

**3.2. Airports and Civil Aviation (Amendment) Bill 2018 –
Clauses considered**

Mr Skelly to move.

The Speaker: With that, we move on and we turn to the Airports and Civil Aviation (Amendment) Bill 2018 in the hands of Mr Skelly.

Mr Skelly: Gura mie eu, Loayreyder.

5 To recap briefly, the primary objective is for the Airports and Civil Aviation (Amendment) Bill to provide new enabling provisions that will significantly assist the Island to meet its obligations to the UK resulting from their ratification of international conventions.

The Bill will allow the Island to make its own civil aviation secondary legislation, utilising international and domestic standards, without the need to extend legislation from elsewhere or rely on the UK government to make orders on our behalf.

10 I thank Loayreyder for giving me permission to move clauses 1 to 3 together.

Clause 1 gives the short title of the Bill.

Clause 2 provides that the Bill shall come into operation via an appointed day order after consultation with the Department of Infrastructure.

15 Clause 3 provides that the Airports and Civil Aviation Act 1987 shall be amended.

Loayreyder, I beg to move that clauses 1, 2 and 3 stand part of the Bill.

The Speaker: The Chief Minister.

20 **Mr Quayle:** I beg to second and reserve my remarks.

The Speaker: The question is that clauses 1, 2 and 3 stand part of the Bill. All those in favour, say aye; all those against, no. The ayes have it. The ayes have it.

Clause 4, Minister.

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Mr Skelly: Gura mie eu.

Clause 4 provides for a cross-heading immediately before section 11 of the Airports and Civil Aviation Act 1987 to be substituted to reflect the amendments made by the Bill.

Loayreyder, I beg to move clause 4 stand part of the Bill.

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The Speaker: Mr Quayle.

Mr Quayle: Again, I beg to second and reserve my remarks.

35 **The Speaker:** The question is that clause 4 stand part of the Bill. All those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 5, Mr Skelly.

Mr Skelly: Gura mie eu.

40 Clause 5 provides for a reference to the European Communities (Isle of Man) Act 1993 to be removed from the Airports and Civil Aviation Act 1987 and a definition of the term 'EU instrument' be inserted.

This amendment was made at the request of the Cabinet Office and has been worded to ensure that the provision will remain appropriate, regardless of any UK or EU agreement that may be reached.

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Loayreyder, I beg to move clause 5 stand part of the Bill.

The Speaker: Mr Perkins.

50 **Mr Perkins:** I beg to second and reserve my remarks. *(Interjection and laughter)*

The Speaker: The question is that clause 5 stand part of the Bill. All those in favour, please say aye; against no. The ayes have it. The ayes have it.

Clause 6, Mr Skelly.

55 **Mr Skelly:** Gura mie eu.

Clause 6 inserts eight new sections 11B to 11I into the Airports and Civil Aviation Act 1987 to provide the Department for Enterprise with the power to make orders with regard to civil aviation and for those orders not to be required to apply the related UK legislation.

60 Sections 11 and 11A of the 1987 Act currently enable the Department by order to apply to the Island as part of the law of the Island specific United Kingdom and European Union civil aviation legislation, subject to exceptions, adaptations and moderate modifications.

As I referred to in the Second Reading of the Bill, these provisions are not sufficient to create effective legislation where significant modifications or variations from the UK or EU legislation may be required. The inserted section 11B would provide for the Department for Enterprise to make orders for the purposes of incorporating into law any international obligations in respect of civil aviation and regulating civil aviation in general.

Without prejudice to the generality of these purposes, an order may address the following aspects: the safety regulation of aviation, including airport registration, airworthiness and operations, aerodromes, air traffic control and air navigation, the rules pertaining to flight into and within the Island, aircraft noise and emissions, the record of births, deaths and missing persons on aircraft, registration of aircraft and engine mortgages, minimum level of insurance for aircraft operating in the Island, the application of ambulatory referenced international recognised technical standards, the application of other documents as may be considered relevant. An order under this section will not come into operation until it has been approved by Tynwald

70 Section 11C makes it an offence for any person to trespass on any land forming part of an aerodrome licence in pursuance of an order under section 11, 11A or 11B. No person shall be liable to a penalty under this section if at the material time notices warning trespassers of their liability were not posted on or nearby a boundary of the aerodrome.

80 Section 11D addresses action in respect of trespassers for nuisance caused by an aircraft flight which is compliant with the provisions of an order made under section 11, 11A or 11B and includes measures to address damage or loss caused by an aircraft relating to proof of negligence.

85 Section 11E provides that no action shall lie in respect to nuisance of any noise created by an aircraft on an aerodrome by virtue of compliance with an order under section 11, 11A or 11B.

Section 11F provides that the Department for Enterprise may require a specific person, including the holder of a licence or certificate issued by the Department and the recipient of an approval or permission given or validated by the Department under an order made under section 11, 11A or 11B to furnish it with information relating to their activities. Failure to do so will be an offence. The Department may revoke any licence or certificate or approval which was given to my Department in relation to the requirement to furnish the information.

