

CHAPTER 641**AIR NAVIGATION ACT**

AN ACT to regulate Air Navigation.

1st January, 2024

[ACT XL of 2023.](#)

ARRANGEMENT OF ACT

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PART I**Preliminary**

1. The short title of this Act is the Air Navigation Act. Short title.
2. (1) Unless otherwise expressed by any other provision of this Act, or unless the context otherwise requires, the following definitions shall apply to air navigation in Malta: Interpretation.

"aerobatic flight" means manoeuvres intentionally performed by an aircraft involving abrupt change in its altitude, an abnormal altitude, or an abnormal variation in speed, not necessary for normal flight or for instruction for licences or ratings other than aerobatic rating; and the term "aerobatics" shall be interpreted accordingly;

"aerodrome" means a defined area, including any

buildings, installations and equipment, on land or water or on a fixed, fixed off-shore or floating structure intended to be used either wholly or in part for the arrival, departure and surface movement of aircraft;

"aerodrome control service" means air traffic control service for aerodrome traffic;

"aerodrome operating minima" in relation to the operation of an aircraft at an aerodrome means the cloud ceiling and runway visual range for take-off, and the decision height or minimum descent height, runway visual range and visual reference for landing, which are the minimum for the operation of that aircraft at that aerodrome and which are either specified by the operator or ascertainable by reference to the operations manual of that aircraft;

"aerodrome traffic" means all traffic on the manoeuvring area of an aerodrome and all aircraft flying in the vicinity of an aerodrome. An aircraft operating in the vicinity of an aerodrome includes but is not limited to, aircrafts entering or leaving an aerodrome traffic circuit;

"aerodrome traffic circuit" means the specified path to be flown by aircraft operating in the vicinity of an aerodrome;

"aerodrome traffic zone" means an airspace of defined dimensions established around an aerodrome for the protection of aerodrome traffic;

"aeronautical ground light" means any light established for the purpose of aiding air navigation, other than a light displayed on an aircraft;

"aeronautical radio station" means a radio station on the surface, which transmits or receives signals for the purpose of assisting aircraft;

"aeroplane" means a power-driven heavier-than-air aircraft, deriving its lift in flight chiefly from aerodynamic reactions on surfaces which remain fixed under given conditions of flight;

"Agency" means the European Union Aviation Safety Agency;

"aircraft" means any 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 and includes unmanned aircraft;

"aircraft operator" or "operator of an aircraft" means

any legal or natural person operating or proposing to operate one or more aircraft in accordance with the definition of "operator" in sub-article (3);

"air operator certificate (AOC)" means a certificate delivered to an undertaking confirming that the operator has the professional ability and organisation to ensure the safety of operations specified in the certificate, as provided in the relevant provisions of European Union or national law, as applicable;

"air service" means a flight or a series of flights carrying passengers, cargo and, or mail for remuneration and, or hire;

"air traffic control clearance" means authorisation for an aircraft to proceed under conditions specified by an air traffic control unit;

"air traffic control service" means a service provided for the purpose of:

- (a) preventing collisions:
 - (i) between aircraft; and
 - (ii) on the manoeuvring area, between aircraft and obstructions;
- (b) expediting and maintaining an orderly flow of air traffic;

"air traffic control unit" means the area control centre, the approach control unit or the aerodrome control tower;

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

"alternate aerodrome" means an aerodrome to which an aircraft may proceed when it becomes either impossible or inadvisable to proceed to or to land at the aerodrome of intended landing, where the necessary services and facilities are available, where the aircraft performance requirements can be met and which is operational at the expected time of use;

"altitude" means the vertical distance of a level, a point or an object considered as a point, measured from mean sea level (MSL);

"approach to landing" means that portion of the flight of the aircraft, when approaching land, in which it descends below a height of one thousand feet (1,000ft) above the relevant

specified decision height or the relevant minimum descent height;

"apron" means a defined area intended to accommodate aircraft for purposes of loading or unloading passengers, mail or cargo, fuelling, parking or maintenance;

"Aviation Appeals Board" means the Board established in terms of article 89;

"Basic Regulation" means Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91, as amended from time to time;

"cargo" includes mail and animals;

"certification" means any certificate, approval, licence, authorisation, attestation or other document issued as the result of a certification attesting compliance with the applicable requirements;

"Chicago Convention" means the Convention on International Civil Aviation signed at Chicago on the 7 December 1944;

"cloud ceiling" means the height above the ground or water of the base of the lowest layer of cloud below six thousand metres (6,000m) or twenty thousand feet (20,000ft) covering more than half the sky;

"commander" in relation to an aircraft means the member of the flight crew designated as commander of that aircraft by the operator thereof, or in default of such a person, the person who is for the time being the pilot in command of the aircraft;

"commercial air transport aircraft" means an aircraft flying, or intended by the operator to fly, for the purpose of commercial air transport;

"commercial air transport operation" means an aircraft operation for the purpose of transporting passengers, cargo or mail for remuneration or other valuable consideration and

which is required to be conducted under Part-CAT and Part-ORO and the term "commercial air transport" shall be construed accordingly;

"commercial operation" means the operation of an aircraft other than for public transport:

(a) which is available to the public or;

(b) which, when not made available to the public, is performed under a contract between an operator and a customer, where the latter has no control over the operator, but which in either case is made for remuneration or valuable consideration;

"commercial operation aircraft" means an aircraft other than a commercial air transport aircraft or public transport aircraft which flies or is intended by the operator to be flown, for the purposes of a commercial operation;

"common information service" means a service consisting in the collection and dissemination of static and dynamic data to enable the provision of U-space services for the management of traffic of unmanned aircraft;

"competent authority" means, in relation to Malta, the Civil Aviation Directorate of the Authority for Transport in Malta established in terms of the [Authority for Transport in Malta Act](#), and in relation to any other country, the authority responsible under the law of that country for promoting and regulating the safety of civil aviation;

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"congested area" in relation to a city, town or inhabited area, means any area which is substantially used for residential, industrial, commercial or recreational purposes;

"Contracting State" means any state, including Malta, which is a party to the Chicago Convention;

"co-pilot" in relation to an aircraft means a pilot who, in performing his duties is subject to the direction of another pilot in the same aircraft;

"crew" means every person employed or engaged in an aircraft in flight on the business of the aircraft, including cabin crew and any person carried on the flight deck whose role is to supervise the training, experience, practice and periodical tests required for the flight crew members;

"decision height" in relation to the operation of an aircraft at an aerodrome means the height in a precision approach at which a missed approach shall be initiated if the

required visual reference to continue that approach has not been established;

Cap. 499. "Directorate" means the Civil Aviation Directorate within the Authority for Transport in Malta as established by the [Authority for Transport in Malta Act](#);

Cap. 499. "Director General" means the Director General for Civil Aviation responsible for the Civil Aviation Directorate of the Authority for Transport in Malta as established in terms of the [Authority for Transport in Malta Act](#) and, to the extent of the authority given to him, any person authorised by the Director General to act on his behalf;

"EEA Agreement" means the Agreement on the European Economic Area signed at Oporto on the 2nd May 1992 as adjusted by the Protocol signed at Brussels on the 17th March 1993;

"EEA State" means a State which is a contracting party to the EEA Agreement;

"EASA aircraft" means an aircraft that is subject to the provisions of the Basic Regulation, together with the Implementing Regulations made thereunder;

"EASA Aircrew Regulation" means the Commission Regulation (EU) No 1178/2011 of 3 November 2011 laying down technical requirements and administrative procedures related to civil aviation aircrew pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council;

"EASA Part-21 Permit to Fly" means a permit to fly issued in accordance with Annex I of the Commission Regulation (EU) No 748/2012 of 3 August 2012 laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production organisations;

"flight" and "to fly" shall have the same meaning respectively assigned to them by sub-article (2);

"flight crew member" means a licensed crew member charged with duties essential to the operation of an aircraft during a flight duty period and includes the pilot, co-pilot, flight navigator, flight engineer and flight radiotelephony operator of the aircraft. The phrases "member of the flight crew" and "members of the flight crew" shall be construed accordingly;

"flight level" means a surface of constant atmospheric pressure which is related to a specific pressure datum of 1013,2

hectopascals (hPa) and is separated from other such surfaces by specific pressure intervals;

"flight plan" means specified information provided to air traffic services units, relative to an intended flight or portion of a flight of an aircraft;

"flight recording system" means a system comprising either a flight data recorder or cockpit voice recorder or both;

"flight simulator" means apparatus by means of which flight conditions in an aircraft are simulated on the ground, including flight training devices, flight and navigation procedures trainers, and basic instrument training devices;

"flying machine" means an aeroplane, a powered lift tilt rotor aircraft, a helicopter, a self-launching motor glider, or a gyroplane;

"height" means the vertical distance of a level, a point or an object considered as a point, measured from a specified datum;

"helicopter" means a heavier-than-air aircraft supported in flight chiefly by the reactions of the air on one or more power-driven rotors on substantially vertical axes;

"IFR flight" means a flight conducted in accordance with IFR rules;

"instructor's rating" means a flight instructor certificate, a flight instructor (restricted) certificate, a flight instructor rating (aeroplane), a flight instructor rating (helicopter), a type rating instructor rating (multi-pilot aeroplane), a type rating instructor rating (helicopter), a class rating instructor rating (single pilot aeroplane), an instrument rating instructor rating (aeroplane) or an instrument rating instructor rating (helicopter) or any instructor certificate issued in accordance with Part-FCL;

"instrument flight rules" or "IFR Rules" means Instrument Flight Rules contained in the Standardised European Rules of the Air (SERA), Implementing Regulation (EU) No. 923/2012 of 26 September 2012 laying down the common rules of the air and operational provisions regarding services and procedures in air navigation and amending Implementing Regulation (EU) No. 1035/2011 and Regulations (EC) No. 1265/2007, (EC) No. 1794/2006, (EC) No. 730/2006, (EC) No. 1033/2006 and (EU) No. 255/2010;

"just culture" means a culture in which front-line

operators or other persons are not punished for actions, omissions or decisions taken by them that are commensurate to their experience and training, but in which gross negligence, wilful and destructive acts are not tolerated;

"Just Culture Monitoring Group" means a group established in accordance with article 76(2);

"level" means a generic term relating to the vertical position of an aircraft in flight and meaning variously, height, altitude or flight level;

"licence" includes any certificate of competency or certificate of validity or revalidation issued with the licence or required to be held in connection with the licence in accordance to the law of the country in which the licence is granted, including Malta;

"licence for public use" shall have the meaning as assigned to it in article 75(4);

"licensed aerodrome" means an aerodrome licensed in accordance with this Act;

"life-jacket" includes any device designed to support a person individually in or on the water;

"logbook" in the case of an aircraft logbook, engine logbook or variable pitch propeller logbook, or personal flying logbook includes any record kept either in a book or by other means approved by the Director General in a particular case;

"maintenance" means in relation to an aircraft any one or a combination of: overhaul, repair, inspection, replacement, modification or defect rectification of an aircraft or component, with the exception of pre-flight inspection;

"maximum take-off mass" in relation to an aircraft means the maximum total mass of the aircraft and its contents at which the aircraft may take off anywhere in the world, in the most favourable circumstances and in accordance with the certificate of airworthiness in force in respect of the aircraft;

"mean sea level (MSL)" means the average height of the sea's surface over all stages of the tide over a period of time;

"military aircraft" includes the naval, military or air force aircraft of any country and any aircraft in respect of which there is in force a certificate issued by the Minister that the aircraft is to be treated, for the purpose of this Act, as a military aircraft;

"minimum descent height" in relation to the operation of an aircraft at an aerodrome means the height in a non-precision approach below which descent may not be made without the required visual reference;

"Minister" means the Minister responsible for civil aviation and, to the extent of the authority given any person authorised by the Minister to exercise the functions on his behalf in accordance to this Act;

"model aircraft" means an unmanned aircraft, other than a toy aircraft, having an operating mass not exceeding limits prescribed by the Directorate, that is capable of sustained flight in the atmosphere and that is used exclusively for display or recreational activities;

"navigation services" includes information, directions and other facilities furnished, issued or provided in connection with the navigation and movement of aircraft and includes the control of movement of vehicles in any part of an aerodrome used for the movement of an aircraft;

"night" means the hours between the end of evening civil twilight and the beginning of morning civil twilight. Civil twilight ends in the evening when the centre of the sun's disc is six degrees (6°) below the horizon and begins in the morning when the centre of the sun's disc is six degrees (6°) below the horizon;

"Non-EASA aircraft" means an aircraft that is subject to national regulation for matters such as air operations, airworthiness and aircrew licensing and training and which falls outside the scope of the Basic Regulation in accordance with Article 2(3) of the said Regulation (Annex II aircraft as it was previously). The aircraft referred to in Article 6(4) of the said Regulation shall also be treated as non-EASA aircraft, and any notion in this Act followed by the term "non-EASA" shall be construed in the same way;

"non-precision approach" means an instrument approach using non-visual aids for guidance in azimuth or elevation but which is not a precision approach;

"notified" means published in any of the following publications issued in Malta whether before or after the coming into force of this Act, namely, "NOTAMS (notice to airmen)", "Information Circulars", or such other official publication issued by the Directorate for the purpose of enabling any of the provisions of this Act to be complied with;

"occurrence" means any safety related event which

endangers or which, if not corrected or addressed, could endanger an aircraft, its occupants or any other person and includes in particular an accident or serious incident;

"operator" shall have the same meaning as assigned to it in sub-article (3);

"organisation" means any organisation providing aviation products and, or which employs, contracts or uses the services of persons required to report occurrences under Regulation (EU) No 376/2014 of the European Parliament and of the Council of 3 April 2014 on the reporting, analysis and follow-up of occurrences in civil aviation, amending Regulation (EU) No 996/2010 of the European Parliament and of the Council and repealing Directive 2003/42/EC of the European Parliament and of the Council and Commission Regulations (EC) No 1321/2007 and (EC) No 1330/2007;

"parascending parachute" means a parachute which is towed by cable in such a manner as to cause it to ascend;

"Part-66" means Annex III to Commission Regulation (EU) No. 1321/2014 of 26 November 2014 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks;

"Part-145" means Annex II to Commission Regulation (EU) No. 1321/2014 of 26 November 2014 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks;

"Part-CAMO" means Annex Vc to Commission Regulation (EU) No. 1321/2014 of 26 November 2014 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks;

"Part-CAO" means Annex Vd to Commission Regulation (EU) No. 1321/2014 of 26 November 2014 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks;

"Part-CAT" means Annex IV to Commission Regulation (EU) No. 965/2012 of 5 October 2012 laying down technical requirements and administrative procedures related to air operations pursuant to Regulation (EC) No. 216/2008 of the European Parliament and of the Council;

"Part-M" means Annex I to Commission Regulation (EU) No. 1321/2014 of 26 November 2014 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks;

"Part-ML" means Annex Vb to Commission Regulation (EU) No. 1321/2014 of 26 November 2014 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks;

"Part-ORO" means Annex III to Commission Regulation (EU) No. 965/2012 of 5 October 2012 laying down technical requirements and administrative procedures related to air operations pursuant to Regulation (EC) No. 216/2008 of the European Parliament and of the Council.

"passenger" means a person other than a member of the crew of an aircraft;

"pilot in command" means the pilot designated by the operator, or in the case of general aviation, the owner, as being in command and charged with the safe conduct of a flight;

"precision approach" means an instrument approach using precision lateral and vertical guidance with minima as determined by the category of operation;

"pressurised aircraft" means an aircraft provided with means of maintaining in any compartment a pressure greater than that of the surrounding atmosphere;

"private aircraft" means an aircraft which is not a commercial operation aircraft, public transport aircraft or a commercial air transport aircraft;

"psychoactive substance" means alcohol, opioids, cannabinoids, sedatives and hypnotics, cocaine, other psychostimulants, hallucinogens, volatile solvents and substances or drugs referred to in the [Dangerous Drugs Ordinance](#), whereas caffeine and tobacco are excluded;

Cap. 101.

