

THIRD SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 5122 GIBRALTAR Friday 19th January 2024

B. 4/24

CIVIL AVIATION BILL 2024

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THIRD SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 5122 GIBRALTAR Friday 19th January 2024

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BILL

FOR

AN ACT to repeal and replace the Civil Aviation Act 2009, to modernise the regulation of Civil Aviation in accordance with the international obligations of Gibraltar under the Convention on International Civil Aviation, to make provision for the establishment of an aircraft registry and for connected purposes.

ENACTED by the Legislature of Gibraltar.

PART I PRELIMINARY PROVISIONS

Short title.

1. This Act may be cited as the Civil Aviation Act 2024.

Commencement.

2. This Act comes into operation on such day as the Minister appoints by notice in the Gazette, and the Minister may appoint different days for different provisions or for different purposes.

Interpretation.

3.(1) In this Act—

“administrative penalty” is a penalty imposed by the Authority in accordance with section 27;

“adverse decision” means a decision by the Authority to the effect that a person is not a fit and proper person for any purpose under this Act;

“aerial work” means an aircraft operation in which an aircraft is used for specialised services including agriculture, construction, photography, surveying, observation and patrol, search and rescue, aerial advertisement;

“aerodrome” means a defined area on land or water, including any buildings, installations and equipment, intended to be used wholly or in part for the arrival, departure and surface movement of aircraft;

“aeronautical procedure” means a procedure issued by the Authority and containing aeronautical information of a lasting character essential to air navigation;

“aircraft” means a machine that can derive support in the atmosphere from the reactions of the air, other than the reactions of the air against the earth’s surface;

“airman” means an individual of any gender–

- (a) engaged as a crew member;
- (b) in charge of the inspection, maintenance, overhauling, or repair of aircraft, aircraft engines, propellers, rotors or appliances;
- (c) serving in the capacity of an air traffic controller; or
- (d) serving in the capacity of flight operations officer;

“air navigation services” means–

- (a) communication services, whether ground to air or ground to ground, and navigational services including radio, surveillance equipment and visual aids to navigation, provided for the safety of aircraft; and
- (b) air traffic services provided for the safety of aircraft;

“air operator” means a person, organisation or enterprise engaged in or offering to engage in an aircraft operation;

“Air Operator Certificate” or “AOC” means the certificate authorising an air operator to carry out specified commercial air transport operations;

“Air Transport Licence” means an economic licence issued to the holder of an Air Operator Certificate on the basis of the company’s commercial fitness to conduct a commercial air transport operation;

“Annex” means an Annex to the Convention;

“Authority” means the Gibraltar Civil Aviation Authority established under the Civil Aviation Authority Act 2024;

“aviation document” means a licence, permit, certificate or other document issued under section 16 in respect of any of the classes of persons or services or things specified therein;

“aviation medical examiner” means a physician with training in aviation medicine, and practical knowledge and experience of the aviation environment, who is designated by the Licensing Authority of a Contracting State to conduct medical examinations of fitness of applicants for licences or ratings for which medical requirements are prescribed;

“aviation training organisation” means an organisation approved by and operating under the supervision of a Contracting State in accordance with the requirements of Annex 1 to perform approved training;

“cargo” means any property carried on an aircraft other than mail, stores and accompanied or mishandled baggage;

“civil aircraft” means any aircraft other than a State, customs, police or military aircraft;

“Civil Airport” is the aggregate of the land, buildings and works comprising the civil air terminal and associated aprons under the management and control of the Government as described in the plan as set out in Schedule 1;

“Civil Air Terminal” is that area at the Gibraltar Airport delineated as the Terminal Area as described in the plan as set out in Schedule 1;

“civil aviation” means the operation of any civil aircraft for the purpose of general aviation operations, aerial work or commercial air transport operations;

“Commander” means the pilot designated as being in command of an aircraft and charged with the safe conduct of the flight;

“commercial air transport operation” means an aircraft operation involving the transport of passengers, cargo or mail for remuneration or hire;

“Contracting State” means any State which is a party to the Convention;

“Convention” means the Convention on International Civil Aviation which was, on 7th December 1944, signed on behalf of the Government of the United Kingdom at the International Civil Aviation Conference held at Chicago and which has been extended to apply to Gibraltar;

“crew member” means a person assigned by an air operator to duty on an aircraft during a flight duty period;

“Director General of Civil Aviation” or “Director General” means the person who has been appointed under section 17 of the Civil Aviation Authority Act 2024;

“fit and proper person” has the meaning given in section 17;

“flying display” means any flying activity deliberately performed for the purpose of providing an exhibition or entertainment at an advertised event open to the public;

“foreign registered aircraft” means an aircraft registered in a State other than the United Kingdom and its Overseas Territories and Crown Dependencies;

“foreign air operator” means any operator, not being a United Kingdom or Gibraltar air operator, which undertakes, whether directly or indirectly or by lease or any other arrangement, to engage in commercial air transport operations within the airspace of Gibraltar, whether on a scheduled or charter basis;

“general aviation operation” means an aircraft operation of a civil aircraft for other than a commercial air transport operation or aerial work operation;

“Gibraltar air operator” means a person, organisation or enterprise engaged in or offering to engage in an aircraft operation using an aircraft registered in Gibraltar;

“Gibraltar Airport” is the aggregate of the land, buildings and works comprising the Civil Airport and RAF Gibraltar;

“in writing” includes electronic means;

“Minister” means the Minister with responsibility for civil aviation;

“MoD” means the Ministry of Defence of His Majesty’s Government in the United Kingdom and includes a serving member of His Majesty’s armed forces, Ministry of Defence (MoD) employees and employees of contractors to the MoD performing duties as such at the Gibraltar Airport;

“munition of war” means any weapon, ammunition or article containing an explosive, noxious liquid or gas, which is designed or made for use in warfare or against persons, including parts, whether components or accessories, for such weapon, ammunition or article;

“Notice of Proposed Amendment” means a formal notice issued by the Authority from time to time of its intention to make and/or amend an operating regulation;

“operating regulations” means regulations made by the Director General under section 34;

“owner” means, where an aircraft is registered, the registered owner;

“person” includes any individual, firm, partnership, corporation, company, association, and any director, trustee, receiver, assignee, or other similar representative of these entities;

“person directly affected” in relation to any adverse decision, means the person who would be entitled under section 31 to submit the Authority’s decision for review;

“person on the basis of whose character the adverse decision arises” means a person whom the Authority assesses as not being a fit and proper person;

“problematic use of psychoactive substances” means the use of one or more psychoactive substances by aviation personnel in a way that–

- (a) constitutes a direct hazard to the user or endangers the lives, health or welfare of others; or
- (b) causes or worsens an occupational, social, mental or physical problem or disorder;

“psychoactive substances” means alcohol, opioids, cannabinoids, sedatives and hypnotics, cocaine, other psychostimulants, hallucinogens, and other volatile solvents, whereas coffee and tobacco are excluded;

“RAF Gibraltar” is the aggregate of the land, buildings and works at the Gibraltar Airport with the exclusion of those parts that comprise the Civil Airport and which are managed and operated by the Royal Air Force on behalf of the MoD;

“Register of Aircraft Mortgages” means the register required to be kept by the Authority under section 10(1)(f) of the Civil Aviation Authority Act 2024;

“regulations” means regulations made by the Minister under sections 32 or 33 of this Act, unless otherwise specified;

“safety-sensitive personnel” means a person who performs a safety-sensitive function such as flight crew member, cabin crew member, flight instructor, aircraft dispatcher, aircraft maintenance engineer, ground security officer, or person engaged in aviation screening or air traffic control duties;

“sporting weapon” means any weapon, ammunition or article containing an explosive, noxious liquid or gas, which is not a munition of war, including parts, whether components or accessories, for such weapon, ammunition or article;

“spare parts” means any parts, appurtenances, and accessories of aircraft, aircraft engines, propellers, rotors and of appliances, maintained for installation or use in an aircraft, aircraft engine, propeller, rotor or appliance, but which at the time are not installed or attached;

“standard scale” means the standard scale of fines for offences in Schedule 9 to the Criminal Procedure and Evidence Act 2011;

“State” means a Contracting State of the International Civil Aviation Organisation;

“State of the Operator” means the State in which the operator has its principal place of business or if the operator has no such place of business, its permanent residence;

“State of Registry” means the State on whose register the aircraft is entered;

“Technical Instructions” means the Technical Instructions for the Safe Transport of Dangerous Goods by Air (Doc 9284) as approved and published by the International Civil Aviation Organisation;

“territory of Gibraltar” means the land area of Gibraltar as well as the area of sea, the seabed and subsoil within the seaward limits of the territorial sea adjacent to Gibraltar under British sovereignty and which, in accordance with the United Nations Convention on the Law of the Sea 1982, extends to three nautical miles and to the median line in the Bay of Gibraltar.

