

## OFFSHORE

# Plane reaction

Since the 2007 Air Navigation Order, the Isle of Man has implemented a successful and legally sound aircraft registration project. By **Andrew Webb**

Since the Air Navigation (Isle of Man) Order 2007 came into force on 1 May 2007, the Isle of Man Aircraft Register (Iomar) has surpassed all expectations in terms of numbers and quality of aircraft.

It was considered a reasonable target to register 12 aircraft in the first year and more than 50 were registered. At the time of writing, the total number registered stands at 236 and includes a number of privately operated models of the Boeing and Airbus families as well as the latest Dassault, Bombardier and Gulfstream business jets.

The achievement is partly down to careful legislative planning. The 2007 Order is an order in council. It extends to the Island pursuant to sections 60 and 61 of the Civil Aviation Act 1982 of Parliament. This legislative mechanism enables the UK to satisfy its obligations under the Chicago Convention as the Contracting State responsible for the Crown Dependencies. Without an order in council the UK would have had to convince the international regulators that its Crown Dependency would not abuse its ability to 'M' register aircraft. The Manx project had to conform to the highest international standards.

Unlike the other Crown Dependencies, the Isle of Man had a head start. By virtue of its Airports and Civil Aviation Act 1987, the Island's Government had been routinely exercising its power to apply legislation of the UK and the EU to the Island. The 2007

Order represented the missing link: the power to register and regulate aircraft as a sub-register of the UK.

#### Expertise required

But the recipe for success needed a good cook. Shrewdly, the Isle of Man government recognised that the project had to demonstrate immediate competence. It proceeded to appoint as director of civil aviation Brian Johnson from the UK Civil Aviation Authority (CAA), who brought to the project an intimate understanding of the industry as a business jet pilot and regulator. A major milestone was his decision to exclude from the register (other than Article 83(bis) transfers) any aircraft flying for the purpose of public transport or aerial work. A sensible risk management decision resulting in a keen focus on the needs of business users of aircraft weighing over 5,700 kg.

The concomitant of that decision is Johnson's absolute determination to prevent abuses. It is made abundantly clear by the legislation and the Iomar that there is no flexibility. Schedule 9 of the 2007 Order reflects the UK position under its Air Navigation Order 2005 and Johnson has warned that breaches will result in the suspension of a certificate of registration and even revocation.

The proof of the pudding is in the eating. The Island was targeted for an International Civil Aviation Organisation (ICAO) audit last year and produced a result which, when

set against the UK and those overseas territories with registers, could only make them blanch. Of the 14 audit findings, the majority reflected the adoption of UK legislation. Against this, one of the well-established overseas territories under the safety oversight of a satellite body of the UK CAA had more than 70 findings.

#### Commercial remit

The Iomar is a benign register that has yet to adopt a mission statement. If it had one, it would be to act commercially, within the law, in the service of its clients. Already it has turned bureaucratic tradition on its head in preparing for compliance with the revised standards required by ICAO Annex 6 Part II (General Aviation).

When the standards were first introduced in 1968 they applied to private piston-engined aircraft engaged in primarily domestic operations. Today, business aviation is an adjunct of large and small corporations frequently using intercontinental aircraft that occupy upper level airspace.

Iomar will be one of the first to comply with the ICAO timetable for the introduction of compliant standards in November this year. It will do so by preparing a generic manual for its registered owners to tailor and return for compliance approval by Iomar. Where the regulator sets the template, it is always easier and cheaper to amend and submit the amendment

rather than prepare a manual from scratch. In a refreshing change, Iomar is demonstrating that regulation need not represent costly and time consuming procedures. Word has it that the conventional route can cost up to \$15,000 (£9,827), while Iomar will probably charge £500.

#### Lending rules

For lenders, Iomar follows UK CAA procedures; priority notices operate in the same way and mortgages are registered under the Mortgaging of Aircraft Order 1972 (of Parliament, as applied by the 1987 Act). Conservatism is necessary in this regard. The absence of the Cape Town Convention on International Interests in Mobile Equipment has not deterred lending on aircraft. Isle of Man conflicts of law rules are identical to English law on security interests in aircraft and in spite of uncertainties commonly appreciated by lenders in this domain, there has been no clamour for Iomar to press the UK to ratify. In these days of depreciating aircraft values, it may well be that only a fool would accept limited recourse to an aircraft. The perceived uncertainty of taking an aircraft mortgage is not such a risk where there is other sufficient security.

A new legislative project is under way to modernise the 2007 Order to adopt those elements from the EU and the UK air law that are consistent with the Island's 'third way', while ensuring that its stakeholders are looked after. In the class of qualified owners, it will be proposed that citizens of and undertakings formed in Switzerland be added. Currently the class of qualified owners is the same as in the UK and there is no requirement for an Isle of Man corporate to be used unless the applicant for registered ownership does not fall within one of the other categories (broadly, Commonwealth or European Economic Area citizens or undertakings). ■

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