

AIR NAVIGATION ORDER AMENDMENTS – PUBLIC CONSULTATION DOCUMENT



AMENDMENT CONCEPT

1. **Change of Status:** The current Air Navigation Order (hereinafter referred to as 'the Order') will be replaced with a new Act enacted in term of Maltese Law: the 'Air Navigation Act' (hereinafter referred to as 'the Act'). Transport Malta felt that a law which regulates the navigation of aircraft over the Maltese airspace and all technical compliance requirements of Maltese registered aircraft should by its nature be elevated to 'Act' status. Such change of status of the law will allow for the possibility of adopting subsidiary legislation which was not possible under the Order. The possibility of introducing subsidiary legislation coupled with other 'soft law' mechanisms found in the text to the Act will allow for considerably shorter time frames for the Civil Aviation Directorate to introduce urgent regulatory measures required from a European/EASA and local perspective.
2. **Future Proof Law:** the changes to the status of the law and the various substantive changes being proposed are intended to ensure that the Air Navigation Act will act as a legal platform guaranteeing that Transport Malta and the Civil Aviation Directorate will have a modern and solid legal platform allowing to regulate the aviation in an efficient and effective manner.
3. **N.B. :** it should be noted that unless varied in manner specified in this Consultation Document, the terms of the Order as currently in force will be substantially adopted in the Act.

NEW GENERAL HOUSEKEEPING PROVISIONS

1. **Power of the Directorate :** The Civil Aviation Directorate of Transport Malta (hereinafter referred to as ‘the Directorate’) shall be the public 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.
2. **Regulatory Instruments:** This is a new concept being introduced through the Act, whereby the Director General of Civil Aviation (hereinafter referred to as ‘the Director General’) will be able to introduce Guidelines, Procedures, Rules or Notices (amongst others) in order to regulate various particular matters falling within its remit in terms of the Act. Such Regulatory Instruments shall be presented for public consultation on the Directorate’s web portal and once such consultation is completed, such instrument will be published on the Directorate’s web portal accordingly.
3. **Provision in relation to Electronic Certification:** the Act will also cater for the eventual adoption of electronic certification methodology by the Directorate.

AIRWORTHINESS

- Changes to prior regime: Alignment of the Act with EASA Basic Regulation.
- Exemption from CofA requirement: applicable to a non-EASA balloon, provided it is not being used for the public transport of passengers, a non-EASA kite, a non-EASA sailplane flying on a private flight, an aircraft flying in accordance with the conditions of a national permit to fly issued by the Directorate in respect of that aircraft, an aircraft flying in accordance with an EASA Part-21 permit to fly issued or approved by the Directorate in respect of that aircraft and such other aircraft as the Directorate may determine.
- Possibility of National CofA: In the case of a non-EASA aircraft registered in Malta, the Directorate may issue a national certificate of airworthiness, if it is satisfied that the aircraft is fit to fly and subject to the various technical airworthiness oversight requirements which will be introduced in terms of the Act amongst others.

AIRCRAFT OPERATIONS & CREW FATIGUE

1. Changes to prior regime: Alignment of the Act with EASA Basic Regulation and other relevant EU laws.
2. The Director General may issue those Regulatory Instruments required in order to regulate the operation of non-EASA Aircraft.
3. New provisions will be introduced allowing for the Director General to issue Regulatory Instruments relating to fatigue of instructors and students alike.

AIRCRAFT CREW AND LICENSING

1. Changes to prior regime: Alignment of the Act to relevant European Laws.
2. The Director General may grant aircrew licenses for non-EASA aircraft, and subsequent license validations, to persons of not less than 17 years of age, subject to those conditions as he deems fit. Such grant shall authorize the holder to act as a member of the flight crew of an aircraft registered in Malta.
3. Introduction of NPPL – In this regard, the National Private Pilot License shall be available: this License will be issued by the Directorate. Class ratings that will be included in the license.
4. NPPL - Flight in other countries may be carried out under certain conditions applying to non EASA aircraft, such as: microlight aeroplanes, light gyroplanes, amateur built aircraft, ex-military aircraft, foot launched aircraft, vintage aircraft that meets specific criteria for date of design and manufacture, aircraft built or modified for scientific or novel purposes, and any other aircraft permitted as such by the Director General as and if permissible in terms of applicable European laws.
5. Reconsideration Process: Any decisions of the Directorate relating to the suspension or revocation of a license or permit in view of the lack of compliance with the terms of the Act shall be subject to reconsideration upon written request in this regard to the Director General. A Reconsideration request shall be filed within 10 days from the decision revoking or suspending a license. Any decision of the Directorate or the Director General shall be subject to appeal before the Administrative Review Tribunal established in terms of Maltese Law.

AIR INCIDENT REPORT & ENFORCEMENT

1. Air Incident Reporting: Alignment and updating of current provisions of the Order In accordance with the terms of EU Regulation (EU) No 376/2014 of the European Parliament and of the Council on the reporting, analysis and follow-up of occurrences in civil aviation, amending Regulation (EU) No 996/2010 and repealing Directive 2203/42/EC and Commission Regulations (EC) No 1321/2007 and (EC) No 1330/2007 (hereinafter referred to as the “Reporting Regulation”).
2. Enforcement: Upgrading of current rules relating to the prosecution of unruly passengers based on EASA policies and recommendations.

GENERAL

1. Changes to prior regime: Alignment of other regulatory aspects covered by the Order with terms of the relevant applicable EU Laws i.e. aerodromes and air traffic control amongst others.
 2. Power of the Directorate/Director General: Any power vested in the Directorate or its Director General to issue licences, permits or any other authorization under this Act shall include the power to revoke, suspend and vary such previous authorization. Any decision to revoke, suspend or vary such license, authorisation or permit shall be subject to appeal before the Administrative Review Tribunal established in terms of Maltese Law.
- A Warrant of Prohibitory Injunction cannot be issued against the Directorate or the Director General in certain limited circumstances where a licence, permit or any other authorization under the Act is issued or otherwise revoked, suspended and varied in view of any threat to national security or any prejudice to aviation safety.