"public transport" means an aircraft flying under the following conditions:

- (a) where the flight is not a commercial air transport operation and payment or reward is given or promised for the carriage of passengers or cargo on that flight; or
- (b) where the flight is not a commercial air

transport operation and any passengers or cargo are carried gratuitously in the aircraft on that flight by an air transport undertaking, except persons in the employment of the undertaking, including in the case of a body corporate its directors, persons authorised by the Director General to make an inspection or witness any training practice or test for any of the purposes of this Act, and cargo intended to be used by any such passengers as aforesaid or by the undertaking:

Provided that an aircraft in flight shall not be deemed to fly for the purpose of public transport if the direct costs of the flight are shared proportionately between the persons on board the aircraft and:

(i) no more than four (4) persons, including the pilot, are carried on such flight,

(ii) no person acting as a pilot on such a flight shall be employed as a pilot by or be a party to a contract for the provision of services as a pilot with the operator of the aircraft being flown on the flight, and

(iii) no information concerning the flight shall have been published or advertised prior to the commencement of the flight;

For this purpose, "direct costs" means, in respect of a flight, the costs actually and necessarily incurred in connection with that flight without a view to profit but excluding any remuneration payable to the pilot for his services as such:

Provided further that where under a transaction effected by or on behalf of a member of an association of persons on the one hand and the association of persons or any member thereof on the other hand, a person is carried in, or is given the right to fly, an aircraft in such circumstances that payment or reward would be given or promised if the transaction were effected otherwise than aforesaid, payment or reward shall, for the purposes of this Act, be deemed to have been given or promised, notwithstanding any rule of law that applies to such transactions;

"public transport aircraft" means an aircraft flying or intended by the operator of the aircraft to fly, for the purpose of public transport;

"qualified entity" means an accredited legal or natural person which may be charged with certain certification or oversight tasks under this Act by and under the control and

responsibility of the Directorate;

"radiotelephony" means a form of radiocommunication primarily intended for the exchange information in the form of speech;

"record" includes in addition to a record in writing:

(a) any disc, tape, sound-track or other device in which sounds or signals are embodied so as to be capable, with or without the aid of some other instruments, of being reproduced therefrom;

(b) any film tape or other device in which visual images are embodied so as to be capable, as aforesaid, of being reproduced therefrom; and

(c) any photograph, and any reference to a copy of a record includes, in the case of a record falling within paragraph (a) only of this definition, a transcript of the sounds or signals embodied therein; in the case of a record falling within paragraph (b) only of this definition, a still reproduction of the images embodied therein; and in the case of a record falling within both these paragraphs above, such a transcript together with such a still reproduction;

"regulatory instrument" means such instruments issued in terms of article 5 which shall include any order, directive, protocol, guideline, explanatory memorandum, information circular, including notices to airmen, or other publication issued by the Director General to the general public or to any one operator or class of operators;

"replacement" in relation to any part of an aircraft or its equipment includes the removal and replacement of that part whether or not by the same part, and whether or not any work is done on it, but does not include the removal and replacement of a part which is designed to be removable solely for the purpose of enabling another part to be inspected, repaired, removed or replaced for cargo to be loaded;

"restricted area" means an airspace of defined dimensions, above the land areas or territorial waters of Malta, within which the flight of aircraft is restricted in accordance with conditions specified by the Directorate;

"runway" means a defined rectangular area on a land aerodrome prepared for the landing and take-off of aircraft;

"runway visual range" means the range over which the

pilot of an aircraft on the centre line of a runway can see the runway surface markings or the lights delineating the runway or identifying its centre line;

S.L. 499.22.

"safety investigation authority" means the permanent national civil aviation safety investigation authority conducting or supervising safety investigations as referred to in Article 4 of Regulation (EU) No. 996/2010 of the European Parliament and of the Council of 20 October 2010 on the investigation and prevention of accidents and incidents in civil aviation and repealing Directive 94/56/EC, this being the [Bureau of Air Aircraft Investigation established by the Civil Aviation \(Investigation of Air Accidents and Incidents\) Regulations](#);

"sailplane" means a heavier-than-air aircraft which is supported in flight by the dynamic reaction of the air against its fixed lifting surfaces, the free flight of which does not depend on an engine, including also hang gliders, paragliders and other comparable aircraft;

"service provider" is to be interpreted broadly but for the purposes of Part IX means any legal or natural person providing functions or services of air traffic management and, or air navigation services and other air traffic management network functions either individually or bundled for general air traffic;

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

"State aircraft" means aircraft used for the purposes of the military, customs or police, search and rescue, fire-fighting and coastguard services;

"to land" in relation to aircraft includes alighting on water;

"toy aircraft" means an unmanned aircraft designed or intended for use, being a toy within the meaning of Directive 2009/48/EC of the European Parliament and of the Council of 18 June 2009 on the safety of toys;

"UAS geographical zone" means a portion of airspace established by the Directorate that facilitates, restricts or excludes UAS operations in order to address risks pertaining to safety, privacy, protection of personal data, security or the environment, arising from UAS operations;

"unmanned aircraft" means any aircraft operating or designed to operate autonomously or to be piloted remotely

without a pilot on board;

"unmanned aircraft system (UAS)" means an unmanned aircraft and the equipment to control it remotely;

"unmanned free balloon" means a non-power-driven, unmanned, lighter-than-air aircraft in free flight;

"U-space airspace" means a UAS geographical zone designated by Member States, where UAS operations are only allowed to take place with the support of U-space services;

"U-space service" means a service relying on digital services and automation of functions designed to support safe, secure and efficient access to U-space airspace for a large numbers of UAS;

"VFR flight" means a flight conducted in accordance with the visual flight rules;

"Visual Flight Rules (VFR)" means visual flight rules conducted in accordance with the Standardised European Rules of the Air (SERA), Implementing Regulation (EU) No. 923/2012 of 26 September 2012 laying down the common rules of the air and operational provisions regarding services and procedures in air navigation and amending Implementing Regulation (EU) No. 1035/2011 and Regulation (EC) No. 1265/2007, (EC) No. 1794/2006, (EC) 730/2006, (EC) No. 1033/2006 and (EU) No. 255/2010;

"visual meteorological conditions (VMC)" means meteorological conditions expressed in terms of visibility, distance from cloud, and ceiling, equal to or better than specified minima;

(2) Any definition contained in this Act or adopted in any regulatory instrument shall be interpreted in line with European and international standard definitions as amended from time to time;

(3) Any definition of a notion within the aeronautical sector which is not contained in this Act shall, if a question as to its interpretation arises, be regulated by the same standard definitions as mentioned above;

(4) For the purposes of this Act, an aircraft shall be deemed to be in flight:

(a) in the case of a piloted flying machine, from the moment when after the embarkation 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;

(b) in the case of a pilotless flying machine, or a glider, from the moment when it first moves for the purpose of taking off until the moment when it comes to rest after landing;

(c) in the case of an airship or free balloon, from the moment when it first becomes detached from the surface until the moment when it next becomes attached thereto or comes to rest thereon;

and the expressions "flight" and "to fly" shall be construed accordingly.

(5) References in this Act to the operator of an aircraft are, for the purposes of the application of any provision of this Act in relation to any particular aircraft, references to the person who at the relevant time has the management or control of the operations of that aircraft.

(6) In this Act, any reference to European Union Regulations, such as the Basic Regulation, shall include a reference to the Implementing Rules made thereunder and as interpreted in light of the Certification Specifications, Acceptable Means of Compliance and Guidance Material issued by the Agency.

(7) For the purpose of this Act, any reference:

(a) to European Union Regulations or its legislative acts shall include a reference to those Regulations as amended, varied or substituted from time to time;

(b) to Malta's international obligations shall mean obligations assumed by Malta under international law and European Union legislation.

(8) Any licences, certificates or permits issued in terms of this Act may be issued in an electronic format which the Director General may determine by regulatory instrument.

(9) In case of conflict between the Maltese text and English text of this Act, the English text shall prevail.

(10) Any rules or regulations made pursuant to any provision of this Act shall be made in the Maltese language and in the English language; however where in exceptional cases the use of the Maltese language would be difficult due to technical terminology, such rules or regulations may be made in the English language only.

PART II

Scope and Functions of the Competent Authority

3. There shall be charged for the issue of any licence, authorisation or other document, including any certificates or other documents issued by the competent authority under the [Authority for Transport in Malta Act](#) and the [Aircraft Registration Act](#), and also including the issue of a copy thereof, or the undergoing of any examination, test, inspection or investigation or the grant of any permission or approval, required by, or for any of the purposes of this Act, the fees established by the Director General through regulatory instruments which are to be made public.

Fees.

Cap. 499.

Cap. 503.

4. (1) The Directorate shall be the competent authority charged with the exclusive right to regulate the navigation of aircraft over the Maltese airspace and the technical compliance requirements for aircraft registered in Malta and their operation.

Functions of Directorate.

(2) The Directorate shall ensure that Malta acts consistently in conformity with the obligations placed on Malta under the Chicago Convention, including its Annexes and Standards and Recommended Practices.

(3) The Directorate shall ensure that European Union Regulations in the field of aviation safety are applied consistently, without discriminating against citizens of the European Union and of EEA States, and in accordance with accepted international standards and guidance material issued by the Agency.

(4) The Directorate shall ensure the safe operation of aircraft that fall outside the scope of the Basic Regulation, having regard however to the limited risk they pose to civil aviation safety and the lighter regulatory regime accorded to them by the said Regulation.

(5) The Directorate shall ensure that applicable aircraft and their engines, propellers, parts and non-installed equipment comply with the environmental protection requirements contained in Annex 16 to the Chicago Convention as regards noise and emissions compliance.

(6) The Directorate shall ensure continued monitoring of operations under its own safety oversight and responsibility and ensure proper coordination with other competent authorities where responsibilities are shared or when sharing of safety information is required.

(7) The Directorate shall establish a reporting system to facilitate the collection of details of reported occurrences and their analysis in order to identify the associated safety hazards and take any preventive and corrective action required for safety improvement, as deemed necessary.

(8) The Directorate shall cooperate in the fullest manner with the national aviation authorities of other Contracting States as well as the Agency and shall, for this purpose, adopt adequate internal

measures for the communication of information which it is required to exchange in accordance with European Union Regulations and the Chicago Convention.

Powers of
Directorate to issue
regulatory
instruments.

5. (1) The Director General shall have the power, with the consent of the Minister, to issue such regulatory instruments which, at his discretion, are required for the discharge of the Directorate's functions under this Act and which ensure adequate safety standards within the aviation industry.

(2) (a) The content of a regulatory instrument may amplify or derogate, in part or in whole, from any provision contained within this Act, and may even apply solely to one case or to a class of cases:

Provided that a regulatory instrument may also be limited to a geographic zone or to such periods of time as the Director General deems fit;

(b) Without prejudice to all other powers of the Directorate, a regulatory instrument may regulate the imposition of administrative penalties by the Directorate for the breach by any person of any provision of this Act or of a regulatory instrument made under it, as well as for the breach by any person of European Union legislation which falls to be enforced by the Directorate, such as but not limited to, the Reporting Regulation referred to in Part XI:

Provided that the administrative penalties imposed by regulatory instrument and imposed by the Directorate shall in all cases be proportionate to the severity of the respective breach. Such administrative penalties and any other administrative penalty imposed by the Directorate in terms of this Act shall be subject to an appeal before the Aviation Appeals Board.

(3) Regulatory instruments shall include any order, directive, protocol, guideline, explanatory memorandum, information circular, including notices to airmen, or other publication issued by the Director General to the general public or to any one operator or class of operators:

Provided that all regulatory instruments shall be published on the Directorate's online portal and may be used as measures for the enforcement of any requirement which is to be enforced by or under the provisions of this Act.

(4) Regulatory instruments shall have the force of law and be binding in their entirety, and any person who fails to comply with a regulatory instrument shall be guilty of an offence against this Act, unless such regulatory instrument provides for the imposition of an administrative penalty by the Directorate for any failure of compliance.

(5) The Directorate shall be endowed with all the powers of search, investigation and enforcement as are necessary to ensure that an operator does not breach the provisions of this Act or any regulatory instrument made under it. In particular, the Directorate shall, through its authorised personnel, have the power to:

(a) carry out searches, audits, assessments, investigations and inspections on aircraft, operator and organisation facilities, on service providers, aerodromes, aprons, hangarage areas of any aerodrome, aerodrome facilities and apron management service provider facilities;

(b) order that a particular aircraft shall not fly, subject to such conditions as it deems fit;

(c) close any part of the Maltese airspace and prevent air traffic from entering said airspace;

(d) establish restricted areas, subject to those conditions as it deems fit;

(e) establish UAS geographical zones, subject to those conditions it deems fit;

(f) order any object, creature or person to be offloaded or disembarked from any aircraft;

(g) carry out such tests on flight crew and crew pursuant to the applicable EU Regulations and on any other persons present at an aerodrome for the determination of whether alcohol and psychoactive substances have been consumed by such persons;

(h) require any representative, manager or other member of the personnel of an operator or service provider to provide oral explanations on any fact, document, or other subject matter relevant to the oversight of that operator or service provider;

(i) enter any premises or land, including operating sites and means of transport of an operator or service provider;

(j) examine, copy or make extracts from any document, record or data held by or made accessible to an operator or service provider, irrespective of the medium on which the information in question is stored and whether that information constitutes a trade secret;

(k) take or initiate any appropriate enforcement measure to ensure that operators or service providers, licence, certificate or approval holders continue to comply with the requirements of this Act or any regulatory instrument made

under it;

(1) limit, suspend or revoke the approval, certificate or licence of a holder when the holder no longer complies with the rules and procedures for the issuing and maintaining of such approval, certificate or licence in accordance with this Act or any regulatory instrument made under it.

(6) For the purposes of enforcement, the Directorate may issue in writing and serve upon any person, without the need to have recourse to the courts and without the prior need to receive submissions from any person:

(a) an "enforcement order" requesting that person to do anything required by this Act or any regulatory instrument made under it, or anything which is otherwise required by a European Union regulation; or

(b) a "cease and desist order" requesting that person to cease from doing anything which is prohibited by or which otherwise infringes the provisions of this Act, of any regulatory instrument made under it, or of any European Union Regulation.

(7) The issue of an enforcement order or a cease and desist order shall be without prejudice to the criminal action brought against any person guilty of an offence under this Act, as well as any provisional, consequential or accessory order which the court hearing such criminal action may adopt in any decree or judgment.

(8) Where a person, on whom an enforcement order or a cease and desist order has been served, fails to immediately comply with such order, the Directorate may impose a daily administrative penalty upon such person, of no less than ten euro (€10) per day and not more than one thousand euro (€1000) per day, for the period throughout which the breach persists:

Provided that where such a person is a body or other association of persons, whether corporate or incorporate, the Directorate may impose an additional daily administrative penalty as aforesaid upon any manager, secretary, director or other person responsible for the management of such body or association of persons.

(9) Without prejudice to the power of the Directorate to issue an enforcement order or a cease and desist order under this article, the Directorate shall have the power to disencumber, remove, lower or mark any obstacle, including any permanent or temporary structure or building or object of natural growth, present within the lateral and vertical limits of an aerodrome traffic zone and which presents a hazard to aerodrome traffic:

Provided that where such action requires the entry of officers onto private land, it shall be carried out by the officers of the Directorate acting jointly with the Executive Police.

6. (1) Except where the context otherwise requires, the provisions of this Act shall apply: Applicability.

(a) to aircraft registered in Malta and their crew, wherever they may be;

(b) to such other aircraft that are within the Maltese territory, whatever their country of registration may be.

(2) Without prejudice to the power of the Directorate to oversee and monitor airworthiness, the correct maintenance of aircraft and the safety of air navigation, this Act shall not apply to State aircraft, including their engines, propellers, parts, non-installed equipment and equipment to control aircraft remotely, and the personnel and organisations involved in the activities and services performed by those aircraft.

(3) The power of the Director General to regulate under this Act shall extend to all aircraft, of whatever nature, whether required to be registered or not in terms of the provisions of this Act or such other law which may be in force in Malta. In particular, the Director General may by regulatory instrument decide which provisions of this Act, or such other conditions issued under it, shall apply to any of the following:

(a) balloons, whether tethered or untethered;

(b) model and toy aircraft;

(c) kites;

(d) unmanned aircraft, unmanned free balloons or unmanned aircraft systems;

(e) parachutes including a parascending parachute;

(f) paragliders.

(4) Having regard to the Basic Regulation and without prejudice to the terms thereof, the Director General may decide to exempt from the Basic Regulation the design, production, maintenance and operational activities of one or more of the following categories of aircraft, as long as for certification, licence or approval is issued in accordance with this Act or any regulatory instrument made under it:

(a) aeroplanes, other than unmanned aeroplanes, which have not more than two seats, measurable stall speed or minimum steady flight speed in landing configuration not

exceeding forty-five (45) knots calibrated air speed (CAS) and a maximum take-off mass (MTOM), as recorded by the Member State, of not more than six hundred kilograms (600kg) for aeroplanes not intended to be operated on water or six hundred and fifty kilograms (650kg) for aeroplanes intended to be operated on water;

(b) helicopters, other than unmanned helicopters, which have not more than two seats and a maximum take-off mass, as recorded by the Member State, of not more than six hundred kilograms (600kg) for helicopters not intended to be operated on water or six hundred and fifty kilograms (650kg) for helicopters intended to be operated on water;

(c) sailplanes, other than unmanned sailplanes, and powered sailplanes, other than unmanned powered sailplanes, which have not more than two seats and a maximum take-off mass, as recorded by the Member State, of not more than six hundred kilograms (600kg).

Nationality and
registration.

7. (1) No aircraft shall be permitted to fly over Malta unless it is registered in:

(a) a Contracting State;

(b) some other country in relation to which there is in force an agreement between the Government of Malta and the Government of that country which makes provision for the flight over Malta of aircraft registered in that country;

Provided that and without prejudice to anything provided by the Director General in terms of sub-article (3) of article 6:

(a) model and toy aircraft, non-EASA kites with a weight of not more than two kilograms (2kg) and non-EASA captive balloons may fly unregistered over the Maltese territory, subject to any geographic, height or other limitation imposed on their operation by regulatory instruments issued under this Act;

(b) a non-EASA sailplane may fly unregistered on any flight which begins and ends in Malta without passing over any other country, and which flight is not made for the purpose of public transport or commercial air transport;

(c) in the case of unmanned aircraft or unmanned aerial systems, the Director General shall decide whether these can fly unregistered but subject to any other law in force in Malta. Their flight may in all cases be subjected to such geographical, height or other limitation imposed on their operation as the Director General may deem fit;

(d) in the case of unmanned aircraft or unmanned aerial systems, the Director General may require adequate minimum insurance to cover liability of operators of such aircraft or systems.

