



CIVIL AVIATION (OCCURRENCE REPORTING) ORDER 2020

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Statutory Document No. 2020/0137



Airports and Civil Aviation Act 1987

CIVIL AVIATION (OCCURRENCE REPORTING) ORDER 2020

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

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

1 Title

This Order is the Civil Aviation (Occurrence Reporting) Order 2020.

2 Commencement

If approved by Tynwald¹, this Order comes into operation immediately upon the revocation of Part 24 (mandatory reporting) of the Air Navigation (Isle of Man) Order 2015².

3 Interpretation

(1) In this Order -

“**safety data**” means a defined set of facts or set of safety values collected from various aviation-related sources, which is used to maintain or improve safety; and

“**safety information**” means safety data processed, organized or analysed in a given context so as to make it useful for safety management purposes.

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

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

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

³ SD No. 2020/0134

4 Objective of occurrence reporting

The sole objective of occurrence reporting which is undertaken pursuant to this Order is the prevention of accidents and incidents, without the apportionment of blame or liability.

5 Mandatory reporting

- (1) The persons listed in Schedule 1 must report to the Department occurrences which may represent a significant risk to aviation safety and which fall into the categories listed in Schedule 2 within 72 hours of that person becoming aware of the occurrence, or such longer period that has been agreed by the Department.
- (2) The Department must establish a mandatory occurrence reporting system to facilitate collection of details of occurrences reported under paragraph (1).

6 Occurrence analysis and follow-up

- (1) An employer of a person listed in Schedule 1 must establish procedures for the investigation of a report made under article 5(1).
- (2) A report must be investigated and the results submitted to the Department within 30 days from the date of the occurrence being reported or such longer period that has been agreed by the Department.

7 Voluntary reporting

The Department must establish a voluntary occurrence reporting system to collect safety data and safety information that is not subject to the reporting system provided for in article 5.

8 Civil and criminal proceedings

Except in accordance with article 11, safety data and safety information obtained under the provisions of this Order must not be disclosed for use in civil or criminal proceedings.

9 Collection, storage and protection of safety data and safety information by the Department

- (1) The Department must take such measures as are reasonably necessary to protect all safety data and safety information obtained by it under the provisions of this Order from use for a purpose otherwise than in accordance with this Order.
- (2) The Department must not use safety data or safety information obtained under this Order for any purpose other than for the purposes of maintaining or improving safety and to take any preventative, corrective

or remedial action that is necessary to ensure safety including for the purpose of making decisions in respect of the revocation, suspension or variation of certificates, licenses or other documents.

- (3) The Department may share safety data or safety information with other civil aviation authorities in the interests of safety.
- (4) Where the Department shares safety data or safety information under paragraph (3), the Department must agree with the other civil aviation authority the level of protection required for the data and information and the conditions on which the data and information will be shared.
- (5) The Department must not disclose safety data or safety information obtained under this Order to another person (other than to another civil aviation authority) except -
 - (a) for the purpose of promoting or improving aviation safety; or
 - (b) where a principle of exception applies under article 11.
- (6) The Department must ensure that the data or information disclosed under paragraph (5)(a) does not identify any individual, whether by the omission of names or other identifying particulars or otherwise.

10 Collection, storage and protection of safety data and safety information by a person other than the Department

- (1) A person, other than the Department, must take such measures as are reasonably necessary to protect all safety data and safety information obtained by the person under the provisions of this Order from use for a purpose otherwise than in accordance with this Order.
- (2) A person must not use safety data or safety information obtained under this Order for any purpose other than for the purposes of maintaining or improving safety and to take any preventative, corrective or remedial action that is necessary, including restricting or withdrawing any persons under the person's control from an operational duty.
- (3) Subject to paragraph (5), a person must not disclose safety data or safety information to a person other than for the purpose of promoting or improving aviation safety.
- (4) A person must ensure that safety data or safety information disclosed under paragraph (3) does not identify any individual, whether by the omission of names or other identifying particulars or otherwise.
- (5) A person must only disclose safety data or safety information for any purpose other than as specified in paragraph (3) in accordance with an approval granted by the Department and subject to any conditions to which the approval has been granted.
- (6) An approval by the Department for the purposes of paragraph (5) must only be granted where a principle of exception applies under article 11.

11 Principle of exception for the release of safety data and safety information

A principle of exception applies only when there has been an occurrence and one of the following applies -

- (a) there is evidence that indicates that an occurrence reported under the provisions of this Order was likely to have been caused by an act or omission considered to be conduct constituting gross negligence, wilful misconduct or criminal activity;
- (b) disclosure of safety data or safety information -
 - (i) is necessary for the proper administration of justice; and
 - (ii) the benefits of its release outweigh the adverse domestic and international impact such release would likely have on the future collection and availability of safety data and safety information;
- (c) release is necessary -
 - (i) for the wider purpose of maintaining or improving aviation safety in general beyond any immediate preventative, corrective or remedial action; and
 - (ii) the benefits of its release outweigh the adverse domestic and international impact such release is likely to have on the future collection and availability of safety data and safety information.

12 Freedom of Information

Safety data and safety information is absolutely exempt information for the purposes of the Freedom of Information Act 2015 (information the disclosure of which is restricted by law).

13 Air Accident Investigation

The Department must give full access to Air Accidents Investigation Branch of all safety data and safety information held by the Department for the purpose of discharging its responsibilities pursuant to the Civil Aviation (Investigation of Air Accidents and Incidents) Order 2019⁴.

14 False reports

A person must not make a report under this Order if the person knows or has reason to believe that the report is false in a material particular.

