
STATUTORY INSTRUMENTS

2015 No. 870

The Air Navigation (Isle of Man) Order 2015

PART 25

Powers and penalties

Revocation, suspension and variation of certificates, licences and other documents

144.—(1) Subject to paragraph (5), the Department may provisionally suspend or vary a certificate, licence, approval, permission, exemption, authorisation or other document issued, granted, rendered valid or having effect under this Order, pending inquiry into or consideration of the case.

(2) The Department may, on sufficient ground being shown to its satisfaction after due inquiry, revoke, suspend or vary any such certificate, licence, approval, permission, exemption, authorisation or other document.

(3) The holder or a person having the possession or custody of a certificate, licence, approval, permission, exemption or other document that has been revoked, suspended or varied under this Order must surrender it to the Department within a reasonable time after being required to do so by the Department.

(4) The breach of a condition subject to which a certificate, licence, approval, permission, exemption or other document has been issued, granted, rendered valid or which has effect under this Order, in the absence of provision to the contrary in the document, renders the document invalid during the continuance of the breach.

(5) A flight manual, performance schedule or other document incorporated by reference in a certificate of airworthiness may be varied on sufficient ground being shown to the satisfaction of the Department, whether or not after due inquiry.

Revocation, suspension and variation of permissions, etc. granted under article 139 or article 141

145.—(1) The permits to which this article applies are permissions granted by the Department under article 139 or article 141 and any approvals or authorisations of, or consents to, any matter that the Department has granted, or is to be taken to have granted, in pursuance of a permission that it has so granted.

(2) Subject to the provisions of this article, the Department may revoke, suspend or vary a permit to which this article applies.

(3) Subject to paragraph (4), the Department may exercise the powers under paragraph (2) only after notifying the permit holder of the intention to do so and after due consideration of the case.

(4) If, by reason of the urgency of the matter, it appears to the Department to be necessary to do so, the Department may provisionally suspend or vary a permit to which this article applies without complying with the requirements of paragraph (3) but the Department must in any such case

comply with those requirements as soon as is reasonably practicable and must then, in the light of due consideration of the case, either—

- (a) revoke the provisional suspension or variation of the permit; or
- (b) substitute a definitive revocation, suspension or variation, that, if a definitive suspension, may be for the same or a different period as the provisional suspension (if any) or, if a definitive variation, may be in the same or different terms as the provisional variation (if any).

(5) The powers vested in the Department by paragraphs (2) and (4) may be exercised when in the judgement of the Department and whether or not by reason of anything done or omitted to be done by the permit holder or otherwise connected with the permit holder, it is necessary or expedient that the permit holder should not enjoy, or should no longer enjoy, the rights conferred by a permit to which this article applies or should enjoy them subject to such limitations or qualifications as the Department may determine.

(6) In particular, and without limitation, the Department may exercise the powers under paragraphs (2) and (4) if it appears that—

- (a) the permit holder has committed a breach of a condition to which it is subject;
- (b) an agreement between Her Majesty's Government in the United Kingdom and the Government of any other country in pursuance of which or in reliance on which the permit was granted is no longer in force or that that other Government has committed a breach of the agreement;
- (c) the permit holder, or a Government of another country that is a party to an agreement referred to in sub-paragraph (b), or the aeronautical authorities of the country concerned, has—
 - (i) acted in a manner that is inconsistent with or prejudicial to the operation in good faith, according to its object and purpose, of any such agreement; or
 - (ii) engaged in unfair, discriminatory or restrictive practices to the prejudice of the holder of an Air Transport Licence granted under section 65 of the Civil Aviation Act 1982(1) or the holder of a route licence granted under that section as applied by section 69A of that Act in the operation of air services to or from points in the country concerned; or
- (d) the permit holder, having been granted the permit as a person designated by the Government of a country other than the United Kingdom for the purposes of an agreement referred to in sub-paragraph (b), is no longer so designated or that permit holder's conduct, or circumstances which have arisen in relation to the permit holder, make it necessary or expedient to disregard or qualify the consequences of being so designated.

(7) The holder of a permit or a person having the possession or custody of a permit that has been revoked, suspended or varied under this article must surrender it to the Department within a reasonable time of being required by it to do so.

(8) The breach of a condition subject to which a permit to which this article applies has been granted renders the permit invalid during the continuance of the breach.

Prohibitions in relation to documents and records

146.—(1) A person must not with intent to deceive—

- (a) use a certificate, licence, approval, permission, exemption or other document issued or required by or under this Order that has been forged, altered, revoked or suspended, or to which the person is not entitled;

(1) 1982 c. 16.