(2) If an aircraft flies over Malta in contravention of sub-article (1) in such manner or circumstances that if the aircraft had been registered in Malta an offence against this Act or any regulations made thereunder would have been committed, the said offence shall be deemed to have been committed in respect of the said aircraft.

8. An aircraft, other than an aircraft permitted by or under this Act to fly without being registered, shall not fly unless it bears painted thereon and affixed thereto, in the manner required by the law of the country in which it is registered, the nationality and registration marks required by that law.

Nationality and registration marks.

PART III

Airworthiness and Equipment of Aircraft

9. (1) An aircraft shall not fly unless there is in force in respect thereof a certificate of airworthiness duly issued or rendered valid under the law of the country in which the aircraft is registered, and any conditions subject to which the certificate was issued or rendered valid are complied with:

Certificate of airworthiness required.

Provided that the foregoing prohibition shall not apply to:

(a) flights beginning and ending in Malta, without passing over any other country, of:

(i) a non-EASA balloon, provided it is not being used for purposes of public transport or commercial operation;

(ii) a non-EASA kite;

(iii) a non-EASA sailplane flying on a private flight;

(iv) an aircraft flying in accordance with the conditions of a national permit to fly issued by the Director General in respect of that aircraft, saving the right of that aircraft to exit the Maltese airspace once authorised to fly over and land in another country in accordance with its laws;

(v) an aircraft flying in accordance with an EASA Part-21 permit to fly issued or approved by the Director General in respect of that aircraft;

(vi) such other aircraft as the Director General

may decide;

(b) flights beginning or ending in Malta or aircraft flying for the purpose of continuing transit with a national permit to fly issued by a Contracting State and rendered valid in accordance with the conditions of a permit to fly accepted or approved by the Director General in respect of that aircraft.

(2) The general prohibition in sub-article (1) shall not apply to:

(a) the flights by an aircraft flying in accordance with an EASA Part-21 permit to fly which permits the aircraft to fly outside the airspace of the issuing Member State;

(b) the flights of a Maltese registered aircraft for which a specific authorisation has been granted by the Director General.

(3) In the case of an EASA aircraft registered in Malta, the certificate of airworthiness referred to in sub-article (1) shall be an EASA certificate of airworthiness issued by the Directorate.

(4) For the purposes of sub-article (1) a certificate of airworthiness shall include:

(a) an EASA restricted certificate of airworthiness and an EASA restricted noise certificate issued by the Directorate; and

(b) an EASA restricted certificate of airworthiness and an EASA restricted noise certificate issued by the competent authority of a Member State other than Malta which permits the aircraft to fly outside the airspace of the issuing Member State.

EASA certificate
of airworthiness.

10. (1) The Director General shall issue in respect of an EASA aircraft registered in Malta an EASA certificate of airworthiness, upon an application by the operator of that aircraft and upon the applicable requirements being met.

(2) For an EASA certificate of airworthiness to be issued by the Directorate in respect of an aircraft, the airframe, engines or any part and equipment necessary for the airworthiness of the aircraft shall:

(a) comply with the provisions of the Basic Regulation and any implementing rules made under that Regulation which would apply as if it were an EASA aircraft for the purposes of those rules;

(b) comply with any of the Directorate's requirements issued under article 5;

(c) comply with any operational or airworthiness directive made mandatory by the Directorate following satisfactory completion and certification of an inspection, maintenance or modification carried out in respect of that aircraft;

(d) comply with the environmental protection requirements contained in Annex 16 to the Chicago Convention applicable at the time.

11. In the case of a non-EASA aircraft registered in Malta, the Directorate may issue a national certificate of airworthiness upon an application, if it is satisfied that the aircraft is fit to fly having regard to:

National certificate of airworthiness.

(a) the design, construction workmanship and materials of the aircraft, including in particular any engines fitted in the aircraft, and of any equipment carried in the aircraft which the Directorate considers necessary for the airworthiness of the aircraft;

(b) the results of flying trials, and such other tests of the aircraft and its systems as the Directorate may require;

(c) the conformity of the built aircraft to design standards or specifications approved by the Directorate;

(d) the weight and balance report including a loading schedule;

(e) the manuals and placarding required by the manufacturer of the aircraft;

(f) noise certification, as applicable.

12. (1) An aircraft registered in Malta, in respect of which a national certificate of airworthiness has been issued by the Directorate, shall:

Conditions relating to national certificates of airworthiness.

(a) be managed, in so far as its continuing airworthiness is concerned, by an appropriately approved continuing airworthiness management organisation referred to in article 21 or other authorised person complying with the specific requirements issued by the Directorate under article 5;

(b) be maintained in accordance with a maintenance schedule or maintenance programme approved by the Director General in relation to that aircraft, its engines, parts and equipment;

(c) in the case of an aircraft with a national certificate of airworthiness, which has a maximum total weight authorised

of two thousand seven hundred and thirty kilograms (2,730kg) or less and which is not a commercial air transport aircraft or a public transport aircraft, be maintained in accordance with a maintenance programme declared by the owner of the aircraft in accordance with guidance issued by the Directorate;

(d) in the case of a used aircraft, be subjected to an airworthiness review to be performed by either one of the following:

(i) the Directorate;

(ii) an approved continuing airworthiness management organisation; or

(iii) an authorised person complying with any specific requirements made by the Directorate under article 5.

(2) Where a national certificate of airworthiness has been issued by the Directorate in respect of an aircraft, that aircraft must:

(a) comply with any requirements issued by the Directorate under article 5;

(b) comply with any operations or airworthiness directive issued under article 13 made mandatory by the Directorate following satisfactory completion and certification of an inspection, maintenance or modification carried out in respect of that aircraft;

(c) comply with any measures ordered by the Director General in an immediate reaction to a safety problem.

(3) A national certificate of airworthiness issued in accordance with sub-article (1) shall be valid for a period to be indicated by the Director General.

(4) If the Director General has issued a national certificate of airworthiness for an aircraft which, in his opinion, is a prototype aircraft or a modification of a prototype aircraft, he may dispense with flying trials in the case of any other aircraft if he is satisfied that the other aircraft conforms to such prototype or modification.

(5) Every national certificate of airworthiness shall specify the purpose for which the aircraft may be flown, and shall further specify such categories as are, in the opinion of the Director General, appropriate to the aircraft in accordance with Schedule 3, and the certificate shall be issued subject to the condition that the aircraft shall be flown only for the purposes indicated in the said Schedule in relation to those categories.

(6) The Director General may issue a national certificate of airworthiness subject to such other conditions he deems appropriate relating to the airworthiness of the aircraft.

(7) The Director General may, subject to such conditions as he deems fit, issue a certificate of validation rendering valid for the purposes of this Act the national certificate of airworthiness of an aircraft issued under the law of any country other than Malta, after he has verified that the certificate of airworthiness was issued in accordance with the law of that other country and that the aircraft presently observes the conditions contained within that certificate.

13. (1) An airworthiness directive means a document issued or adopted by the Director General which orders a specific action to be performed on an aircraft to restore it to an acceptable level of safety, whenever evidence shows that the safety level of this aircraft may be compromised.

Airworthiness
directive.

(2) The Director General may issue an airworthiness directive to address an immediate safety problem not related to type design pursuant to Article 70 of the Basic Regulation for those aircraft, products and parts covered by that Regulation and its implementing rules.

(3) In the case of non-EASA aircraft, the Director General shall issue an airworthiness directive when:

(a) an unsafe condition has been determined by EASA or another competent design authority to exist in an aircraft, as a result of a deficiency in the aircraft, or an engine, propeller, part or appliance installed on that aircraft, or as a result of improper maintenance or manufacturing practices and certification; and

(b) that unsafe condition is likely to exist or develop in other aircraft.

(4) An airworthiness directive shall contain at least the following information:

(a) an identification of the unsafe condition;

(b) an identification of the affected aircraft;

(c) the action required;

(d) the compliance time for the required action;

(e) the date of entry into force of the said airworthiness directive.

(5) An airworthiness directive ceases to have effect if:

(a) it is withdrawn by the Director General; or

(b) it is revoked by the Director General following a finding, made in accordance with Article 70 of the Basic Regulation, that the airworthiness directive is found not to be justified.

(6) An aircraft in respect of which an airworthiness directive has been issued shall not fly unless and until that directive is complied with or revoked.

Repairs and
modifications.

14. (1) Repairs and changes, or modifications to the type design of EASA aircraft registered in Malta shall be approved in accordance with the Basic Regulation and its implementing rules.

(2) Repairs and modifications of non-EASA aircraft registered in Malta qualifying for or having a valid national certificate of airworthiness or restricted national certificate of airworthiness shall be approved or accepted in accordance with any specific requirements issued by the Directorate under article 5.

Validity of national
certificate of
airworthiness.

15. A national certificate of airworthiness becomes invalid if:

(a) it has expired;

(b) it is suspended or revoked by the Director General;

(c) an airworthiness review of the aircraft is inconclusive;

(d) the aircraft ceases to be registered in Malta.

Prohibition to fly
in certain
circumstances.

16. An aircraft with a national certificate of airworthiness shall not fly if:

(a) the continuing airworthiness of the aircraft or any component fitted to the aircraft does not meet the applicable requirements;

(b) the aircraft does not remain in conformity with the type design or standard validated by the Directorate;

(c) the aircraft has been operated beyond the limitations of the approved flight manual or the airworthiness certificate, without subsequent appropriate action to restore airworthiness being taken;

(d) the aircraft has been involved in an accident or incident that affects the airworthiness of the aircraft, without subsequent appropriate action to restore airworthiness being taken;

(e) the aircraft has a modification or repair for which a certificate or release to service has not been issued in accordance with this Act; or

(f) that national certificate of airworthiness is declared invalid in terms of article 15.

17. (1) A non-EASA aircraft which does not qualify for a certificate of airworthiness shall not fly unless a national permit to fly has been issued in respect of it:

National permit to fly and EASA Part-21 permit to fly.

Provided that the Director General may decide to recognise as valid any foreign national permit to fly:

Provided further that the Director General shall publish regulatory instruments containing objective criteria for the determination of whether an aircraft is to be covered by a national permit to fly or alternatively by a national certificate of airworthiness.

(2) The Director General shall issue a national permit to fly if he is satisfied that the aircraft is fit to fly, having regard to the airworthiness of the aircraft and the conditions to be attached to the permit. A national permit to fly may be issued subject to such conditions as the Director General deems appropriate.

(3) A national permit to fly shall cease to be in force if:

(a) the Director General has issued a directive that requires:

(i) an inspection to be carried out for the purpose of ascertaining whether the aircraft remains airworthy; or

(ii) modification or maintenance of the aircraft or any of its equipment necessary for the airworthiness of the aircraft, for the purpose of ensuring that the aircraft remains airworthy;

(b) the completion of an inspection, modification or maintenance of the aircraft is required as a condition of the permit to fly;

(c) any condition in the permit is not complied with; or

(d) the aircraft, its engines and propellers, or such of its equipment as is necessary for the airworthiness of the aircraft, are modified or repaired.

(4) A national permit to fly that ceased to be in force in accordance with sub-article (3) shall come back into force as soon as

the inspection, modification, repair or remedy to the breach of any relevant condition has been approved by the Director General or by a person approved by the Director General for that purpose.

(5) A national permit to fly shall be valid for a time specified in writing by the Director General.

(6) An aircraft flying in accordance with a national permit to fly shall not fly:

(a) for the purpose of public transport, commercial air transport or commercial operation;

(b) at night or in accordance with IFR Rules; or

(c) for hire.

(7) In the case of an EASA Part-21 Permit to Fly issued by the Directorate, that permit shall be issued in accordance with the Basic Regulation and any implementing rules made under that Regulation which would apply as if the aircraft were an EASA aircraft.

Director General
may receive
reports.

18. Without prejudice to any other provision of this Act, the Director General may, for the purpose of assessing the initial or continuing airworthiness of an aircraft, accept reports furnished to him by a qualified entity or such other person whom he may approve, either absolutely or subject to such conditions as he deems fit, as qualified to furnish such reports.

Certificate of
release to service
required.

19. (1) An EASA aircraft shall not fly when a certificate of release to service is required by or under Part-ML, Part-CAO or Part-145, unless and until such a certificate has been issued in accordance with Part-ML, Part-CAO or Part-145 and is in force.

(2) A non-EASA aircraft shall not fly when a certificate of release to service is required under this Act and any specific requirements made by the Director General under article 5.

(3) If a non-EASA aircraft registered in Malta which has a certificate of airworthiness or any part of the aircraft or such of its equipment as is necessary for the certification of airworthiness of the aircraft has been overhauled, repaired, replaced, modified, maintained or inspected, as the case may be, in accordance with the relevant regulatory instrument, that aircraft shall not fly unless a certificate of release to service in relation to such aircraft is issued under this Act.

(4) No person may issue a certificate of release to service unless he is licensed and authorised by the Directorate in accordance with the relevant regulatory instrument.

(5) A person or organisation authorised to issue a certificate of release to service shall not issue such certification if the aircraft is non-

compliant with airworthiness standards approved by the Directorate.

(6) If a repair or replacement of a part of an aircraft or its equipment is carried out when the aircraft is at a place where it is not reasonably practicable:

(a) for the repair or replacement to be carried out in such a manner that a certificate of release to service under this Act can be issued; or

(b) for such a certificate to be issued while the aircraft is at that place, it may fly to a place which satisfies each of the criteria in sub-article (7).

(7) A place satisfies the criteria referred to in sub-article (6) if it is:

(a) the nearest place at which a certificate of release to service under this Act can be issued;

(b) a place to which the aircraft can, in the reasonable opinion of the pilot in command, safely fly by a route for which it is properly equipped; and

(c) a place to which it is reasonable to fly having regard to any hazards to the liberty or health of any person on board.

(8) In accordance with any guidance issued by the Directorate under article 5 a pilot owner of a private non-EASA aircraft which has a maximum total mass of not more than two thousand seven hundred and thirty kilograms (2,730kg):

(a) may carry out simple visual inspections or operations to check for general conditions and obvious damage and normal operation of the airframe, engines, systems and components of the aircraft;

(b) rectify any defects identified under paragraph (a); and

(c) issue a certificate of release to service after the completion of any maintenance if satisfied that all maintenance required has been properly carried out.

(9) The form of a certificate for release to service shall be determined by regulatory instrument but shall include, as a minimum:

(a) basic details of the maintenance that was carried out;

(b) the date on which such maintenance was

completed;

(c) the identity of the organisation and, or person issuing the certificate of release to service;

(d) any limitations to airworthiness or operations, if there are any.

Aircraft
maintenance
licence.

20. (1) In the case of an EASA Part-66 Aircraft Maintenance Licence issued by the Directorate, the licence shall be issued in accordance with the Basic Regulation and any applicable implementing rules made under that Regulation.

(2) The Directorate shall grant an aircraft maintenance licence, subject to such conditions as it shall deem fit, if it is satisfied that the applicant is:

(a) a fit person to hold the licence; and

(b) qualified by having the knowledge, experience, competence and skill in aeronautical engineering to act in the capacity to which the licence relates:

Provided that the Directorate may establish, through regulatory instruments published under article 5, the criteria to be met by persons or organisations in order for them to qualify for the issue of an aircraft maintenance licence.

(3) For the purposes of sub-article (2) the applicant shall supply such evidence and undergo such examinations and tests as the Director General may require.

(4) An aircraft maintenance licence authorises the holder:

(a) to issue certificates of release to service in accordance with this Act for such overhauls, repairs, replacements, modifications, maintenance and inspections of such aircraft and such equipment as may be specified;

(b) to issue recommendations or statements for the issue of a permit to fly for such aircraft as may be specified in a regulatory instrument; and

(c) to extend the validity period of the national certificate of airworthiness in accordance with the Act or any regulatory instrument made under it.

(5) Subject to article 90 on the suspension and revocation of licences under this Act, an aircraft maintenance licence shall remain in force for the period specified in the licence, which shall not exceed five (5) years.

(6) An aircraft maintenance licence may be renewed by the Directorate if it is satisfied that the applicant is a fit person and is qualified in accordance with sub-article (2).

(7) The Directorate may issue a certificate rendering valid for the purposes of this Act any aircraft maintenance licence granted under the law of a Contracting State other than Malta:

Provided that the holder of an equivalent aircraft maintenance engineer's licence granted or issued under the law of any Contracting State other than Malta may issue a certificate of release to service for an aircraft registered in Malta if:

(a) it is issued in accordance with the privileges endorsed on the licence;

(b) the overhaul, repair, replacement, modification, maintenance or inspection has been carried out in the Contracting State under the law of which the licence has been granted;

(c) the aircraft was issued a certificate of airworthiness; and

(d) the aircraft has a maximum take-off mass of not more than two thousand seven hundred and thirty kilograms (2,730kg).

(8) An aircraft maintenance licence granted in accordance with this Act shall not be valid unless it has been signed by the holder in indelible ink or pencil but if the licence is annexed to an aircraft maintenance licence issued under Part-66 it is sufficient if that Part-66 licence has such a signature.

(9) The holder of an aircraft maintenance licence granted under sub-article (2) or of an aircraft maintenance licence granted under Part-66 shall not exercise the privileges of such a licence if the holder knows or suspects that his physical or mental condition renders him unfit to exercise such privileges.

