

Assented to in Her Majesty's name and on Her Majesty's behalf this     day of     , 2014.

Mark Capes  
Governor



**ST HELENA  
NO. OF 2014**

Enacted.....  
Date of Commencement.....  
Published in the Gazette.....

**A BILL  
FOR  
AN ORDINANCE**

**to enact certain provisions relating to civil aviation; and for purposes connected therewith or incidental thereto.**

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Enacted by the Governor of St Helena with the advice and consent of the Legislative Council of St Helena.

**PART 1  
PRELIMINARY**

**Citation and commencement**

- 1. (1)** This Ordinance may be cited as the Aviation Ordinance, 2014, and shall come into force on such date or dates as the Governor shall appoint by Order.
- (2)** An Order under subsection (1) may appoint different dates for different provisions or for different purposes of the same provision.

**Interpretation**

- 2. (1)** References to legislation (including Ordinances and Conventions) in this Ordinance shall be to that legislation as amended or supplemented by regulations or other instruments as amended from time to time.

(2) Terms used in this Ordinance shall, unless the context otherwise requires, have the meaning ascribed to them in the Air Navigation (Overseas Territories) Order 2013 and as set out below:

“**aerodrome**” means the aerodrome at Prosperous Bay Plain;

“**aerodrome operator**” means the person contracted by the Government of St Helena to manage and operate the aerodrome;

“**aerodrome security officer**” means the Designated Accountable Manager appointed by the aerodrome operator and persons appointed by the Designated Accountable Manager from time to time, and every customs officer and police officer;

“**ASSI**” means Air Safety Support International Ltd, as defined in the Order;

“**authority**” means any court, agency, inspectorate, minister, official or public or statutory person with relevant jurisdiction;

“**Chicago Convention**” means the International Convention on Civil Aviation which was signed on the 7<sup>th</sup> day of December 1944 on behalf of the United Kingdom at the International Civil Aviation Conference held in Chicago;

“**fuel facilities**” means the bulk fuel facilities in Rupert’s Valley and the airport fuel facility adjacent to the aerodrome;

“**Fuel Management Contractor**” means the person appointed by the St Helena Government from time to time to manage the fuel facilities;

“**Order**” means The Air Navigation (Overseas Territories) Order 2013 (S.I. 2013 No. 2870 (UK));

“**owner**” in relation to an aircraft, means the registered owner of the aircraft;

“**restricted area**” means any area at the aerodrome or the fuel facilities designated as such by the aerodrome operator or the Fuel Management Contractor;

“**Territory**” means St Helena.

### **Control of land in the interests of civil aviation**

3. (1) The Governor in Council may, if satisfied that it is necessary to do so in order to secure the safe and efficient use for civil aviation purposes of any land, structures, or works in connection with the aerodrome direct that any area of land, structure or works be subject to control in accordance with the provisions of this section.

(2) Pursuant to subsection (1), the Governor in Council may give directions—

- (a) for requiring the total or partial demolition of any building or structure within the area to which the order relates;
- (b) for restricting the height of trees upon any land within the area, or for requiring any tree upon any such land to be cut down or reduced in height;
- (c) for extinguishing any private right of way over land within the area;
- (d) for restricting the installation of cables, mains, pipes, wires or other apparatus upon, across, under or over any land within the area;
- (e) for extinguishing, at the expiration of such period as may be determined by the directions any subsisting right of installing or maintaining any apparatus as aforesaid upon, across, over or under any land within the area;
- (f) for requiring that, before the expiration of such period as may be determined by the directions, any such apparatus shall be removed from any land within the area.

(3) Any such direction by the Governor in Council may contain provisions for empowering any person so authorised to enforce any direction given by the Governor in Council under this section.

(4) Appeals in connection with this section shall be conducted in accordance with the Land Planning and Development Control Ordinance, 2013, and, for this purpose, the Tribunal established under that Ordinance shall have the power to hear and determine any appeal under this section.

## **Powers of detention**

4. (1) Where default is made in the payment of any charges incurred in respect of any aircraft at the aerodrome, the aerodrome operator may, subject to the provisions of this section—
- (a) detain, pending payment, either the aircraft in respect of which the charges are incurred (whether or not they were incurred by the person who is the operator of the aircraft at the time when the detention begins) or any other aircraft of which the person in default is the operator at the time when the detention begins; and
  - (b) if the charges are not paid within 56 days of the date when the detention begins, take such steps as are necessary to sell the aircraft in order to satisfy the charges.
- (2) The Governor may authorise the detention of an aircraft at the aerodrome when so requested by an authority with respect to any non-compliance with international safety standards.
- (3) Subject to the provisions of section 5, where an authority in a Contracting State has made a determination as to whether or not any sum is due in respect of air navigation services provided by that Contracting State, that determination shall be enforceable in St Helena.

