

(as applied to the Isle of Man)

2015 No. 930

CIVIL AVIATION

The Aviation Security Act 1982 (Civil Penalties) Regulations 2015

1 Title

These Regulations are the Aviation Security Act 1982 (Civil Penalties) Regulations 2015.

2 Interpretation

In these Regulations —

“the ASA 1982” mean the Aviation Security Act 1982 (*as applied to the Isle of Man*);

“inbound flight” means a flight originating outside *the Isle of Man* that is due to fly into *the Isle of Man*;

“notice of objection” has the meaning given in regulation 7;

“penalty notice” has the meaning given in regulation 6.

3 Penalty for failure to comply with section 11 of the ASA

(1) This regulation applies to a person who—

- (a) is the operator of one or more aircraft registered or operating in *the Isle of Man*, and
- (b) has been required by a notice under section 11 of the Aviation Security Act (power to require information) to provide information relating to an inbound flight.

(2) *The Department* may require the person to pay a penalty if *the Department* is satisfied, on a balance of probabilities, that the person—

- (a) has failed to comply with a requirement imposed by the notice, or
- (b) has, in providing any information so required, intentionally or recklessly made a statement that is false in a material particular.

(3) But—

- (a) *the Department* may not require a person to pay a penalty under paragraph (2)(a) if—
 - (i) the person shows that there was a reasonable excuse for the failure, or
 - (ii) proceedings have been instituted against the person under section 11(5)(a) of the ASA 1982 in respect of the same failure;
- (b) *the Department* may not require a person to pay a penalty under paragraph (2)(b) if proceedings have been instituted against the person under section 11(5)(b) of the ASA 1982 or under *section 6 of the Perjury Act 1952 (an Act of Tynwald) (false declarations etc, to obtain registration, etc for carrying on a vocation)* in respect of the same false statement.

(4) A penalty imposed under this regulation may not exceed £50,000.

(5) The penalty is payable to *the Department* on demand.

4 Penalty for failure to comply with a direction under section 12(1)(b) or 14 of the Aviation Security Act 1982

(1) This regulation applies to a person who—

- (a) is the operator of one or more aircraft registered or operating in *the Isle of Man*, and
- (b) has been given a direction under section 12(1)(b) (power to impose restrictions in relation to aircraft) or section 14 of the Aviation Security Act 1982 (general power to direct measures to be taken) that—
 - (i) relates to an inbound flight, and
 - (ii) requires the person 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.

(2) *The Department* may require the person to pay a penalty if *the Department* is satisfied, on a balance of probabilities, that the person has failed to comply with the direction.

(3) But *the Department* may not require a person to pay a penalty if -

- (a) the person shows that there was a reasonable excuse for the failure, or
- (b) proceedings have been instituted against the person under section 12(9) or 14(7)(a) of the Aviation Security Act 1982 in respect of the same failure.

(4) A penalty imposed under this regulation may not exceed £50,000.

(5) The penalty is payable to *the Department* on demand.

5 Notification of penalty decision

(1) If *the Department* decides to require a person to pay a penalty under these Regulations, *the Department* must give the person a penalty notice.

(2) A penalty notice must -

- (a) be in writing,
- (b) state *the Department's* reasons for deciding to require the person to pay a penalty,
- (c) state the amount of the penalty,
- (d) specify the date on which it is given,
- (e) specify the date, at least 28 days after the date specified in the notice as the date on which it is given, before which the penalty must be paid,
- (f) specify how a penalty must be paid,
- (g) include an explanation of the steps that the person may take if the person objects to the penalty (including specifying the manner and form in which any notice of objection must be given to *the Department*), and
- (h) include an explanation of the steps *the Department* may take to recover any unpaid penalty.

(3) Section 24 of the Aviation Security Act 1982 (service of documents) applies in relation to a penalty notice as it applies in relation to a notice authorised or required to be served on or given to a person under Part 2 of that Act.

6 Objection to penalty decision

(1) The recipient of a penalty notice (the “recipient”) may object to the penalty notice by giving a notice of objection to *the Department*.

(2) A notice of objection must -

- (a) be in writing,
- (b) give the reasons for the objection,
- (c) be given to *the Department* in the manner and form specified in the penalty notice, and
- (d) be given before the end of the period of 28 days beginning with the date specified in the penalty notice as the date on which it is given.

(3) Where *the Department* receives a notice of objection, *the Department* must consider it and-

- (a) cancel the penalty,
- (b) reduce the penalty,
- (c) increase the penalty, or
- (d) determine not to alter the penalty.

(4) After reaching a decision as to how to proceed under paragraph (3), *the Department* must notify the recipient of the decision in writing.

(5) A notification under paragraph (4) must be given before the end of the period of 70 days beginning with the date specified in the penalty notice as the date on which it is given, or such longer period as *the Department* may agree with the recipient.

(6) A notification under paragraph (4), other than one notifying the recipient that *the Department* has decided to cancel the penalty, must -

- (a) state the amount of the penalty following *the Department's* consideration of the notice of objection,
- (b) state *the Department's* reasons for the decision under paragraph (3),
- (c) specify the date, at least 28 days after the date on which the notification is given, before which the penalty must be paid,
- (d) specify how the penalty must be paid,
- (e) include an explanation of the recipient's rights of appeal, and
- (f) include an explanation of the steps *the Department* may take to recover any unpaid penalty.

(7) Section 24 of the Aviation Security Act 1982 (service of documents) applies to a notification under paragraph (4) as it applies in relation to a notice authorised or required to be served on or given to a person under Part 2 of that Act.

7 Appeals

- (1) A person (the “appellant”) may appeal to the court against a decision to require the person to pay a penalty under these Regulations.
- (2) An appeal may be brought only if the appellant has given a notice of objection and *the Department* has -
 - (a) reduced the penalty under regulation 7(3)(b),
 - (b) increased the penalty under regulation 7(3)(c), or
 - (c) determined not to alter the penalty under regulation 7(3)(d).
- (3) An appeal must be brought within the period of 28 days beginning with the date on which the person is notified of *the Department’s* decision on the notice of objection under regulation 7(4).
- (4) On appeal, the court may -
 - (a) allow the appeal and cancel the penalty,
 - (b) allow the appeal and reduce the penalty, or
 - (c) dismiss the appeal.
- (5) An appeal-
 - (a) is to be a re-hearing of *the Department’s* decision to impose a penalty, and
 - (b) may be determined having regard to matters of which *the Department* was unaware.
- (6) Paragraph (5)(a) has effect despite any provision of rules of court.
- (7) *In this regulation, “the court” means any court in the Island of competent jurisdiction.*