

STATES OF JERSEY



DRAFT CIVIL AVIATION (JERSEY) LAW 200- (P.18/2008): COMMENTS

**Presented to the States on 6th March 2008
by the Education and Home Affairs Scrutiny Panel**

STATES GREFFE

COMMENTS

From its consideration of the draft Law, the Panel has identified various areas where it believes the Minister should provide the Assembly with further information. Due to prior work commitments, the Panel was unable to undertake a full detailed review. Its suggestions and comments should not be seen as indicative of either support or rejection of the draft Law; rather, the Panel makes these suggestions to ensure that a clear understanding may be developed of the implications of the draft Law.

1. The implications of not introducing the Law

The general rationale behind the draft Law is that a Director of Civil Aviation is required for Jersey (or rather the United Kingdom) to meet international obligations. In this regard, the report accompanying the draft Law states –

“It is expected that in the course of the next audit of the United Kingdom, the United Kingdom government will be asked to demonstrate that it has made satisfactory arrangements for the ensuring the continued adherence to the Convention’s Standards and Recommended Practices in the Crown Dependencies.”

It would not appear that an explanation has been given of what would happen if the draft Law were not introduced.

Therefore, the Minister should explain the actual implications for Jersey of not establishing a Director of Civil Aviation.

2. The need for a ‘Demonstrably Independent’ Regulator

The report accompanying the draft Law explains that there is a need for a local regulator of aerodromes to be in place who is “*demonstrably independent*” of the airport operator. Thus the Director of Civil Aviation would sit within the Department of Home Affairs in order that it might be distinct from the Department of Economic Development, which has responsibility for the operational function of Jersey Airport.

Given that the Law intends to separate the operational and regulatory functions, the Panel believes that further clarification is required in relation to Articles 6(2) and 14(2) in which the Minister for Home Affairs would be charged to consult the Ministers for Treasury and Resources and Economic Development before either determining aerodrome licence fees or the level of resources to be provided to the Director of Civil Aviation. The Panel has questioned whether Articles 6(2) and 14(2) could therefore afford a Minister for Economic Development undue influence over the Director of Civil Aviation. Indeed, the Explanatory Note to Article 6 indicates that funding of the Director may in part come from Jersey Airport.

Furthermore, the operator of Jersey Airport ultimately remains the States of Jersey. Given this fact, the Panel would highlight the provisions of Article 10(5) whereby the Director of Civil Aviation would have to carry into effect any direction as to the civil aviation policy of the Council of Ministers.

Given the above factors, further clarification should be provided on how the Director of Civil Aviation would be ‘demonstrably independent’ from the Minister for Economic Development (and indeed from undue control by the States of Jersey).

3. The financial implications

The report accompanying the draft Law states that there would be no additional manpower implications for the States resulting from the Law and advises that the Director would be staffed by one person (eventually on a part-time basis) with possibly a part-time assistant. The Panel understands that the Minister had agreed to incorporate the Director within her Department on the understanding that there would be no impact on the Department's resources.

The Minister advised the Assembly of the actual cost implications on 29th January 2008 in response to a question from the Deputy of St. Martin –

“The cost for the last 2 months to 2007 were £22,959 made up of £20,816 for salaries and £2,143 for equipment and general set-up costs. The estimate for 2008 is £109,000 made up of £5,000 in general expenses and possible accommodation costs, which are currently free until April, and £104,000 in salary costs. The financial cost of the office, including staff costs, will be met by payments by Jersey Airport of a licence fee; therefore there will be no net costs to the Home Affairs Department.”

It would have been beneficial for this information to have been provided in the report accompanying the draft Law. Furthermore, the Panel has noted the provisions of Articles 7 and 8 in that the Director would be able to enter into contracts with other persons and would be able to delegate functions to other people. This would suggest that the Directorate could ultimately incorporate more than one (or 2) employees. In other words, whilst the Directorate might commence as a one-person body, the Law does not state that it must remain so. Dependent on future developments in the field of civil aviation, the Law would seemingly allow for an increase in staff and thereby expenditure. The Panel believes it would therefore be more appropriate to state that there may be no immediate manpower implications for the States resulting from the Law.

4. Other matters

The Panel identified a number of other questions where it felt that further information could be provided. Some of these questions were also put by respondents to the public consultation and answers were subsequently provided in the consultation summary. For instance, the Panel questioned whether Article 4 would allow the Director of Civil Aviation to resign without giving notice. It also questioned why he would be given the authority, under Article 2(2)(b) to “*acquire, hold and dispose of property.*” Furthermore, the Panel considered what impact implementing the Law would have on the rôle of the Civil Aviation Authority in relation to Jersey.

The consultation summary did not address all the Panel's specific questions, however. The Panel therefore feels the Minister should provide the following at the time of the debate –

- • An indication of how implementation of the draft Law would affect military aircraft.
- • A layperson's description of what constitutes the 'Channel Islands Air Zone', as described in Article 10(2)(b)

Members should be aware that the summary of responses received during the consultation period may be found within the Home Affairs section of the gov.je website –

<http://www.gov.je/HomeAffairs/CivilAviation/Consultation+Civil+Aviation+Law.htm>