose of entering any aircraft, building or works or entering upon any land.

[<sup>80</sup>(4A) For the purpose of enabling a Commission inspector to conduct a Commission inspection, the Commission inspector has such powers as an authorised person has for the purpose of an inspection under this section.]

(5) Any person who -

- (a) [<sup>81</sup>]omitted
- (b) [<sup>82</sup>], without reasonable excuse, fails to comply with a requirement imposed on him under subsection (2)(b) above, or
- (c) in furnishing any information so required, makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular,

shall be guilty of an offence and liable -

- (i) on summary conviction, to a fine not exceeding *level 5 on the standard scale*;
- (ii) on conviction on *information*, to a fine or to *custody* for a term not exceeding two years or to both.

[<sup>83</sup>(6) In this section -

“Commission inspection” means an inspection conducted pursuant to Article 15 of the Framework Regulation;

“Commission inspector” means a person entitled to conduct a Commission inspection.]

## 20A *Omitted*

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<sup>78</sup> S. 20(3A) inserted by The Aviation Security Regulations 2010 (S.I. 2010/902), reg. 5(a)

<sup>79</sup> Words substituted by The Aviation Security Regulations 2010 (S.I. 2010/902), reg. 5(b)

<sup>80</sup> S. 20(4A) inserted by The Aviation Security Regulations 2010 (S.I. 2010/902), reg. 5(c)

<sup>81</sup> S. 20(5)(a) repealed by Aviation and Maritime Security Act 1990 Sch. 1 para. 11(5)

<sup>82</sup> Words repealed by Aviation and Maritime Security Act 1990 ss. 8(1), Sch. 1 para. 11(5)

<sup>83</sup> S. 20(6) added by The Aviation Security Regulations 2010 (S.I. 2010/902) reg. 5(d)

**20B Detention direction**

(1) An authorised person may give a detention direction in respect of an aircraft if he is of the opinion that -

- (a) a person has failed to comply or is likely to fail to comply with a requirement of a direction under section 12 or 14 of this Act in respect of the aircraft,
- (b) a person has failed to comply with a requirement of an enforcement notice in respect of the aircraft,
- (c) a threat has been made to commit an act of violence against the aircraft or against any person or property on board the aircraft, or
- (d) an act of violence is likely to be committed against the aircraft or against any person or property on board the aircraft.

(2) A detention direction in respect of an aircraft -

- (a) shall be given in writing to the operator of the aircraft, and
- (b) shall require him to take steps to ensure that the aircraft does not fly while the direction is in force.

(2A) *Omitted*

(2B) *Omitted*

(3) An authorised person who has given a detention direction in respect of an aircraft may do anything *which he considers* necessary or expedient for the purpose of ensuring that the aircraft does not fly while the direction is in force; in particular, the authorised person may -

- (a) enter the aircraft;
- (b) arrange for another person to enter the aircraft;
- (c) arrange for a person or thing to be removed from the aircraft;
- (d) use reasonable force;
- (e) authorise the use of reasonable force by another person.

(4) The operator of an aircraft in respect of which a detention direction is given may object to the direction in writing to *the Department*.

(5) On receipt of an objection to a detention direction under subsection (4) *the Department* shall -

- (a) consider the objection,
- (b) allow the person making the objection an opportunity to make written or oral representations to *the Department* or to a person appointed by *the Department*,
- (c) confirm, vary or cancel the direction, and
- (d) give notice of *its* decision in writing to the person who made the objection.

(6) A detention direction in respect of an aircraft shall continue in force until -

- (a) an authorised person cancels it by notice in writing to the operator of the aircraft, or

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<sup>84</sup> S. 20B and preceding crossheading inserted by Anti-terrorism, Crime and Security Act 2001 s. 86(1)

- (b) *the Department* cancels it under subsection (5)(c).
- (7) A person commits an offence if -
- (a) without reasonable excuse he fails to comply with a requirement of a detention direction, or
  - (b) he intentionally obstructs a person acting in accordance with subsection (3).
- (8) A person who is guilty of an offence under subsection (7) shall be 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, to *custody* for a term not exceeding two years or to both.
- (9) A detention direction may be given in respect of -
- (a) any aircraft in *the Isle of Man*, and
  - (b) any aircraft registered or operating in *the Isle of Man*.
- (10) A detention direction may be given in respect of a class of aircraft; and for that purpose -
- (a) a reference to the aircraft in subsection (1) shall be treated as a reference to all or any of the aircraft within the class, and
  - (b) subsections (2) to (9) shall apply as if the direction were given in respect of each aircraft within the class.