21. (1) Any person may apply to the Directorate for approval as a continuing airworthiness management organisation. CAMO.

(2) The Directorate shall approve a person as a continuing airworthiness management organisation for the purposes of this Act if it is satisfied that the applicant is competent to exercise the privileges of such an organisation in accordance with this Act and any specific requirements made by the Directorate under article 5.

(3) Subject to article 90 on the suspension and revocation of licences under this Act, the approval referred to in sub-article (1) shall remain in force indefinitely.

Conduct of
airworthiness
review.

22. (1) An airworthiness review referred to in article 12 shall be conducted in accordance with this article.

(2) A full documented review of the aircraft records shall be carried out to confirm that all scheduled maintenance, overhaul, modification, repair, replacement, defect rectification and compliance with any airworthiness directive issued under article 13, has been completed so as to ensure the continued airworthiness of the aircraft.

(3) A physical survey of the aircraft shall be carried out.

(4) The staff carrying out the physical survey of the aircraft shall determine whether:

(a) all required markings and placards are properly installed;

(b) the aircraft complies with its approved flight manual;

(c) the aircraft configuration complies with the approved documentation;

(d) any evident defect can be discovered that has not been addressed;

(e) when, in their reasonable opinion, a check flight is necessary, the aircraft has completed a satisfactory check flight; and

(f) any inconsistencies can be found between the aircraft and the documented review of records under sub-article (2).

(5) An airworthiness review may be anticipated by a maximum period of ninety (90) days without loss of continuity of the airworthiness review pattern, to allow the physical review to take place during a maintenance check.

(6) Should the outcome of the airworthiness review be inconclusive, the person who has carried out the review shall inform the Directorate and shall not issue a recommendation to extend or issue a national airworthiness review certificate without the approval of the Directorate.

(7) When the Directorate carries out the airworthiness review or issues the national airworthiness review certificate itself, the owner or operator shall provide the Directorate with:

(a) the documentation required by the Directorate;

(b) suitable accommodation at the appropriate

location for its personnel; and

(c) when necessary, the support of personnel appropriately qualified in accordance with this Act and any specific requirements made by the Directorate under article 5.

(8) Airworthiness reviews may be carried out by approved persons and organisations listed under articles 20 and 21 and in accordance with the privileges granted to them:

Provided that airworthiness reviews may alternatively be carried out by qualified entities or other persons authorised by the Director General in accordance with this Act and any specific requirement issued by the Directorate under article 5.

23. (1) An aircraft shall not fly over Malta unless it is so equipped as to comply with the law of the country in which it is registered, and to enable communications, navigation, search, rescue and recovery, lights and markings to be displayed, and signals to be made, in accordance with this Act and any specific requirement issued by the Directorate under article 5.

Aircraft
equipment.

(2) In any particular case the Director General may direct that an aircraft registered in Malta shall carry such additional or special equipment or supply as he may specify for the purpose of facilitating the navigation of the aircraft, the carrying out of search and rescue operations, or the survival of the persons carried in the aircraft.

(3) The Director General may, in respect of an aircraft registered in Malta, ask the operator of that aircraft to furnish him with an equipment list that shall contain a description of all the equipment necessary for the operation of an aircraft under this Act.

(4) The Director General may reassess the equipment list provided in terms of sub-article (3) and this shall place the operator under the obligation of rectifying, repairing, or replacing any equipment set forth on the equipment list, in a manner that is acceptable to the Director General.

(5) Regulatory instruments issued under article 5 shall indicate in a comprehensive manner which equipment, radio equipment and navigation equipment an aircraft or class of aircraft shall possess in order to qualify as airworthy.

(6) The Director General may permit any aircraft or class of aircraft to which this article applies to commence a flight in specified circumstances, even though a specified item of equipment which shall, by or under this Act, be carried in the circumstances of the intended flight, is not carried or is not operational.

Investigations
carried out by
Director General.

24. (1) The Director General may cause such inspections, investigations, tests, experiments and flight trials to be made as he deems necessary for the purpose of this Part and any person authorised to do so in writing by the Director General may at any reasonable time inspect any part of, or material intended to be incorporated in or used in the manufacture of any part of an aircraft or its equipment or any documents relating thereto and may for that purpose go upon any aerodrome or enter any aircraft factory, hangar or other place used for the hangarage of aircraft and their parts.

(2) The Director General or any person authorised by him may take all the necessary measures and issue all orders necessary for the operator to bring his aircraft in line with the requirements of this Act and any specific requirements issued by the Directorate under article 5.

PART IV

Aircraft Crew and Licensing

Directorate to
license flight crew.

25. (1) The Directorate shall be the authority vested with the power to license members of the flight crew of an aircraft registered in Malta, under such conditions as it deems fit.

(2) No person shall act as the member of the flight crew of an EASA aircraft registered in Malta without holding an appropriate licence granted, converted or rendered valid under the EASA Aircrew Regulation or other relevant European Union regulation:

Provided that a person may act as a member of the flight crew of an EASA aircraft without holding the appropriate licence granted, converted or rendered valid under the EASA Aircrew Regulation when undergoing training in accordance with the relevant regulatory instrument.

(3) The Directorate shall publish regulatory instruments laying down the criteria and tests required for persons to qualify for a licence to act as a member of the flight crew of an aircraft registered in Malta:

Provided that the Directorate shall also have the power to create such categories of licence that it may determine in relation to the aircraft or category of aircraft concerned.

Directorate to
licence auxiliary
persons.

26. (1) The Directorate shall also have the power to licence persons responsible for providing flight training, flight simulation training, or for assessing pilots' skills, as well as aeromedical examiners.

(2) No person shall carry out any of the activities referred to in sub-article (1) without holding the appropriate licence granted or rendered valid under this Act.

(3) Without prejudice to any other provision of this Act and the rules set out in any regulatory instrument adopted by the Directorate,

the Director General may, for the purpose of this article, either absolutely or subject to such conditions as he deems fit:

- (a) authorise or issue certificates or licences for persons responsible for providing flight training, flight simulation training, or for assessing pilots' skills, as well as aeromedical examiners;
- (b) approve any training or instruction course;
- (c) authorise a person to conduct such examinations or tests as he may specify; and
- (d) approve a person to provide any training or instruction course.

27. In the interests of safety, the Director General may direct any particular operator that the aircraft operated by him, or any one or more of such aircraft, shall not fly in such circumstances as the Director General may specify unless that aircraft carries, in addition to the flight crew ordinarily required to be carried therein, additional persons as members of the flight crew.

Order to carry equipment and crew.

28. (1) No person shall act as the member of the flight crew of a non-EASA aircraft registered in Malta without holding an appropriate licence granted or rendered valid under this Act:

Conditions for acting as member of flight crew.

Provided that a person may act as a member of the flight crew of a non-EASA aircraft registered in Malta without holding the appropriate licence granted or rendered valid under this Act when undergoing training in accordance with any relevant regulatory instrument. In particular, a person may within Malta and without being the holder of the appropriate licence:

(a) act as a flight radiotelephony operator of a non-EASA aircraft registered in Malta if:

(i) he does so as a person being trained in an aircraft registered in Malta to perform duties as a member of the flight crew of an aircraft; and

(ii) he is authorised to operate the radiotelephony station by the holder of the licence granted in respect of that station under any law; and

(iii) messages are transmitted only for the purposes of instruction, or of the safety or navigation of the aircraft; and

(iv) messages are transmitted only on a frequency exceeding sixty Megahertz (60MHz) as assigned by the Director General for use on flights in

which a flight radiotelephony operator acts in one of the capacities specified in sub-paragraph (i);

(b) act as pilot in command of a non-EASA aircraft for the purpose of becoming qualified for the grant or renewal of a pilot's licence or the inclusion, revalidation or variation of any rating in a pilot's licence if:

(i) he is at least seventeen (17) years of age; and

(ii) he is the holder of a valid medical certificate to the effect that he is fit to act as such, where such a certificate is issued by a person approved by the Director General; and

(iii) he complies with any conditions established by the Director General subject to which that medical certificate was issued; and

(iv) no other person, other than an instructor or other person authorised by the Director General or this Act, is carried in the aircraft:

Provided further that no other person shall be carried in a non-EASA aircraft registered in Malta by a licensed pilot of that aircraft, for the purpose of training or tests, for the grant or renewal of a pilot licence, or the inclusion, revalidation or renewal, or extension of a rating or certificate, except the following persons:

(a) the aircraft manufacturer; or

(b) a person carried as a member of the flight crew in compliance with the provisions of this Act; or

(c) a person authorised by the Director General to witness the training or tests or to conduct the tests; or

(d) if the pilot in command of the aircraft is the holder of an appropriate licence, a person carried for the purpose of being trained or tested as a member of the flight crew of an aircraft and the aircraft is not flying for the purpose of public transport or specialised operation other than specialised operation which consists of the giving of instruction in flying or the conduct of flying examinations:

Provided further that such other person as is referred to in sub-paragraph (d) so acts in accordance with instructions given by another person holding a pilot's licence granted or rendered valid under this Act or a Part-FCL licence being a licence which includes a flying instructor's rating entitling him to give instructions in flying the type of aircraft being flown; and the aircraft is fitted with dual controls

and the person is accompanied in the aircraft by an instructor who is seated at the other set of controls, or the controls are designed for and capable of use by two (2) persons and the person is accompanied in the aircraft by the instructor who is seated so as to be able to use the controls.

(2) Nothing in this Act shall prohibit the holder of an EASA pilot's licence from acting as a pilot of a non-EASA aircraft certificated for single-pilot operations provided the holder of the EASA pilot's licence:

(a) operates the type of aircraft or variant specified in his licence; or

(b) has a relevant entry confirming proficiency in his personal flying log.

(3) Subject to the foregoing provisions of this article, a person shall not act as a member of the flight crew required by or under this Act to be carried in an aircraft registered in a country other than Malta unless:

(a) in the case of an aircraft flying for the purpose of public transport, commercial air transport or specialised operation, he is the holder of an appropriate licence granted or rendered valid under the law of the country in which the aircraft is registered; or

(b) in the case of any other aircraft, he is the holder of an appropriate licence granted or rendered valid under the law of the country in which the aircraft is registered or under this Act, and the Director General does not in the particular case give a direction to the contrary.

(4) A licence held to operate a non-EASA aircraft registered in Malta purporting to authorise the holder to act as pilot in command of a non-EASA aircraft does not entitle the holder, unless the Director General authorises otherwise in the circumstances:

(a) to act as a member of the flight crew for the purpose of public transport or specialised operation or on any flight in respect of which he receives remuneration for his services, other than flight instruction, as a member of the flight crew; or

(b) in the case of a pilot's licence, to act as pilot of any aircraft flying in circumstances requiring compliance with IFR Rules or at night.

(5) An "appropriate licence" for the purpose of this article means a licence which entitles the holder to perform the functions

which he undertakes in relation to the aircraft concerned and the flight on which he is engaged.

(6) Notwithstanding anything in this article:

(a) the holder of a licence other than a Part-FCL licence granted or rendered valid under this Act, being a licence endorsed to the effect that the holder does not satisfy in full the relevant international standard, shall not act as a member of the flight crew of an aircraft registered in Malta flying in or over the territory of a Contracting State other than Malta except in accordance with permission granted by the competent authorities of that Contracting State;

(b) the holder of a licence other than a Part-FCL licence granted or rendered valid under the law of a Contracting State other than Malta, being a licence endorsed as aforesaid shall not act as a member of the flight crew of any aircraft flying in or over Malta except in accordance with permission and conditions granted by the Director General, whether or not the licence is or is deemed to be rendered valid under this Act.

Licensing of flight crew of non-EASA aircraft.

29. (1) (a) The Director General may grant a licence to a member of the flight crew of a non-EASA aircraft, and subsequent licence validations, to persons of not less than seventeen (17) years of age, subject to those conditions and limitations as he deems fit:

Provided that prior to the granting of such licence, the Director General shall also be satisfied that the applicant is a fit person to hold the licence, and is qualified by reason of his knowledge, experience, competence, skill, physical and mental fitness to act in the capacity to which the licence relates. For this purpose, the applicant shall furnish such evidence and undergo such examinations and tests, including in particular medical examinations, as the Director General may require of him.

(b) Subject to any limitations made by the Director General, where the Director General grants licences, ratings and subsequent validations, the privileges, age limits and the maximum period of validity thereof shall be those set out in accordance with the requirements of the EASA Aircrew Regulation as amended from time to time.

(c) A licence granted under this article shall not be valid unless it bears thereon the ordinary signature of the holder in clearly legible and indelible ink.

(2) Subject to any condition of the licence and the provisions of this Act, a licence of any class shall entitle the holder thereof to perform the functions specified in respect of that licence, ratings and validation, if applicable.

(3) A person who takes a test for the grant or renewal of a licence, rating or validation, if applicable, before the expiration of its validity, and fails such a test, shall, as from the moment of such failure not be entitled to fly for the privileges sought in the particular test.

(4) (a) The holder of a licence, which is granted under this article shall not be entitled to perform any of the functions to which his licence relates unless it includes a valid medical certificate.

(b) A medical examination required under sub-article (4) (a) shall be performed by a qualified person approved by the Director General and the said person shall issue a medical certificate where he finds that the holder of or applicant for the licence is fit to perform the functions to which the licence relates.

(c) The medical certificate shall be valid for such periods as therein specified.

(5) (a) A person shall not be entitled to act as member of the flight crew of an aircraft registered in Malta if he knows or has reason to believe that his physical or mental condition renders him temporarily or permanently unfit to perform such functions or to act in such capacity:

Provided that the Director General may prohibit a person from flying if he believes that the foregoing circumstances subsist in relation to that person.

(b) Every holder of a medical certificate issued under this Act who:

(i) suffers any personal injury involving his capacity to undertake his functions as a member of the flight crew; or

(ii) suffers any illness involving his capacity to undertake those functions throughout a period of twenty (20) days or more; or

(iii) has reason to believe that she is pregnant,

shall forthwith inform the Director General of said occurrence, and the Director General may, in the circumstances, require that person to undergo a further medical certification.

30. The Director General may issue a certificate of validation rendering valid for the purpose of this Act any flight crew licence granted under the law of any country other than Malta and not being a Part-FCL licence. A certificate of validation may be issued subject to such conditions and for such periods as the Director General may think fit.

Certificate of validation for foreign flight crew licence.

Personal flying
logbook.

31. (1) Every member of the flight crew of an aircraft registered in Malta and every person who engages in flying for the purpose of qualifying for the grant or renewal of a licence under this Act shall keep a personal flying logbook in which the following particulars shall be recorded:

- (a) the name and address of the holder of the logbook;
- (b) particulars of the holder's licence, if any, to act as a member of the flight crew of an aircraft;
- (c) the name and address of his employer, if any.

(2) Particulars of each flight during which the holder of the logbook acted as a member of the flight crew of an aircraft or for the purpose of qualifying for the grant or renewal of a licence under this Act, as the case may be, shall be recorded in the logbook at the end of each flight or as soon thereafter as is reasonably practicable, including:

- (a) the date, the places at which the holder embarked on and disembarked from the aircraft and the time spent during the course of a flight when he was acting in either capacity;
- (b) the type and registration marks of the aircraft;
- (c) the capacity in which the holder acted in flight;
- (d) particulars of any special conditions under which the flight was conducted, including night flying and instrument flying;
- (e) particulars of any test or examination undertaken whilst in flight.

(3) For the purposes of this article, a helicopter shall be deemed to be in flight from the moment the helicopter first moves under its own power for the purpose of taking off until the rotors are next stopped.

(4) Particulars of instruction received by a member of the flight crew shall be recorded in the logbook countersigned by the instructor conducting the flight.

Custody of flying
logbook.

32. A logbook shall at all times remain within the custody of the member of the flight crew to which it relates, excepting those periods during which said logbook may be required to be submitted to the Directorate for inspection, or to such other court or authority requiring the inspection of its contents in terms of law:

Provided that any authority, including the Directorate, which may require, in terms of law, the submission of a logbook for its

inspection, shall keep a record of all logbooks currently being kept by it for the purposes of review.

- 33.** A person shall not give any instruction in flying unless:
- Licensing of flying instructors.
- (a) he holds a licence, granted or rendered valid under this Act by the Directorate, entitling him to act as pilot in command of the aircraft for the purpose and in the circumstances under which the instruction is to be given; and
- (b) his licence includes a flying instructor's rating entitling the holder to give the instruction.

PART V

Air Operations

34. Unless provided otherwise, this Part shall apply to non-EASA aircraft registered in Malta, conducting commercial operations or air services not falling under Commission Regulation (EC) No. 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community (Recast), as amended from time to time.

Applicability of this Part.

35. Without prejudice to article 34, no operator may operate a non-EASA aircraft registered in Malta, unless the Director General issues an air operators certificate to the operator to operate commercially under this Part, following a due diligence exercise on the operator to be defined by a regulatory instrument issued under article 5.

Air operators certificate required to operate commercially.

36. (1) This article shall apply to public transport aircraft registered in Malta, saving any exceptions which may be made by regulatory instrument under article 5.

Public transport aircraft.

(2) (a) The operator of every aircraft to which this article applies shall:

(i) make available to each member of his operating staff an operations manual;

(ii) ensure that each copy of the operations manual is kept up to date; and

(iii) ensure that on each flight every member of the crew has access to a copy of every part of the operations manual which is relevant to his duties on the flight.

