

Railways and Transport Safety Act 2003

Part 5 Aviation: Alcohol and Drugs
Offences

92 Being unfit for duty

- (1) A person commits an offence if—
 - (a) he performs an aviation function at a time when his ability to perform the function is impaired because of drink or drugs, or
 - (b) he carries out an activity which is ancillary to an aviation function at a time when his ability to perform the function is impaired because of drink or drugs.
- (2) In this section “drug” includes any intoxicant other than alcohol.
- (3) Section 94 defines “aviation function” and “ancillary activity” for the purposes of this Part.

93 Prescribed limit

- (1) A person commits an offence if—
 - (a) he performs an aviation function at a time when the proportion of alcohol in his breath, blood or urine exceeds the prescribed limit, or
 - (b) he carries out an activity which is ancillary to an aviation function at a time when the proportion of alcohol in his breath, blood or urine exceeds the prescribed limit.
- (2) The prescribed limit of alcohol is (subject to subsection (3))—
 - (a) in the case of breath, 9 microgrammes of alcohol in 100 millilitres,
 - (b) in the case of blood, 20 milligrammes of alcohol in 100 millilitres, and
 - (c) in the case of urine, 27 milligrammes of alcohol in 100 millilitres.
- (3) In relation to the aviation function specified in section 94(1)(h) the prescribed limit is—
 - (a) in the case of breath, 35 microgrammes of alcohol in 100 millilitres,
 - (b) in the case of blood, 80 milligrammes of alcohol in 100 millilitres, and
 - (c) in the case of urine, 107 milligrammes of alcohol in 100 millilitres.
- (4) omitted
- (5) Section 94 defines “aviation function” and “ancillary activity” for the purposes of this Part.

94 Aviation functions

- (1) For the purposes of this Part the following (and only the following) are aviation functions—
 - (a) acting as a pilot of an aircraft during flight,
 - (b) acting as flight navigator of an aircraft during flight,
 - (c) acting as flight engineer of an aircraft during flight,
 - (d) acting as flight radio-telephony operator of an aircraft during flight,
 - (e) acting as a member of the cabin crew of an aircraft during flight,
 - (f) attending the flight deck of an aircraft during flight to give or supervise training, to administer a test, to observe a period of practice or to monitor or record the gaining of experience,
 - (g) acting as an air traffic controller in pursuance of a licence granted under or by virtue of an enactment (other than a licence granted to a student), and
 - (h) acting as a licensed aircraft maintenance engineer.
- (2) For the purposes of subsection (1)(h) a person acts as a licensed aircraft maintenance engineer if—
 - (a) he issues a document relating to the maintenance, condition or use of an aircraft or equipment in reliance on a licence granted under or by virtue of an enactment relating to aviation, or
 - (b) he carries out or supervises work on an aircraft or equipment with a view to, or in connection with, the issue by him of a document of the kind specified in paragraph (a).

(3) For the purposes of this Part a reference to an activity which is ancillary to an aviation function is a reference to anything which falls to be treated as such by virtue of subsections (4) to (6).

- (4) An activity shall be treated as ancillary to an aviation function if it is undertaken—
- (a) by a person who has reported for a period of duty in respect of the function, and
 - (b) as a requirement of, for the purpose of or in connection with the performance of the function during that period of duty.

(5) A person who in accordance with the terms of an employment or undertaking holds himself ready to perform an aviation function if called upon shall be treated as carrying out an activity ancillary to the function.

(6) Where a person sets out to perform an aviation function, anything which he does by way of preparing to perform the function shall be treated as an activity ancillary to it.

(7) For the purposes of this Part it is immaterial whether a person performs a function or carries out an activity in the course of an employment or trade or otherwise.

(8) **Omitted.**

Enforcement

95 Penalty

- (1) A person guilty of an offence under this Part shall be liable—
- (a) on conviction on **information**, to **custody** for a term not exceeding two years, to a fine or to both, or
 - (b) on summary conviction, to a fine not exceeding [**level 5 on the standard scale**].

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

96 Specimens, &c.

(1) The provisions specified in the first column of the table below, with the modifications specified in the third column and any other necessary modifications, shall have effect in relation to an offence under this Part.

<i>Provision</i>	<i>Description</i>	<i>Modification</i>
Road Traffic Act 1985 (an Act of Tynwald)		
Section 5B	Breath tests	For subsections (1) and (2) substitute — “(1) If an aircraft is involved in an accident and a constable reasonably suspects that a person —

¹ Section amended by SD 2018/0279 on 1 January 2019

<i>Provision</i>	<i>Description</i>	<i>Modification</i>
Road Traffic Act 1985 (an Act of Tynwald)		
		<p>(a) was undertaking an aviation function, or an activity ancillary to an aviation function, in relation to the aircraft at the time of the accident, or</p> <p>(b) has undertaken an aviation function, or an activity ancillary to an aviation function, in relation to the aircraft,</p> <p>the constable may, subject to subsection (4), require that person to provide a specimen of breath for a breath test.</p> <p>(2) Where a constable in uniform has reasonable cause to suspect that a person –</p> <p>(a) is committing an offence under RTSA section 92 or 93, or</p> <p>(b) has committed an offence under RTSA section 92 or 93 and still has alcohol in his body,</p> <p>the constable may, subject to subsection (4), require that person to provide a specimen of breath for a breath test.”</p> <p>Omit subsection (9).</p>
Section 6	Provision of specimen	<p>In subsection (1), for "section 3A, 5 or 5A" substitute "RTSA section 92 or 93".</p> <p>In subsection (3)(d), for "section 3A or 5" substitute "RTSA section 92"</p>
Section 7	Choice of specimen of breath	<p>In subsection (2), for "50 microgrammes in 100 millilitres of breath" substitute " –</p> <p>(a) 50 microgrammes of alcohol in 100 millilitres of breath, where the suspected offence relates to the aviation function specified in RTSA section 94(1)(h),</p> <p>(b) 15 microgrammes of alcohol in 100 millilitres of breath, in any other case,".</p>
Section 7A	Protection for hospital patients	–
Section 7B	Detention of person affected by alcohol or drug	<p>In subsection (1)–</p> <p>(a) for "driving or attempting to drive a mechanically propelled vehicle on a road" substitute "performing or attempting to perform an aviation function of the kind in respect of which the requirement to provide a specimen was imposed", and</p> <p>(b) for "section 5 or 5A" substitute "RTSA section 92 or 93".</p> <p>In subsection (2), for "driving or attempting to drive a mechanically propelled vehicle whilst his ability to drive" substitute "performing or attempting to perform an aviation function whilst his ability to do so".</p> <p>In subsection (3) for "drive properly" substitute</p>