*Air navigation installations*

**21 Application of provisions of Part II to air navigation installations**

(1) Sections 11, 13, [<sup>85</sup>13A,] 14, 15, 16 and 20 of this Act shall have effect in relation to air navigation installations in *the Isle of Man* in accordance with the following provisions of this section.

(2) In relation to any such air navigation installation which does not form part of an aerodrome, those sections shall have effect, subject to subsection (5) below, as if in them any reference to an aerodrome were a reference to such an air navigation installation and any reference to the manager of an aerodrome were a reference to the authority responsible for such an air navigation installation.

(3) Where an air navigation installation forms part of an aerodrome in *the Isle of Man*, those sections shall have effect, subject to subsection (5) below, as if in them any reference to an aerodrome were a reference either –

- (a) to an aerodrome, or
- (b) to an air navigation installation which forms part of an aerodrome, or
- (c) to so much of an aerodrome as does not consist of an air navigation installation;

and accordingly a notice under section 11 of this Act or a direction under section 13 or 14 of this Act may be served or given either in respect of the whole of the aerodrome, or in respect of the air navigation installation separately, or in respect of so much of the aerodrome as does not consist of an air navigation installation.

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<sup>85</sup> S. 13A inserted by Aviation and Maritime Security Act 1990 s. 8(1), Sch. 1 para. 12(2)

(4) For the purposes -

- (a) of the service of a notice or the giving of a direction under section 11, 13 or 14 of this Act as modified by subsection (3) above, where the notice is to be served or the direction given in respect of an air navigation installation separately, and
- (b) of the operation of section 16 (6) of this Act in relation to a direction so given, any reference in any of those sections to the manager of the aerodrome shall be construed as a reference to any person who is either the manager of the aerodrome or the authority responsible for the air navigation installation.

(5) Subsections (2) and (3) above shall not apply to section 13(3) of this Act; but where a direction given under section 13 of this Act, as applied or modified by the preceding provisions of this section, is for the time being in force -

- (a) if it is a direction given in respect of an air navigation installation separately (whether that installation forms part of an aerodrome or not), the said section 13(3) shall have effect in relation to that direction as if the air navigation installation were an aerodrome and, where the direction was given to the authority responsible for the air navigation installation, as if it had been given to the manager of that aerodrome;
- (b) if it is a direction given in respect of so much of an aerodrome as does not consist of an air navigation installation, the said section 13(3) shall have effect in relation to that direction as if any air navigation installation comprised in the aerodrome did not form part of the aerodrome.

(6) A direction under section 14 of this Act, as applied or modified by the preceding provisions of this section, may be given to the authority responsible for one or more air navigation installations so as to relate, either -

- (a) to all air navigation installations in *the Isle of Man* for which it is responsible at the time when the direction is given or at any subsequent time, or
- (b) only to one or more such air navigation installations, or to a class of such air navigation installations, specified in the direction.

(7) Any reference in section 17, 18(1)<sup>[86]</sup>, 18A, 18B, 18E] or 19(1) of this Act to a direction given under a provision therein mentioned shall be construed as including a reference to a direction given under that provision as applied or modified by the preceding provisions of this section.

(8) Notwithstanding anything in subsection (2)(a) of section 20 of this Act, a person inspecting an air navigation installation under that section (or under that section as applied or modified by the preceding provisions of this section) shall not be empowered thereby to test any apparatus or equipment which constitutes or forms part of the air navigation installation.

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<sup>86</sup> Ss. 18A, 18B, 18E inserted by Aviation and Maritime Security Act 1990 s. 8(1), Sch. 1 para. 12(3)

[<sup>88</sup>21A False statements relating to baggage, cargo etc.

- (1) Subject to subsection (3) below, a person commits an offence if, in answer to a question which -
- (a) relates to any baggage, cargo or stores (whether belonging to him or to another) that is or are intended for carriage by a civil aircraft registered or operating in *the Isle of Man*, and
  - (b) is put to him for purposes to which this Part of this Act applies –
    - (i) by any of the persons mentioned in subsection (2) below,
    - (ii) by any employee or agent of such a person in his capacity as employee or agent, or
    - (iii) by a constable,

he makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular.

- (2) The persons referred to in subsection (1)(b) above are -

- (a) the manager of an aerodrome in *the Isle of Man*,
- (b) the operator of one or more aircraft registered or operating in *the Isle of Man*, [<sup>89</sup>
- (c) any person who -
  - (i) is permitted to have access to a [<sup>90</sup>security restricted area] of an aerodrome for the purposes of the activities of a business carried on by him, and
  - (ii) has control in that [<sup>79</sup>security restricted area] over the baggage, cargo or stores to which the question relates[,<sup>91</sup> and
- (d) any air cargo agent who is included on the list of security approved air cargo agents maintained by *the Department* pursuant to regulations made under section 21F of this Act.]