(b) Each operations manual shall contain all such information and instructions as may be necessary to enable the operating staff to perform their duties:

Provided that the operations manual shall not be required to contain any information or instructions available in a flight manual accessible to the persons by whom the information or instructions may be required.

(3) (a) An aircraft to which this article applies shall not fly unless, not less than thirty (30) days prior to such flight, the operator of the aircraft has furnished to the Director General a copy of the entire operations manual being in force at the time in respect of the aircraft.

(b) Any amendments or additions to the operations manual shall be furnished to the Director General by the operator before or immediately after they come into effect:

Provided that where an amendment or addition relates to the operation of an aircraft and did not form part of the latest operations manual, that aircraft shall not fly for the purpose of public transport until the amendment or addition has been furnished to the Director General.

(c) Without prejudice to paragraphs (a) and (b), the operator shall make such amendments or additions to the operations manual as the Director General may require for the purpose of ensuring the safety of the aircraft or of persons or goods carried therein or the safety, efficiency or regularity of air navigation.

(4) The Director General may, in any event, regulate any and all matters concerning the operation of public transport aircraft registered in Malta through the issue of regulatory instruments under article 5.

Training manual
for public transport
aircraft.

37. (1) The operator of every aircraft registered in Malta and flying for the purpose of public transport shall:

(a) make a training manual available to every person appointed by the operator to give or to supervise the training, experience, practice or periodical tests required according to the provisions of this Act and any specific requirement issued by the Directorate under article 5; and

(b) ensure that each copy of that training manual is kept up to date.

(2) Each training manual shall contain all such information and instructions as may be necessary to enable a person appointed by the operator to give or to supervise the training, experience, practice and periodical tests required by or under this Act.

(3) (a) An aircraft to which this article applies shall not fly unless, not less than thirty (30) days prior to such flight the operator of the aircraft has furnished to the Director General a copy of the whole of his training manual relating to that aircraft's crew.

(b) Any amendment or additions to the training manual shall be furnished to the Director General by the operator before or immediately after they come into effect:

Provided that where an amendment or addition relates to training, experience, practice or periodical tests on an aircraft which did not form part of the latest training manual, that aircraft shall not fly for the purpose of public transport until the amendment or addition has been furnished to the Director General.

(c) Without prejudice to paragraphs (a) and (b), the operator shall make such amendments or additions to the training manual as the Director General may require for the purpose of ensuring the safety of the aircraft or of persons or goods carried therein or the safety, efficiency or regularity of air navigation.

38. (1) The operator of an aircraft registered in Malta shall not permit the aircraft to fly for the purpose of public transport without first:

Obligations of operator.

(a) designating from among the flight crew a pilot to be the commander for the flight; and

(b) satisfying himself by every reasonable means that the aeronautical radio stations and navigational aids serving the intended route or any planned diversion therefrom are adequate for the safe navigation of the aircraft; and

(c) satisfying himself by every reasonable means that the aerodromes at which it is intended to take-off or land and any alternate aerodromes at which a landing may be made are suitable for the purpose and in particular are adequately manned and equipped to ensure the safety of the aircraft and its passengers:

Provided that the operator of the aircraft shall not be required to satisfy himself as to the adequacy of fire fighting, search, rescue or other services which are required only after the occurrence of an accident.

(2) The operator of an aircraft registered in Malta shall not permit any person to be a member of the crew thereof during any flight for the purpose of public transport, except a flight for the sole purpose of training persons to perform duties in aircraft, unless such person has had the training, experience, practice and periodical tests specified in regulatory instruments issued by the Directorate in respect of the duties which he is to perform and unless the operator has satisfied himself that such person is competent to perform his duties, and in particular is qualified to use the equipment provided in the aircraft for that purpose. The operator shall maintain, preserve, produce and

furnish information respecting records relating to the foregoing matters in accordance with guidance issued by the Directorate.

(3) The operator of an aircraft registered in Malta shall not permit any member of the flight crew thereof, during any flight for the purpose of public transport of passengers, to simulate emergency manoeuvres and procedures which the operator has reason to believe will adversely affect the flight characteristics of the aircraft.

Flight crew of
aircraft registered
in Malta.

39. (1) An aircraft registered in Malta shall carry a flight crew adequate in number and description to ensure the safety of the aircraft and, where applicable, in accordance with the flight manual of the aircraft.

(2) An aircraft not registered in Malta shall not fly unless it carries a flight crew of the number and description required by the law of the country in which it is registered.

Obligations of pilot
in command.

40. (1) The pilot in command of an aircraft is responsible:

(a) for defining the roles and duties of each crew member before every flight;

(b) for the operation and safety of the aircraft and for the initiation, continuation, termination or diversion of a flight in the interest of safety; and

(c) during aircraft operations, for ensuring the safety of all crew members, passengers and cargo on board.

(2) The pilot in command shall only use aerodromes and operating sites that are adequate for the type of aircraft and operation concerned.

(3) Before commencing each flight, the pilot in command shall prepare the aircraft and crew roles accordingly. In particular, he shall check:

(a) that the flight can be safely made, taking into account the latest information available as to the route and aerodromes to be used, the weather reports and forecasts available, and any alternative course of action which can be adopted in case the flight cannot be completed as planned;

(b) that the aircraft is airworthy, and that all airworthiness documentation is in order; where an airworthiness review certificate is required to be in force, that it is in force and will not cease to be in force during the intended flight;

(c) that the pre-flight check system established by the operator and set forth in the operations manual or elsewhere has

been complied with by each member of the crew of the aircraft;

(d) that in the case of an international flight, a flight in which the aircraft shall cross the border of the country of the aerodrome of origin, a flight plan has been drawn up and notified to the aerodrome of destination;

(e) that instruments and equipment required for the flight are installed in the aircraft and are operative;

(f) that sufficient means are available to navigate and land at the destination aerodrome or at any destination alternate aerodrome in the case of loss of navigational capability for the intended approach and landing operation;

(g) that all equipment, baggage and cargo are properly loaded and secured and that an emergency evacuation of the aircraft is possible;

(h) that the loading, the mass and centre of gravity position of the aircraft comply with the aircraft's flight manual or other document approved by the Director General;

(i) that sufficient fuel, oil and engine coolant, where required, are carried for the intended flight, and that a safe margin has been allowed for emergency contingencies or delays in reaching the destination aerodrome or alternate aerodrome;

(j) in the case of an airship or balloon, that sufficient ballast is carried for the intended flight;

(k) that radio equipment is functional and that all navigational capabilities conform to the flight manual or other document approved by the Director General;

(l) that all navigational capabilities are adequate and comply with the class airspace over which the aircraft shall navigate;

(m) that the aircraft may make use of adequate navigation services along the planned route;

(n) that the flight crew is capable of communicating with air traffic control services at the aerodromes of origin, transit and destination;

(o) that all passengers occupy a seat or berth and are properly secured during taxiing, take-off and landing and during such parts of the flight where it is deemed necessary in the interests of safety that such passengers be so seated and secured;

(p) that sufficient survival equipment is carried on the aircraft, including life-jackets and oxygen in the case of pressurised aircraft;

(q) that foreseeable emergency situations have been taken into account, and contingency plans are adopted and communicated to the flight crew and cabin crew;

(r) that no dangerous goods or munitions are carried on board the aircraft, unless authorisation for their carriage has been obtained from the Director General;

(s) that any additional requirement contained within a regulatory instrument issued by the Directorate under article 5 is complied with.

(4) During flight, the pilot in command must:

(a) keep any safety-belt fastened while at the pilot's station; and

(b) remain at the controls of the aircraft at all times except if another pilot is taking the controls.

(5) If the aircraft is to carry two pilots, both pilots are to remain at the controls during take-off, runway approach and landing.

(6) In the case of passengers being carried on the aircraft, the pilot in command shall ensure that, before or, where appropriate, during the flight, the passengers are given a briefing on emergency equipment and procedures, as well as the use of oxygen masks, where appropriate.

Weather and
aerodrome
operating minima.

41. (1) Before commencing take-off, the pilot in command shall ensure that:

(a) according to the information available, the weather at the aerodrome or operating site and the condition of the runway intended to be used would not prevent a safe take-off and departure; and

(b) aerodrome operating minima notified, prescribed or otherwise designated by the relevant competent authority shall be complied with.

(2) Before commencing an approach to land, the pilot in command shall ensure that, according to the information available, the weather at the aerodrome or the operating site and the condition of the runway to be used would not prevent a safe approach, landing or missed approach.

VFR and IFR
flights.

42. (1) The pilot in command shall only commence or

continue:

- (a) a VFR Rules flight if:
 - (i) the latest available meteorological information indicates that the weather conditions along the route and at the intended destination aerodrome at the estimated time of use will be at or above the applicable VFR Rules operating minima; and
 - (ii) the pilot in command has planned an alternative course of action to provide for the eventuality that the flight cannot be completed as planned because of weather conditions.
- (b) a flight under IFR Rules towards the planned destination aerodrome if the latest available meteorological information indicates that, at the estimated time of arrival, the weather conditions at the destination or at least one destination alternate aerodrome are at or above the applicable aerodrome operating minima notified, prescribed or otherwise designated by the relevant competent authority of the country concerned.

(2) If, according to the information available, an aircraft would be required to be flown in accordance with the IFR Rules at the aerodrome of intended landing, the pilot in command of the aircraft must select before take-off a destination alternate aerodrome unless no aerodrome suitable for that purpose is available.

(3) A flight to be conducted in accordance with the IFR Rules to an aerodrome when no suitable destination alternate aerodrome is available shall not be commenced by the pilot in command unless:

- (a) an instrument approach procedure notified, prescribed or otherwise indicated by the relevant competent authority is available for the aerodrome of intended landing; and
- (b) available current meteorological information indicates that visual meteorological conditions shall exist at the aerodrome of intended landing from two (2) hours before until two (2) hours after the estimated time of arrival.

43. (1) The pilot in command shall use the departure and approach procedures notified, prescribed or otherwise designated by the relevant competent authority of the country concerned for the runway or final approach and take-off area to be used.

Departure from
and arrival at
aerodromes.

(2) The pilot in command may deviate from a departure route, arrival route or approach procedure:

- (a) provided obstacle clearance criteria can be

observed, full account is taken of the operating conditions and any air traffic control clearance is adhered to; or

(b) when being radar-vectorred by an air traffic control unit.

(3) For flights under IFR Rules, the pilot in command shall select and use aerodrome operating minima for such departure, destination, and destination alternate aerodrome which:

(a) must not be lower than those notified, prescribed or otherwise designated by the relevant competent authority of the country concerned;

(b) when undertaking low visibility operations, have been approved by the Director General or the competent authority in accordance with the law of the country in which the aircraft is registered.

(4) The pilot in command may commence an instrument approach regardless of the reported runway visual range or visibility.

(5) If the reported runway visual range or visibility is less than the applicable minimum notified, prescribed or otherwise designated by the relevant competent authority of the country concerned, the pilot in command shall not continue the approach:

(a) below one thousand feet (1,000ft) above the aerodrome; or

(b) into the final approach segment in the case where the decision height or the minimum descent height is more than one thousand feet (1,000ft) above the aerodrome.

(6) If, after passing one thousand feet (1,000ft) above the aerodrome, the reported runway visual range or visibility falls below the applicable minimum notified, prescribed or otherwise designated by the relevant competent authority of the country concerned, the pilot in command may continue the approach to the decision height or the minimum descent height.

(7) The pilot in command may continue the approach below the decision height or the minimum descent height and the landing may be completed provided that the visual reference adequate for the type of approach operation and for the intended runway is established at the decision height or the minimum descent height and is maintained.

(8) Where the runway visual range is not available, the pilot in command may derive the runway visual range values by converting the reported visibility.

44. A flying machine registered in Malta and flying over water for the purpose of public transport shall fly, except as may be necessary for the purpose of take-off or landing, at such an altitude as would enable the aircraft:

Flying machines to maintain altitude.

(a) if it has one engine only, in event of the failure of that engine, to reach a place at which it can safely land;

(b) if it has more than one engine, in the event of the failure of one of those engines and with the remaining engine or engines operating within the maximum continuous power conditions specified in the certificate of airworthiness relating to the aircraft, to reach a place at which it can safely land.

45. No aircraft shall be flown for the purpose of aerobatics, or carry out aerobatic manoeuvres while flying, unless a special authorisation has been given by the Director General.

Aerobatics prohibited.

46. Notwithstanding any provision to the contrary in this Act, the following rules shall apply to aircraft under an Agreement for Transfer of Functions and Duties in accordance with Article 83 *bis* of the Chicago Convention:

Transfer of duties under Article 83 *bis* of the Chicago Convention.

(a) without prejudice to the Basic Regulation and the national law of the Contracting State of aircraft register, this Act applies to a foreign-registered aircraft operated by a Maltese operator and to persons performing any functions or duties in respect of that aircraft, if the requirements set out in this Act are specifically included in the terms of an agreement in force between Malta and another Contracting State in accordance with Article 83 *bis* of the Chicago Convention;

(b) without prejudice to the Basic Regulation and the national law of the Contracting State of aircraft register, this Act does not apply to a Maltese aircraft operated by a foreign operator or to persons performing any functions or duties in respect of the aircraft, if the requirements set out in this Act are specifically excluded under the terms of an agreement in force between Malta and another Contracting State in accordance with Article 83 *bis* of the Chicago Convention;

(c) if the responsibility set out in Article 31 of the Chicago Convention to issue or to render valid a certificate of airworthiness for a Maltese aircraft is transferred to another Contracting State in accordance with Article 83 *bis* of the Chicago Convention, the certificate of airworthiness for that aircraft shall cease to have effect upon commencement of the transfer;

(d) the registered owner of the aircraft shall surrender the certificate of airworthiness to the Director General, when

notified by the Director General that an agreement in accordance with Article 83 *bis* of the Chicago Convention has been entered into, within seven (7) days after the coming into force date of the agreement;

(e) upon termination of a transfer to another Contracting State in accordance with Article 83 *bis* of the Chicago Convention, of the responsibility to issue or to render valid a certificate of airworthiness for a Maltese aircraft as set out in Article 31 of the Chicago Convention, the Director General shall reinstate the certificate of airworthiness if the registered owner of the aircraft complies with the requirements on airworthiness of this Act;

(f) if an agreement for the lease, charter or interchange of an aircraft or any similar arrangement, subject to an agreement in accordance with Article 83 *bis* of the Chicago Convention, is terminated on a date earlier than the date of the expiration set out in the agreement or arrangement, the Maltese operator of a foreign registered aircraft or the registered owner of a Maltese aircraft shall inform the Director General in writing of the actual date of termination within seven (7) days of its occurrence.

Power to regulate
on operational
matters.

47. Without prejudice to the generality of article 5, the Directorate shall have the power to regulate all matters relating to air operations including, but not limited to:

- (a) the weight and loading of aircraft;
- (b) the observance of aerodrome operating minima;
- (c) any deviations from planned routes;
- (d) the proper use of navigational systems in aircraft;
- (e) the vertical separation of air traffic and observance of flight levels by certain categories of aircraft;
- (f) the use of airborne collision avoidance systems;
- (g) the loading, unloading and carriage of cargo and dangerous goods;
- (h) the loading, unloading and carriage of munitions of war;
- (i) the use of flight recording systems by the flight crew;
- (j) the dropping of persons, articles and animals from aircraft which are in flight;

- (k) the flight of any aircraft over congested areas,
- (l) the display of safety markings on aircraft;
- (m) any other matter relating to the operation of aircraft which the Directorate may deem fit to regulate.

48. (1) A public transport aircraft registered in a country other than Malta shall not use any aerodrome in Malta as a destination or alternate aerodrome unless the operator thereof shall have furnished to the Director General such particulars as he may from time to time have required relating to the aerodrome operating minima specified by the operator in relation to aerodromes in Malta for the purpose of limiting their use by the aircraft for take-off or landing, including any instructions given by the operator in relation to such aerodrome operating minima.

Specification of aerodrome operating minima by operator of public transport aircraft.

(2) The aircraft shall not use any aerodrome in Malta as a destination or alternate aerodrome unless the operator shall have made such amendments or additions to the aerodrome operating minima so specified and any instructions so given as the Director General may require for the purpose of ensuring the safety of the aircraft or the safety, efficiency or regularity of air navigation.

(3) The aircraft shall not take off or land at an aerodrome in Malta in breach of the aerodrome operating minima specified by the operator in relation to that aerodrome or of the instructions given by the Director General, as amended or supplemented in accordance with the foregoing sub-articles.

PART VI

Unruly Conduct of Crew and Passengers

49. (1) A person shall not enter any aircraft when drunk, or be drunk in any aircraft.

Drink and drugs prohibited.

(2) A person shall not, when acting as a member of the crew of any aircraft or being carried in any aircraft for the purpose of so acting, be under the influence of drink or a drug or any psychoactive substance.

(3) Notwithstanding any other law related to the taking of samples, the Director General may designate any number of officers who shall be trained and qualified to enter into any aircraft or place of accommodation reserved for the flight crew and crew of an aircraft in order to take such samples and conduct such tests as are necessary to ensure that said flight crew or crew is not under the influence of any drink, drug or psychoactive substance.