## **Exemption of aircraft and parts thereof from seizure on patent claims**

5. (1) Any lawful entry into St Helena or any lawful transit across St Helena, with or without landings, of an aircraft to which this section applies shall not entail any seizure or detention of the aircraft or any proceedings being brought against the owner or operator thereof or any other interference therewith or on behalf of any person in St Helena, on the ground that the construction, mechanism, parts, accessories or operation of the aircraft is, or is likely to cause, an infringement of any patent, design or model.
- (2) The importation into, and storage in, St Helena of spare parts and spare equipment for an aircraft to which this section applies and the use and installation thereof in the repair of such an aircraft shall not entail any seizure or detention of the aircraft or of the spare parts or spare equipment or any proceedings against the owner or operator of the aircraft or the owner of the spare parts or spare equipment or any other interference with the aircraft by or on behalf of any person in St Helena on the ground that the spare parts or spare equipment or their installation are or is an infringement of any patent, design or model.

## **Trespass**

6. A person who, without the consent of an aerodrome security officer or other lawful authority, enters a restricted area or remains in the aerodrome or in the fuel facilities when requested to leave by an aerodrome security officer or by the Fuel Management Contractor is guilty of an offence.

## **Unauthorised presence on board aircraft**

7. A person is guilty of an offence if, not being a person either engaged in Her Majesty's service or having lawful authority to do so—
- (a) goes on board any aircraft without the consent of the pilot in charge or an aerodrome security officer; or
  - (b) remains on board any aircraft after being requested to leave by an aerodrome security officer.

**Power to question and search**

8. (1) Every person entering the aerodrome shall answer such questions as any aerodrome security officer may ask with respect to the purpose of his or her entry, or concerning any baggage or other property carried, and shall, if so required by the aerodrome security officer, produce that baggage or other property for examination at such place and in such manner as the aerodrome security officer may direct.

(2) A person is guilty of an offence if he or she makes a false statement to an aerodrome security officer, in relation to the purpose of his or her entry, or concerning any baggage or other property carried or refuses to produce any baggage or other property carried when requested to do so in accordance with subsection (1).

**Penalties and power of arrest**

9. (1) A person who is guilty of an offence under this Ordinance is liable on conviction to a fine not exceeding £20,000 or imprisonment for a term not exceeding five years, or to both such fine and imprisonment.

(2) An aerodrome security officer may arrest, without warrant, any person whom he or she has reasonable grounds to suspect is guilty of committing or attempting to commit an offence under this Ordinance.

**Public health and environment**

10. (1) The Governor in Council shall make regulations to ensure compliance with Chapter 2 of Annex 9: Facilitation to the Chicago Convention on aircraft disinfection and aircraft disinsection.

(2) The Governor in Council shall make regulations to—

- (a) ensure the safe disposal of waste products on an aircraft landing at the aerodrome;
- (b) prevent the importation of hazardous products by an aircraft;
- (c) control effluent from aviation activities.

**Application of law of wreck and salvage to aircraft**

11. (1) Any services rendered in assisting, or in saving life from, or in saving cargo or apparel of, an aircraft in, on or over the sea or any tidal water, or on or over the shores of the sea or any tidal water, shall be deemed to be salvage services in all cases in which they would have been salvage services if they had been rendered in relation to a vessel.

(2) Where salvage services are rendered by an aircraft to any property or person, the owner of the aircraft shall be entitled to the same reward for those services as such owner would have been entitled to if the aircraft had been a vessel.

(3) Where any aircraft, part of an aircraft or equipment for an aircraft is sunk, stranded or abandoned in the territorial waters of St Helena in such a manner as in the opinion of the Harbour Master appointed under the Harbours Ordinance, Cap. 47 is, or is likely to become, an obstruction or a danger to marine navigation in those waters pending the raising, removal or destruction thereof, the Harbour Master may cause such aircraft, part or equipment to be lighted or buoyed in such manner as he or she considers appropriate.

**Power to make regulations**

**12. (1)** The Governor in Council shall make regulations in accordance with this Ordinance.

**(2)** The Governor in Council may make regulations, or may authorise the aerodrome operator to issue byelaws, to regulate access to and activities at the aerodrome and notice of such regulations or byelaws shall be displayed at the aerodrome.

**(3)** Any byelaws issued by the aerodrome operator under paragraph (2) may provide that in respect of any contravention thereof the offender shall be liable on conviction to a maximum fine of £2,000, or to a maximum term of imprisonment of six months, or both, as may be prescribed therein.

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**EXPLANATORY NOTE**

*(This note does not form part of the Ordinance)*

The purpose of this Ordinance is to enact provisions to deal with civil aviation and to give effect to international requirements for civil aviation under the Chicago Convention.