(3) Subsection (1) above does not apply in relation to any statement made by an authorised person in the exercise of the power conferred by section 20(2)(aa) of this Act.

(4) A person guilty of an offence under subsection (1) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

- (5) In this section -

“cargo” includes mail;

“civil aircraft” has the same meaning as in section 3 of this Act; and

“stores” means any goods intended for sale or use on an aircraft, including spare parts and other articles of equipment, whether or not for immediate fitting.]

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<sup>87</sup> Ss. 21A–21G inserted by Aviation and Maritime Security Act 1990 ss. 5–7

<sup>88</sup> Ss. 21A–21G inserted by Aviation and Maritime Security Act 1990 ss. 5–7

<sup>89</sup> Word omitted by The Aviation Security (Air Cargo Agents) Regulations 1993 (S.I. 1993/1073) reg. 12(1)(a)

<sup>90</sup> Words substituted by The Aviation Security Regulations 2010 (S.I. 2010/902) reg. 9(f)

<sup>91</sup> S. 21A(2)(d) added by The Aviation Security (Air Cargo Agents) Regulations 1993 (S.I. 1993/1073) reg. 12(1)(b)

## [<sup>92</sup>21B False statements in connection with identity documents

(1) Subject to subsection (4) below, a person commits an offence if -

- (a) for the purpose of, or in connection with, an application made by him or another for the issue of an identity document to which this subsection applies, or
- (b) in connection with the continued holding by him or another of any such document which has already been issued,

he makes to any of the persons specified in subsection (3) below, to any employee or agent of such a person or to a constable, a statement which he knows to be false in a material particular, or recklessly makes to any of those persons, to any such employee or agent or to a constable, a statement which is false in a material particular.

(2) Subsection (1) above applies to any identity document which is to be or has been issued by any of the persons specified in subsection (3) below in accordance with arrangements the maintenance of which is required by a direction given by *the Department* under section 14 of this Act.

(3) The persons referred to in subsection (1) above are -

- (a) the manager of an aerodrome in *the Isle of Man*,
- (b) the authority responsible for an air navigation installation in *the Isle of Man*,
- (c) the operator of one or more aircraft registered or operating in *the Isle of Man*, [<sup>93</sup>]
- (d) any person who is permitted to have access to a [<sup>94</sup>security restricted area] of an aerodrome or air navigation installation for the purposes of the activities of a business carried on by him; [<sup>95</sup>and
- (e) any air cargo agent who is included on the list of security approved air cargo agents maintained by *the Department* pursuant to regulations made under section 21F of this Act.]

(4) Subsection (1) above does not apply in relation to any statement made by an authorised person in the exercise of the power conferred by section 20(2)(aa) of this Act.

(5) A person guilty of an offence under subsection (1) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.]

## [<sup>96</sup>21C Unauthorised presence in [<sup>97</sup>security restricted area]

(1) A person shall not -

- (a) go, with or without a vehicle, onto any part of a [<sup>93</sup>security restricted area] of -
  - (i) an aerodrome, or
  - (ii) an air navigation installation which does not form part of an aerodrome, except with the permission of the manager of the aerodrome, the authority responsible for the air navigation installation or a person acting on behalf of that manager or

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<sup>92</sup> Ss. 21A–21G inserted by Aviation and Maritime Security Act 1990 ss. 5–7

<sup>93</sup> Word omitted by The Aviation Security (Air Cargo Agents) Regulations 1993 (S.I. 1993/1073) reg. 12(2)(a)

<sup>94</sup> Words substituted by The Aviation Security Regulations 2010 (S.I.2010/902) reg. 9(g)

<sup>95</sup> S. 21B(3)(e) added by The Aviation Security (Air Cargo Agents) Regulations 1993 (S.I. 1993/1073) reg. 12(2)(b)

<sup>96</sup> Ss. 21A–21G inserted by Aviation and Maritime Security Act 1990 ss. 5–7

<sup>97</sup> Words substituted by The Aviation Security Regulations 2010 (S.I. 2010/902) reg. 9(h)

authority, and in accordance with any conditions subject to which that permission is for the time being granted, or

- (b) remain on any part of such a [<sup>93</sup>security restricted area] after being requested to leave by the manager of the aerodrome, the authority responsible for the air navigation installation or a person acting on behalf of that manager or authority.