(4) The Directorate shall publish regulatory instruments which provide for:

(a) the procedures to be adopted in the carrying out of such tests;

(b) the determination of the type of device to be used for the taking of such tests;

(c) the procedure for the taking of body fluid specimens including blood;

(d) the determination of the laboratory for the taking of body fluid specimens including blood.

(5) Tests shall be conducted in accordance with European Union Regulations or otherwise in accordance with the procedures established by regulatory instrument.

(6) Without prejudice to the generality of sub-articles (1) and (2), after an initial positive test for drink, drugs or psychoactive substances, as conducted by any officer designated as such by the Director General, such result shall immediately be notified to the Executive Police. Following such notification, officers of the Executive Police may carry out their own independent tests for the purposes of establishing whether there has been a breach of this Act or any other provisions of the Laws of Malta.

(7) Without prejudice to the generality of sub-article (1) and (2), and subject to any variation of indicated levels in this or any subsequent sub-article as may be reflected in any adopted regulatory instrument, the breath alcohol concentration (BrAC), measured by a breath alcohol analyser during the initial alcohol test conducted by any officer designated by the Director General, should not exceed a level equivalent to zero point two grams (0.2g) of blood alcohol concentration (BAC) per litre of blood.

(8) During a confirmation alcohol test, the breath alcohol concentration (BrAC) should not exceed a level equivalent to zero point two grams (0.2g) of BAC per litre of blood.

(9) Flight crew and crew shall be deemed to have provided a specimen of blood only if they consent to it being taken by a medical practitioner and it is so taken in such quantity and of such quality as is capable of being properly analysed for the purposes of sub-article (3).

(10) Flight crew and crew shall be deemed to have provided a specimen of urine or breath only if that specimen is provided in such a manner and in such quantity and of such quality as is capable of being properly analysed for the purposes of sub-article (3) or for the purposes of regulatory instruments.

(11) (a) Any member of the flight crew or crew who fails the relevant tests established under sub-article (3) shall be removed from

duty.

(b) Any member of the flight crew or crew refusing to undergo the relevant tests established under sub-article (3) shall be considered to have failed the tests in case of a denial to perform the tests without any valid reason.

(12) Without prejudice to the terms of article 95, specifically in relation to the conduct of passengers and any liability thereof, any member of the flight crew or cabin crew who is found to be under the influence of drink, drug or a psychoactive substance while performing his duties shall be guilty of an offence punishable by imprisonment up to two (2) years and, or a fine (*multa*) not exceeding fifty thousand euro (€50,000).

(13) Any member of the flight crew or crew who is found to be under the influence of drink, drug or a psychoactive substance while performing his duties shall have his licence suspended by the Director General, for such period as the Director General may think fit or, in the case of foreign-licensed persons, shall be reported by the Directorate to the competent authority which issued the licence and the medical certificate of the licence holder and the competent authority of the operator.

(14) Any tests carried out under sub-article (3) shall be done for the purposes of observing Malta's obligations under ratified civil aviation conventions including the Chicago Convention.

50. Any person who recklessly or negligently acts in a manner likely to endanger an aircraft or any person therein shall be guilty of an offence against this Act.

Reckless and negligent behaviour likely to cause danger.

51. Any person who recklessly or negligently causes or permits an aircraft to endanger persons or property shall be guilty of an offence against this Act.

Reckless and negligent behaviour which causes danger.

52. No person shall while in an aircraft:

Threatening and abusive behaviour.

(a) use any threatening, abusive or insulting words towards a member of the crew of the aircraft;

(b) behave in a threatening, abusive, insulting or disorderly manner towards a member of the crew of the aircraft; or

(c) intentionally interfere with the performance by a member of the crew of the aircraft of his duties.

53. All smoking shall be prohibited on aircraft registered in Malta and notices to such an effect shall be visible from each passenger seat.

Smoking prohibited.

Commander's
orders to be
obeyed.

54. (1) Every person in an aircraft registered in Malta shall obey all lawful commands which the commander of the aircraft may give for the purpose of securing the safety of the aircraft and of persons or property contained therein, or the safety, efficiency, or regularity of air navigation.

(2) The commander of an aircraft registered in Malta may remove any person, together with any cargo, from within the aircraft where their presence or respective conduct is found to be in breach of his lawful commands or any provision of this Act.

Consent required
for carriage.

55. A person shall not secret himself so as to be carried in an aircraft without the lawful consent of either the operator or the commander thereof or of any person entitled to give consent to that person for being carried in the aircraft.

PART VII

Fatigue of Crew

Application of this
Part.

56. (1) In accordance with Commission Regulation (EU) No. 965/2012 of the 5 October 2012 laying down technical requirements and administrative procedures related to air operations pursuant to Regulation (EC) No. 216/2008 of the European Parliament and of the Council, hereinafter referred to as the "Cover Regulation", this Part shall apply to those operations listed in Article 8 of the Cover Regulation and specified in sub-article (2) below.

List of operations
under the Cover
Regulation.

(2) Paragraphs 2, 3 and 4 of Article 8 of the Cover Regulation derogate from the application of Subpart FTL of Annex III to the Cover Regulation, in as much as the said Subpart is not applicable to:

- (a) emergency medical service operations;
- (b) single-pilot commercial air transport operations by complex motor-powered aeroplanes;
- (c) single-pilot commercial, non-commercial specialised operations with complex-motor powered aeroplanes;
- (d) commercial air transport operations with helicopters (single and multi-pilot)
- (e) commercial and non-commercial specialised operations with helicopters (single, multi-pilot).

(3) The Directorate shall issue such regulatory instruments as may be required in order to regulate flight time limitation and fatigue issues in relation to the operations indicated in sub-article (2) above:

Provided that in relation to flying schools and non-EASA (Annex I) aircraft, the Directorate may adopt such regulatory

instruments as may be required to ensure flight and navigational safety, aerodrome safety and the general safety of the Maltese airspace.

(4) This Part shall not prejudice the application of any relevant European Union instruments in the area of air operations, and any reference to the provisions of those instruments shall be construed as references to those provisions as amended from time to time.

PART VIII

Documents and Records

57. (1) Without prejudice to the provisions of this Part of the Act, the Directorate shall issue such regulatory instruments as may be required under this Act to determine the manner in which documents and records shall be kept and stored, as well as to regulate the use and retention of flight recording systems.

Power to regulate matters related to documents and records.

(2) For the purposes of this Part, "authorised person" means an official or other person designated by the Directorate for the fulfilment of functions on its behalf.

58. (1) In addition to any other logbooks required to be kept by or under this Act, aircraft continuing airworthiness records must be kept for non-EASA aircraft registered in Malta, comprising of:

Continuing airworthiness records.

- (a) an aircraft logbook;
- (b) a separate engine logbook or engine module log cards for each engine fitted in the aircraft;
- (c) a separate propeller logbook for each variable pitch propeller fitted to the aircraft; and
- (d) log cards for any service life limited component, as appropriate.

(2) The continuing airworthiness records shall include the information specified in Schedule 2.

(3) Each entry in the continuing airworthiness records:

- (a) shall be made:
 - (i) in the case of a certificate of release to service, as soon as practicable, but in no case more than thirty (30) days after the date on which the maintenance was completed;
 - (ii) in all other cases, as soon as practicable after the occurrence to which it relates, but in no event more than seven (7) days after the expiration of the

national airworthiness review certificate in force for the aircraft at the time of the occurrence;

(b) shall be made on each occasion that any overhaul, repair, replacement, modification, maintenance or inspection is undertaken on the engine or propeller;

(c) shall be clear and accurate; and

(d) where it is necessary to correct an earlier entry in the aircraft continuing airworthiness records, shall be made in a manner that clearly shows the original entry.

(4) Any document which is incorporated by reference in the continuing airworthiness records is deemed, for the purposes of this Act, to be part of the continuing airworthiness records.

(5) It is the duty of the operator of every aircraft for which continuing airworthiness records are required to be kept to:

(a) keep them or cause them to be kept in accordance with this article; and

(b) present them to the Directorate upon request.

(6) Continuing airworthiness records shall be preserved by the operator of the aircraft in accordance with item 4 of Schedule 1.

(7) The operator shall ensure that:

(a) when an aircraft is permanently transferred from one operator to another, the continuing airworthiness records and, if applicable, the operator's technical log are also transferred;

(b) when the continuing airworthiness management tasks are contracted to a continuing airworthiness management organisation, the continuing airworthiness records are transferred to that organisation.

(8) Where a transfer of the continuing airworthiness records and, if applicable, the operator's technical log happens in accordance with sub-article (7), the time periods for retention of records or logs in item 4 of Schedule 1 shall apply to the new operator or continuing airworthiness management organisation.

Aircraft technical log and approved record.

59. (1) This article applies to each non-EASA aircraft registered in Malta for which a certificate of airworthiness is in force and which is a commercial air transport operation or a public transport aircraft.

(2) Subject to sub-article (3), an aircraft technical log

containing the information in item 5 of Schedule 1 shall be kept in relation to every aircraft to which this article applies.

(3) In the case of an aircraft which has a maximum total weight authorised of two thousand seven hundred and thirty kilograms (2,730kg) or less and which is not operated by the holder of a national air operator's certificate, a record approved by the Directorate in this article referred to as "an approved record", may be kept instead of an aircraft technical log.

(4) Subject to sub-article (5), at the end of every flight the pilot in command shall enter in the aircraft technical log or the approved record:

- (a) the times when the aircraft took off and landed;
- (b) information about any defect which is known to the pilot in command and which affects the airworthiness or safe operation of the aircraft, or if no such defect is known to the pilot in command, an entry to that effect; and
- (c) such other information about the airworthiness or operation of the aircraft as the Directorate may require, and he shall sign and date the entries.

(5) Subject to sub-article (6), if there are two (2) or more consecutive flights, each of which begins and ends:

- (a) within the same period of twenty-four (24) hours;
- (b) at the same aerodrome, except where such each flight is for the purpose of dropping or projecting any material for agricultural, public health or similar purposes; and
- (c) with the same person as pilot in command of the aircraft,

the pilot in command may make the entries specified in sub-article (4) at the end of the last of such consecutive flights.

(6) Sub-article (5) does not apply if the commander becomes aware of a defect during an earlier flight.

(7) When any defect which has been entered in an aircraft technical log or approved record is rectified, the person issuing a certificate of release to service issued under this Act or in respect of that defect shall enter the certificate in the technical log or approved record in such a position as to be readily identifiable with the defect to which it relates.

(8) Subject to sub-article (9) and Schedule 2, the aircraft technical log or approved record:

(a) shall be in the aircraft; and

(b) a copy of the entries required by this article shall be kept on the ground.

(9) In the case of an aircraft with a maximum take-off mass of not more than two thousand and seven hundred and thirty kilograms (2,730kg) and which is not a commercial air transport aircraft or a public transport aircraft, if it is not reasonably practicable for the copy of the aircraft technical log or approved record to be kept on the ground it may be carried in the aircraft.

(10) An aircraft technical log or approved record required by this article shall be preserved by the aircraft operator to which it relates for at least two (2) years after the aircraft has been destroyed or has been permanently withdrawn from use, or for such shorter period as the Directorate may permit in a particular case.

Personal flying
log.

60. (1) A personal flying log shall be kept by:

(a) every member of the flight crew of an aircraft registered in Malta; and

(b) every person who engages in flying for the purpose of qualifying for the:

(i) granting of a flight crew licence under this Act;

(ii) granting of a flight crew licence issued by the Directorate under Part-FCL;

(iii) granting, renewal or revalidation of a rating or certificate under this Act; or

(iv) granting, renewal or revalidation of a certificate under Part-FCL.

(2) The information to be recorded in the personal flying log shall be:

(a) the name and address of the holder of the log;

(b) detailed information about the holder's licence, if any, to act as a member of the flight crew of an aircraft; and

(c) the name and address of the holder's employer, if any.

(3) Detailed information about each flight during which the holder of the log acted either:

(a) as a member of the flight crew of an aircraft; or

(b) for the purpose of qualifying for the grant, renewal or revalidation of a licence, rating or certificate under this Act or Part-FCL,

shall be recorded in the log as soon as reasonably practicable after the end of each flight.

(4) The information recorded in accordance with sub-article (3) shall include:

(a) the date, the places at which the holder of the log embarked on and disembarked from the aircraft and the time spent during the course of a flight when the holder was acting in either capacity;

(b) the type and registration marks of the aircraft;

(c) the capacity in which the holder acted in flight;

(d) information about any special conditions under which the flight was conducted, including night flying and instrument flying; and

(e) information about any test or examination undertaken by the holder of the log whilst in flight.

(5) Information about any test or examination undertaken whilst in a flight simulator shall be recorded in the log, including:

(a) the date of the test or examination;

(b) the type of simulator;

(c) the capacity in which the holder acted; and

(d) the nature of the test or examination.

(6) For the purposes of this article, a helicopter is in flight from the moment the helicopter's rotor blades start turning until the moment the helicopter comes to rest at the end of the flight and the rotor blades are stopped.

61. (1) An aircraft shall not fly unless it carries the documents which it is required to carry in accordance with the law of the country in which it is registered.

Documents
required to be
carried according
to the law of
registering state.

(2) Subject to sub-articles (3) and (4), an aircraft registered in Malta shall, when in flight, carry documents in accordance with Schedule 2.

(3) Sub-article (2) shall not apply to a Part-CAT aircraft flying for the purpose of air service.

(4) If a flight is intended to begin and end at the same aerodrome and does not include passage over the territory of any country other than Malta, the documents may be kept at that aerodrome instead of being carried in the aircraft.

Cosmic radiation record.

62. (1) An undertaking shall keep a record for the period and in the manner prescribed by the Directorate of the exposure to cosmic radiation of air crew and the names of the air crew concerned.

(2) An undertaking shall, within a reasonable period after being requested to do so by an authorised person, cause the record required to be kept under sub-article (1) to be produced to that person.

(3) An undertaking shall, within a reasonable period after being requested to do so by a person for whom a record is required to be kept under sub-article (1), supply a copy of that record to that person.

Flight data recorder and cockpit voice recorder.

63. (1) On a flight on which a flight data recorder, a cockpit voice recorder or a combined cockpit voice recorder and flight data recorder is required by the provisions issued by the Director General pursuant to articles 23 and 36(4) to be carried in an aeroplane, the recorder shall always be in use from the beginning of the take-off run to the end of the landing run.

(2) On any flight on which a flight data recorder, a cockpit voice recorder or a combined cockpit voice recorder and flight data recorder is required by the provisions issued by the Director General pursuant to articles 23 and 36(4) to be carried in a helicopter, the recorder shall always be in use from the time the rotors first turn for the purpose of taking off until the rotors are next stopped.

Retention of recordings by operator of aeroplane.

64. (1) Subject to article 59, the operator of an aeroplane shall at all times:

(a) preserve the last twenty-five (25) hours of recording made by any flight data recorder which shall by or under this Act be carried in an aeroplane; and

(b) preserve a record of at least one representative flight made within the last twelve (12) months.

(2) The representative flight referred to in sub-article (1)(b) shall include a take-off, climb, cruise, descent, approach to landing and landing.

(3) The record required by sub-article (1)(b) shall include a means of identifying the flight to which it relates.

(4) The operator of an aeroplane shall preserve the records required by this article for such period as the Directorate may direct.

65. (1) This article applies to a helicopter required to carry a flight data recorder specified in article 63. Helicopters and flight data recorders.

(2) Subject to article 59, the operator of such a helicopter shall at all times preserve the last eight (8) hours of recording made by the flight data recorder.

66. (1) This article applies to any helicopter required to carry a combined cockpit voice recorder and flight data recorder specified under the provisions issued by the Director General pursuant to articles 23 and 36(4). Helicopter and combined cockpit voice recorder and flight data recorder.

(2) Subject to article 59, the operator of a helicopter shall at all times preserve either the last eight (8) hours of recording made by the combined cockpit voice recorder and flight data recorder or the recording specified in sub-article (3).

(3) The recording referred to in sub-article (2) shall be:

(a) the last five (5) hours of recording or the duration of the last flight, whichever is the greater; and

(b) an additional period of recording in accordance with sub-article (4) and which together with the period preserved under paragraph (a) amounts to eight (8) hours.

(4) The additional period of recording referred to in sub-article (3) shall be:

(a) the period immediately preceding the period preserved under sub-article (3)(a); or

(b) such period as the Directorate may permit in any particular case or class of cases or generally.

(5) The additional recording specified in sub-article (4) shall be retained in accordance with arrangements approved by the Director General.

67. (1) The commander of an aircraft shall, within a reasonable time after being requested to do so by an authorised person, cause to be produced to that person: Production of documents.

(a) the certificates of registration and airworthiness in force for the aircraft;

(b) the licences of its flight crew; and

(c) any other documents which the aircraft is required by article 61 or by any European Union Regulations to carry when in flight.

(2) The operator of an aircraft registered in Malta shall, within a

reasonable time after being requested to do so by an authorised person, cause to be produced to that person any of the documents or records specified in sub-article (3) which have been requested by that person.

(3) The documents and records referred to in sub-article (2) are:

(a) the documents referred to in Schedule 2 as Documents A, B and G;

(b) the aircraft logbook, engine logbooks and variable pitch propeller logbooks required to be kept in accordance with this Act ;

(c) the weight schedule, if any;

(d) in the case of a public transport aircraft or commercial operation aircraft, the documents referred to in Schedule 2 as Documents D, E, F and H;

(e) the records of flight times, duty periods and rest periods which the operator is required to preserve, and such other documents and information in the possession or control of the operator, as the authorised person may require for the purpose of determining whether those records are complete and accurate;

(f) any operations manuals required to be made available under this Act;

(g) the record made by any flight data recorder required to be carried by or under this Act.