(2) Any reference to an Act, Convention, regulations, or operating regulations shall be construed as a reference to that Act or Convention, or those regulations or operating regulations as amended, re-enacted or replaced.

Application of this Act.

4.(1) This Act shall, except where expressly exempted, apply to every—

- (a) foreign registered aircraft whilst in or over the territory of Gibraltar;
- (b) aircraft registered in Gibraltar, whether within or outside the territory of Gibraltar;
- (c) person or organisation holding an aviation document issued by a Contracting State whilst in or over the territory of Gibraltar;
- (d) person or organisation who is issued an aviation document under this Act, whether within or outside the territory of Gibraltar;
- (e) person committing an offence under this Act or any enactment to which section 61 applies.

(2) This Act shall not—

- (a) affect the application to RAF Gibraltar of applicable aviation policy, regulations and directions issued by the MoD and the Royal Air Force;
- (b) prejudice or displace the powers and rights of the MoD as owner and operator of RAF Gibraltar;
- (c) apply to military equipment or installations utilised by RAF Gibraltar; or
- (d) apply to activities undertaken in RAF Gibraltar by any aircraft belonging to or operated by the armed forces of any State.

(3) Notwithstanding subsection (2)(d), any aircraft belonging to or operated by the Royal Air Force or armed forces of any State, shall not conduct or participate in a flying display over Gibraltar without approval from the Director General.

PART II
ADMINISTRATION OF CIVIL AVIATION

Responsibility of the Minister.

5.(1) The Minister shall be charged with the general duty of organising, carrying out and encouraging measures for the development and safety of civil aviation, in accordance with section 14 of the Civil Aviation Authority Act 2024, and has the responsibility for ensuring the obligations of Gibraltar as extended to apply under the Convention and under any other international obligations relating to civil aviation that applies to Gibraltar, are carried out.

(2) After consultation with the Director General, the Minister may exempt an aircraft or person from the provisions of this Act.

(3) In granting an exemption, the Minister shall ensure that such exemption—

- (a) is required in the public interest; and
- (b) will not adversely affect civil aviation safety or security.

(4) An exemption granted under this section shall—

- (a) be in writing;
- (b) specify an expiration date; and
- (c) be recorded in the respective register required to be maintained by the Authority.

Administration of this Act.

6.(1) The Gibraltar Civil Aviation Authority is the designated body with responsibility for carrying out the functions of this Act, regulations and operating regulations, and international obligations which apply to Gibraltar relating to civil aviation.

(2) Every person appointed under this Act with responsibility for carrying out the functions of this Act, shall perform such functions and exercise any discretion expressly or impliedly vested in that person in a manner which gives effect to this Act.

Obligations under the Convention.

7.(1) The Authority shall have the responsibility to ensure—

- (a) the principles and arrangements of the Convention are adhered to;
- (b) international civil aviation is developed in a safe and orderly manner; and
- (c) international air transport services are established on the basis of equality of opportunity and operated soundly and economically.

(2) To enable the Authority to perform its obligations under subsection (1), the Authority shall—

- (a) implement operating regulations that are uniform to the greatest possible extent with those international standards and procedures established under the Convention and its Annexes; and
- (b) from time to time conduct safety and security oversight activities.

Directions of the Director General.

8.(1) The Director General may issue directions to persons, who are subject to the provisions of this Act, requiring them to comply with any provision of this Act.

(2) A person shall not refuse, or without reasonable excuse, fail to do anything duly required by a direction issued under subsection (1).

PART III REGULATION OF CIVIL AVIATION

Civil Aircraft Registration

Aircraft registration.

9.(1) There shall be for the purposes of this Act a register showing each aircraft registered by Gibraltar and the information recorded in the certificate of registration.

(2) Unless exempted under the operating regulations, no person shall operate a civil aircraft in the territory of Gibraltar unless the aircraft is registered in Gibraltar or registered under the laws of a Contracting State.

(3) An aircraft may be registered by the Authority provided that the aircraft is not registered in any other country and is owned by persons, who satisfy the requirements of sections 17 and 18 and any further requirements that may be prescribed in regulations or operating regulations.

(4) Notwithstanding subsection (3), the Authority may refuse to register an aircraft in the national interest or at the discretion of the Director General.

(5) An aviation document issued under this Act shall not be considered evidence as to the ownership of an aircraft in any proceedings in Gibraltar in which ownership of the aircraft by a particular person is, or may be, in issue.

Aircraft deregistration.

10.(1) The Authority shall not deregister an aircraft which is the subject of an undischarged mortgage entered in the Authority's Register of Aircraft Mortgages unless all persons shown

in the Register of Aircraft Mortgages as mortgagees of that aircraft have consented to the deregistration.

(2) The Authority shall not deregister an aircraft unless the application is made in the prescribed form by the person who is recorded as the authorised party under an irrevocable deregistration and export request authorisation, in accordance with the International Interests in Aircraft Equipment (Cape Town Convention) Regulations 2015, in respect of the aircraft.

(3) Notwithstanding subsection (1) and (2), an aircraft registration may be suspended in accordance with section 25 or deregistered by the Authority following a revocation in accordance with section 26.

Aircraft Operations

Air operator requirements.

11.(1) An air operator shall not operate an aircraft for the purpose of—

- (a) general aviation or aerial work operations otherwise than under, and in accordance with, the approvals and limitations of a specific approval issued for that aircraft;
- (b) commercial air transport operations unless that air operator holds both an air transport licence and air operator certificate authorising such transportation; or
- (c) aerial photography or aerial survey or for the purpose of any other form of aerial work except with the approval of the Authority and in accordance with any conditions or limitations.

(2) An air operator shall not allow a Gibraltar registered aircraft under their control to be used for a purpose which is prejudicial to the security, public order or public health of, or to the safety of air navigation, of any State being over flown.

(3) Subject to the requirements of the Data Protection Act 2004, an air operator shall make available operational and passenger data when directed by the Authority.

Commercial air transport operations.

12.(1) The Authority may issue an air transport licence to a Gibraltar air operator wishing to operate aircraft for commercial air transport, if it is satisfied that the operator—

- (a) is able to meet at any time its actual and potential financial obligations, for a period specified by the Authority from the start of operations; and
- (b) has the ability to adequately, safely and securely perform the transportation activity contained in its application and meet the requirements of this Act, regulations and any operating regulations.

(2) A holder of an air transport licence may be granted an Air Operator Certificate, if after verification, the operator meets the requirements of the applicable operating regulations.

(3) Failure by an air operator to possess a valid air transport licence under subsection (1), shall result in the automatic suspension of their Air Operator Certificate.

(4) The continued validity of an air operator certificate shall depend upon the operator maintaining the requirements of the applicable operating regulations under the supervision of the Authority.

(5) Failure by an air operator to maintain the requirements of subsection (4) may result in the suspension or variation of the air transport licence in accordance with section 25, revocation of the licence in accordance with section 26 or the imposition of an administrative penalty in accordance with section 27.

Foreign air operators.

13.(1) No foreign air operator shall engage in commercial air transport operations to or from Gibraltar unless that operator is approved by the Authority.

(2) Subsection (1) shall not apply to an aircraft—

- (a) that lands, or flies across Gibraltar, without embarking or disembarking passengers, cargo or mail;
- (b) operating in accordance with an agreement extended to Gibraltar made between the United Kingdom and another Contracting State, which specifically exempts the foreign air operator from subsection (1);
- (c) operating in accordance with an agreement, and the permission granted under that agreement, which is made between the United Kingdom and another Contracting State and has been extended to apply to Gibraltar; or
- (d) exempted by the Director General and subject to any conditions.

(3) The Authority may ban an air operator from landing in Gibraltar or deny an air operator from boarding or discharging passengers or cargo in Gibraltar on safety, security, public interest or public health grounds.

(4) Where the Authority identifies a case of non-compliance with Gibraltar law, or a safety concern with the potential to have a major effect on the safe operation of the aircraft by a foreign air operator, the Authority shall notify the air operator, and if the case warrants it—

- (a) notify the State of the Operator and the State of Registry; and
- (b) engage in consultations with the State of the Operator or the State of Registry, concerning the safety standards maintained by the foreign air operator.

(5) The Director General may suspend or vary an approval given under subsection (1) in accordance with section 25, revoke an approval in accordance with section 26 or impose an administrative penalty in accordance with section 27 for failure to comply with any provision of this Act, regulations or operating regulations or other such orders or directions made by the Authority.

(6) The Authority shall—

- (a) recognise as valid, a certificate of airworthiness, certificate of competency or a licence issued or rendered valid by a Contracting State in which the aircraft is registered, provided that the requirements under which such certificates or licences were issued or valid are equal to the applicable standards specified in the appropriate Annex; and
- (b) establish a programme with procedures for the surveillance of operations in the territory of Gibraltar by a foreign air operator and for taking appropriate action when necessary to preserve safety.