<i>Provision</i>	<i>Description</i>	<i>Modification</i>
Road Traffic Act 1985 (an Act of Tynwald)		
		"perform an aviation function".
Section 7C	Use of specimens	In subsection (1), for "section 3A, 5 or 5A" substitute "RTSA section 92 or 93". In subsection (3), for paragraphs (a) and (b) substitute — "(a) that he consumed alcohol before providing the specimen or before the specimen was taken and after the time of the alleged offence; and (b) that had he not done so the proportion of alcohol in his breath, blood or urine would not have exceeded the prescribed limit and, if it is alleged that he was unfit to perform an aviation function or an activity ancillary to an aviation function, would not have been such as to impair his ability to do so properly."
Section 7D	Documentary evidence	—
Section 7DA	Specimens of blood taken from persons incapable of consenting	—
Section 7E	Interpretation	In subsection (1), after "7D" insert "and this section". In subsection (2), for the definition of "the prescribed limit" substitute — "the prescribed limit" has the meaning given by RTSA section 94(2);" and at the end insert — "registered health care professional" means a person (other than a medical practitioner) who is — (a) a registered nurse; or (b) a registered member of a health care profession which is designated for the purposes of this paragraph by an order made by the Department of Home Affairs; "RTSA" means Part 5 of the Railways and Transport Safety Act 2003 (an Act of Parliament), as it has effect in the Island; a reference to a numbered RTSA section is a reference to the section of RTSA so numbered; expressions used in RTSA have the same meanings as in RTSA." After subsection (2) insert — "(2A) An order under subsection (2) shall be laid before Tynwald." Omit subsection (5)."

[F1(1A) The references in the table to provisions of the Road Traffic Act 1988 or the Road Traffic Offenders Act 1988 are, subject to any contrary intention expressed in this Part or in any other enactment, references to those provisions as amended from time to time.]

(2) **omitted**

(3) For the purpose of the application by subsection (1) of a provision listed in the table in that subsection—

(a) **omitted**

(b) a reference to the provision shall be treated, unless the context otherwise requires, as including a reference to the provision as applied.

Annotations: 

Amendments (Textual)

97 Arrest without warrant

(1) A constable may arrest a person without a warrant if the constable reasonably suspects that the person—

- (a) is committing an offence under section 92, or
- (b) has committed an offence under that section and is still under the influence of drink or drugs.

(2) But a person may not be arrested under this section while he is at a hospital as a patient.

(3) In subsection (2) “hospital” means an institution which provides medical or surgical treatment for in-patients or out-patients.

(4) Arrest under this section shall be treated as arrest for an offence for the purposes of **Part IV (detention) of the Police Powers and Procedures Act 1998 (an Act of Tynwald)**.

98 Right of entry

(1) A constable in uniform may board an aircraft if he reasonably suspects that he may wish to exercise a power by virtue of section 96 or under section 97 in respect of a person who is or may be on the aircraft.

(2) A constable in uniform may enter any place if he reasonably suspects that he may wish to exercise a power by virtue of section 96 or under section 97 in respect of a person who is or may be in that place.

- (3) For the purposes of boarding an aircraft or entering a place under this section a constable—
- (a) may use reasonable force;
 - (b) may be accompanied by one or more persons.

General

99 Regulations

Omitted

100 Crown application

(1) This Part shall apply to a function or activity performed or carried out in relation to an aircraft which belongs to or is employed in the service of the Crown.

(2) This section is subject to section 101.

101 Military application

(1) This Part shall not apply to a function or activity which is performed or carried out by a member of **[F12**any of Her Majesty's forces (within the meaning of the Armed Forces Act 2006) **]**, acting in the course of his duties.

- (2) This Part shall not apply to a function or activity which is performed or carried out by—
- (a) a member of a visiting force, within the meaning which that expression has in section 3 of the Visiting Forces Act 1952 (c. 67) by virtue of section 12(1) of that Act, acting in the course of his duties, or
 - (b) a member of a civilian component of a visiting force, within that meaning, acting in the course of his duties.

(3) Omitted

102 Territorial application

- (1) This Part applies in relation to—
- (a) a function or activity performed or carried out in the **Isle of Man**, and
 - (b) a flight function performed or flight activity carried out on a **Isle of Man** aircraft.

(2) In subsection (1)—

- “flight function” means a function falling within section 94(1)(a) to (f),
- “flight activity” means an activity which for the purposes of this Part is ancillary to a flight function, and
- “**Isle of Man, aircraft**” means an aircraft which is registered, in accordance with an enactment about aircraft, in the **Isle of Man**.

(3) - (5) Omitted

122 Short title

This Act may be cited as the Railways and Transport Safety Act 2003.