CHAPTER 232

CIVIL AVIATION ACT

To regulate civil aviation.

17th October, 1972;
21st March, 1973

ACT XLIII of 1972, as amended by Acts XXXII of 1979, XIII of 1983, XXXVII of 1988 and XX of 1989; Legal Notice 176 of 1990; and Acts XX of 1998, IX of 2003 and XV of 2006; Legal Notice 411 of 2007; and Acts XV of 2009 and VIII of 2010 and XL of 2023.

ARRANGEMENT OF ACT

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PART I

PRELIMINARY

Short title.

1. The short title of this Act is the Civil Aviation Act.

Interpretation.
Amended by:
IX. 2003.26;
XV. 2009.52;
VIII. 2010.61;
Act XL of 2023.
Cap. 641.

2. In this Act, unless the context otherwise requires -

"air operator's certificate" means a certificate granted under article 35 of the Air Navigation Act;

"air transport service" means the carriage of passengers or of mails or of cargo by air for reward;

"air transport undertaking" means an undertaking whose business includes the carriage by air of passengers or cargo for hire or reward;

Cap. 499.

"Authority" means the Authority for Transport in Malta as established by the Authority for Transport in Malta Act;

"Director General" means the Director General responsible for Civil Aviation in Malta;

"effective control" means a relationship constituted by rights, contracts or any other means which, either separately or jointly and having regard to the considerations of fact or law involved, confer the possibility of directly or indirectly exercising a decisive influence on an undertaking, in particular by:

(*a*) the right to use all or part of the assets of an undertaking;

(*b*) rights or contracts which confer a decisive influence on the composition, voting or decisions of the bodies of an undertaking or otherwise confer a decisive influence on the running of the business of the undertaking;

Cap. 460.

"European Union" fas the same meaning as is given to it in the European Union Act;

"Gazette" means the Malta Government Gazette;

"loss or damage", in relation to persons, includes loss of life and personal injury;

"Malta" has the same meaning as is assigned to it by article 124 of the Constitution of Malta;

"Member State" means a Member State of the European Union;

"Minister" means the Minister responsible for transport and, to the extent of the authority given, any person authorised in that behalf by such Minister;

"operating licence" means a licence issued under article 7;

"operator", in relation to an aircraft, means the person for the time being having the management of that aircraft, and cognate expressions shall be construed accordingly;

"person" includes an association or body of persons, whether vested with legal personality or not;

"prescribed" means prescribed by regulation or order under this Act;

"reward", in relation to any flight by an aircraft, includes any form of consideration received or to be received wholly or partly in respect of or in connection with that flight, irrespective of the person by whom or to whom the consideration has been or is to be given.

PART II

REGULATION OF CIVIL AVIATION

General

Appointment of Director General for Civil Aviation. *Amended by: XIII. 1983.5; XX. 1998.30; XV. 2006.12; L.N. 411 of 2007. Substituted by: XV. 2009.52.*

3. (1) The Authority shall appoint a person to act as Director General for Civil Aviation in Malta.

(2) The Director General shall implement the strategies and objectives of the Authority and shall act in accordance with the policies, strategies and directives of the Authority.

(3) The Director General shall be subject to such directions, decisions or other controls that the Authority or its other designated officials may issue from time to time and shall exercise such powers as may be delegated to him by any law or regulation or by the Authority.

Investigation of accidents. *Amended by: XIII. 1983.5; L.N. 411 of 2007; XV. 2009.52.*

4. (1) The Minister may make regulations or orders providing for the investigation of any accident arising out of or in the course of air navigation, and either occurring in or over Malta or occurring elsewhere to aircraft registered in Malta.

(2) Regulations or orders under this article may contain provisions -

(*a*) requiring notice to be given of any such accident as aforesaid in such manner and by such persons as may be specified in the regulations;

(*b*) applying, with or without modification, for the purpose of investigations held with respect to any such accident any of the provisions of any other enactment relating to investigations in cases of accidents;

(*c*) prohibiting, pending investigation, access to or interference with aircraft to which an accident has occurred, and authorising any person, so far as may be necessary for the purposes of an investigation, to have access to, examine, remove, take measures for the preservation of, or otherwise deal with, any such aircraft;

(*d*) authorising or requiring the cancellation, suspension, endorsement or surrender of any licence or certificate granted under any of the foregoing provisions of this Act or any regulations or order made, or having effect as if made, thereunder, where it appears on an investigation that the licence or certificate ought to be cancelled, suspended, endorsed or surrendered, and

requiring the production of any such licence or certificate for the purpose of being so dealt with.

(3) If any person contravenes or fails to comply with any regulation or order made or having effect as if made under this article, he shall be liable on conviction to a fine (*multa*) not exceeding five hundred euro (€500) or to imprisonment for a term not exceeding three months.