Insurance requirements of air operators.

14.(1) Every air operator flying within the territory of Gibraltar shall have adequate insurance for their aviation-specific liability for passengers, baggage, cargo and third parties.

(2) The insured risks shall include—

- (a) acts of war, terrorism, hijacking or acts of sabotage;
- (b) unlawful seizure of aircraft and civil commotion; and
- (c) damage to the hull.

Carriage of dangerous goods by air.

15.(1) A Gibraltar air operator shall not transport dangerous goods, munitions of war or sporting weapons by air unless approved by the Authority and in accordance with any conditions or limitations of that approval.

(2) A foreign air operator arriving or departing from Gibraltar, may under the law of the country in which the aircraft is registered—

- (a) transport dangerous goods in accordance with the Technical Instructions; and
- (b) permit a sporting weapon or munition of war to be lawfully carried on board for the purpose of ensuring the safety of the aircraft or of persons on board.

(3) A person shall not, without the permission of the air operator, carry on board or have in their possession whilst on board or deliver or cause to be delivered for carriage on an aircraft, in the territory of Gibraltar, any sporting weapon or munition of war.

Aviation Document

Requirements for an aviation document.

16.(1) For the purposes of this Act, an aviation document is required by or in respect of any of the following classes of persons or services or things—

- (a) aircraft registration in accordance with section 9;
- (b) an airman;
- (c) air operator conducting general aviation, aerial work or commercial air transport operations;
- (d) air traffic and aircraft maintenance personnel;
- (e) air navigation services;
- (f) an aviation training organisation;
- (g) aircraft design, manufacture and maintenance organisations;
- (h) aeronautical procedures;
- (i) aviation examiners or aviation medical examiners;
- (j) any other class of person, product, service, or thing that is deemed necessary by the Authority, in the interest of civil aviation safety and security.

(2) Any person who is desirous of engaging in or engages in any activity, function or does anything for which an aviation document is required, shall—

- (a) apply for an approval in accordance with section 18;
- (b) meet the criteria specified in section 17 for a fit and proper person;
- (c) possess the requisite experience, qualifications and supporting documents;
- (d) comply with this Act, regulations, operating regulations and any conditions attached to the relevant aviation documents; and
- (e) ensure that the activities or functions for which an aviation document has been granted are carried out, and by all persons for whom that person is responsible, safely and in accordance with the applicable operating regulations and procedures.

(3) The Authority may issue an aviation document for such period specified and subject to such conditions as the Authority deems appropriate.

(4) Subject to section 9(5), in any legal proceedings an aviation document, or a true copy of an aviation document certified by the Authority, shall be evidence of the matters appearing in the document.

Criteria for fit and proper person.

17.(1) For the purpose of determining whether a person is fit and proper for any purpose under this Act, the Authority must have regard to—

- (a) the compliance history of that person with any Act in force at the time or any regulations, operating regulations, orders, directions, circulars and instructions issued by the Authority from time to time;
- (b) the qualifications held by the person, and whether these are acceptable to the Authority;
- (c) the experience of that person, if any, within the civil aviation industry and their past activities generally, and if the applicant is a body corporate, the experience in the field of aviation and the past activities generally of the persons appearing to the Authority to control that body;
- (d) the knowledge of that person of the applicable civil aviation regulatory requirements;
- (e) the supporting medical certificate submitted by that person, where applicable;
- (f) the physical or mental health of the person or evidence of serious behavioural problems, if any;
- (g) any convictions prior to or after the commencement of this Act, whether in Gibraltar or any other jurisdiction;
- (h) any evidence that the person has committed a contravention of aviation legislation in other States or has contravened or failed to comply with any regulation or operating regulation;
- (i) the financial resources of the person and the collateral arrangements made by them, and that these are adequate for discharging their actual and potential obligations in respect of the business activities in which they are engaged; and
- (j) any other relevant information submitted.

(2) For the purposes of subsection (1)(g), where the person in question is a body corporate, the Authority shall have regard to the convictions of the officers of that body corporate.

(3) Where any information pursuant to subsection (1) is to be taken into consideration by the Authority that may be prejudicial to a person, the Authority shall disclose that information to

the person and give that person a reasonable opportunity to make a written or oral representation, either personally or by some other person, unless such information ought not to be disclosed in the public interest or national interest.

(4) The Authority shall not be under any duty to disclose any information submitted, the disclosure of which may affect confidentiality or would be likely to endanger the safety of any person.

Grant and renewal of an aviation document.

18.(1) Every application for the grant, or renewal, of an aviation document required under this Act shall be made to the Authority in a form published by the Authority and accompanied by such information required by the Authority.

(2) The Authority may, having considered an application made under subsection (1), grant the approval of an application for an aviation document or its renewal if the Authority is satisfied that—

- (a) where the applicant is a body corporate, any person who is to have or is likely to have control over the exercise of the privileges under the document, either holds—
 - (i) the relevant prescribed qualifications and experience; or
 - (ii) such qualifications as are accepted by the Authority;
- (b) where the applicant is an individual, they either hold the relevant prescribed qualifications and experience or such qualifications as are accepted by the Authority;
- (c) the applicant or person who is to have or is likely to have control over the exercise of the privileges under the document is a fit and proper person;
- (d) the applicant meets all the applicable requirements under this Act, regulations or operating regulations including the results of any examination or test imposed on the applicant by the Authority; and
- (e) the approval of such application will not in the opinion of the Authority be contrary to the interests of aviation safety.

(3) The Authority may impose conditions in respect of an aviation document granted in accordance with this section.

(4) Where the Authority refuses to grant an approval of an application under this section, the applicant may submit the decision for review in accordance with section 31.

Duties of an aviation document holder.

19. It shall be the duty of any person who holds an aviation document to—

- (a) comply with the conditions contained in the aviation document, and any applicable operating regulations as may be issued by the Authority from time to time;
- (b) provide training and supervision to all employees who are engaged in doing anything to which the document relates;
- (c) provide adequate resources to ensure compliance with any applicable operating regulations and any conditions attached; and
- (d) notify the Authority of any changes to any material information given in support of an application made under section 18, including, but not limited to, the address and contact details of the holder.

Variation of an aviation document.

20.(1) The holder of an aviation document may apply in writing for a variation—

- (a) to reflect the fact that any privilege or duty for which the document was granted, is no longer carried out, or able to be carried out, by the holder;
- (b) to reflect any change in the material information;
- (c) to correct any clerical or other error on the document.

(2) The Authority may approve the variation of an aviation document, where it considers it appropriate to do so and the requirements of this Act, regulations and operating regulations are met.

Service of notice.

21.(1) A notice by the Authority under this Act on a holder of, or applicant for, an aviation document may be served—

- (a) by personal service;
- (b) by post in a registered letter addressed to the person to be served at their usual or last known address;
- (c) by electronic means.

(2) A notice shall be deemed to be served—

- (a) if served by registered post, at the time at which the letter would in the ordinary course be delivered;
- (b) if served by electronic means, at the time of transmission.

(3) Any notice required to be served upon a body corporate shall be duly served if it is served at the registered office address of the body corporate.

(4) For the purposes of this section, the proper address of any person upon whom any notice is to be served must, in the case of a body corporate, be that of the registered office of the body corporate and in any other case be the last known address of the person to be served, except that, where the person to be served has furnished an address for service, that address shall be their proper address for those purposes.

Inspection and monitoring activities.

22.(1) An inspector appointed under section 55 may require the holder of an aviation document to be subject to inspection and monitoring as the Director General considers necessary in the interests of civil aviation safety and security.

(2) For the purposes of any inspection or monitoring carried out under this section, the Director General or an inspector may in writing require from that person such information as the Director General considers relevant to the inspection or the monitoring.

(3) In carrying out inspection and monitoring pursuant to subsection (1), an inspector—

- (a) shall conclude the inspection and monitoring as soon as practicable;
- (b) shall make available the findings of the inspection and monitoring to the document holder;
- (c) may make recommendations arising out of the inspection; and
- (d) shall provide the grounds for any recommendations made.

Investigation of the holder of an aviation document.

23.(1) The Authority may, in writing, when considered necessary in the interests of civil aviation safety and security, require the investigation of the holder of an aviation document where it considers—

- (a) there are reasonable grounds to believe that the holder has failed to comply with any condition of their aviation document or any other applicable requirement under this Act, regulations or operating regulations; or
- (b) that the privileges or duties for which the document has been granted are being carried out by the holder in a negligent, reckless or incompetent manner.