(2) Subsection (1)(a) above does not apply unless it is proved that, at the material time, notices stating that the area concerned was a [<sup>93</sup>security restricted area] were posted so as to be readily seen and read by persons entering the [<sup>93</sup>security restricted area.]

[<sup>98</sup>(2A) A notice stating that the area concerned was a restricted zone is, for the purposes of subsection (2), to be treated as a notice stating that the area concerned was a security restricted area.]

(3) A person who contravenes subsection (1) above without lawful authority or reasonable excuse shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

[<sup>99</sup>(4) A constable, the manager of an aerodrome or a person acting on his behalf may use reasonable force to remove a person who fails to comply with a request under subsection (1)(b) above.]]

#### **[<sup>100</sup>21D Unauthorised presence on board aircraft**

(1) A person shall not –

- (a) get into or onto an aircraft at an aerodrome in *the Isle of Man* except with the permission of the operator of the aircraft or a person acting on his behalf, or
- (b) remain on an aircraft at such an aerodrome after being requested to leave by the operator of the aircraft or a person acting on his behalf.

(2) A person who contravenes subsection (1) above without lawful authority or reasonable excuse shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

[<sup>101</sup>(3) A constable, the operator of an aircraft or a person acting on his behalf may use reasonable force to remove a person who fails to comply with a request under subsection (1)(b) above.]]

#### **[<sup>102</sup>21E Offences relating to authorised persons**

(1) A person who -

- (a) intentionally obstructs an authorised person acting in the exercise of a power conferred on him by or under this Part of this Act, or

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<sup>98</sup> S.21C(2A) inserted by The Aviation Security Regulations 2010 (S.I. 2010/902) reg. 11

<sup>99</sup> S.21C(4) added by Anti-Terrorism, Crime and Security Act 2001 ss. 84(1) , 127(3)

<sup>100</sup> Ss.21A–21G inserted by Aviation and Maritime Security Act 1990 ss. 5–7

<sup>101</sup> S.21D(3) added by Anti-Terrorism, Crime and Security Act 2001 ss. 84(2) , 127(3)

<sup>102</sup> Ss.21A–21G inserted by Aviation and Maritime Security Act 1990 ss. 5–7



(b) falsely pretends to be an authorised person, commits an offence.

(2) A person guilty of an offence under subsection (1)(a) above shall be liable -

- (a) on summary conviction, to a fine not exceeding *level 5 on the standard scale*;
- (b) on conviction on *information*, to a fine or to *custody* for a term not exceeding two years or to both.

(3) A person guilty of an offence under subsection (1)(b) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

[<sup>103</sup>(4) The offence in subsection (1) applies in respect of a Commission inspector as it applies in respect of an authorised person.]]

[<sup>104</sup>*Air cargo agents*

## 21F Air cargo agents

(1) *The Department* may by regulations make provision, for purposes to which this Part of this Act applies, in relation to persons (in this section referred to as air cargo agents) who carry on a business of handling cargo which is to be delivered (whether by them or any other person) to the operator of any aircraft for carriage from any aerodrome in *the Isle of Man* by a civil aircraft.

(2) Regulations under this section may, in particular -

- (a) enable *the Department* to maintain a list of air cargo agents who are approved by *it* for purposes related to aviation security, to include the name of an air cargo agent on that list, on application being made to *the Department* in accordance with the regulations, if *the Department* is satisfied as to such matters as are specified in the regulations, and to remove the name of any person from that list in such circumstances as are so specified,
- (b) provide that any provision of this Part of this Act which applies in relation to persons who are permitted to have access to a [<sup>105</sup>security restricted area] of an aerodrome for the purposes of the activities of a business (including any such provision which creates a criminal offence) shall also apply, with such modifications as are specified in the regulations, in relation to air cargo agents included on any such list,
- (c) amend sections 21A(2) *and* 21B(3) of this Act by including references to air cargo agents included on any such list,
- (d) make provision (including any such provision as is mentioned in paragraphs (a) to (c) above) relating to a class of air cargo agents specified in the regulations and not to other air cargo agents,
- (e) make different provision for different cases, and
- (f) make such incidental, supplementary or transitional provision as *the Department* considers necessary or expedient in consequence of any provision made by the regulations.