(4) The holder of a licence granted or rendered valid under this Act or by the Directorate under the relevant EASA regulation or of a medical certificate issued in accordance with this Act, shall, within a reasonable time after being requested to do so by an authorised person, cause the licence, including any certificate of validation or the medical certificate, to be produced to that person.

(5) During the period of two (2) years beginning with the date of the last entry in it, every person required to keep a personal flying log shall cause it to be produced to an authorised person within a reasonable time after being requested to do so by that person.

Power to inspect.

68. An authorised person has the power to inspect and copy any certificate, licence, log, declaration, document or record which the authorised person has the power under this Act, under any regulations made under this Act, or under any European Union Regulations to require to be produced.

Transmission of records between operators.

69. (1) A person who is required by this Act to preserve any document or record by reason of being the operator of an aircraft is for

the purposes of this article referred to as "the first operator".

(2) Subject to sub-article (3), if the first operator ceases to be the operator of an aircraft, he shall continue to preserve the document or record:

- (a) for a period of thirty-six (36) months; or
- (b) if earlier, until sub-article (4) has been complied with.

(3) In the event of the death of the first operator the duty to preserve the document or record falls on the first operator's personal representative.

(4) If another person becomes the operator of the aircraft, the first operator or their personal representative shall, following a request, deliver to that other person:

- (a) the national airworthiness review certificate and release to service;
- (b) the logbooks;
- (c) the weight schedule; and
- (d) any record made by a flight data recorder and preserved in accordance with this Act which are in force or required to be preserved for that aircraft.

(5) If an engine or variable pitch propeller is removed from an aircraft and installed in another aircraft operated by another person, the first operator of the aircraft or their personal representative shall following a request, deliver to that other person the logbook relating to that engine or propeller.

(6) If any person for whom a record has been kept by the first operator becomes a member of the flight crew of a public transport aircraft registered in Malta and operated by another person, the first operator or their personal representative shall deliver those records to that other person on demand.

(7) It is the duty of the "subsequent operator" referred to in sub-articles (4), (5) and (6) to deal with the documents or records delivered under those sub-article as if it were the first operator.

70. A person or qualified entity charged by or under this Act with the carrying out of any maintenance or tests, or the issue of any certificate or recommendation relating to the airworthiness of an aircraft shall not knowingly make any false entry in or material omission in any document he is required to fill out by virtue of this Act. Any person who breaches this article shall be guilty of an offence

False entries and
material omissions.

punishable with imprisonment of not less than two (2) years and not more than four (4) years and, or a fine (*multa*) of not less than fifty thousand euro (€50,000) and not more than two hundred and fifty thousand euro (€250,000).

PART IX

Control of Air Traffic

Appointment of
authority.

71. (1) The Directorate shall be the authority appointed for the purposes of Commission Implementing Regulation (EU) No. 2017/373 of 1 March 2017 laying down common requirements for providers of air traffic management/air navigation services and other air traffic management network functions and their oversight, repealing Regulation (EC) No. 482/2008, Implementing Regulations (EU) No. 1034/2011, (EU) No. 1035/2011 and (EU) 2016/1377 and amending Regulation (EU) No. 677/2011, hereinafter referred to as "Commission Regulation (EU) No 2017/373", for the issuing of certificates to service providers and for the oversight and enforcement in respect of service providers.

(2) The Directorate may adopt additional provisions to complement the aforementioned Regulation, by notifying EASA with due justification for those provisions, at the latest two (2) months after the additional provisions have been adopted.

(3) The Directorate shall be the authority appointed to:

(a) establish UAS geographical zones that facilitate, restrict or exclude UAS operations in order to address risks pertaining to safety, privacy, protection of personal data, security or the environment, arising from UAS operations;

(b) establish, maintain and make available a registration system for certified U-space service providers and single common information service providers;

(c) establish a certification and continuous risk-based oversight programme, including the monitoring of the operational and financial performance of, and commensurate with the risk associated with the services being provided by the U-Space service providers and single common information service providers that fall under its oversight responsibility.

(4) Without prejudice to the provisions of this Part, the Directorate shall issue such regulatory instruments as may be required in the Act in order to regulate the control of air traffic and to ensure the full compliance with the terms of any of Malta's international obligations in this regard.

(5) Where it is necessary in the public interest to restrict or prohibit flying over an area of Malta or along any route therein by

reason of national defence, safety or any other reason affecting the public interest, the Director General may, by regulatory instrument or notification, following consultation with the Minister or at the request of the Minister, prohibit, restrict or impose conditions on flight, either generally or in relation to any class of aircraft, over any such area or along any such route, and an aircraft shall not fly in contravention of such regulatory instrument or notification.

(6) Certification and continued approval of national service providers shall fall under the requirements of Regulation (EU) No. 2017/373 as amended.

(7) The Director General may allocate the tasks related to the certification or oversight of service providers to an appointed qualified entity.

72. (1) In pursuance of Malta's international obligations under the Chicago Convention and its Annexes, an air traffic control unit shall in all cases notify the Armed Forces of Malta immediately that an aircraft is considered to be in a state of emergency in accordance with any of the following phases:

Emergency air
traffic control
procedures.

(a) uncertainty phase (INCERFA) when:

(i) no communication has been received from an aircraft within a period of thirty (30) minutes after the time a communication should have been received, or from the time an unsuccessful attempt to establish communication with such aircraft was first made, whichever is earlier; or

(ii) an aircraft fails to arrive within thirty (30) minutes of the estimated time of arrival last notified to or estimated by air traffic services units, whichever is the later:

Provided that no notification under this phase needs to be made if no doubt exists as to the safety of the aircraft and its occupants;

(b) alert Phase (ALERFA) when:

(i) following the uncertainty phase, subsequent attempts to establish communication with the aircraft or inquiries to other relevant sources have failed to reveal any news of the aircraft; or

(ii) an aircraft has been cleared to land and fails to land within five (5) minutes of the estimated time of landing and communication has not been re-established with the aircraft; or

(iii) information has been received which indicates that the operating efficiency of the aircraft has been impaired, but not to the extent that a forced landing is likely; or

(iv) an aircraft is known or believed to be the subject of unlawful interference.

(c) distress phase (DETRESFA) when:

(i) following the alert phase, further unsuccessful attempts to establish communication with the aircraft and more widespread unsuccessful inquiries point to the probability that the aircraft is in distress; or

(ii) the fuel on board is considered to be exhausted, or to be insufficient to enable the aircraft to reach safety; or

(iii) information is received which indicates that the operating efficiency of the aircraft has been impaired to the extent that a forced landing is likely; or

(iv) information is received or it is reasonably certain that the aircraft is about to make or has made a forced landing:

Provided that any notification made under this article shall contain the following information as is available in the order listed:

(a) INCERFA, ALERFA or DETRESFA, as appropriate to the phase of the emergency;

(b) agency and person calling;

(c) nature of the emergency;

(d) significant information from the flight plan;

(e) unit which made last contact, time and means used;

(f) last position report and how determined;

(g) colour and distinctive marks of aircraft;

(h) dangerous goods carried as cargo;

(i) any action taken by reporting office; and

(j) other pertinent remarks.

(2) For the purposes of Annex 12 of the Chicago Convention, a

"rescue coordination centre" shall mean the Armed Forces of Malta.

(3) The Minister may, by regulations issued under this Act, regulate in detail the management process to be followed by the relevant entities for each of the emergency phases mentioned.

73. A certificate granted by the Directorate in respect of a national service provider, U-Space service provider or a single common information service provider shall remain valid as long as the holder of the certificate complies with the relevant requirements set by the applicable EU Regulations but may be suspended, limited or revoked at any time if the conditions related to that certificate are contravened. Service provider.

PART X

Aerodromes, Aeronautical Lights and Dangerous Obstacles

74. (1) The Directorate shall be the authority appointed under the Regulation (EU) No. 139/2014 of 12 February 2014, as amended laying down requirements and administrative procedures related to aerodromes pursuant to Regulation (EC) No. 216/2008 of the European Parliament and of the Council, for: Appointment of the competent authority.

(a) the certification and oversight of aerodromes and its aerodrome operators;

(b) the oversight of providers of apron management services.

(c) those aerodromes covered by the Basic Regulation located in Maltese territory which:

(i) are open to public use;

(ii) serve commercial air transport; and

(iii) have a paved instrument runway of eight hundred metres (800m) or more, or exclusively serve helicopters using an instrument approach or departure procedures.

(2) The Directorate shall be the authority appointed for the oversight and certification of aerodromes located in Maltese territory, not covered by the Basic Regulation, pursuant to this Act.

(3) The Director General may issue a safety directive to any certificate holder falling under his licensing responsibility if he has determined the existence of an unsafe condition at a licensed aerodrome which requires immediate action. The Director General shall notify the Agency of any safety directive issued by him.

(4) The Director General, in consultation with the Minister,

may issue any regulatory instrument to regulate the operation of aerodromes including but not limited to the establishment and use of runways and aprons, aerodrome traffic zones, runway restricted zones, aerodrome control services, navigation services, aerodrome markings and aerodrome lighting and signage.

(5) The Directorate may, in consultation with the Minister, issue any regulatory instrument to regulate the lighting of sea or land fixtures or obstacles such as, but not limited to, cranes, poles, wind turbine generators and other vertical structures, dazzling lights and any other lights which may be liable to endanger an aircraft that is flying over Malta.

(6) Whosoever shall intentionally or negligently damage or interfere with any aeronautical ground light shall be guilty of an offence punishable with up to one (1) year imprisonment and a fine (*multa*) not exceeding twenty-three thousand two hundred and ninety-three euro and seventy cents (€23,293.70).

Operation of
aerodromes under
licence issued by
the Minister.

75. (1) No person shall operate a certified aerodrome without holding a licence issued to that effect by the Minister.

(2) The Minister may licence any aerodrome in Malta subject to such conditions as he deems fit, for the take-off and landing of aircraft engaged in such flight or class of flights as he may specify:

Provided that the Director General may, in consultation with the Minister, issue a regulatory instrument to establish the limits, limitations and conditions under which an aerodrome may operate without the need for a licence issued in accordance with this Act, but only if and insofar as this is permissible under this Act and Malta's international obligations as described in article 4.

(3) The Minister may cause to be notified in the Gazette, subject to such conditions as he deems fit, any Government aerodrome as an aerodrome available for the take-off and landing of aircraft engaged on such flights or class of flights as he may specify, and no Government aerodrome may be opened for use before such publication is made.

(4) Without prejudice to the generality of sub-article (3) and this sub-article, the Minister may grant a licence in respect of an aerodrome, in this Act referred to as "a licence for public use", which shall be subject to the condition that the aerodrome shall at all times when it is available for take-off or landing of aircraft be so available to all persons on equal terms and conditions.

(5) The licensee of an aerodrome in respect of which a licence for public use is in force shall display in a prominent manner at the aerodrome a copy of the licence and shall furnish to any person on request, information concerning the terms of that licence.

(6) The holder of an aerodrome licence granted under this Act shall not cause or permit any condition of the licence to be contravened by any person, but the licence shall not cease to be valid by reason only of such a contravention.

(7) A licence granted by the Minister in respect of an aerodrome shall remain in force for a period specified within it but may be suspended or revoked at any time if the conditions related to that licence are contravened.

(8) Aerodromes and aerodrome operators located in the Maltese territory falling under the Basic Regulation shall comply with the requirements laid down in Regulation (EU) No. 139/2014 referred to in article 74.

(9) Aerodromes and aerodrome operators located in Maltese territory not falling under the Basic Regulation shall comply with the provisions of this Act, and any regulatory instruments referred to in sub-article (4) of article 74 and in the proviso to sub-article (2) of article 75.

PART XI

Occurrence Reporting

76. (1) In accordance with Regulation (EU) No. 376/2014 of the European Parliament and of the Council of 3 April 2014 on the reporting, analysis and follow-up of occurrences in civil aviation, amending Regulation (EU) No. 996/2010 of the European Parliament and of the Council and repealing Directive 2003/42/EC of the European Parliament and of the Council and Commission Regulations (EC) No. 1321/2007 and (EC) No. 1330/2007, hereinafter referred to as the "Reporting Regulation", the authority designated for the purpose of fulfilling the obligations relating to the collection, analysis and follow-up of safety occurrence reports shall be the Directorate:

Designation of authority and fostering of just culture.

Provided that the Directorate shall act as point of contact for the purposes of Articles 2, 8, 9, 11 and 12 and any other article of the Reporting Regulation, as may be amended from time to time.

(2) The Directorate shall act as the designated body under Article 16(2) of the Reporting Regulation and shall guarantee the fostering and observance of just culture in terms of this Act and in line with Malta's international obligations. Without prejudice to the provisions of this Part of the Act, the Directorate shall issue such regulatory instruments as may be required in the Act in order to ensure the full observance of the terms of the Reporting Regulation. In this regard, the Director General shall by regulatory instrument nominate and appoint a Just Culture Monitoring Group to assist the Directorate in the evaluation of just culture infringement reports and for the purposes of ensuring that just culture in terms of the Reporting Regulation is enforced, encouraged and fostered.

(3) This Part shall apply to organisations within the meaning of Article 2 of the Reporting Regulation, which organisations supply aviation products to be used within the Maltese airspace and, or employ, contract or use the services of persons required to report occurrences in accordance with Article 4(6) of the Reporting Regulation.

(4) This Part shall apply to the occurrences involving aircraft, products, and parts covered by the Basic Regulation.

(5) The applicability of the provisions of this Part shall be without prejudice to the applicability of the provisions of the [Protection of the Whistleblower Act](#):

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Provided that the provisions of that Act may not be relied upon for the simple reason of securing the disclosure of the identity of a reporter in terms of this Part;

Powers of
Directorate.

77. (1) For the purposes of this Part, the definitions found in Article 2 of the Reporting Regulation shall apply.

(2) This Part aims to improve aviation safety by ensuring that relevant safety information relating to civil aviation is reported to, collected, stored, protected, exchanged, disseminated and analysed by the Directorate and the Just Culture Monitoring Group.

(3) After analysing and following-up any report collected in pursuance of the provisions of this Part, the Directorate shall have the amplest power to take any corrective or preventive action required to improve aviation safety:

Provided that in particular, the Directorate may order any person regulated by this Act or the Basic Regulation to do, refrain from doing or cease from doing something.

(4) Any action taken in pursuance of sub-article (3) may relate to cases which are specific or general in nature, or to cases of a specified class.

(5) The Directorate shall issue the administrative measures referred to in sub-article (3) in writing and may proceed to publish them on its online portal.

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(6) The provisions of the [Code of Organization and Civil Procedure](#) dealing with the warrant of prohibitory injunction shall not apply to any immediate decision or action of the Director General taken in terms of the sub-article (3).

(7) An appeal by any person interested in such decision or action may be brought before the Aviation Appeals Board within the period mentioned in article 91(2).

78. (1) Organisations not falling under the Reporting Regulation shall establish a mandatory and voluntary reporting system within the remit of the regulatory instruments issued by the Director General.

Mandatory and voluntary reporting systems.

(2) Reporting notification shall be sent to the Directorate as soon as possible, by the relevant person under the Reporting Regulation, and in any event no later than seventy-two (72) hours after becoming aware of the occurrence.

79. (1) The Directorate shall adopt internal rules and administrative measures relating to the handling of aviation reports as it deems fit:

Internal rules and administrative measures to be adopted.

Provided that the obligations imposed upon it by the Reporting Regulation may not be undermined or altered by such internal rules and administrative measures.

(2) In pursuance of Article 13 of the Reporting Regulation, the Directorate shall employ the necessary expertise in order to identify the safety hazards associated with occurrences which are reported to it by organisations or other persons, provided that the following conditions shall apply:

(a) any person contracted by the Directorate for the purpose of reporting his scientific findings or subjective expert opinions shall be subject to the same rules regarding confidentiality and professional secrecy as are applicable to the Directorate;

(b) prior to accepting a particular engagement, the person being engaged shall confirm in writing that he has the necessary competence, expertise and experience to carry out the functions desired of him, and a written record of that fact shall be kept by the Directorate.

80. (1) There shall be created and administered by the Directorate a national database of occurrence reports, hereinafter referred to as "the database".

National database of occurrence reports.

(2) The database shall consist of a compilation of occurrence reports received and processed by the Directorate:

Provided that the Directorate shall ensure that:

(a) the database is standardised to facilitate information exchange between the competent authorities of the Member States; and

(b) the database is compatible with the ECCAIRS software and the ADREP taxonomy.

(3) All relevant data relating to a report shall be inserted into the database once it is processed in accordance with the internal rules and administrative measures adopted by the Director General as well as any other principle of law set out in the Reporting Regulation.

(4) In particular, no report, nor its processing in accordance with this Part, and no part of the database may be used to disclose or unveil the data or information source making the report or to impose civil or criminal liability upon him, saving however, the provisions of Article 16 of the Reporting Regulation.

(5) All processing of data under this Part shall conform with the just culture principle laid down in the Reporting Regulation.