(2) If the Authority requires the holder of an aviation document to be investigated, the Authority shall—

- (a) inform the holder, in writing, of the date on which the investigation will commence;
- (b) conclude the investigation as soon as practicable;
- (c) make available the results of the investigation to the document holder;
- (d) make recommendations arising out of the investigation; and
- (e) provide the grounds for any recommendations made.

Suspension, Variation or Revocation of an Aviation Document and Imposition of Administrative Penalties

General considerations for invoking suspension, variation, or revocation.

24.(1) The general considerations in subsection (2) shall apply for the purpose of the Authority determining whether an aviation document should be—

- (a) suspended or varied under section 25;
- (b) revoked under section 26.

(2) The general considerations to which the Authority shall have regard for any of the purposes in subsection (1) are—

- (a) that person's history of compliance with civil aviation regulatory requirements;
- (b) whether that person has any convictions prior to or after the commencement of this Act, whether in Gibraltar or any other jurisdiction;
- (c) any evidence that the person has—
 - (i) committed an offence against civil aviation safety or security;
 - (ii) contravened or failed to comply with any regulation or operating regulation; and
- (d) other relevant information submitted.

Suspension or variation of an aviation document.

25.(1) The Authority may after an—

(a) inspection or monitoring under section 22; or

(b) investigation under section 23,

suspend, in whole or in part, or vary by imposing a condition, an aviation document issued under section 18 if it—

- (i) considers such action necessary to ensure compliance with this Act, regulations or the operating regulations;
- (ii) considers such action necessary in the interests of aviation safety and security;
- (iii) is satisfied that the holder of an aviation document has failed to comply with any conditions in that aviation document;
- (iv) is satisfied the holder has contravened or failed to comply with any provision of this Act, regulations or the operational regulations;
- (v) considers that the privileges or duties for which the document has been granted are being carried out by the holder in a negligent, reckless or incompetent manner;
- (vi) considers that there is reasonable doubt as to the airworthiness of the aircraft; or
- (vii) considers that there is reasonable doubt as to the quality or safety of the aeronautical product or service to which the document relates.

(2) The Authority shall give notice of the suspension or variation of an aviation document in accordance with section 30.

(3) The breach of any condition, subject to which any aviation document has been granted, shall render the aviation document invalid during the continuance of the breach.

(4) Any person aggrieved by a decision taken under this section may submit that decision for review in accordance with section 31.

Revocation of an aviation document.

26.(1) The Authority may after an –

(a) inspection or monitoring under section 22; or

(b) investigation under section 23,

revoke an aviation document if—

- (i) advised by the manager of the Civil Airport that they have withdrawn the security clearance of the document holder;
- (ii) considered necessary in the interests of aviation safety or security;
- (iii) considered necessary in the public or national interest;
- (iv) determined that the privileges or duties for which the document has been granted are not being carried out, or are not able to be carried out, by the holder; or;
- (v) there has been a serious breach of the conditions attached to an aviation document;
- (vi) the holder of an aviation document has requested in writing that the Authority revokes the document.

(2) The Authority shall give notice of the revocation of an aviation document in accordance with section 30.

(3) The revocation of an aviation document in accordance with section 30 shall render the aviation document invalid.

(4) A person whose aviation document is revoked under this section must immediately surrender the document to the Authority.

(5) A person in respect of whom a decision is taken under this section may submit the decision for review in accordance with section 31.

Administrative penalties.

27.(1) The Authority may impose an administrative penalty on the holder of an aviation document on the same grounds as set out in sections 25(1) and 26(1).

(2) An administrative penalty is an amount of money that the person is liable to pay.

(3) The amount is to be determined by the Authority in accordance with guidance issued under section 29 but shall not exceed £100,000.

(4) The penalty must be paid within 28 days of the date on which the notice imposing it takes effect, unless an extension is granted by the Authority.

(5) A penalty imposed under this section may be enforced in the same manner as if it were a civil debt owed to the Authority.

(6) An administrative penalty can be imposed in addition to any suspension, variation or revocation made by the Authority under this Act.

(7) The Authority shall give notice of an administrative penalty in accordance with section 30.

(8) A person in respect of whom a decision is taken under this section may submit the decision for review in accordance with section 31.

Criteria for administrative penalties.

28. The Authority must ensure that the level of any administrative fine is reasonable, proportionate, effective and dissuasive, taking account of all relevant circumstances, including where appropriate—

- (a) the nature, gravity and duration of the contravention;
- (b) the intentional or negligent character of the contravention;
- (c) any action taken by the holder of the aviation document to mitigate the seriousness of the contravention;
- (d) any relevant previous contravention or offence;
- (e) the degree of co-operation with the Authority, in order to remedy the contravention and mitigate the possible adverse effects of the contravention;
- (f) the manner in which the contravention became known to the Authority, including whether, and if so to what extent, the holder of the aviation document notified the Authority of the contravention;
- (g) the extent to which the holder of the aviation document has complied with previous administrative penalty notices;
- (h) any other aggravating or mitigating factor applicable to the case, including financial benefits gained, or losses avoided, as a result of the contravention, whether directly or indirectly;
- (i) whether the penalty would be effective, proportionate and dissuasive;
- (j) the written representations made by the holder;
- (k) any steps taken by the holder towards complying with any terms, or remedying the consequences of the breach.

Guidance on powers.

29.(1) The Authority must issue, and may from time to time revise, guidance setting out—

- (a) how it will determine the level of administrative penalties under section 27;

- (b) aggravating and mitigating factors it will take into account when exercising its powers.
- (2) The guide must not be issued or revised unless it has first been approved by the Minister.
- (3) The Authority must have regard to the guide before exercising powers under section 27.

Notice of decision.

30.(1) Where the Authority—

- (a) has suspended an aviation document;
- (b) has imposed a condition upon an aviation document;
- (c) has revoked an aviation document;
- (d) has imposed an administrative penalty; or
- (e) makes an adverse decision,

a written notice shall be issued in accordance with this section.

(2) The notice shall—

- (a) notify the person directly affected by the action referred to in subsection (1) of that action;
- (b) inform the person of the grounds for the action;
- (c) specify the date on which the action will take effect;
- (d) notify the person of the person's right to submit the decision for review in accordance with section 31; and
- (e) specify such other matters as in any case may be required by any provision of this or any other Act.

(3) Where the Authority gives a notice under this section which relates to an adverse decision, a copy of the notice may be supplied, upon request, to—

- (a) any person on the basis of whose character the adverse decision arises, where that person is not the person directly affected by the proposed decision; or
- (b) any affected document holder, where the Authority considers that the proposed decision is likely to have a significant impact on the entitlements of that document holder.

Right of review and appeal.

31.(1) The holder of an aviation document who has received notice in accordance with section 30 that—

- (a) an aviation document has been suspended;
- (b) an aviation document has been varied by the imposition of a condition;
- (c) an aviation document has been revoked;
- (d) an administrative penalty has been imposed, or
- (e) an adverse decision has been made,

may submit the decision for review by the Director General within 28 days of the date on which the notice is issued.

(2) It shall be the responsibility of a person referred to in subsection (1) to ensure that all information that needs to be considered by the Director General in relation to the review is received by the Director General within 28 days of the notice having been lodged.

(3) The Director General shall consider any information supplied under subsection (2) and shall have the discretion to consider any information supplied after the expiry of the period.

(4) Upon consideration of the information referred to in subsection (2), the Director General shall determine whether to affirm, revise or reverse the decision and, as soon as practicable thereafter, notify in writing the person directly affected, and any other person referred to in section 30(3)(a) of the—

- (a) Director General's decision;
- (b) grounds for the decision;
- (c) date on which the decision will take effect, and
- (d) consequences of that decision.

(5) A person aggrieved by a decision made by the Director General under subsection (4) may appeal to the Supreme Court.

(6) An appeal must be made within 28 days of the date on which the decision is notified to the affected person by the Director General.

(7) The court may allow an appeal to be made outside the time set out in subsection (6) in exceptional circumstances, if the court considers that it would be unjust not to do so.

(8) The court may–

- (a) dismiss the appeal;
- (b) allow the appeal and quash the decision appealed against; or
- (c) remit the matter to the Director General for further consideration, in accordance with any directions of the court.

(9) The court may make any order as to the costs of an appeal as it considers appropriate.

(10) An appeal does not have the effect of staying a decision which under the provisions of this section takes effect immediately, but the court may in its discretion grant a stay or other relief in respect of such a decision until the appeal has been determined.

Regulations

Regulations.

32.(1) The Minister may make regulations in respect of any matter and for any purpose relating to the application of this Act and for more effectually carrying into effect the objects of this Act, and may make provision as appears to him to be requisite or expedient in civil aviation safety and security matters, including for the implementation of the Convention or any other relevant international obligation.

