

**1. Airports and Civil Aviation (Amendment) Bill 2018 –  
Second Reading approved**

Mr Crookall to move:

*That the Airports and Civil Aviation (Amendment) Bill 2018 be read a second time.*

**The President:** We turn to Item 1 on our Order Paper, Airports and Civil Aviation (Amendment) Bill. I call on the mover, Mr Crookall.

**Mr Crookall:** Thank you, Mr President.

5 As outlined at First Reading, the purpose of the Bill is to introduce new primary powers into the Airports and Civil Aviation Act 1987 to enable the Department for Enterprise to make subordinate legislation for the purpose of: meeting the Island's international obligations in respect of civil aviation; and for regulating the Island's civil aviation in general.

10 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 civil aviation legislation, subject to exceptions, adaptations and moderate modifications.

As I referred to during the First 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.

15 The Bill itself contains eight clauses – the first three clauses deal with the opening provisions. Clauses 4, 5, 7 and 8 deal with minor consequential matters, whilst clause 6 provides the most substantial part of the Bill, dealing with the insertion of a number of new sections into the 1987 Act.

20 Some of the areas covered by the provision in clause 6, and where secondary legislation will be required, are as follows: registration and airworthiness of aircraft; safety, efficiency and regularity of aircraft navigation; noise and emissions; important international conventions; technical standards; trespass; and prohibition or restriction of flying.

The Bill is the first phase of a regulatory and legislative plan that will ensure that the Island remains in compliance with civil aviation international standards and recommended practices.

25 Mr President, I beg to move the Second Reading of the Airports and Civil Aviation (Amendment) Bill.

**The President:** Mrs Lord-Brennan.

30 **Mrs Lord-Brennan:** Mr President, thank you.  
I have a question if that is fine now?

**The President:** Yes. Are you seconding?

35 **Mrs Lord-Brennan:** I am happy to second. I have a question as well, if that is alright.

**The President:** Thank you, yes.

**Mrs Lord-Brennan:** Thank you.

40 Mr President, my question to the Hon. Member relates to the ability to make ambulatory references in respect of the technical standards as per clause 11B(4) and how this will work in practice.

45 As I understand it, we are talking about referring to documents or instructions relating to technical standards which will change or be updated over time, so that the effect would be that a standard would remain valid in law when updated by an amendment or a new edition.

Given the subject-to-change nature, my questions for the Hon. Member are: how will this work in practice; and how will the key parties be aware of the right, up-to-date document or references, so that there can be confidence over consistency?

50 **The President:** Mr Crookall, would you like to deal with that?

**Mr Crookall:** Yes, certainly, Mr President, and I thank the Hon. Member for her question.

Section 11B(4)(f) will provide for the secondary legislation to make direct reference to international recognised technical standards in civil aviation, so that any future changes to the text of technical standards would be incorporated into Manx law without the need to make  
55 legislation or other regulatory provision.

The key element of having an ambulatory reference is that when minor and technical amendments are made to technical standards, we will not have to change our domestic secondary legislation every time. This would speed up the implementation of technical standard changes, meaning the Island complies with the standards from the moment they are introduced  
60 internationally.

Legislation which allows ambulatory references permits cross-references to the most up-to-date text of the technical standards at any given moment, without the need for notice to direct users to any particular version. The aviation industry will benefit from increased certainty in respect of technical requirements, as they can rely solely on the international text published by the International Civil Aviation Organisation. A strong justification for introducing documents under either provision will be put to Tynwald at the time when the secondary legislation is considered  
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Generally those affected by any change would be contacted directly by email or alerted by standard aviation communication channels. If an ambulatory reference brings a tangible change in the law, the Department will give it appropriate publicity to ensure that those affected are informed.  
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The ambulatory and any other document power would not be used where obligations would be imposed on the public or business, other than those directly involved in civil aviation or where a criminal offence or other penalty would be imposed. The use of the provision will be managed by the Department policy and a copy of the draft policy has previously been circulated to Hon. Members.  
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**The President:** Miss August-Hanson.  
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**Miss August-Hanson:** I wish to ask a question now. I was going to leave it until clause 5 but I might as well ask it now, I suppose. The question is in two parts. It relates to clause 5: the advice of the Cabinet Office for the Department of Enterprise taking the opportunity to 'Brexit-proof' section 11A of the Act by removing a reference to the European Communities (Isle of Man) Act 1973.  
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I address this to either the Hon. Member moving the Bill but also to the Attorney General. A question in two parts: what advice did the Cabinet Office provide on Brexit-proofing section 11A of the Act and by doing so, would we be setting any form of precedent in proactively considering Brexit on legislating going forward; and what political and legal implications does that present?  
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**The President:** Mr Crookall.