Dangerous flying. *Amended by: XIII. 1983.5; L.N. 411 of 2007; XV. 2009.52.*

5. (1) Where an aircraft is flown in such a manner as to be the cause of unnecessary danger to any person or property on land or water, the pilot or the person in charge of the aircraft, and also the owner thereof unless he proves to the satisfaction of the court that the aircraft was so flown without his actual fault or privity, shall be liable on conviction to a fine (*multa*) not exceeding two thousand and five hundred euro (€2,500) or to imprisonment not exceeding six months or to both such fine and imprisonment.

(2) In this article the expression "owner" in relation to an aircraft includes any person by whom the aircraft is hired at the time of the offence.

(3) The provisions of this article shall be in addition to and not in derogation of the powers conferred on the Minister or on the Authority by any other law or regulation.

Licensing of certain flying

Restriction of unlicensed flying. *Amended by: VIII. 2010.61; Act XL of 2023.*

6. (1) Subject to the provisions of subarticle (3), no aircraft shall be used on any flight for reward or in connection with any trade or business except under and in accordance with the terms of a licence granted to the operator of the aircraft under article 7 (in this Act referred to as an "operator licence"), being a licence currently in force and authorising the operator to operate aircraft on such flights as that in question.

Cap. 641.

(2) The requirements of subarticle (1) shall be without prejudice to the provisions of the Air Navigation Act.

(3) The Minister may by regulations or order provide that subarticle (1) shall not apply to flights of such description as may be specified in the regulations or order, and may by instrument in writing exempt from the requirements of the said subarticle any other particular flight or series of flights. The provisions of article 18 shall apply to exemptions made under this subarticle.

(4) This article shall apply to -

(*a*) any flight in any part of the world by an aircraft registered in Malta; and

(*b*) any flight beginning or ending in Malta by an aircraft registered in such other country or territory, if any, as may be prescribed.

(5) An aircraft shall be deemed to be in flight from the moment when, after the embarcation of its crew for the purpose of taking off, it first moves under its own power until the moment when it next comes to rest after landing.

Operator licences. *Substituted by: IX. 2003.27. Amended by: XV. 2009.52; VIII. 2010.61.*

7. (1) The power to grant an operator licence, that is to say a licence to operate any air transport service or other purpose specified in the licence shall be vested in the Authority which shall grant to an air transport undertaking such a licence upon his being satisfied that the air transport undertaking meets the requirements of this Act and such other requirements as may be prescribed.

(2) An operator licence may be granted under such conditions including rights of access to specific routes or markets as may be specified in the licence.

(3) An application to the Authority for the grant of an operator licence shall contain such particulars and shall be accompanied by such fees as may be prescribed.

(4) An air transport undertaking providing an air transport service shall not be granted an operator licence unless it shows to the satisfaction of the Authority, whenever it is required by him so to do, that -

(*a*) its principal place of business and, if any, its registered office are located in Malta, and

(*b*) its main occupation is air transport in isolation or combined with any other commercial operation of aircraft or repair and maintenance of aircraft, and

(*c*) it is owned and continues to be owned directly or through majority ownership by Member States or nationals of Member States, who shall at all times have effective control of the air transport undertaking.

(5) The Authority shall only grant an operator licence to an applicant if such applicant is in possession of a valid Air Operator's Certificate specifying the activities to be covered in the operator licence.

(6) The operator licence shall remain valid for as long as the air transport undertaking continues to meet the requirements for the issue thereof. The holder of the licence shall whenever requested by the Authority furnish him with all pertinent information that the Authority may require to be in a position to ascertain the continued validity of the licence.

(7) As soon as may be practicable after the grant of any licence under this article, the Authority shall cause notice thereof to be given in the Gazette.

Revocation, suspension and variation of licences. *Substituted by: IX. 2003.27. Amended by: XV. 2009.52; VIII. 2010.61.*

8. (1) If, in the case of any person who is the holder of an operator licence, the Authority is at any time no longer satisfied that such person -

(*a*) meets the conditions in and under this Act for the issue and holding of an operator licence; or

(*b*) is competent and a fit and proper person to operate aircraft for the purposes authorised by the licence,

the Authority shall, as may appear to it appropriate in the circumstances, revoke, suspend or vary that licence.

(2) If, as a result of insolvency or similar proceedings against the holder of an operator licence, the Authority is satisfied that there is no realistic prospect of a satisfactory financial reconstruction of the holder within a reasonable time, it shall revoke the licence.

Restriction with respect to carriage for hire or reward in aircraft registered outside Malta. *Amended by: IX. 2003.28; XV. 2009.52.*

9. An aircraft registered in any country or territory other than Malta shall not take on board or discharge any passengers or cargo in Malta, being passengers or cargo carried or to be carried for hire or reward or in connection with any trade or business, except with the permission of the Authority granted under this article to the operator or the charterer of the aircraft or to the Government of the country in which the aircraft is registered, and in accordance with any conditions to which such permission may be subject unless that aircraft is being used in the exercise of traffic rights regarding access of European Union air transport undertakings on air routes in the territory of the European Union.

