

Statutory Document No. 2016/0229

*Airports and Civil Aviation Act 1987*

AVIATION (CAPE TOWN CONVENTION) (NO.2) ORDER 2016

Approved by Tynwald: 21 July 2016
Coming into Operation: 1 August 2016

The Department of Economic Development, after consultation with the Secretary of State, makes the following Order under subsections 11(1) and (3)(i) of section 11 of the Airports and Civil Aviation Act 1987.

1 Title

This Order is the Aviation (Cape Town Convention) (No.2) Order 2016.

2 Commencement

If approved by Tynwald¹, this Order comes into operation on 1 August 2016.

3 Interpretation

In this Order “**the UK Regulations**” means The International Interests in Aircraft Equipment (Cape Town Convention) Regulations 2015², being an instrument of a legislative character made under the European Communities Act 1972 (an Act of Parliament) which relates to civil aviation.

4 Application of UK Regulations

The UK Regulations apply to the Island as part of the law of the Island, subject to the exceptions, adaptations and modifications specified in the Schedule.

5 Revocation

The Aviation (Cape Town Convention) Order 2016³ is revoked.

¹ Tynwald approval is required by section 11(4) of the Airports and Civil Aviation Act 1987

² SI 2015/912

³ SD 2016/0182

MADE 4TH JULY 2016

LAURENCE SKELLY
Minister for Economic Development



SCHEDULE

EXCEPTIONS, ADAPTIONS AND MODIFICATIONS

General adaptations and modifications

1. Subject to the following provisions of this Schedule —
 - (1) references to —
 - (a) an Act of Parliament extending to the Island, or applied to the Island under section 11 of the Airports and Civil Aviation Act 1987;
 - (b) an instrument of a legislative character made under an Act of Parliament and so extending or so applied (including the UK Regulations); or
 - (c) any provision of such an Act or instrument,

are to the Act, instrument or provision as it has effect in the Island;
 - (2) for “United Kingdom” (in each place) substitute **“Isle of Man”**;
 - (3) for “Civil Aviation Authority” and “the Authority” (in each place) substitute **“Department of Economic Development”** and **“the Department”** respectively.
2. Sub-paragraph (2) does not apply to the references to the United Kingdom in regulations 17(5) and (6)(a) and 21(2)(a).

Particular exceptions, adaptations and modifications

3. In regulation 2 —
 - (1) for “Article XXVIII” substitute **“Article XXXIII”**;
 - (2) for “commencement of that Protocol” substitute **“taking effect of the declaration extending that Protocol to the Isle of Man”**.
4. Omit regulation 3.
5. In regulation 5 —
 - (a) omit the definition of **“law of the United Kingdom”**;
 - (b) in the definition of “recognised”, omit **“each Part of”**.
6. Omit regulation 9(1).
7. In regulation 9(2), for “25(1)” substitute **“25(2)”**.
8. In regulation 14(2), omit **“or, in Scotland, sufficient evidence”**.
9. In regulation 17 —
 - (1) in paragraph (2)(b), for the words in brackets substitute **“including an Act of Tynwald”**;

- (2) in paragraph (4)(a), omit **43**(including any Part of the United Kingdom) **42**;
- (3) in paragraph (6)(b), for “enactment or commencement” substitute **43** application to the Isle of Man **42**.
10. For regulation 20(7) substitute –
- 43**Ownership or any other interest of the chargor passing on a sale under regulation 19(2)(b) or regulation 25(1)(e), or passing under paragraph (2) or (3), is free from any other interest over which the chargee’s security interest has priority under the provisions of regulation 16. **42**
11. In regulation 26(2), omit **43** any Part of **42**.
12. Omit regulation 35.
13. Omit regulation 37.
14. At the end of Part 3 insert –
- 43****Insolvency assistance**
- 37A.** The courts of the Isle of Man shall, in accordance with the law of the Isle of Man, co-operate to the maximum extent possible with foreign courts and foreign insolvency administrators in carrying out the provisions of Article XII of the Aircraft Protocol in relation to an aircraft object which is situated in the Isle of Man. **42**.
- Choice of law*
- 43****Choice of law**
- 37B.** The parties to an agreement, a contract of sale, or a related guarantee contract or subordination agreement, may agree on the law which is to govern their contractual rights and obligations, wholly or in part. **42**.
15. Regulation 38(1) is modified as follows –
- (1) in sub-paragraph (e), omit “and”;
- (2) at the end of sub-paragraph (f) insert “and”;
- (3) after sub-paragraph (f) insert **43**(g) regulation 37B. **42**.
16. In regulation 42(1) and (3), omit **43** any Part of **42**.
17. In regulation 43(1) and (2), omit **43** any Part of **42**.
18. After regulation 43(2) insert –
- 43**(2A) Subject to regulation 42, the courts of the Isle of Man may also grant relief under regulation 25(1)(a), (b), (c), (d) or (e) where the aircraft object is a helicopter, or an airframe pertaining to an aircraft, for which the Isle of Man is the State of registry. **42**.
19. In regulation 43(1), after “regulation 25(1)(a), (b) or (c)” insert **43** or other interim relief by virtue of regulation 25(4) **42**.
20. In regulation 43(3), for “(1) and (2)” substitute **43**(1), (2) and (2A) **42**.

21. For regulation 44 substitute —

☞ Court with jurisdiction in the Isle of Man

44. Where the courts of the Isle of Man have jurisdiction in accordance with this regulation, the jurisdiction is to be exercised by the High Court of Justice of the Isle of Man. ☞

22. Omit regulation 52.

23. Schedule 5 is modified as follows —

(1) in paragraph 1 -

(a) in sub-paragraph (2)(a), for “the Authority” substitute ☞ appropriate charge ☞;

(b) in sub-paragraph (5) -

(A) omit the semicolon after the insertion and substitute a full stop; and

(B) omit the brackets and all the words within them, which appear immediately after the insertion;

(2) omit paragraphs 2 and 3;

(3) in paragraph 4 —

(a) in the side-heading and sub-paragraph (1), for “Air Navigation Order 2009” substitute ☞ Air Navigation (Isle of Man) Order 2015 ☞;

(b) in sub-paragraphs (2) and (3), in the inserted articles 7(6) and 8A(3), for “CAA” substitute ☞ Department ☞;

(4) omit paragraphs 5, 6 and 7; and

(5) for paragraph 9 substitute —

☞ Companies Acts

9. Part III of the Companies Act 1931 (an Act of Tynwald) and Part VIII of the Companies Act 2006 (an Act of Tynwald) (registration of charges) do not apply to a charge which is an international interest. ☞

EXPLANATORY NOTE

(This note is not part of the Order)

This Order applies to the Isle of Man, with modifications, the International Interests in Aircraft Equipment (Cape Town Convention) Regulations 2015 (SI 2015/912), which implement the Convention on International Interests in Mobile Equipment together with its Protocol on Matters Specific to Aircraft Equipment.

Regulation 6 provides for the international interest provided for by Articles 2 to 7 of the Cape Town Convention to have effect in the law of the Isle of Man.

The text of the Cape Town Convention and the Protocol on Matters Specific to Aircraft Equipment are available for purchase in paper format through the International Civil Aviation Organisation (ICAO) website at www.icao.int. The Protocol Regulations and Procedures for the International Registry are also available from the ICAO website at http://www.icao.int/secretariat/legal/Pages/Intl_registry.aspx

Electronic versions of the Convention, Protocol, Protocol Regulations and Procedures are available from the International Registry website at <https://www.internationalregistry.aero/ir-web/>