**Mr Crookall:** Thank you, Mr President.

Again, I thank the hon. questioner for her question. The text was identified by the Cabinet Office as part of their review of all legislation, when this was coming forward, and Brexit planning. We were offered the option of including it within the Bill or for the amendment to be  
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made as part of the Island's future Brexit Bill. In consultation, the Cabinet Office preferred the former so we have gone with that, so we have Brexit-proofed it now, basically.

100 The text was developed between the Cabinet Office and the AG's drafters and presents no legal implications, as it allows the same in effect as regards the Communities Act and its repeal, etc.

I do not know whether the learned Attorney would just like to pick up on that, Mr President.

105 **The President:** Mr Attorney.

**The Attorney General:** If I may briefly, Mr President.

The point made is a very fair point, to the extent that clearly the legislation that comes forward now will, when we are able, be Brexit-proofed, and this was an opportunity in the context of this Bill to do so.

110 Does that set a precedent? Well, it does not, but it does in practice because all legislation which we are considering now, we are considering in the context of whether or not it needs to be Brexit-proofed. And we will be later looking at the Data Protection Bill, which actually applies that same principle.

115 **Miss August-Hanson:** Thank you.

**The President:** Thank you.  
Mr Crookall, anything you wish to add?

120 **Mr Crookall:** No, I am very happy and content, Mr President.  
If Members have no other questions, I beg to move that the Second Reading be read, sir.

125 **The President:** Hon. Members, the motion is that the Second Reading of the Airports and Civil Aviation (Amendment) Bill be read for the second time. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

### Airports and Civil Aviation (Amendment) Bill 2018 – Clauses considered

**The President:** Turning now to the clauses, clause 1, Mr Crookall.

130 **Mr Crookall:** Thank you, Mr President.  
Clause 1 gives the Bill its short title.  
I beg to move that clause 1 be part of the Bill.

**The President:** Mr Henderson.

135 **Mr Henderson:** I beg to second, sir.

**The President:** I put the motion that clause 1 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 2, sir.

140 **Mr Crookall:** Thank you.  
Clause 2 provides that the Bill shall come into operation via an Appointed Day Order, after consultation with the Department of Infrastructure.

Mr President, I beg to move that clause 2 stand part of the Bill.

145 **The President:** Mr Henderson.

**Mr Henderson:** Gura mie eu, Eaghtyrane.  
I beg to second and reserve my remarks.

150 **The President:** I put clause 2. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 3.

**Mr Crookall:** Thank you, Mr President.  
155 Clause 3 provides that the Airports and Civil Aviation Act 1987 shall be amended.  
I beg to move that clause 3 stand part of the Bill.

**The President:** Mr Henderson.

160 **Mr Henderson:** I beg to second, sir, and reserve my remarks.

**The President:** I put clause 3. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
165 Clause 4.

**Mr Crookall:** 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.  
170 I beg to move that clause 4 stand part of the Bill, Mr President.

**The President:** Mr Henderson.

**Mr Henderson:** Gura mie eu, Eaghtyrane.  
175 I beg to second and reserve my remarks.

**The President:** I put clause 4. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
180 Clause 5.

**Mr Crookall:** Thank you Mr President.

Clause 5 provides for a reference to the European Communities (Isle of Man) Act 1973 to be removed from the Airports and Civil Aviation Act 1987 and a definition of the term 'EU instruments' to be inserted.