15 Offences and penalties

- (1) Subject to paragraphs (2) and (3), a person who contravenes article 10 or 14 commits an offence and is liable -

⁴ SD 2019/0267

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

16 Amendment of the Civil Aviation (Subordinate Legislation) (Application) Order 2006

In Schedule 2 to the Civil Aviation (Subordinate Legislation) (Application) Order 2006⁵ -

- (a) in Part 4 (exceptions, adaptations and modifications subject to which SI 1991/1672 applies to the Island) substitute paragraph 10 with the following -
“10. Omit regulations 9 to 14”.;
- (b) in Part 16 (exceptions, adaptations and modifications subject to which SI 2006/601 applies to the Island) -
 - (i) substitute paragraph 9 with the following -
“9. Omit Part 5 (Mandatory Reporting).”; and
 - (ii) omit paragraph 10; and
- (c) in Part 18 (exceptions, adaptations and modifications subject to which SI 2006/1384 applies to the Island) substitute paragraph 5 with the following -
“5. In regulation 9(2)(a)(iii), for “article 57 of the Air Navigation (Isle of Man) Order 2007” substitute “the Civil Aviation (Occurrence Reporting) Order 2020”⁶”.

⁵ SD 909/06

⁶ SD No. 2020/0137

MADE 3RD JUNE 2020

LAURENCE SKELLY
Minister for Enterprise



SCHEDULE 1**PERSONS TO REPORT AN OCCURRENCE****[ARTICLE 5(1)]**

The following persons must report an occurrence under article 5(1) -

- (a) in the case of an aircraft registered in the Isle of Man (wherever it may be), the pilot in command, or in cases where the pilot in command is unable to report the occurrence, any other crew member next in the chain of command;
- (b) in the case of an aircraft registered in the Isle of Man (wherever it may be), a person who signs a certificate of release to service;
- (c) a person who performs a function in the Isle of Man as a staff member of an air traffic services provider entrusted with responsibilities related to air traffic services;
- (d) a person who performs a function connected with the safety management of Isle of Man Airport;
- (e) a person employed by or at Isle of Man Airport who performs a function relating to the operation of the aerodrome;
- (f) a person who performs a function connected with the installation, modification, maintenance, repair, overhaul, flight-checking or inspection of air traffic service equipment approved by the Department;
- (g) the remote pilot of a small unmanned aircraft having a mass of not less than 250 grams;
- (h) a person who is involved with the transport of dangerous goods by air.

SCHEDULE 2**MANDATORY REPORTING CATEGORIES****[ARTICLE 5(1)]**

1. Occurrences related to the operation of aircraft, including -
 - (a) collision-related occurrences;
 - (b) take-off and landing related occurrences;
 - (c) fuel-related occurrences;
 - (d) in-flight occurrences;
 - (e) communication-related occurrences;
 - (f) occurrences related to injury, emergencies and other critical situations;
 - (g) crew incapacitation and other crew related occurrences;
 - (h) meteorological conditions or security-related occurrences;
 - (i) actual or potential wildlife strikes.
2. Occurrences related to technical conditions, maintenance and repair of aircraft, including -
 - (a) structural defects;
 - (b) system malfunctions;
 - (c) maintenance and repair problems;
 - (d) propulsion problems (including engines, propellers and rotor systems) and auxiliary power unit problems.
3. Occurrences related to air traffic services and facilities, including -
 - (a) collisions, near collisions or potential for collisions;
 - (b) operational occurrences.
4. Occurrences related to aerodromes and ground services, including -
 - (a) occurrences related to aerodrome activities and facilities;
 - (b) occurrences related to handling of passengers, baggage, mail and cargo;
 - (c) occurrences related to aircraft ground handling and related services;
 - (d) wildlife/habitat management.

5. Dangerous goods incidents, including -
- (a) the discovery of undeclared or misdirected dangerous goods in mail or cargo;
 - (b) dangerous goods having been carried when not loaded, segregated, separated or secured in accordance with the Safe Transport of Dangerous Goods by Air Order 2020⁷;
 - (c) dangerous goods having been carried without information being provided to the pilot in command in accordance with the Safe Transport of Dangerous Goods by Air Order 2020⁷;
 - (d) the discovery of dangerous goods not permitted by the Safe Transport of Dangerous Goods by Air Order 2020⁷ either in the baggage or on the person of passengers or crew members.

⁷ Civil Aviation (Safe Transport of Dangerous Goods by Air) Order 2020 SD No. 2020/0138

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision for persons involved in aviation activity in the Isle of Man, and with Isle of Man registered aircraft wherever they may be in the world, to report occurrences which pose a significant risk to aviation safety.

Article 3 provides that a word or expression used in this Order, unless otherwise defined in this Order, has the same meaning as in the Civil Aviation (Miscellaneous Provisions) Order 2020. That Order defines the Department as the Department for Enterprise.

Article 4 provides that the sole objective of occurrence reporting is the prevention of accidents and incidents, and not to apportion blame or liability.

Article 5 requires the Department to maintain a system to collect details of occurrences that must be reported under this Order.

Article 6 requires that occurrences are investigated and the results be submitted to the Department.

Article 7 requires the Department to establish a voluntary system to collect reports and safety data submitted other than in accordance with article 5.

Article 8 prohibits the disclosure of safety data and safety information except in accordance with article 11.

Articles 9 and 10 require the Department or other persons to protect safety related information from misuse, but ensures that it may be used for improving safety and taking remedial action in certain circumstances.

Article 11 provides that safety data and safety information is only released in certain specified circumstances.

Article 12 absolutely exempts safety data and safety information from disclosure under a Freedom of Information request.

Article 13 provides for the Air Accidents Investigation Branch to have full access to safety data and safety information.

Article 14 provides that a person must not make a false report.

Article 15 provides for failure to comply with the provisions of the Order to be an offence and sets out the penalties.