

Aircraft Registration in the Isle of Man



Background

The Isle of Man Aircraft Register (IOMAR) became operational on 1st May 2007. IOMAR was established to provide a customer focused service for the registration of high quality private and corporate jets and helicopters. It is the only dedicated corporate aircraft register in Europe.

As at 10 May 2011 the register held 370 privately operated aircraft, the largest of which is an Airbus 340.

Statutory History

In order to create IOMAR a UK Order in Council was necessary to apply parts of the UK Civil Aviation Act 1982 to the Isle of Man. The United Kingdom is the contracting state party to the Chicago Convention which is ultimately responsible to the International Civil Aviation Organisation (ICAO) for ensuring that the Isle of Man complies with the provisions of the Chicago Convention.

The Air Navigation (Isle of Man) Order 2007 (a UK Statutory Instrument which came into force on 1st May 2007) (as amended) (the **Order**) is the principle legislation enabling the Isle of Man to establish its own aircraft register. The Order makes provision for the Isle of Man corresponding to certain provisions of the UK Air Navigation Order 2005 (SI 2005/1970) as it was in 2007 and contains rules relating to the registration, marking, airworthiness, equipment, manning, operation, movement and safety of aircraft in the Isle of Man and the licensing and welfare of flight crew of aircraft registered in the Isle of Man.

In addition, a number of orders have been made pursuant to the Isle of Man Airports and Civil Aviation Act 1987, which apply UK primary and subordinate legislation to the Island. Examples of some of the UK subordinate legislation which has been applied to the Island include:

- Mortgaging of Aircraft Order 1972 (as amended);
- Rules of the Air Regulations 1996 (as amended);
- Aeroplane Noise Regulations 1999 (as amended);
- Air Navigation (Environmental Standards) Order 2002;
- Air Navigation (Dangerous Goods) Regulations 2002;
- Air Navigation Order 2005 (as amended);
- Civil Aviation (Insurance) Regulations 2005;
- Air Navigation (General) Regulations 2006;
- Civil Aviation (Safety of Third Country Aircraft) Regulations 2006;
- Civil Aviation (Investigation of Air Accidents and Incidents) Regulations 1996;
- Civil Aviation (Procedure) Regulations 1991;
- Civil Aviation (Births, Deaths and Missing Persons) Regulations 1948 (as amended).

Regulation

IOMAR was the first of the crown dependency registers (in July 2008) to successfully achieve a separation of regulation (now the remit of the Department of Economic Development (DED)) and operation (the remit of the Department of Infrastructure (DOI)) pursuant to the Transfer of Functions (Civil Aviation) Order 2008. This separation was followed up on 1st December 2008 by

the formal establishment of the Civil Aviation Administration by the Minister for Trade and Industry under The Government Departments Act 1987 which now vests in the DTI the exercise of the regulatory functions of the DOT in respect of the operation and management of the Island's airport.

Temporary Registrations

IOMAR can provide temporary registration for inactive commercial aircraft which have either been repossessed or are between leases. The "parked" inactive commercial aircraft on temporary registration are deemed "private" for the duration of their registration.

Who is qualified to own an Aircraft on the Isle of Man Aircraft Register?

The following categories of persons (**Qualified Persons**) are qualified to hold a legal or beneficial interest by way of ownership in an aircraft registered in the Isle of Man to which undertakings formed and established in Switzerland will shortly be added:

- the Crown;
- Commonwealth citizens (the **Commonwealth** means the UK, the Isle of Man, the Channel Islands, the countries mentioned in schedule 3 to the British Nationality Act 1981 and all other territories forming part of Her Majesty's dominions or in which Her Majesty has jurisdiction);
- nationals of any EEA State;
- British protected persons;
- bodies incorporated in some part of the Commonwealth and having their principal place of business in any part of the Commonwealth; and
- undertakings formed in accordance with the law of an EEA State and having their registered office, central administration or principal place of business within the European Economic Area.

In addition, if an aircraft is chartered by demise to a Qualified Person, the aircraft may still be registered in the Isle of Man in the name of the charterer by demise (notwithstanding that an unqualified person is entitled as owner to a legal or beneficial interest in the aircraft) if the IOMAR is satisfied that the aircraft may otherwise be properly registered in the Isle of Man. Such an aircraft would only remain registered during the continuation of the charter period. If an

unqualified person becomes entitled to a legal or beneficial interest by way of ownership in the aircraft or a share in it, the registration becomes void.