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<sup>103</sup> S. 21E(4) added by The Aviation Security Regulations 2010 (S.I. 2010/902) reg. 6

<sup>104</sup> Ss. 21A-21G inserted by Aviation and Maritime Security Act 1990 ss. 5-7

<sup>105</sup> Words substituted by The Aviation Security Regulations 2010 (S.I. 2010/902) reg. 9(i)

(3) Before making any regulations under this section *the Department* shall consult organisations appearing to *it* to represent persons affected by the proposed regulations.

**(4) Section 32 of the Legislation Act 2015 (negative Tynwald procedure) applies to regulations under this section.**

(5) Without prejudice to the generality of sections 12 and 14 of this Act, the exemptions that may be included in any direction given to an operator of aircraft under section 12 or 14 which requires the carrying out of searches of cargo, or the taking of any other measures in relation to cargo, include exemptions from such requirements in relation to cargo received from any air cargo agent included on any list maintained by *the Department* under regulations under this section or from any air cargo agent falling within a class of such air cargo agents specified in the direction.

(6) In this section -

“cargo” includes stores and mail; and

“stores” means any goods intended for sale or use on an aircraft, including spare parts and other articles of equipment, whether or not for immediate fitting.]

#### **[<sup>106</sup>21FA Air cargo agents: documents**

(1) A person commits an offence if with intent to deceive he issues a document which purports to be issued by a person on a list of approved air cargo agents maintained under section 21F(2)(a) of this Act.

(2) A person guilty of an offence under subsection (1) shall be liable on summary conviction to *custody* for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale or to both.]

#### **[<sup>107</sup>Reporting of certain occurrences relating to aviation security**

#### **21G Duty to report certain occurrences**

(1) For purposes to which this Part of this Act applies, *the Department* may by regulations require such persons as are specified in the regulations to make a report to *it*, in such manner and within such period as are so specified, of any occurrence of a description so specified.

(2) Before making any regulations under this section, *the Department* shall consult organisations appearing to *it* to represent persons affected by the proposed regulations.]

(3) Regulations under this section may -

- (a) provide that any person who, in making a report required by the regulations, makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular, is to be guilty of an offence and liable -

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<sup>106</sup> S 21FA inserted by Anti-terrorism, Crime and Security Act 2001 ss. 87, 127(3)

<sup>107</sup> Ss. 21A-21G inserted by Aviation and Maritime Security Act 1990 ss. 5-7

- (i) on summary conviction, to a fine not exceeding *level 5 on the standard scale*;
  - (ii) on conviction on *information*, to a fine or to *custody* for a term not exceeding two years or to both, and
- (b) provide for persons to be guilty of an offence in such other circumstances as may be specified in the regulations and to be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(4) Regulations under this section may require the reporting of occurrences taking place outside *the Isle of Man* only if those occurrences relate to aircraft registered in *the Isle of Man*.

**(5) Section 32 of the Legislation Act 2015 (negative Tynwald procedure) applies to regulations under this section.]**

**21H to 22 Omitted**

**[<sup>108</sup>22A Civil penalties for failure to provide information or comply with a direction**

(1) *The Department* may make regulations imposing penalties for -

- (a) failure to comply with a requirement imposed by a notice under section 11 (notice requiring information);
- (b) making a false statement in furnishing information required by a notice under that section;
- (c) failure to comply with a direction under any of sections 12 to 14.

(2) Regulations under subsection (1) *must* in particular make provision -

- (a) about how a penalty is to be calculated;
- (b) about the procedure for imposing a penalty;
- (c) about the enforcement of penalties;
- (d) allowing for an appeal against a decision to impose a penalty;

and the regulations may make different provision for different purposes.

(3) Provision in the regulations about the procedure for imposing a penalty must provide for a person to be given an opportunity to object to a proposed penalty in the circumstances set out in the regulations.

**(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.**

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<sup>108</sup> S.22A inserted by Counter-Terrorism and Security Act 2015 s. 52(5), Sch. 5 para. 11(2)

(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.*

(7) *Omitted.*]

## **23 and 23A Omitted**

### **[<sup>109</sup>24 Service of documents**

(1) This section has effect in relation to any notice, any document containing a direction and any other document authorised or required by any provision of this Part of this Act to be served on or given to any person.

(2) Any such document may be given to or served on any person -

- (a) by delivering it to him, or
- (b) by leaving it at his proper address, or
- (c) by sending it by post to him at that address, or
- (d) by sending it to him at that address by *electronic communications* which produce a document containing the text of the communication, [<sup>110</sup>or
- (e) where -
  - (i) an address for service using electronic communications has been given by that person and not withdrawn in accordance with subsection (2E), and
  - (ii) that person has agreed to accept service by electronic communications of documents in a certain form and has not withdrawn that agreement in accordance with that subsection,by using electronic communications to send the document in that form to that person at that address][<sup>111</sup>, or
- (f) in the case of a person who is required by regulations to be able to accept service electronically in a manner and form specified in the regulations, in that manner and form.]