(2) The Minister may, under regulations made under this section, amend this Act for the purposes of implementing –

- (a) an international agreement or convention extended to Gibraltar;
- (b) any international obligations or standards concerned with the Convention or any international agreement or convention; or
- (c) the recommendations (however described) of international bodies that are involved with the adoption, monitoring or promotion of such obligations and standards.

(3) Regulations made under this section may contain such consequential, supplementary, incidental and transitional provisions as the Minister considers it necessary or expedient.

(4) Section 23(b) of the Interpretation and General Clauses Act shall not apply to any regulations made under this section.

(5) After consultation with the Director General, the Minister may exempt an aircraft or person from the provisions of this Act or any regulations made under subsection (1).

(6) In granting an exemption, the Minister shall ensure that the exemption–

- (a) is required in the public interest; and

- (b) will not adversely affect civil aviation safety or security, or any provision under this Act.

(7) An exemption granted under this section shall–

- (a) be in writing;
- (b) specify an expiration date; and
- (c) be recorded in the respective register required to be maintained by the Authority under section 10 of the Civil Aviation Authority Act 2024.

Regulations – Regulation of vehicular, pedestrian and other traffic.

33.(1) For the purposes of ensuring safety at Gibraltar Airport, the Minister may make regulations regarding the use of Winston Churchill Avenue as provided for the purposes set out in subsection (2).

(2) Regulations may provide for –

- (a) restricting or controlling the access of pedestrians, motor vehicles, bicycles or other modes of transport;
- (b) preventing nuisances, obstructions and encroachment that may impact on or interfere with aviation;
- (c) the preservation of good order, conduct and safety;
- (d) exempting any person, or providing for any person to be exempted, from any of the provisions of the regulations;
- (e) persons to be guilty of offences in such circumstances as may be specified in the regulations and to be liable on conviction of those offences to such penalties as may be so specified;
- (f) reasonable force to be used by authorised officers where necessary to remove a person from the area who is suspected of committing an offence under the regulations or under any other applicable enactment;
- (g) the issue of fixed penalty notices for specified offences in such circumstances and subject to such conditions as may be prescribed.

(3) Regulations made under this section do not affect the application of the Traffic Act 2005 or any legislation made thereunder.

(4) In this section–

“road” has the meaning given in the Traffic Act 2005;

“Winston Churchill Avenue” means the part of the road known as Winston Churchill Avenue (including areas that are demarcated for use by non-vehicular traffic such as pedestrians and cyclists) prescribed by the Minister in regulations made under this section.

Operating regulations.

34.(1) The Director General may make operating regulations for civil aviation in accordance with those Annexes for which the Authority is responsible.

(2) The Director General may make provision in operating regulations for–

- (a) international standards or recommended practices contained in an Annex;
- (b) recognition of an aviation document granted by a Contracting State where it has equivalent standards to Gibraltar;
- (c) standards, rules or requirements prescribed by the law of a Contracting State; and
- (d) the implementation of international obligations extended to Gibraltar.

(3) The Director General shall consult with the Minister by ensuring all Notices of Proposed Amendment of operating regulations are forwarded to the Minister on the day of issue of the same.

(4) The Director General shall not proceed with the publication of any operating regulations intended to be issued under this Act if during the 30-day period following the issuance of a Notice of Proposed Amendment, the Minister, in writing, either gives notice of an objection and/or issues a request for clarification to the Authority, in respect of the proposed operating regulation.

(5) The Director General must, having considered the particulars of the written submission received from the Minister, either amend the operating regulation and/or provide clarification (as applicable), to the satisfaction of the Minister, before the publication of the operating regulation in the Gazette.

(6) Regulations made under this section shall not–

- (a) provide for offences to be triable only on indictment;
- (b) authorise the imposition, on summary conviction of any offence, of a term of imprisonment exceeding one year or of a fine exceeding level 5 on the standard scale;

- (c) authorise the imposition, on conviction on indictment of an offence, of a term of imprisonment exceeding five years.

(7) The Director General may exempt an aircraft or person from the provisions of any operating regulation.

(8) In granting an exemption under subsection (7), the Director General shall ensure that exemption—

- (a) is required in the public interest; and
- (b) will not adversely affect civil aviation safety or security;
- (c) will comply with any international obligation that Gibraltar is bound by.

(9) An exemption granted under this section shall—

- (a) be in writing;
- (b) specify an expiration date; and
- (c) be recorded in the appropriate register required to be maintained by the Authority under section 10 of the Civil Aviation Authority Act.

PART IV THE GIBRALTAR AIRPORT AND OTHER LAND

The Gibraltar Airport

The Gibraltar Airport.

35.(1) The Gibraltar Airport is the aggregate of the land, buildings and works comprising the Civil Airport and RAF Gibraltar.

(2) The Civil Airport is the aggregate of the land, buildings and works comprising the civil air terminal and associated aprons under the management and control of the Government.

(3) RAF Gibraltar is the aggregate of the land, buildings and works at the Gibraltar Airport with the exclusion of those parts that comprise the Civil Airport and which are managed and operated by the Royal Air Force on behalf of the MoD.

(4) A plan of the Gibraltar Airport specifying which parts of the Gibraltar Airport comprise the Civil Airport and which parts of the Gibraltar Airport comprise RAF Gibraltar Airport is set out in Schedule 1.

(5) The Minister may amend the plan of Gibraltar Airport set out in Schedule 1 by Notice published in the Gazette.

Operations outside of Gibraltar Airport.

36.(1) No person shall—

- (a) operate an aircraft outside of Gibraltar Airport within the territory of Gibraltar without approval from the Authority; or
- (b) permit the operation of an aircraft on any land occupied, owned or controlled by that person.

(2) The Director General may authorise an officer of the Gibraltar Port Authority, to exercise, in respect to aircraft on the surface of the water, all or any of the functions exercised in respect to ships or vessels.

(3) In considering the grant of an aviation document in relation to an aircraft operating outside of Gibraltar Airport, the Authority shall take into account *inter alia*, the need to minimise so far as is reasonably practicable any—

- (a) adverse effects on the environment;
- (b) disturbance to the public, from noise, vibration or atmospheric pollution;
- (c) detrimental effect associated with the operation and use of the aircraft.

Appointment of operator of the Civil Airport.

37.(1) The Minister may appoint an operator of the Civil Airport who shall exercise general control and supervision over the Civil Airport.

(2) The operator shall perform such functions as may be conferred under this Act or any other Act or regulations.

(3) The Minister may appoint a commercial entity under a contract of services or for services on such terms as the Minister shall decide.

(4) The operator may delegate such function as may be necessary or desirable to ensure the orderly and efficient administration of the Civil Airport to such a person or persons as may be approved by the Minister for the purpose.

(5) Where a delegation pursuant to subsection (4) has been made, any reference in this Act to the operator of the Civil Airport shall be understood as a reference to the person to whom that delegation has been made in relation to the delegated function.

(6) In the exercise of control and supervision or the carrying out of any function under this section, the operator of the Civil Airport shall have regard to, and implement the policy of, the Government as communicated by the Minister and shall observe and implement any direction issued by the Minister.

The Civil Air Terminal.

38.(1) The Civil Air Terminal is that area at the Gibraltar Airport delineated as the Terminal Area in the plan as set out in Schedule 1.

(2) Subject to the provisions of this Act, regulations or operating regulations, the Director General may do anything that appears to be incidental or conducive to aviation safety or security at the Civil Air Terminal.

Trespassing.

39.(1) No person shall trespass on any land forming part of the Gibraltar Airport.

(2) No person shall be liable under this section unless it is proved that, at the material time, notices warning trespassers of their liability were posted so as to be readily seen and read by members of the public, in such positions on or near the boundary of the Gibraltar Airport as appear to be proper.

Lights

Aeronautical lights.

40.(1) Except with the permission of the Authority a person shall not establish, maintain or alter the character of—

- (a) an aeronautical beacon within Gibraltar; or
- (b) any aeronautical ground light (other than an aeronautical beacon) at the Gibraltar Airport, or which forms part of the lighting system for use by aircraft taking off from or landing at the Gibraltar Airport.

(2) In the case of an aeronautical beacon which is or may be visible from the waters within an area of a lighthouse, the Authority shall not give permission for the purpose of this section except with the consent of the Minister with responsibility for the port.

(3) A person shall not intentionally or negligently damage or interfere with any aeronautical ground light.

Lighting of obstacles, buildings or structures.

41.(1) The Authority may require an obstacle, building or structure, whether on land or sea and located within the territory of Gibraltar to display lights if it considers the unlit obstacle, building or structure represents a danger to aircraft operating into or out of the Airport.

(2) The number, colour, direction and intensity of the lighting shall be at the discretion of the Authority.

Dangerous lights.

42.(1) A person shall not exhibit in Gibraltar any light which—

- (a) by reason of its glare is liable to endanger aircraft taking off from or landing at the Gibraltar Airport; or
- (b) by reason of its liability to be mistaken for an aeronautical ground light is liable to endanger aircraft.