Enforcement of provisions relating to licences and permits. *Amended by: XIII. 1983.5; L.N. 411 of 2007; XV. 2009.52.*

10. (1) If an aircraft is used in contravention of article 6 or of article 9, the operator and the pilot or the person in charge of the aircraft, and if any other person, whether by negotiating a contract or otherwise howsoever, made available facilities for travel or the consignment of goods on that flight knowing or having reasonable cause to suspect that the use of the aircraft would be in contravention of the said article 6 or article 9, that other person also, shall be guilty of an offence and shall be liable on conviction to a fine (*multa*) not exceeding four thousand and five hundred euro (€4,500) or to imprisonment for a term not exceeding one year, or to both such fine and imprisonment.

(2) If it appears to the Authority that an aircraft has been used in contravention of any provision of article 6 or of article 9, or that any aircraft is intended or likely to be flown in such circumstances that any of the said provisions would be contravened in relation to the flight, the Authority may take such steps as are necessary to detain the aircraft and may for the purpose cause the aircraft to be entered upon.

PART III

LIABILITY FOR DAMAGE ETC. CAUSED BY AIRCRAFT

Liability of aircraft in respect of trespass, nuisance and surface damage. *Amended by: XV. 2009.52.*

11. (1) No action shall lie in respect of trespass or in respect of nuisance, by reason only of the flight of an aircraft over any property at a height above the ground, which, having regard to the wind, weather and all the circumstances of the case, is reasonable, or the ordinary incidents of such flights so long as the provisions of Part II and of this Part and any regulations or order made thereunder are duly complied with.

(2) 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 or person falling from, an aircraft while in flight, taking off or landing, then unless the loss or damage was caused or contributed

to by the negligence of the person by whom it was suffered, damages in respect of the loss or damage shall be recoverable without proof of negligence or intention or other cause of action, as if the loss or damage had been caused by the wilful act, neglect or default of the owner of the aircraft:

Provided that where material loss or damage is caused as aforesaid in circumstances in which -

(*a*) damages are recoverable in respect of the said loss or damage by virtue only of the foregoing provisions of this subarticle; and

(*b*) a legal liability is created in some person other than the owner to pay damages in respect of the said loss or damage,

the owner shall be entitled to be indemnified by that other person against any claim in respect of the said loss or damage.

Nuisance caused by aircraft on aerodromes. *Amended by: XV. 2009.52.*

12. (1) Regulations or orders under article 3 may provide for regulating the conditions under which noise and vibrations may be caused by aircraft on aerodromes.

(2) No action shall lie in respect of nuisance by reason only of the noise and vibration caused by aircraft on an aerodrome as long as the provisions of any regulations or order made as provided in subarticle (1) are duly complied with.

Responsibility when aircraft is hired out, etc. *Amended by: XV. 2009.52.*

13. Where an aircraft has been *bona fide* demised, let or hired out for any period exceeding fourteen days to any other person by the owner thereof, and no pilot, commander, navigator or operative member of the crew of the aircraft is in the employment of the owner, this Part shall have effect as if for references therein to the owner there were substituted references to the person to whom the aircraft has been so demised, let or hired out.

PART IV

MISCELLANEOUS

Application of law of wreck and salvage to aircraft. *Amended by: XV. 2009.52.*

14. (1) Any services rendered in assisting, or in saving life from or in saving the cargo and apparel of, an aircraft in, on or over the sea or any tidal water, or on or over the shores of the sea or any tidal water, shall be deemed to be salvage services in all cases in which they would have been salvage services if they had been rendered in relation to a vessel; and where salvage services are rendered by an aircraft to any property or person, the owner of the aircraft shall be entitled to the same reward for those services as he would have been entitled to if the aircraft had been a vessel.

The provisions of this subarticle shall have effect notwithstanding that the aircraft concerned is a foreign aircraft, and notwithstanding that the services in question are rendered elsewhere than within the limits of the territorial waters of Malta.

(2) The Minister may by order direct that any provisions of any enactment for the time being in force in Malta which relate to wreck, to salvage of life or property or to the duty of rendering assistance to vessels in distress shall, with such exceptions, adaptations and modifications, if any, as may be specified in the order, apply in relation to aircraft as those provisions apply to vessels.

(3) For the purposes of this article any provisions of any enactment which relate to vessels laid by or neglected as unfit for sea service shall be deemed to be provisions relating to wreck.

Application of the law of mortgages to aircraft.
Added by: XXXII. 1979.2.
Amended by: XXXVII. 1988.47; XX. 1989.2; XV. 2009.52.
Cap. 234.