90 Section 11G provides that for any legal proceedings a document purporting to be certified by an authority or person designated for the purpose by regulations made by the Department as being, or being a true copy of, or part of, a document issued or kept in pursuance of an order made under 11, 11A or 11B, or by the Department or Statutory Board, shall be evidence of the matters referred to in that document.

100 A document printed by Her Majesty's Statutory Office or the UK Civil Aviation Authority purporting to be the 'United Kingdom Air Pilot' or a publication of the series 'Notam – United Kingdom' shall also be evidence in the matters referred to.

The clause also provides for the use as evidence in any legal proceedings documents made by such authority or persons designated for the purposes by an order or regulations made by the Department which purport to show the position of an aircraft in terms or content of any message or signal transmitted to or received from an aircraft by such authorities or persons. It creates the offence of certifying as a true copy a document or article of type specified in the section which the person who certified knows not in fact to be a true copy.

105 Clause 8 provides the definitions of the Cape Town Convention and the Chicago Convention to be inserted into the Airports and Civil Aviation Act 1987.

110 Loayreyder, I beg to move clause 8 stand part of the Bill.

The Speaker: We are still on clause 6. *(Laughter and interjections)*

Well done, loved your enthusiasm, Mr Skelly. **(A Member:** Not again!) Clause 6.

115 **Mr Skelly:** Continuation of clause 6: section 11H provides for the Department for Enterprise to make regulations prohibiting or restricting flying in specific air space of the Island or any part thereof to appear as specified in the regulations and subject to such conditions that may be specified in the regulations. These powers are routinely used for Tynwald Day, TT Fortnight and Festival of Motorcycling.

120 In addition, the powers will be utilised to put in place prohibitions or restrictions in response to land or sea emergencies.

The Tynwald procedure for such regulations must enable the regulations to be made and come into operation at very short notice at any time of the day and without undue delay. Therefore there is provision for the regulation to be laid before Tynwald as soon as practicable and subject to annulment.

125 Section 11I provides for the Department for Enterprise to prescribe penalties and secondary legislation for breaches under the new primary powers. Limitations are expressly placed on this power.

Loayreyder, I beg to move clause 6 stand part of the Bill.

130 **The Speaker:** I presume in your speaking remarks, when you referred to 'Her Majesty's Statutory Office', you meant 'Her Majesty's Stationery Office'? You said 'Statutory'.

Mr Skelly: I did.

135 **The Speaker:** Just to prove I was listening, Mr Skelly. *(Laughter)*

Mr Skelly: I am glad you did.

140 **The Speaker:** Right, clause 6 stand part of the Bill: do I have a seconder?
Mr Malarkey.

Mr Malarkey: Is there not a clause ... Mr Perkins – am I reading this wrong?

145 **The Speaker:** I am looking for a seconder to clause 6.

Mr Malarkey: I will happily do that!

The Speaker: I thought you might, Mr Malarkey. Thank you very much.
Mr Perkins.

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Mr Perkins: Thank you, Mr Speaker.

I am proposing a minor amendment to correct a drafting error in line 37, on page 14 of this Bill

I wondered why Mr Connell had made a hasty exit. *(Laughter)*

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The amendment will be:

Amendment to clause 6

Page 14, in line 37 omit 'summarily only' and substitute 'only on information'.

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The intention of the Bill is to mirror the legislation in force in the UK that is already extended to the Island. This amendment would ensure that the text reflects the wording of the same provision which is contained within the Civil Aviation Act 1982 of Parliament as applied to the Isle of Man.

I beg to move the amendment standing in my name.

The Speaker: Mr Callister.

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Mr Callister: Thank you, Mr Speaker.

I beg to second and reserve my remarks.

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The Speaker: I put to you first the question that the amendment in the name of Mr Perkins stand part of ... the amendment. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

I put to you therefore clause 6 as amended. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 7, Mr Skelly.

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Mr Skelly: Gura mie eu, Loayreyder.

Clause 7 provides for a cross-heading to be inserted into the Airports and Civil Aviation Act 1997 to reflect the amendments made by this Bill.

I beg to move clause 7 stand part of the Bill.

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The Speaker: Mr Perkins.

Mr Perkins: I beg to second and reserve my remarks. *(Interjections and laughter)*

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The Speaker: Hon. Members, I put to you the motion that clause 7 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 8, Mr Skelly.

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Mr Skelly: Finally, clause 8 provides for the definitions of the Cape Town Convention and the Chicago Convention to be inserted into the Airports and Civil Aviation Act 1987.

I beg to move that clause 8 stand part of the Bill, and can I thank my multiple seconders. *(Laughter)*

The Speaker: Mr Perkins.

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Mr Perkins: I beg to second and reserve my remarks.

The Speaker: The question is that clause 8 stand part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.