[<sup>112</sup>(2A) A document given to or served on a person in accordance with subsection (2)(e) must be in a form sufficiently permanent to be used for subsequent reference.

(2B) Where a document is given to or served on a person in accordance with subsection (2)(e), the document is, unless the contrary is proved, to be deemed to have been given to or served on that person at the time at which the electronic communication is transmitted except where transmission is made outside that person's normal business hours, in which case it is to be taken to have been given or served on the next working day, and in this subsection, "working day" means

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<sup>109</sup> S. 24 substituted by Aviation and Maritime Security Act 1990 s. 8(1), Sch. 1 para.15

<sup>110</sup> S. 24(2)(e) inserted by The Transport Security (Electronic Communications) Order 2006 (S.I. 2006/2190) arts. 1(1), 2(2)

<sup>111</sup> S. 24(2)(f) inserted by Counter-Terrorism and Security Act 2015 s. 52(5), Sch. 5 para. 9(5)(a)

<sup>112</sup> S. 24(2A)-(2I) inserted by The Transport Security (Electronic Communications) Order 2006 (S.I. 2006/2190) arts. 1(1), 2(3)

any day other than -

- (a) a Saturday or a Sunday;
- (b) Christmas Day or Good Friday; or
- (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.*

(2C) A document authorised or required to be given to or served on a person by *the Department* or an authorised person is also to be treated as given or served where -

- (a) that person and *the Department* or (as the case may be) the authorised person have agreed to him having access to documents of a particular description and in a certain form on a web site (instead of their being given to or served on him in any other way specified in subsection (2));
- (b) that person has not withdrawn his agreement in accordance with subsection (2F);
- (c) the document in question is a document to which the agreement applies;
- (d) *the Department* or the authorised person has given that person a notice, in a manner agreed between them for the purpose -
  - (i) stating that the document has been published on a web site maintained by or on behalf of *the Department*;
  - (ii) setting out the address of that web site; and
  - (iii) setting out the place on that web site where the document may be accessed and how it may be accessed by that person; and
- (e) the published document is in a form sufficiently permanent to be used for subsequent reference.

(2D) Where a document is given to or served on a person in accordance with subsection (2C), the document is, unless the contrary is proved, to be deemed to have been given to or served on that person at the same time as the notice required to be given under subsection (2C)(d) is given.

(2E) A person who has supplied another person with an address for service using electronic communications and has agreed to accept service of documents in a certain form in accordance with subsection (2)(e) may give notice withdrawing that address or that agreement or both.

(2F) A person who has an agreement with *the Department* or an authorised person under subsection (2C)(a) may give notice withdrawing that agreement.

(2G) A withdrawal under subsection (2E) or (2F) shall take effect on the later of -

- (a) the date specified by the person in the notice; and
- (b) the date which is fourteen days after the date on which the notice is given.

(2H) A notice under subsection (2E) or (2F) must be given to the person to whom the address was supplied or with whom the agreement was made.

(2I) Oral notice is not sufficient for the purposes of subsections (2E) or (2F).]

[<sup>113</sup>(3) Any document authorised to be given to or served on a body corporate may be given to or

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<sup>113</sup> S. 24(3) substituted by The Transport Security (Electronic Communications) Order 2006 (S.I.2006/2190) arts. 1(1) , 2(4)

served on the secretary, clerk or similar officer of that body.]

(4) For the purposes of this section and *Division 5 of Part 4 to the Interpretation Act 2015 (an Act of Tynwald) (service of documents)* in its application to this section, the proper address of any person to whom or on whom any document is to be given or served is his usual or last known address or place of business (whether in *the Isle of Man* or elsewhere), except that in the case of a body corporate or its secretary, clerk or similar officer, it shall be the address of the registered or principal office of that body in *the Isle of Man* (or, if it has no office in *the Isle of Man*, of its principal office, wherever it may be).

(5) If the person to or on whom any document mentioned in subsection (1) above is to be given or served has notified *the Department* of an address within *the Isle of Man*, other than his proper address within the meaning of subsection (4) above, as the one at which he or someone else on his behalf will accept documents of the same description as that document, that address shall also be treated for the purposes of this section and *Division 5 of Part 4 to the Interpretation Act 2015 (an Act of Tynwald)* as his proper address.