185 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 future UK or EU agreement that might be reached.

Mr President, I beg to move that clause 5 stand part of the Bill.

**The President:** Mr Henderson.

190 **Mr Henderson:** Gura mie eu, Eaghtyrane.  
I beg to second and reserve my remarks.

195 **The President:** I put clause 5. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Clause 6.

**Mr Crookall:** Thank you Mr President.  
There is quite a bit of content to this clause, so I beg Members' patience.  
200 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 regards to civil aviation.

205 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 aircraft registration, airworthiness and operations; aerodrome, 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;  
210 minimum level of insurance for aircraft operating in the Island; the application of ambulatory referenced internationally 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.

215 Section 11C makes it an offence if any person trespasses on any land forming part of an aerodrome licensed in pursuance of an order under section 11, 11A or 11B of the Act. 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 near the boundary of the aerodrome

220 Section 11D addresses action in respect of trespass or nuisance caused by an aircraft flight which is complying with the provisions of an order made under sections 11, 11A or 11B of the Act, and includes measures to address damage or loss caused by an aircraft relating to proof of negligence.

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

225 Section 11F provides that the Department for Enterprise may require a specified 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 of the Act, 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 may be given by the Department in relation to the requirement to furnish information.  
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235 Section 11G provides that in 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 a being a true copy of, or of part of, a document based or kept in pursuance of an order made under 11, 11A or 11B of the Act or by a Department or statutory authority, shall be evidence of the matters referred to in that document.

240 A document printed by Her Majesty's Stationery Office or the UK Civil Aviation Authority and known as the 'United Kingdom Air Pilot' or the publication series 'Notam – United Kingdom' shall also be evidence in the matters referred to. These clauses provide for the use as evidence in any legal proceedings documents made by such authority or persons designated for the purposes, by any order or regulations made by the Department, which purport to show the position of an aircraft or the 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 a type specified in the section which the person certifying it knows is not in fact a true copy.

245 Section 11H provides for the Department for Enterprise to make regulations prohibiting or  
restricting flying in specified airspace of the Island or any part thereof, for a period specified in  
the regulations and subject to such conditions as may be specified in the regulations. These  
powers are routinely used during Tynwald Day, TT fortnight and the Festival of Motorcycling. In  
250 addition the powers would 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 regulations to be laid before Tynwald as soon as practicable  
and subject to annulment.

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

Mr President, I beg to move that clause 6 stand part of the Bill.

260 **The President:** Mr Henderson.

**Mr Henderson:** Gura mie eu, Eaghtyrane.  
I beg to second and reserve my remarks.

265 **The President:** Can I just ask a question of the mover in 11H, regulations prohibiting or  
restricting flying: does that include the use of drones?

**Mr Crookall:** Yes, drones are included in this, Mr President. We have had quite a  
conversation with this over the time, but yes, it does include drones, sir.

270 **The President:** Thank you. Any other points?

The question is that clause 6 do stand part of the Bill. Those in favour, say aye; against, no.  
The ayes have it. The ayes have it.

Clause 7.

275 **Mr Crookall:** Thank you, Mr President, and I thank Members for the last clause.

Clause 7 provides for a cross-heading to be inserted into the Airports and Civil Aviation Act  
1987 to reflect the amendments made by the Bill.

Mr President, I beg to move that clause 7 stand part of the Bill.

280 **The President:** Mr Henderson.

**Mr Henderson:** Gura mie eu, Eaghtyrane.  
I beg to second and reserve my remarks.

285 **The President:** I put clause 7. Those in favour, say aye; against, no. The ayes have it. The ayes  
have it.

Clause 8.

290 **Mr Crookall:** Thank you Mr President.

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.

Mr President, I beg to move that clause 8 stand part of the Bill.

295 **The President:** Mr Henderson.

**Mr Henderson:** Gura mie eu, Eaghtyrane.  
I beg to second and reserve my remarks.

300 **The President:** I put clause 8. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
Thank you, Hon. Members, that concludes our consideration of the clauses stage of that Bill.