(6) In accordance with Article 15 of the Reporting Regulation, any information or data processed by the Directorate or the Just Culture Monitoring Group shall in all cases be anonymised and subject to confidentiality and rules on professional secrecy found in the [Professional Secrecy Act](#).

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Access to reports
by Bureau of Air
Accident
Investigation.

81. In pursuance of Article 6(9) of the Reporting Regulation, and any other provision of European Union law under which national safety investigation authorities are conferred with administrative powers or discretion, the Bureau of Air Accident Investigation shall at all times have access to:

(a) the occurrence reports received by the Directorate or by an organisation pursuant to Articles 4 and 5 of the Reporting Regulation, including their analysis and follow-up;

(b) the national database set up by article 80:

Provided that the processing of information by the Bureau of Air Accident Investigation and Just Culture Monitoring Group shall be subject to the same data protection laws and regulations, as well as rules of confidentiality of the data source, as are applicable to the processing of information by the Directorate in virtue of this Part, the Reporting Regulation and, or any other law.

Collaboration
between
authorities.

82. To ensure that the Directorate has respected any and all of the obligations imposed upon it by the Reporting Regulation, it shall be the duty of the same Directorate to liaise with the European Union Aviation Safety Agency and the European Commission for the purpose of verifying any one or more of the following matters:

(a) that the processing of occurrence reports, including any administrative practice of the Directorate, conform with European Union law;

(b) that the quality and content of occurrence reports received by the Directorate meet the standards laid down by European Union laws and Regulations;

(c) that the confidentiality, anonymisation and disidentification of reporters is being carried out properly;

(d) that the national database meets the requirements set out by European laws and Regulations;

(e) that the fines or administrative penalties imposed on persons breaching this Part or any provision of the Reporting Regulation meet the requirements set out by European Union laws and Regulations.

83. (1) The Directorate and its officers shall be immune to any action for civil responsibility, whether in tort or in contract, brought against it by any person on the basis of the failure of a natural person, organisation or designated officer to discharge his duties under this Part or the relevant articles of the Reporting Regulation.

Immunity from civil actions.

(2) Any person who files an occurrence report in good faith cannot be held responsible for breach of confidentiality or professional secrecy, breach of his contract of employment, or for the fact that such report may have detrimental effects upon the business or reputation of another person.

PART XII

General Provisions

84. (1) The operators and commanders of an aircraft registered in Malta that is being flown over any foreign country shall not allow that aircraft 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 in relation to that foreign country.

Maltese aircraft flying over foreign territory to respect foreign law.

(2) A person shall not contravene sub-article (1) if he can prove that he neither knew nor suspected that the aircraft was being or was to be used for a purpose referred to therein.

85. (1) The operator and commander of an aircraft registered in Malta shall, when such aircraft is being flown over any foreign country, comply with the directions given by the appropriate aeronautical authorities of that country whenever:

Maltese aircraft to obey foreign authorities.

(a) the flight of that aircraft has not been duly authorised; or

(b) there are reasonable grounds for the appropriate aeronautical authorities to believe that the aircraft is being or shall be used for a purpose which is prejudicial to the security, public order or public health of, or to the safety of air navigation in relation to, that country:

Provided that a person does not contravene sub-article (1) if he departs from the directions duly given by the foreign aeronautical

authority for reason that observance of such order would endanger or have endangered the safety of the flight, the lives of persons on board and its cargo.

(2) (a) A person equally shall not contravene sub-article (1) if he can prove that he neither knew nor suspected that directions were being given by the appropriate aeronautical authorities.

(b) The requirement to follow directions as specified in sub-article (1) shall be without prejudice to any other law requiring compliance with directions of an aeronautical authority.

(3) Without prejudice to the Cover Regulation, no aircraft shall fly over Malta for the purpose of specialised activities such as agriculture, construction, photography, surveying, observation and patrol, aerial advertisement or maintenance check flights, except with the permission of the Director General granted to the owner, operator or charter of that aircraft, or the competent authority having exchanged the relevant information with the Directorate:

Provided that such permission or exchange of information shall be in writing and shall specify the aircraft in relation to which it applies, as well as any conditions to which the permission may be subject to, or the relevant accepted operations specifications:

Provided further that in the case of UAS operations, the Directorate shall exchange information with the competent authority of the operator.

(4) In this article "appropriate aeronautical authorities" includes any person, whether a member of a country's military or civil authorities, authorised under the law of the foreign country to issue directions to aircraft flying over that country.

Aerial survey.

86. No aircraft shall fly over Malta for the purpose of aerial survey except with the permission of the Director General granted to the operator or charterer of that aircraft:

Provided that such permission shall be in writing and shall specify the aircraft in relation to which it applies, as well as any conditions to which the permission may be subject.

Aircraft display operations.

87. The Director General may make such arrangements as he deems fit for the creation of an aircraft display operation, having regard to the safety of the Maltese airspace and any persons and property on the surface of the land or sea.

Furnishing of reports by experts.

88. In relation to any of his functions under the provisions of this Act, the Director General may, either absolutely or subject to conditions he deems fit, approve a person as a qualified entity to furnish reports to him and he may accept such reports.

89. (1) There shall be established a Board, to be called the Aviation Appeals Board, which shall be composed of a lawyer with at least twelve (12) years' experience or otherwise a retired magistrate or judge, who sits as Chairman together with two (2) technical assessors.

Establishment of the Board.

(2) The Chairman and technical assessors of the Board shall be appointed by the Prime Minister for a period of three (3) years:

Provided that the Prime Minister may confirm any appointment from year to year and he may direct, on making any new appointment, that the outgoing chairman or assessor may continue to sit on the Board in respect of any matter whereof he has already taken cognizance before the termination of his appointment until such matter is determined.

(3) The Prime Minister may also make any necessary appointments for the purpose of substituting the Chairman or any assessor of the Board in the event of his being, for any reason, unable to carry out his functions with respect to any particular case or cases.

(4) The Chairman or any assessor of the Board shall not be competent to take cognizance of and deal with any matter in which he has a direct or an indirect interest.

(5) The technical assessors of the Board shall, before entering upon their office, take before the State Advocate the oath to examine and decide any matter referred to them under the provisions of this Act with equity and impartiality.

(6) The Chairman of the Board shall have, for the purpose of collecting the evidence and establishing the facts relating to any matter before the Board, all such powers as are by the [Code of Organization and Civil Procedure](#) vested in the Civil Court, First Hall.

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90. (1) Any power vested in the Directorate or its Director General to issue licences, permits or any other authorisation under this Act shall include the power to revoke, suspend and vary such previous authorisation, saving however, the provisions on the right to appeal a decision of the Directorate and, or Director General.

Power to issue includes power to revoke.

(2) Unless the interests of safety require the immediate suspension, revocation or alteration of a licence, permit or other authorisation issued in terms of this Act, the Director General shall allow enough time to the person interested to submit representations prior to any such decision being issued.

(3) The provisions of the [Code of Organization and Civil Procedure](#) relating to the warrant of prohibitory injunction shall not apply to any immediate decision of the Director General taken in terms of the foregoing sub-article.

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Appeals to
Aviation Appeals
Board.

91. (1) An appeal shall lie to the Aviation Appeals Board by any person or institution, or any department or agency of Government having an interest and being aggrieved by any one of the following decisions of the Directorate or Director General:

(a) the decision that a person is not, for any relevant reason, fit to hold or be awarded a licence issued in terms of this Act or to perform any duties in whatever capacity;

(b) the decision that a person, organisation or undertaking, for any relevant reason, is not fit to hold or be awarded a licence, permit, certification or other authorisation to operate or, as the context requires, to operate as:

(i) an aircraft;

(ii) an air transport undertaking operating under an AOC;

(iii) a flying school;

(iv) a flight simulation training device (FSTD);

(v) an approved training organisation;

(vi) a declared training organisation;

(vii) a cabin crew training organisation;

(viii) an air traffic control (ATC), air traffic management (ATM) or air navigation services (ANS) training organisation;

(ix) English language testing body;

(x) maintenance organisation;

(xi) continuing airworthiness management organisation;

(xii) aircraft maintenance training and examination organisation;

(c) any decision to ground an aircraft;

(d) any result of any test or examination required in order to obtain any licence in terms of the Act:

Provided that in relation to paragraph (d) above the Directorate may by regulatory instrument establish procedures for the revision of examination results;

(e) any refusal to grant or any decision to suspend or

revoke any licence, permit or other authorisation granted by the Directorate or Director General;

(f) the decision to impose an administrative penalty;

(g) the decision to take or initiate an enforcement measure, enforcement order or cease and desist order and to impose any administrative penalty in relation thereto.

(2) An appeal in terms of sub-article (1) shall be filed within twenty (20) days of notification of the relative decision or order upon the person interested:

Provided that the appeal shall be limited to grounds of procedural unfairness or unreasonableness in the decision taken.

(3) All decisions taken in pursuance of this Act shall forthwith be communicated to the person interested and shall contain an indication of that person's right to appeal under this article together with reasons for the decision taken.

(4) The filing of an appeal under this article shall in no manner suspend the decision of the Directorate or Director General.

92. The Director General or any person delegated by him shall, at all reasonable times, have the right to enter and inspect any aircraft, aerodrome or other landing place as well as any other civil aviation facilities which are located outside the aerodrome area to ensure compliance with any of the provisions of this Act or of a regulatory instrument issued under it.

Right to enter and inspect.

93. No person shall obstruct or impede any person acting in the exercise of his powers or the performance of his duties under this Act.

Obstruction of officer.

94. Any person who without reasonable excuse fails to comply with any direction given to him under any provision of this Act, together with its Schedules, or any regulatory instrument or other directive of the Directorate or Director General shall be deemed to have contravened this Act.

Failure to comply.

95. (1) In the case of a contravention against this Act which relates to the flight of an aircraft, the operator of that aircraft and the commander thereof shall, without prejudice to the liability of any other person under this Act for that contravention, be deemed to have contravened the relevant provision or directive or regulatory instrument issued under this Act:

Offences.

Provided that as a defence to such contravention, the operator and commander may plead that the contravention occurred without their consent or connivance and that they exercised all due diligence to prevent the contravention.

(2) If a person contravenes a provision of this Act or any directive or regulatory instrument issued under it, he shall be liable on conviction to a fine (*multa*) of not less than two hundred and fifty euro (€250) and not more than two hundred and fifty-thousand euro (€250,000) for each separate infringement:

Provided that the court hearing the relative criminal proceedings shall also have the power to confiscate and, or revoke or suspend any licences, permits or other authorisations belonging to the accused and issued in accordance with the provisions of this Act, for a time or in perpetuity:

Provided further that the provisions of this sub-article shall not apply in the case of any breach of this Act or of any regulatory instrument which are sanctioned by the imposition of an administrative penalty.

Order to cancel
flight and detain
aircraft.

96. Where it appears to the Director General that any aircraft is likely to be flown in such circumstances as would contravene any of the provisions of this Act or a directive or regulatory instrument issued under it, he may direct the operator or the commander of the aircraft not to permit the aircraft to make the particular flight or any other flight of such description as may be specified in the direction:

Provided that the decision of the Director General under this article shall continue to be in force until expressly revoked by him, and he may take all necessary steps for the detention of the aircraft in question.

Consent required
to land.

97. Subject to the provisions of article 75, nothing in this Act or any Schedule thereto shall confer any right to land in any place without the consent of the owner thereof.

Renewal of
applications and
change of
circumstances.

98. Nothing in this Act shall oblige the Director General to accept an application from the holder of any current certificate, licence, approval, permission, exemption, or other document, being an application for the renewal of that document, or for the granting of another document in continuation of or in substitution for the current document, if the application for the fresh document is made in circumstances which have been altered with respect to the previous application and which justify the non-renewal of any document previously issued:

Provided that the Director General and the Directorate may refuse to process the renewal of a current document if the application for such renewal is filed more than sixty (60) days before the current document is due to expire.

SCHEDULE 1
Aircraft Continuing Airworthiness Records

Aircraft continuing airworthiness records

1. Aircraft continuing airworthiness records shall contain the current:

- (a) status of airworthiness directives and measures mandated by the Directorate in immediate reaction to a safety problem;
- (b) status of modifications and repairs;
- (c) status of compliance with the maintenance programme;
- (d) status of service life limited components;
- (e) mass and balance report;
- (f) certificate of release to service required by Part III following the completion of any maintenance; and
- (g) list of deferred maintenance.

Aircraft logbook

2. The following entries must be included in the aircraft log book:

- (a) the aircraft type;
- (b) the aircraft registration mark;
- (c) the date, together with the aircraft's accumulated total flight time, flight cycles and landings, as appropriate.

Engine, propeller and component logs

3. In addition to the authorised release document, EASA Form 1 or its equivalent, the following information relevant to any engine, propeller, engine module or service life limited component shall be entered in the appropriate engine or propeller logbook, engine module or service life limited component log card:

- (a) identification of the component;
- (b) the type, serial number and registration, as appropriate, of the aircraft, engine, propeller, engine module or service life limited component to which the particular component has been fitted, along with the reference to the installation and removal of the component;

(c) the date, together with the component's accumulated total flight time, and flight cycles, landings and calendar time, as appropriate; and

(d) the information in item 1 applicable to the component.

Retention of records

4. The owner or operator of an aircraft shall ensure that a system has been established to keep the records specified in Column 1 of the table for the corresponding periods specified in Column 2 of that table.

Column 1 - Record	Column 2 - Period
All detailed maintenance records in respect of the aircraft and any service life limited component fitted thereto	Until such time as the information contained therein is superseded by new information equivalent in scope and detail but not less than thirty-six (36) months after the aircraft or component has been released to service
The total time in service (hours, calendar time, cycles, and landings) of the aircraft and all service life limited components	At least twelve (12) months after the aircraft or component has been permanently withdrawn from service
The time in service (hours, calendar time, cycles and landings) as appropriate, since last scheduled maintenance of the component subjected to a service life limit	At least until the component scheduled maintenance has been superseded by another scheduled maintenance of equivalent work scope and detail
The current status of compliance with maintenance programme such that compliance with the aircraft maintenance programme can be established	At least until the aircraft or component scheduled maintenance has been superseded by other scheduled maintenance of equivalent work scope and detail
The current status of airworthiness directives issued pursuant to article 13 applicable to the aircraft and components	At least twelve (12) months after the aircraft or component has been permanently withdrawn from service

Details of current modifications and repairs to the aircraft, engines, propellers and any other component vital to flight safety	At least twelve (12) months after they have been permanently withdrawn from service
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Aircraft technical log

5. (1) An aircraft technical log shall contain the following information for each aircraft:

- (a) information about each flight, to ensure continued flight safety;
- (b) the current aircraft certificate of release to service;
- (c) the current maintenance statement giving the aircraft maintenance status of what scheduled and out of phase maintenance is next due, except where the Directorate has given permission for the maintenance statement being kept elsewhere;
- (d) all outstanding deferred defects rectifications that affect the operation of the aircraft; and
- (e) any necessary guidance instructions on maintenance support arrangements.

(2) An operator shall ensure that the aircraft technical log is retained for thirty-six (36) months after the date of the last entry.

SCHEDULE 2

Circumstances in which documents are to be carried on board the aircraft

1. Subject to item 3, the following documents shall be carried on board the aircraft:

- (a) on a public transport flight:
 - (i) Document A;
 - (ii) Document B;
 - (iii) Document C;
 - (iv) Document D;
 - (v) Document E;

- (vi) Document F;
 - (vii) Document H; and
 - (viii) if the flight is international air navigation, Document G and Document I;
- (b) on a non-commercial flight or commercial operation flight which is international air navigation:
- (i) Document A;
 - (ii) Document B;
 - (iii) Document C;
 - (iv) Document E;
 - (v) Document F;
 - (vi) Document G; and
 - (vii) Document I;
- (c) on a flight made in accordance with the terms of a permission granted to the operator under Part V.

Description of documents

2. For the purposes of this Schedule:

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"Document A" means the licence in force under the [Electronic Communications \(Regulation\) Act](#) for the aircraft radio station installed in the aircraft;

"Document B" means, in the case of a non-EASA aircraft, the national certificate of airworthiness in force for the aircraft;

"Document C" means the licences of the members of the flight crew of the aircraft;

"Document D" means one copy of the load sheet, if any, required by or under the Act for the flight;

"Document E" means one copy of each national airworthiness review certificate required by or under the Act, if any, in force for the aircraft;

"Document F" means the technical log or approved record, if any, in which entries are required by or under the Act;

"Document G" means the certificate of registration in force in relation to the aircraft;

"Document H" means those parts of the operations manual, if any, required by or under the Act to be carried during a flight;

"Document I" means the permission, if any, granted in relation to the aircraft issued in terms of the Act.

SCHEDULE 3

1. Categories of aircraft:

Transport Category (Passenger).

Transport Category (Cargo).

Aerial Work Category and, or Specialised Services.

Private Category and, or Non-Commercial.

Special Category.

2. Purposes for which aircraft may fly:

Transport Category (Passenger): any purpose.

Transport Category (Cargo): any purpose, other than the public transport of passengers.

Aerial Work Category and, or Specialised Services: aerial work and specialised services only.

Private Category and, or Non-Commercial: any purpose other than public transport and aerial work and, or specialised services.

Special Category: any purpose, other than public transport, specified in the certificate of airworthiness but not including the carriage of passengers unless expressly permitted by the Director General.