Types of Aircraft capable of registration in the Isle of Man

Only private and corporate aircraft can be registered on IOMAR. Aircraft registered in the Isle of Man are not able to fly for the purposes of public transport or aerial work.

Subject to a limited number of exceptions:

- aerial work means any purpose (other than public transport) for which an aircraft is flown if valuable consideration is given or promised in respect of the flight or the purpose of the flight; and
- an aircraft in flight will generally be deemed to fly for the purpose of public transport if valuable consideration is given or promised for the carriage of passengers or cargo in the aircraft on that flight or if any passengers or cargo are carried gratuitously in the aircraft on that flight by an air transport undertaking (being an undertaking whose business includes the undertaking of flights for the purpose of public transport of passengers or cargo).

One important exception from a flight constituting a flight for the purpose of public transport is that any valuable consideration given or promised in respect of a flight or the purpose of a flight by one company to another company which is its holding company, its subsidiary or another subsidiary of the same holding company, will be disregarded.

Guidance with respect to what is and what is not considered to be public transport or aerial work can be found in Schedule 9 of the Order.

There are no upper limits whatsoever on the weight of aircraft which can be registered on the Isle of Man register. In respect of aircraft with a maximum total weight of 5,700 kg, these have to be owned by Isle of Man residents in order to be capable of registration with IOMAR.

Free Circulation in the EU

Any aircraft operating within the EU with EU persons or crew on board must be in free circulation which means it must be imported at its initial place of entry to the EU, and thereafter carry official

import documentation. Pursuant to a Customs and Excise Agreement in place between the Isle of Man and the UK, these jurisdictions are regarded as the same territory for VAT, Customs and certain Excise duties, which also means the IOM can be regarded as a place of import for EU purposes. Significantly however, as collection and administration of VAT, Customs and Excise is dealt with separately by officials in each jurisdiction the Isle of Man can offer a more convenient and efficient gateway for the importation of aircraft into the EU to achieve compliance with those regulations.

It is also possible to import aircraft through the Isle of Man whether or not the aircraft in question is registered in the Isle of Man.

Nationality and Registration Marks

An aircraft registered in the Isle of Man must bear the nationality mark “M” followed by the registration mark which will be a group of four capital letters assigned by IOMAR on the registration of the aircraft.

It is possible for an applicant to request an out-of-sequence registration mark, subject to availability and the payment of an additional fee.

Certificate of Airworthiness

The Order prohibits an aircraft from flying unless a certificate of airworthiness issued or rendered valid under the law of the country in which the aircraft is registered or the State of the operator, is in force in respect of the aircraft.

IOMAR will only issue a certificate of airworthiness in respect of an aircraft registered in the Isle of Man if it is satisfied that the aircraft is fit to fly having regard to:

- the design, construction, workmanship and materials of the aircraft and of any equipment carried in the aircraft which it considers necessary for the airworthiness of the aircraft; and
- the results of flying trials, and such other tests of the aircraft as it may require.

Every certificate of airworthiness in respect of an aircraft registered in the Isle of Man will specify the category “Private” and will be subject to the condition that the aircraft must only be flown for the purposes specified in the certificate (which will not include public transport or aerial work).

Ongoing maintenance of Aircraft registered in the Isle of Man

An aircraft registered in the Isle of Man in respect of which a certificate of airworthiness is in force is not permitted to fly unless the aircraft (including its engines), together with its equipment and radio station, is maintained in accordance with a maintenance schedule approved by IOMAR in relation to that aircraft.

Aircraft crew and licensing

A person is prohibited from acting as a member of the flight crew of an aircraft registered in the Isle of Man unless he is the holder of an appropriate licence which has been rendered valid under the Order. IOMAR may, subject to such conditions as it thinks fit, issue a certificate of validation rendering valid for the purposes of the Order any flight crew licence granted under the law of any country other than the Isle of Man.

Registration of Mortgages

The UK Mortgaging of Aircraft Order 1972 (as amended) has been applied to the Isle of Man (subject to some slight modifications and adaptations) and therefore the law relating to the registration and priority of mortgages over aircraft registered in the Isle of Man closely follows the English position.