(2) For any light described in subsection (1) the Authority may cause a notice to be served upon the person who is the occupier of the place where the light is exhibited or has charge of the light, directing that person, within a reasonable time to be specified in the notice, to take such steps as may be necessary for extinguishing or screening the light and for preventing for the future the exhibition of any other light which may similarly endanger aircraft.

Lights which dazzle or distract.

43.(1) A person shall not direct or shine any light (including a laser), towards—

- (a) any aircraft in flight,
- (b) any installation situated on Gibraltar Airport; or
- (c) any vehicle that is being used on Gibraltar Airport.

which has, or is calculated to have, the effect of dazzling or distracting a person,

(2) Subsection (1) shall not apply to a person who is acting in the course of their duties within Gibraltar Airport.

**PART V
AIR NAVIGATION SERVICES**

Air navigation services in Gibraltar.

44.(1) The Authority shall determine, and be responsible for, the territory over which it has jurisdiction, those portions of the airspace and the aerodrome where air traffic services will be provided.

(2) The dimensions of those portions of airspace stated in subsection (1) may be notified in the Gazette and Aeronautical Information Publication.

(3) An air navigation service provider shall not provide any service otherwise than under, and in accordance with, the terms and conditions of an approval from the Authority.

Air traffic control service provider.

45.(1) The air traffic control service provider shall provide a service in accordance with the terms of an air traffic control approval granted by the Authority.

(2) The air traffic control service provider shall provide, for compliance by its personnel, a manual of air traffic services for the services provided.

(3) Each person performing duties in an air traffic control service organisation shall comply with the applicable procedures and operating standards specified in the appropriate approvals and manual of air traffic services.

(4) The manual of air traffic services, and any subsequent amendments, shall be approved by the Authority.

(5) A person shall not provide air traffic control services unless the person holds a valid student air traffic controller licence or an air traffic controller licence issued or recognised by the Authority.

**PART VI
LIABILITY FOR AIRCRAFT TRESPASS, NUISANCE AND DAMAGE**

Liability for aircraft trespass or nuisance.

46. Provided that the provisions of this Act and operating regulations are duly complied with, no action shall lie in respect of trespass or nuisance by reason only of the—

- (a) flight of an aircraft over any property at a height above the ground which, having regard to weather and all the circumstances of the case, is reasonable; or
- (b) noise and vibration caused by aircraft, provided all applicable operating regulations have been complied with.

Liability for damage to person or property.

47. Where material loss or damage is caused to any person or property on land or water by, or by a person in, or an article, animal or person falling from an aircraft while in flight, taking off or landing—

- (a) subject to paragraph (b), damages in respect of such loss or damage shall, unless caused or contributed to by the negligence of the person by whom it was suffered, be recoverable without proof of negligence or intention or other cause of action as if such loss or damage had been caused by the wilful act, neglect, or default of the owner of the aircraft;

- (b) the owner shall—
 - (i) where such loss or damage is caused in circumstances in which damages are recoverable by virtue only of paragraph (a); and
 - (ii) where legal liability is created in persons other than the owner to pay such damages,

be entitled to be indemnified by such other persons against any claim in respect of such loss or damage.

Liability where aircraft hired out, etc.

48. Where—

- (a) the owner of an aircraft has bona fide demised, let, or hired out the aircraft for a period exceeding fourteen days to any person; and
- (b) no pilot, commander, or operative crew member of the aircraft is in the employment of the owner,

section 47 shall have effect as if references to the owner were substituted with references to the person to whom the aircraft has been so demised, let or hired out.

**PART VII
MISCELLANEOUS**

Documents.

49.(1) A person shall not, with intent to deceive—

- (a) use any aviation document or other document issued or required, which has been forged, altered, revoked or suspended, or to which they are not entitled;
- (b) lend any aviation document or other document, or allow it to be used by any other person;
- (c) make any false representation for the purpose of procuring for themselves or any other person the grant, issue, renewal or variation of any aviation document or other document, including a copy, or purported copy, or electronic copy.

(2) A person shall not intentionally—

- (a) damage, alter or render illegible any logbook or other record required by the operating regulations to be maintained or any entry made therein;
- (b) make, or procure or assist in the making of, any false entry in or material omission from any such logbook or record; or

- (c) destroy any such logbook or record during the period for which it is required under the operating regulations to be preserved.

Psychoactive substances.

50.(1) No safety-sensitive personnel shall undertake a function critical to the safety of aviation while under the influence of any psychoactive substance, by which human performance is impaired.

(2) A person identified in subsection (1) shall—

- (a) not engage in any kind of problematic use of psychoactive substances;
- (b) submit to a test to indicate the use of psychoactive substances in the blood where the Authority has reasonable grounds to believe that a person may have violated the provisions of this Act or as part of an authorised screening programme;
- (c) upon request by the Authority, furnish the Authority or authorise any clinic, hospital, doctor, or other person to release to the Authority, the results of any test taken for psychoactive substances.

(3) A person identified in subsection (1) who refuses to comply with subsection (2)(b) or (c), may have their aviation document suspended under section 25.

(4) Any test information obtained by the Authority under subsection (2)(b) may be evaluated in determining a person's qualifications for any aviation document or possible violations of this Act and may be used as evidence in any proceedings.

(5) Every organisation or air operator utilising the services of safety-sensitive personnel shall develop a procedure for the identification of persons identified in subsection (1), who engage in any kind of problematic use of psychoactive substances, to ensure their removal from safety-sensitive functions.

(6) Personnel identified in subsection (5) may only return to their safety-sensitive functions after successful treatment or, in case where no treatment is necessary, after cessation of the problematic use of substances and upon determination by the Authority that the person's continued performance of the function is unlikely to jeopardise safety.

Operating an aircraft carrying prohibited substances.

51. No person shall operate an aircraft—

- (a) into Gibraltar; or
- (b) registered in Gibraltar,

with the knowledge that any drugs or substances, prohibited by Gibraltar law, are carried in the aircraft.

Infringement of parts, accessories, etc. of aircraft.

52.(1) This section applies to—

- (a) any aircraft registered in a Contracting State; and
- (b) such other aircraft as the Minister may, by order, prescribe.

(2) A lawful entry into or transit across Gibraltar, with or without landings, of an aircraft shall not entail a seizure or detention of the aircraft, or any proceedings being brought against the owner or operator, or any other interferences with the aircraft, by or on behalf of any person in Gibraltar on the grounds that the construction, mechanism, parts, accessories or operation of the aircraft is or are an infringement of any patent, design or model.

(3) The importation into, and storage in, Gibraltar of spare parts and spare equipment for an aircraft and their use and installation in the repair of the aircraft shall not entail any seizure or detention of the aircraft, or of the spare parts or spare equipment, or any proceedings being brought against the owner or operator of the aircraft or the owner of the spare parts or spare equipment, or any other interference with the aircraft by or on behalf of any person in Gibraltar on the grounds that the spare parts or spare equipment or their installation are or is an infringement of any patent, design or model.

(4) Subsection (3) shall not apply in relation to any spare parts or spare equipment sold or distributed in Gibraltar.

(5) Schedule 2 shall have effect with respect to detention on patent claims in respect of foreign aircraft other than aircraft to which this section applies.

Authority of commander of a Gibraltar registered aircraft.

53.(1) A person in a Gibraltar registered aircraft, from the moment all its external doors are closed following embarkation until the moment when such door is opened for disembarkation, shall obey all lawful commands that the commander of the aircraft may give for the purpose of securing the safety of the aircraft and of persons or property carried in the aircraft, or the safety, efficiency or regularity of air navigation.

(2) A commander may, when there are reasonable grounds to believe that a person has committed, or is about to commit, on board the aircraft, an offence or act, impose upon such person reasonable measures including restraint which are necessary to—

- (a) protect the safety of the aircraft, or of persons and property therein;
- (b) maintain good order and discipline on board; or
- (c) enable the delivery of such person to competent authorities or to disembark that person.

(3) The commander may require or authorise the assistance of other crew members and may request or authorise, but not require, the assistance of passengers to restrain any person whom is entitled to be restrained.

(4) Any crew member or passenger may take reasonable preventive measures without such authorisation in subsection (3) when there are reasonable grounds to believe that such action is immediately necessary to protect the safety of the aircraft, or of persons or property therein.

(5) Measures of restraint imposed upon a person shall not be continued beyond any point at which the aircraft lands unless—

- (a) such point is in the territory of a State and its authorities refuse to permit disembarkation of that person or those measures have been imposed in order to enable their delivery to the competent authorities;
- (b) the aircraft makes a forced landing and the commander is unable to deliver that person to competent authorities; or
- (c) that person agrees to onward carriage under restraint.