15. (*Deleted by Act VIII. 2010.61.*).

Exemption of aircraft and parts thereof from seizure on patent claims.
Amended by: XV. 2009.52.

16. (1) Any lawful entry into Malta or any lawful transit across Malta, with or without landings, of an aircraft to which this article applies shall not entail any seizure or detention of the aircraft or any proceedings being brought against the owner or operator thereof or any other interference therewith by or on behalf of any person in Malta, 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.

(2) The importation into, and storage in, Malta of spare parts and spare equipment for an aircraft to which this article applies and the use and installation thereof in the repair of such an 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 of the spare parts or spare equipment or any other interference with the aircraft by or on behalf of any person in Malta on the grounds that the spare parts or spare equipment or their installation are or is an infringement of any patent, design or model:

Provided that this subarticle shall not apply in relation to any spare parts or spare equipment which are sold or distributed in Malta or are exported from Malta for sale or distribution.

(3) This article applies -

(*a*) to an aircraft, other than an aircraft used in military, customs or police services, registered in any country or territory in respect of which there is for the time being in force a declaration by order by the Minister that the benefits of the provisions of any international convention to which this article relates apply to that country or territory;

(*b*) to such other aircraft as the Minister may by order specify.

PART V

SUPPLEMENTAL

Regulations and orders. *Amended by: XV. 2009.52.*

17. (1) Regulations and orders made under any of the provisions of this Act may contain such incidental and supplementary provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations or order.

(2) Power to make regulations or orders under any provision of this Act shall include power to revoke or vary any such regulations or orders, and any such revocation shall be without prejudice to the making of new regulations or orders.

(3) Regulations and orders made under any of the provisions of this Act may be made in the English language only.

Detention of aircraft. *Amended by: XV. 2009.52.*

18. Regulations or orders made under any of the provisions of this Act may provide for the detention of aircraft to secure compliance with any provision of this Act or of any regulations or order made thereunder, and may make such further provision as appears to the Minister to be necessary or expedient for securing such detention.

Extra-territorial effect. *Amended by: XV. 2009.52.*

19. (1) Notwithstanding that regulations or orders made under any of the provisions of this Act have effect only as part of the law of Malta, no provision contained in the regulation or order shall, on the grounds that it would have extra-territorial operation, be deemed to be invalid in so far as it applies to aircraft registered in Malta, wherever they may be, or prohibits, requires or regulates -

(*a*) the doing of anything by persons in, or any of the personnel of, such aircraft as aforesaid, wherever they may be, or

(*b*) the doing of anything in relation to such aircraft as aforesaid by other persons being citizens of Malta, wherever they may be.

(2) For the purposes of subarticle (1) the personnel of the aircraft shall be deemed to include the pilot or other person in charge of the aircraft, and all other members of the crew of the aircraft.

Offences by association or body of persons. *Amended by: XV. 2009.52.*

20. Where an offence under any of the provisions of this Act is committed by an association or body of persons, every person who, at the time of the commission of the offence, was a director, manager, secretary or other similar officer of such association or body of persons or was purporting to act in such capacity shall be guilty of that offence unless he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of the offence.

Repeal and saving. *Amended by: XV. 2009.52.*

[*] **21.** (1) Any provision of any Act of the Parliament of the United Kingdom of Great Britain and Northern Ireland relating to civil aviation and applied to, or having effect as part of the law of Malta immediately before the coming into force of this Act, and, save as hereinafter provided, any instrument made or having effect as if made thereunder, and having effect as aforesaid, shall, on the

coming into force of this article, cease so to have such effect or, as the case may require is hereby revoked.

(2) The instruments specified in subarticle (3) as in force immediately before the 2lst September, 1964 (including any amendments thereof) shall continue to have effect as part of the law of Malta as provided in article 11(1) of the Malta Independence Order, 1964:

Provided that -

(*a*) any reference therein to an authority being the authority by whom the instrument was made, and any reference to a minister or other authority of the Government of the United Kingdom, shall be construed as a reference to the Minister;

(*b*) any reference to the Governor shall be construed as a reference to the Minister; and

(*c*) whether or not the instrument could have been made under this Act, shall have effect as if made under this Act and may be varied or revoked accordingly.

(3) The instruments referred to in subarticle (2) are:

(*a*) The Carriage by Air (Non-International Carriage) (Colonies, Protectorates and Trust Territories) Order, 1953;

(*b*) The Carriage by Air (Colonies, Protectorates and Trust Territories) Order, 1953;

(*c*) The Civil Aviation (Investigation of Accidents) Regulations, 1956.

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*The references, in subarticle (3), to the Air Navigation (General) Regulations, 1950, the Air Navigation (Radio) Regulations, 1952, and the Colonial Air Navigation Order, 1961, have been omitted as the said enactments have been repealed by Legal Notice 176 of 1990.