- (b) lend a certificate, licence, approval, permission, exemption or other document issued or having effect or required by or under this Order to, or allow it to be used by, any other person; or
 - (c) make a false representation for the purpose of procuring for a person the grant, issue, renewal or variation of any such certificate, licence, approval, permission, exemption or other document.
- (2) In paragraph (1) a reference to a certificate, licence, approval, permission, exemption or other document includes a copy or purported copy.
- (3) A person must not intentionally damage, alter or render illegible —
- (a) a log book or other record required to be maintained by or under this Order.
 - (b) an entry made in such a log book or record.
- (4) A person must not —
- (a) knowingly make, or procure or assist in the making of, a false entry in or material omission from a log book or record referred to in paragraph (3); or
 - (b) destroy any such log book or record during the period for which it is required under this Order to be preserved.
- (5) All entries made in writing in a log book or record referred to in paragraph (3) must be made in ink or indelible pencil.
- (6) A person must not knowingly make in a load sheet an entry that is incorrect in a material particular or make a material omission from such a load sheet.
- (7) A person must not purport to issue a certificate for the purposes of this Order or any applied regulations unless authorised to do so by the relevant legislation.
- (8) A person must not issue a certificate referred to in paragraph (7) unless satisfied that all statements in the certificate are correct.

Department's power to prevent aircraft flying

147.—(1) If it appears to the Department or an authorised person that an aircraft is intended or likely to be flown in any of the circumstances specified in paragraph (2), the Department or the authorised person may give a direction in accordance with paragraph (3).

- (2) The circumstances referred to in paragraph (1) are —
- (a) if any provision of article 3, 10, 11, 15, 37, 39, 64, 68, 69, 70, 75(2), 84, 86, 139 or 141 would be contravened in relation to the flight;
 - (b) if the flight would be in contravention of any other provision of this Order or of any applied regulations, and be a cause of danger to a person or property whether or not in the aircraft; or
 - (c) if the aircraft is in a condition unfit for the flight, whether or not the flight would otherwise be in contravention of a provision of this Order or of any such regulations.
- (3) If paragraph (1) applies the Department or the authorised person may direct the operator or the commander of the aircraft not to permit the aircraft to make the particular flight or any other flight of such description as may be specified in the direction, until the direction has been revoked by the Department or by an authorised person.
- (4) If the Department or an authorised person has directed under paragraph (3), the Department or an authorised person may take such steps as are necessary to detain the aircraft.
- (5) For the purposes of this article the Department or an authorised person may enter an aerodrome and may enter and inspect an aircraft.

Power to prevent third-country aircraft taking off

148. If it appears to an authorised person that a third-country aircraft —

- (a) has a safety deficiency and does not comply with international safety standards;
- (b) would obviously be hazardous to flight safety; and
- (c) is intended or is likely to be flown without completion by the operator of the appropriate corrective action,

the authorised person must give to the person appearing to be in command of the aircraft a direction in writing not to permit the aircraft to take off until further notice and take such steps as may be necessary to detain the aircraft.

Notifying competent authority of the detention of a third-country aircraft

149. If an authorised person detains a third-country aircraft the person must immediately inform the competent authority of the State of the operator of the detention and, where necessary, of the State in which the aircraft is registered.

Revocation of article 148 direction when validity of certificate of airworthiness affected

150. If an aircraft has been prohibited from taking off pursuant to article 148 and—

- (a) the safety deficiency affects the validity of the certificate of airworthiness of the aircraft; and
- (b) the Department has granted the operator of the aircraft an exemption from the requirement that the aircraft must have a valid certificate of airworthiness,

an authorised person must not revoke a direction issued pursuant to article 148 without first being satisfied that the operator has obtained permission for the flight from all States over which it is intended to fly the aircraft.

Directions to operators of aircraft to make data available

151.—(1) The Department may give a direction to a person who is an operator of an aircraft referred to in paragraph (2) requiring the operator to take the action referred to in paragraph (3).

(2) The aircraft is one that (alone or in combination with one or more other aircraft operated by the operator) is flown for the carriage of passengers from the Isle of Man (directly or via another country) to a country that is outside the European Economic Area and is specified in the direction.

(3) The action is the making available electronically of data in respect of all passengers and crew on the aircraft or expected to be on the aircraft.

(4) A direction may be given in respect of—

- (a) all aircraft;
- (b) any aircraft; or
- (c) any class of aircraft,

of which (at the time when the direction is given or at any subsequent time) the person is the operator and that is or are specified in the direction.

(5) A direction must specify—

- (a) the competent authorities of the country to whom the data are to be made available electronically; and
- (b) the types of data to which the direction relates.

(6) A direction only has effect in relation to data that are collected and contained in the operator's automated reservation system or departure control system.