(6) The commander shall as soon as practicable, and if possible before landing in the territory of a State with a person on board who has been placed under restraint, notify the authorities of such State of the fact that a person on board is under restraint and of the reasons for such restraint.

(7) The commander shall furnish the authorities to whom any suspected offender is delivered with evidence and information which, under Gibraltar law, are lawfully in his possession.

(8) For any measures taken under this section, neither the commander, any other member of the crew, any passenger, the owner or operator of the aircraft, nor the person on whose behalf the flight was performed, shall be held responsible in any proceedings on account of the treatment of the person against whom the actions were taken.

Endangering the safety of an aircraft and occupants.

54. A person shall not endanger, nor attempt to endanger nor act in a manner likely to endanger, the operation of an aircraft or occupants of the aircraft.

**PART VIII
INSPECTION AND ENFORCEMENT**

Inspection

Appointment of authorised persons to inspect.

55.(1) For the purposes of ensuring compliance with this Act, regulations and operating regulations, the Director General shall appoint, in writing, persons to conduct inspections generally, or otherwise (hereinafter referred to as an “authorised person”).

(2) A person appointed under subsection (1) shall—

- (a) possess the requisite qualifications and experience that the Director General considers appropriate; and
- (b) possess an authorisation and identification at all times during the conduct of an inspection.

Powers of authorised persons.

56.(1) An authorised person may conduct inspections in accordance with their written authorisation and shall—

- (a) have the right of access at all reasonable times to—
 - (i) any public or private place, where an aircraft is located for the purpose of inspecting the aircraft or any document which pertains to it;
 - (ii) any public or private place where an aircraft is located, for the purpose of detaining the aircraft;
 - (iii) any aircraft, including a foreign registered aircraft in Gibraltar, for the purpose of inspecting the airworthiness of that aircraft and the validity of the certificates, licences, approvals and other documents relating to the operation of the aircraft;
 - (iv) any aircraft registered in Gibraltar for the purpose of checking, whilst in flight, the performance of the aircraft or any of its equipment and the efficiency of flight crew members in the performance of their duties;
 - (v) enter and inspect an aerodrome, hanger or other place or any facility in which tasks and services related to civil aviation safety and security are performed for the purposes of determining whether such services are being performed in compliance with this Act, regulations or operating regulations; and

- (vi) enter and inspect the place where an aircraft may have landed or may land.
- (b) require any person to produce, within five working days, any document or article for the purpose of ensuring compliance with this Act, regulation or the operating regulations;
- (c) inspect and copy any aviation document, logbook, document or record; and
- (d) prohibit any person from exercising the privileges granted pursuant to the issuance of an aviation document for just cause.

(2) No person shall make a statement to an authorised person that is false, or fail to produce any document or other article which is in their possession or control to which they have access.

(3) No person shall intentionally impede, obstruct, hinder, delay or otherwise interfere with an authorised person acting in the exercise of their powers or the performance of their duties under this Act, regulations or operating regulations.

Prevention of flight by authorised person.

57.(1) Where it appears to an authorised person that an aircraft is intended, or likely to be flown—

- (a) in such circumstances that the operation of the flight would constitute an offence against this Act, regulations or operating regulations; or
- (b) be a cause of danger to persons on-board or to persons or property on the ground,

the Director General or an authorised person may direct the operator or the commander of the aircraft that he is 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 Director General or by an authorised person, and the Director General or that authorised person may take such steps as are necessary to detain the aircraft.

(2) Where an aircraft has been prevented from flight under subsection (1), such aircraft shall not be flown until the Authority is satisfied that circumstances existing in subsection (1) have been remedied.

Enforcement

Enforcement action.

58. The Authority may take action to enforce this Act, regulations or operating regulations that have been contravened, including but not limited to—

- (a) the suspension, variation or revocation of an aviation document under sections 25 or 26 ;

- (b) imposing an administrative penalty under section 27;
- (c) referring a matter to the Royal Gibraltar Police where the Authority is of the opinion that a criminal offence has occurred or is likely to occur; or
- (d) preventing an aircraft from flying in accordance with section 57.

PART IX OFFENCES AND PENALTIES

Offences

Offences and penalties – general.

59.(1) If any provision of this Act, regulations, operating regulations or any direction issued by the Minister or the Director General, are contravened in relation to an aircraft, the operator and the commander of that aircraft shall, without prejudice to the liability of any other person for that contravention, be deemed to have contravened that provision, unless they prove that the contravention occurred without consent or connivance and that they exercised all due diligence to prevent that contravention.

(2) If it is proven that an act or omission of any person which would otherwise have been a contravention of this Act, regulations or operating regulations was due to any cause not avoidable by the exercise of reasonable care by that person the act or omission shall be deemed not to be a contravention by that person of that provision.

(3) Where the commission by any person of an offence under this Act, regulations or operating regulations is due to the act or default of some other person, that other person shall be guilty of the offence in addition to the first-mentioned person unless it was proved that they took all reasonable steps and exercised all due diligence to avoid committing the offence.

(4) Without prejudice to the right to bring separate proceedings for contraventions of this Act, regulations or operating regulations taking place on separate occasions, a person who is convicted of an offence under this Act shall, where the offence continues, be deemed to commit a separate offence in respect of every day on which the offence so continues.

(5) Proceedings for any offence under this Act, regulations or operating regulations which is punishable on summary conviction may be commenced at any time within twelve months after the commission of the offence.

(6) Nothing in this Act, regulations or operating regulations shall limit any right of any person to bring civil proceedings against another person in respect of any act or omission rendered unlawful by any provision of this Act.

(7) A person commits an offence if that person—

- (a) without reasonable excuse, fails to comply with sections 8(2), 11(3), 36(1), 39(1), 40(1) and (3), 41(1), 42(1), 44(3), 45(5), 49(1) and (2) and 56(2) and (3) of this Act;
 - (b) without reasonable excuse, fails to comply with sections 9(2), 11(1) and (2), 13(1), 14(1), 15(1) and (3), 43(1), 50(1), 51, 53(1) and 57(2) of this Act;
 - (c) without reasonable excuse, fails to comply with section 54;
 - (d) serves in any capacity as a flight crew member of a civil aircraft without the appropriate aviation document, or in violation of any such aviation document, or in violation of this Act;
 - (e) employs, for service in connection with an aircraft used in civil aviation, a flight crew member who does not have the appropriate aviation document authorising the holder to act as a flight crew member;
 - (f) while holding a certificate issued to a training school or maintenance organisation, violates any term, condition or limitation relating to the holder of such certificate or licence;
 - (g) operates a civil aircraft negligently or recklessly in a manner likely to endanger the safety of the aircraft, or any person or property;
 - (h) attempts to enter, or is on board an aircraft, under the influence of alcohol or psychoactive substances or otherwise impaired.
- (8) A person who commits an offence—
- (a) under subsection (7)(a), is liable on summary conviction to a fine at level 4 on the standard scale;
 - (b) under subsection (7)(b), (d), (e), (f) or (h) is liable—
 - (i) on summary conviction to imprisonment for a term not exceeding 12 months or a fine at level 5 on the standard scale, or both;
 - (ii) on conviction on indictment to imprisonment for a term not exceeding 2 years or a fine, or both.
 - (c) under subsection (7)(c) or (g) is liable—
 - (i) on summary conviction to imprisonment for a term not exceeding 12 months or a fine at level 5 on the standard scale, or both;
 - (ii) on conviction on indictment to imprisonment for a term not exceeding 5 years or a fine, or both.

Liability of directors and officers of corporations.

60. Where an offence under this Act, regulations or operating regulations has been committed by a body corporate, every person who at the time of the commission of the offence was a director, manager, secretary, or other similar officer of the body corporate, or was purporting to act in any such capacity, shall be held responsible for the offence unless they prove that—

- (a) the offence was committed without consent or connivance; or
- (b) they exercised all such diligence to prevent the commission of the offence as ought to have been exercised having regard to the nature of their functions in that capacity and to all circumstances.

Jurisdiction of offences.

61.(1) Any act or omission against or taking place on board—

- (a) a Gibraltar registered aircraft; or
- (b) (subject to subsection (3) below) a foreign aircraft,

while in flight elsewhere than in or over Gibraltar which, if taking place in Gibraltar, would constitute an offence under the law in force in Gibraltar, shall constitute that offence.

(2) Subsection (1) shall not apply to any act or omission which is expressly or impliedly authorised by or under that law when taking place outside Gibraltar.

(3) Subsection (1)(b) shall only apply to an act or omission which takes place on board a foreign aircraft where—

- (a) the next landing of the aircraft is in Gibraltar; and
- (b) in the case of an aircraft registered in a state other than Gibraltar, the act or omission would, if taking place there, also constitute an offence under the law in force in that state; or
- (c) the act or omission has effect in Gibraltar;
- (d) the offence has been committed by or against a person residing in Gibraltar or who is from Gibraltar;
- (e) the offence is against the security of Gibraltar;
- (f) the act or omission constitutes a breach of any provision under this Act or any applicable subsidiary legislation concerning flights or the manoeuvre of aircraft;
- (g) it is necessary in accordance with Gibraltar's international obligations to ensure the observance of any obligation contained in Gibraltar law.