The mortgage of an aircraft registered in the Isle of Man can extend to any store of spare parts for that aircraft, however, it will not include a mortgage created as a floating charge. There is no prescribed statutory form of mortgage which is required to be used in respect of an Isle of Man registered aircraft. A mortgagee of an aircraft registered in the Isle of Man is able to register its mortgage in the Isle of Man Register of Aircraft Mortgages. The procedure for this is very straightforward and simply requires an application to be made to the Aircraft Registry in the prescribed form. The application must be made by or on behalf of the mortgagee and must be accompanied by a copy of the mortgage certified by the applicant as being a true copy. The current charge for registering an aircraft mortgage is £210.

In addition, a procedure is available whereby a notice of intention to make an application to enter a contemplated mortgage of an aircraft in the Register of Aircraft Mortgages can be entered in the register (a

Priority Notice). Applications to enter a Priority Notice in the register must be made to the Aircraft Registry in the prescribed form by or on behalf of the prospective mortgagee. The current charge for registering a Priority Notice is £40.

Subject to a number of transitional provisions, a registered aircraft mortgage is given statutory priority over any subsequently registered aircraft mortgages and unregistered mortgages. Where a Priority Notice has been entered in the register and the contemplated mortgage referred to in the Priority Notice is made and entered in the register within 14 days thereafter, that mortgage is deemed to have priority from the time when the Priority Notice was registered. The Priority Notice may be extended at the end of the 14 day period on the submission of another application form and fee.

It should however be noted that a registered aircraft mortgage will not be given priority over any possessory lien in respect of work done on the aircraft on the express or implied authority of any persons lawfully entitled to possession of the aircraft or over any right to detain the aircraft under any UK Act of Parliament or Isle of Man Act of Tynwald.

Charges/Fees

The fees payable for the registration of an aircraft and for the issue of a certificate of airworthiness are based upon the maximum total weight of the aircraft.

The current fee payable for registering an aircraft with a maximum total weight exceeding 5,700kg is £110 and the current fee payable for registering an aircraft with a maximum total weight of 5,700kg or less is £55.

The current fee payable for the initial issue of a certificate of airworthiness is £75 for each 500kg or part thereof of the maximum total weight of the aircraft and the current fee payable for the renewal of a certificate of airworthiness is £40 for each 500kg or part thereof.

In addition, IOMAR will charge on a time spent basis for the time taken to carry out any investigations and inspections reasonably necessary for the registration of the aircraft and the issue of the certificate of airworthiness.

Bermuda
British Virgin Islands
Cayman Islands

Guernsey
Hong Kong
Isle of Man

Jersey
London
Mauritius

Seychelles
Zurich

Why choose the Isle of Man for Aircraft registration?

- IOMAR is a relatively small and efficient unit which enables the registry to offer a high quality of personal service, with aircraft owners being able to readily contact senior staff to answer queries and deal with any issues which may arise.
- IOMAR currently has fifteen airworthiness surveyors including surveyors resident in Switzerland, USA, Ireland, the UK and the Isle of Man.
- Geographically, the Isle of Man is located within the same time zone as the UK and never more than one or two hours different from all other European countries.
- The Isle of Man offers a favourable taxation regime. In April 2006 the Isle of Man introduced a standard zero rate of corporate income tax. This means that the income of Isle of Man tax resident companies is taxed at 0% in the Isle of Man. In addition, there is no capital taxation in the Isle of Man and no stamp duty or taxes on wealth.
- There is no insurance premium tax on business written in the Isle of Man (UK currently 5%)
- The Isle of Man has a high quality and stable political, legal, fiscal and regulatory environment and has received an AAA credit rating from both Standard and Poor's and Moody's credit rating agencies.
- The quality of the Island's professional infrastructure. There are many lawyers, accountants, administrators and banks on the Island who have expertise and experience in aircraft financing.
- An aircraft registered in the Isle of Man has a neutral registration prefix.

Should you have any questions or requests for further information please contact:

Faye Moffett
Partner

fmoffett@applebyglobal.com

Andrew Webb
Counsel

awebb@applebyglobal.com