(6) Where an authorised person -

- (a) intends to serve an enforcement notice on any person (the intended recipient), and
- (b) is of the opinion that all the requirements of the notice could be complied with by an employee or agent of the intended recipient,

the authorised person may, after consulting that employee or agent, serve the notice on the intended recipient by delivering it to that employee or agent or by sending it to that employee or agent at the proper address of the employee or agent by such means as are mentioned in subsection (2)(d) above.

(7) An authorised person who serves an enforcement notice under subsection (6) above on an employee or agent of the intended recipient shall serve a copy of the notice on the intended recipient.

(8) Nothing in subsection (6) above shall be taken to impose on the employee or agent to whom the enforcement notice is delivered or sent any obligation to comply with it.]

[<sup>114</sup>(9) Subsections (6) to (8) above shall apply to a detention direction as they apply to an enforcement notice.]

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

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<sup>114</sup> S. 24(9) added by Ant-Terrorism, Crime and Security Act 2001 s. 86(3)

[<sup>115</sup>24A Interpretation of Part II

(1) In this Part of this Act, except in so far as the context otherwise requires –

[<sup>116</sup> “address”, in relation to electronic communications, means any number or address used for the purposes of such communications;]

*“authorised person” means a person authorised in writing by the Department for Enterprise for the purposes of Part II of this Act;*

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

“employee” in relation to a body corporate, includes officer;

“enforcement notice” has the meaning given by section 18A(1) of this Act; [<sup>117</sup>]

[<sup>118</sup>“Framework Regulation” means Regulation (EC) No 300/2008 of the European Parliament and of the Council of 11 March 2008 on common rules in the field of civil aviation security;]

“restricted zone”, in relation to an aerodrome or air navigation installation, means any part of the aerodrome or installation designated under section 11A of this Act or, where the whole of the aerodrome or installation is so designated, that aerodrome or installation; [<sup>119</sup>and

“security restricted area” has the meaning given by Article 3 of the Framework Regulation.]

(2) For the purposes of this Part of this Act a person is permitted to have access to a [<sup>120</sup>security restricted area] of an aerodrome or air navigation installation if he is permitted to enter [<sup>121</sup>that area] or if arrangements exist for permitting any of his employees or agents to enter that zone.]

[<sup>122</sup>(3) For the purposes of this Part of this Act, in circumstances where the Framework Regulation does not apply, references to a security restricted area are to be read as references to a restricted zone (and references to that area are to be read accordingly).]

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<sup>115</sup> S. 24A inserted by Aviation and Maritime Security Act 1990 s. 8(1), Sch. 1 para. 16

<sup>116</sup> Words inserted by The Transport Security (Electronic Communications) Order 2006 (S.I. 2006/2190) arts. 1(1), 3(2)

<sup>117</sup> Word omitted by virtue of The Aviation Security Regulations 2010 (S.I. 2010/902) reg. 8(a)

<sup>118</sup> Words inserted by The Aviation Security Regulations 2010 (S.I. 2010/902) reg. 8(b)

<sup>119</sup> Words added by The Aviation Security Regulations 2010 (S.I. 2010/902) reg. 8(c)

<sup>120</sup> Words substituted by The Aviation Security Regulations 2010 (S.I. 2010/902) reg. 9(k)

<sup>121</sup> Words substituted by The Aviation Security Regulations 2010 (S.I. 2010/902) reg. 10(b)

<sup>122</sup> S. 24A(3) added by The Aviation Security Regulations 2010 (S.I. 2010/902) reg. 8(d)

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**PART 2A**  
SECURITY PLANNING FOR AERODROMES

**24AA to 24AT** *Omitted*

**PART III**  
POLICING OF AERODROMES

**24B** *Omitted*

<sup>123</sup>**25** .....

<sup>124</sup>**25A** .....

**25AA to 29E** *Omitted*

<sup>125</sup>**30** .....

**31** *Omitted*

**PART IV**  
THE AVIATION SECURITY FUND

**32** *Omitted*

<sup>126</sup>**33** .....

<sup>127</sup>**34** .....

<sup>128</sup>**35** .....

<sup>129</sup>**36** .....