(4) The courts in Gibraltar shall have jurisdiction also where an offence is committed against or on board an aircraft leased without crew to a lessee that has their principal place of business in Gibraltar, or if the lessee has no principal place of business, the lessee's permanent residence where this is Gibraltar.

(5) Any act or omission punishable under the law in force in any state is an offence under that law for the purpose of subsection (3), however it is described in that law.

(6) For the purpose of this section the period during which an aircraft is in flight shall be deemed to include any period from the moment when power is applied for the purpose of the aircraft taking off on a flight until the moment when the landing run (if any) at the termination of that flight ends, and any reference in this section to an aircraft in flight shall include a reference to an aircraft during any period when it is on the surface of the sea or land but not within the territorial limits of any country.

Mutual assistance requests.

62.(1) In this section, references to the "Convention" means the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, extended to Gibraltar with effect from 25th November 1973, as amended, replaced or substituted from time to time.

(2) The Minister must—

- (a) send any outgoing requests for mutual assistance to the appropriate authorities in a Convention State;
- (b) receive any incoming requests for mutual assistance from the appropriate authorities in the Convention State making the request.

(3) The Minister may send and receive requests referred to in subsection (2) in relation to assistance in connection with criminal proceedings brought in respect of offences covered by the Convention, which are provided for under Gibraltar law and under the law of the other Convention State.

(4) The provisions of this section must not affect any applicable obligations under any other treaty, or convention, which governs, in whole or in part, mutual assistance in criminal matters.

(5) The Minister may by regulations make provision for the application of any provisions of the Mutual Legal Assistance (International) Act 2005 for the purposes of any request under this section, and this includes the power to modify any provisions contained in that Act.

**PART X
GENERAL**

Governor’s constitutional responsibilities.

63. Nothing in this Act shall derogate from the responsibility of the Governor under the Constitution for defence, internal security or any other matter for which the Governor may have responsibility under the Constitution.

Transitional arrangements.

64. On the date of the commencement of this section—

- (a) anything done or document executed or issued by the Director of Civil Aviation under the Civil Aviation Act 2009 prior to the commencement of this Act, shall be valid as though that thing or document had been done, executed or issued by the Director General of the Gibraltar Civil Aviation Authority established under section 4 of the Civil Aviation Authority Act 2024;
- (b) any agreement or document executed referring to the Director of Civil Aviation under the Civil Aviation Act 2009 prior to the commencement of this Act, shall be valid as though that agreement or document refers to the Director General;
- (c) any regulations, rules, notices or appointments made by the Minister under the Civil Aviation Act 2009 shall be valid until revoked, as though those regulations, rules, notices or appointments were made under this Act.

Repeals.

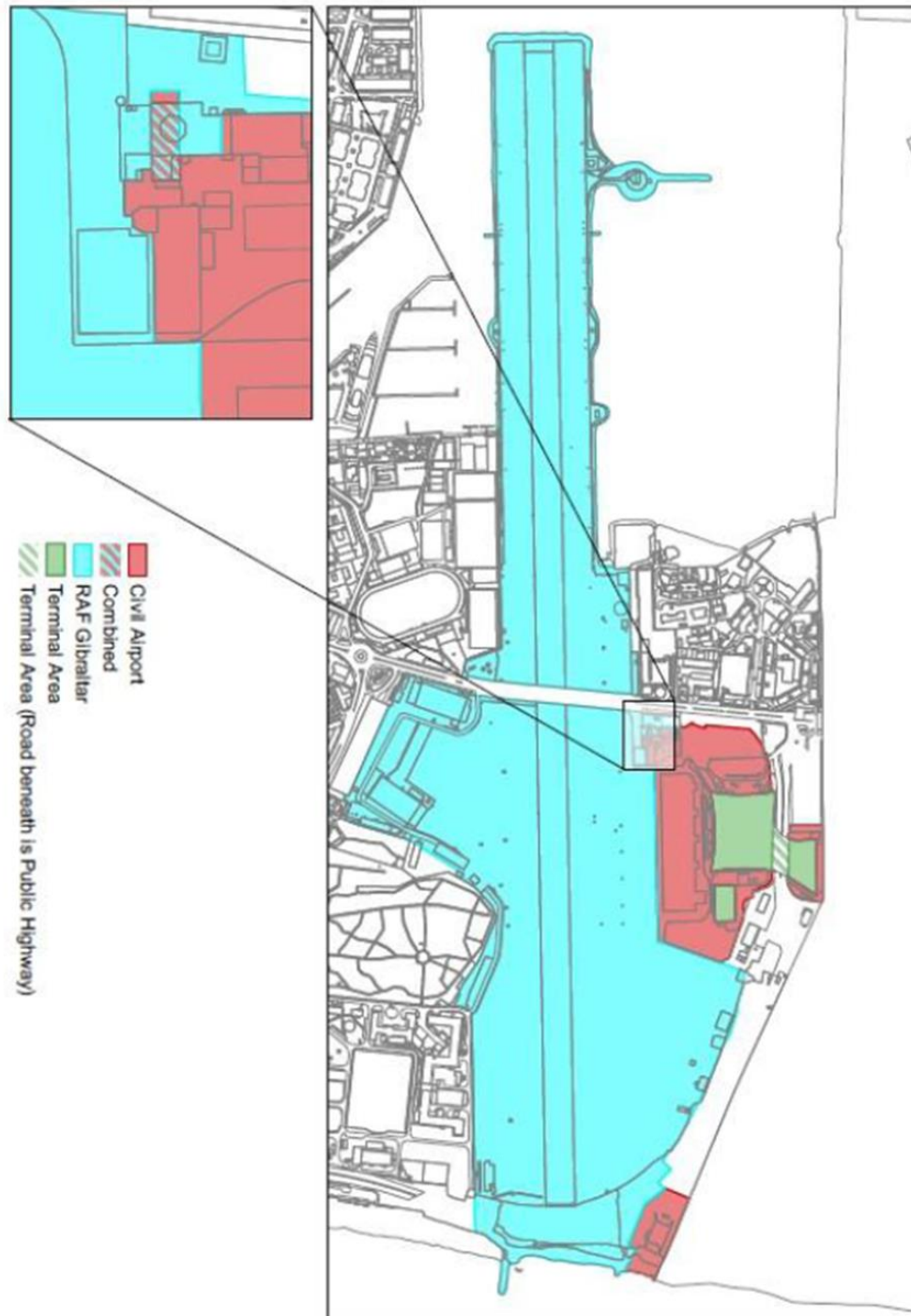
65. The Minister may, by regulations, repeal, revoke or modify any provision contained in the following instruments—

- (a) Civil Aviation Act 2009;
- (b) any retained direct EU legislation (as defined in the European Union (Withdrawal) Act 2019) relating to civil aviation.

SCHEDULE 1

Section 35(4)

Plan of Gibraltar Airport



SCHEDULE 2

Section 52(5)

PATENT CLAIMS AGAINST AIRCRAFT NOT PROTECTED UNDER CHICAGO CONVENTION

1. Where it is alleged by any person interested that a foreign aircraft which is not an aircraft to which section 52 of this Act applies, and which is making a passage through or over Gibraltar, infringes in itself or in any part of it any invention, design or model which is entitled to protection in Gibraltar, it shall be lawful, subject to and in accordance with rules of court, to detain the aircraft until the owner thereof deposits or secures in respect of the alleged infringement a sum (in this Schedule referred to as “the deposited sum”); and thereupon the aircraft shall not during the continuance or in the course of the passage be subject to any lien, arrest, detention or prohibition (whether by order of a court or otherwise) in respect or on account of the alleged infringement.

2. The deposited sum shall be such sum as may be agreed between the parties interested or, in default of agreement, fixed by the Minister or some person duly authorised on their behalf; and payment thereof shall be made or secured to the Minister in the manner they shall approve.

3. The deposited sum shall be dealt with by such tribunal and in accordance with such procedure as may be specified by rules of court, and such rules may provide generally for carrying this Schedule into effect.

4. For the purposes of this Schedule—

“owner” shall include the actual owner of an aircraft and any person claiming through or under him; and

“passage” shall include all reasonable landings and stoppages in the course or for the purpose of the passage.

EXPLANATORY MEMORANDUM

This Bill makes provision to replace the Civil Aviation Act 2009 in order to modernise the regulation of Civil Aviation in Gibraltar in accordance with international obligations and makes provision for the establishment of an aircraft registry.

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