Right of access to aerodromes and other places

152. The Department and an authorised person each has the right of access at all reasonable times—

- (a) to an aerodrome for the purpose of inspecting the aerodrome;
- (b) to an aerodrome for the purpose of inspecting an aircraft on the aerodrome or a document that it or the authorised person has power to demand under this Order, or for the purpose of detaining an aircraft under the provisions of this Order;
- (c) to a place where an aircraft has landed, for the purpose of inspecting the aircraft or a document that it or the authorised person has power to demand under this Order and for the purpose of detaining the aircraft under the provisions of this Order;
- (d) to a building or place from which an air traffic control service is being provided or where air traffic service equipment requiring approval under article 124 is situated for the purpose of inspecting—
 - (i) equipment used or intended to be used in connection with the provision of a service to an aircraft in flight or on the ground; or
 - (ii) a document or record that it or the authorised person has power to demand under this Order.

Obstruction of persons

153. A person must not intentionally obstruct or impede a person who is exercising a power or performing a duty under this Order.

Directions and directives

154.—(1) A person who without reasonable excuse fails to comply with a direction or directive given to the person under a provision of this Order is to be taken for the purposes of article 155 to have contravened the provision.

(2) If a provision of this Order or any applied regulations gives to a person the power to direct, the person to whom such a power is given also has the power to revoke or vary any such direction or directive.

Offences and penalties

155.—(1) Subject to paragraph (2), if a provision of this Order or of any applied regulations is contravened in relation to an aircraft, the operator of the aircraft and the commander are (without prejudice to the liability of any other person for the contravention) to be taken for the purposes of the following provisions of this article to have contravened the provision.

(2) A person will not be taken to have contravened a provision specified in paragraph (1) if the person proves that the contravention occurred without the person's consent or connivance and that 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.

(4) If a person is charged with contravening a provision of this Order or under applied regulations by reason of the person having been a member of the flight crew of an aircraft on a flight for the purpose of commercial air transport or aerial work, the flight is to be treated (without prejudice to the liability of any other person under this Order or under applied regulations) as not having been for that purpose if the person proves that he or she neither knew nor suspected that the flight was for that purpose.

(5) A person who contravenes a provision specified in Part 1 of Schedule 11 is guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.

(6) A person who contravenes a provision specified in Part 2 of Schedule 11 is guilty of an offence and liable on summary conviction to a fine not exceeding £2,500.

(7) A person who contravenes a provision specified in Part 3 of Schedule 11 is guilty of an offence and liable on summary conviction to a fine not exceeding £5,000 and on conviction on information to a fine or custody for a term not exceeding two years or both.

(8) A person who contravenes a provision specified in Part 4 of Schedule 11 is guilty of an offence and liable on summary conviction to a fine not exceeding £5,000 and on conviction on information to a fine or custody for a term not exceeding five years or both.

(9) In this article “custody” has the same meaning as in the Custody Act 1995 (an Act of Tynwald)(2).

Exemption from Order

156. The Department may exempt from any of the provisions of this Order (other than articles 64, 85, 139, 140, 141, 145 and 157) or any regulations referred to in article 155, an aircraft or person or class of aircraft or person, subject to such conditions as it thinks fit.

Appeal to High Court

157.—(1) Subject to paragraph (3), an appeal lies to the High Court of Justice of the Isle of Man from a decision of the Department under article 21 or 42.

(2) If the court is satisfied that on the evidence submitted to the Department the decision was wrong, the court may reverse the decision and the Department must give effect to the court’s determination.

(3) An appeal does not lie from a decision of the Department that a person is not qualified to hold a licence rendered valid by reason of a deficiency in the person’s knowledge, experience, competence, skill or physical or mental fitness.

(4) The Department is to be a respondent to any appeal under this article.

(5) For the purposes of a provision relating to the time within which an appeal may be brought, the Department’s decision is to be taken to have been taken on the date on which the Department supplied a statement of its reasons for the decision to the applicant for the licence or the holder or former holder of it.

Approval of persons to supply reports

158. In relation to any of its functions under any of the provisions of this Order the Department may approve a person as qualified to supply reports to it and may accept such reports.

(2) 1995 c. 1 (Isle of Man).

Certificates, authorisations, approvals and permissions

159. Wherever in this Order there is provision for the issue or grant of a certificate, authorisation, approval or permission by the Department, unless otherwise provided, such a certificate, authorisation, approval or permission—

- (a) must be in writing;
- (b) may be issued or granted subject to such conditions as the Department thinks fit; and
- (c) may be issued or granted, subject to article [144](#), for such periods as the Department thinks fit.