**PART V**  
MISCELLANEOUS AND GENERAL

**37** **Offences by bodies corporate**

(1) Where an offence under this Act [<sup>130</sup>(including any provision of Part II as applied by regulations made under section 21F of this Act) or under regulations made under section 21G] of this Act has been committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) above shall apply in relation to the acts and defaults of a member in connection with his functions of

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<sup>123</sup> S. 25 omitted by virtue of Policing and Crime Act 2009 Sch. 6 para. 2

<sup>124</sup> S. 25A repealed by Policing and Crime Act 2009 Sch. 6 para. 3

<sup>125</sup> S. 30 repealed by Policing and Crime Act 2009 Sch. 6 para. 11

<sup>126</sup> Repealed by The Aviation Security Fund (Date of Completion of Winding Up) Order (S.I. 1983/1644) art. 2

<sup>127</sup> Ss. 34, 35 repealed by Aviation and Maritime Security Act 1990 Sch. 4

<sup>128</sup> Ss. 34, 35 repealed by Aviation and Maritime Security Act 1990 Sch. 4

<sup>129</sup> Repealed by Statute Law (Repeals) Act 2004 Sch.1 Pt. 4

<sup>130</sup> Words substituted by Aviation and Maritime Security Act 1990 s. 8(1), Sch. 1 para. 18



management as if he were a director of the body corporate.

### 38 Interpretation etc.

(1) In this Act, except in so far as the context otherwise requires -

[<sup>131</sup>]

*“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;*

*“air navigation installation” means any building, works, apparatus or equipment used wholly or mainly for the purpose of assisting air traffic control or as an aid to air navigation, together with any land contiguous or adjacent to any such building, works, apparatus or equipment and used wholly or mainly for purposes connected therewith;*

*“aircraft registered or operating in the Isle of Man” means any aircraft which is either -*

- (a) an aircraft registered in *the Isle of Man*, or
- (b) an aircraft not so registered which is for the time being allocated for use on [<sup>132</sup>a flight any part of which is] in *the Isle of Man*;

*“article” includes any substance, whether in solid or liquid form or in the form of a gas or vapour;*

*“constable” includes any person having the powers and privileges of a constable;*

*“the Department” means the Department for Enterprise of the Isle of Man Government;*

*“explosive” means any article manufactured for the purpose of producing a practical effect by explosion, or intended for that purpose by a person having the article with him;*

*“firearm” includes an airgun or air pistol;*

*“manager”, in relation to an aerodrome, means the person (whether a Department, a Statutory Board or any other person) by whom the aerodrome is managed;*

*“military service” includes naval and air force service;*

*“measures” (without prejudice to the generality of that expression) includes the construction, execution, alteration, demolition or removal of buildings or other works and also includes the institution or modification, and the supervision and enforcement, of any practice or procedure;*

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<sup>131</sup> Definition of “act of violence” repealed by Aviation and Maritime Security Act 1990 Sch. 4

<sup>132</sup> Words substituted by Counter-Terrorism and Security Act 2015 Sch. 5 para 9(6)

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

“property” includes any land, buildings or works, any aircraft or vehicle and any baggage, cargo or other article of any description;

“*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);

“United Kingdom national” means an individual who is -

- (a) a British citizen, British overseas territories citizen, a British National (Overseas) or a British Overseas citizen;
- (b) a person who under the British Nationality Act 1981 is a British subject; or
- (c) a British protected person (within the meaning of that Act).

**(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.**

(3) For the purposes of this Act -

- (a) the period during which an aircraft is in flight shall be deemed to include any period from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for disembarkation, and, in the case of a forced landing, any period until the competent authorities take over responsibility for the aircraft and for persons and property on board; and
- (b) an aircraft shall be taken to be in service during the whole of the period which begins with the pre-flight preparation of the aircraft for a flight and ends 24 hours after the aircraft lands having completed that flight, and also at any time (not falling within that period) while, in accordance with the preceding paragraph, the aircraft is in flight,

and anything done on board an aircraft while in flight over *the Isle of Man* shall be treated as done in *the Isle of Man*.

**(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) *Omitted.*

(6) Any power to give a direction under any provision of this Act shall be construed as including power to revoke or vary any such direction by a further direction <sup>[133]</sup>.

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<sup>133</sup> Words repealed by Aviation and Maritime Security Act 1990 ss. 8(1), Sch. 1 para. 19, Sch. 4

(7) Subject to *section 3 of the Criminal Law Act 1981 (an Act of Tynwald)* (which relates to offences under two or more laws), Part I of this Act shall not be construed as -

- (a) conferring a right of action in any civil proceedings in respect of any contravention of this Act, or
- (b) derogating from any right of action or other remedy (whether civil or criminal) in proceedings instituted otherwise than under this Act.

(8) *Omitted.*

**39 and 40** *Omitted*

**41** **Short title and commencement**

(1) This Act may be cited as the Aviation Security Act 1982.

(2) *Omitted*

**Schedule 1 to Schedule 3**

*Omitted*