

A BILL

To

Amend the Civil Aviation Ordinance to exempt certain persons from the strict liability imposed by the Ordinance for loss or damage caused by an aircraft to any person or property on land or water.

Enacted by the Legislative Council.

1. Short title

This Ordinance may be cited as the Civil Aviation (Amendment) Ordinance 2005.

2. Liability in respect of trespass, nuisance or surface damage in certain circumstances

Section 8 of the Civil Aviation Ordinance (Cap. 448) is amended—

(a) in subsection (4)—

(i) by repealing “In this section” and substituting “Subject to subsection (5), in this section”;

(ii) by repealing “對飛機有管理權” and substituting “管理飛機”;

(b) by adding—

“(5) A person is not the owner of an aircraft within the meaning of this section if, at the time the material loss or damage mentioned in subsection (2) was caused—

(a) the aircraft had been bona fide demised, let or hired out by such person to any other person under a lease or other arrangement for a term exceeding 14 days;

(b) no member of the crew of the aircraft was in the employment of such person; and

(c) such person did not have the management of the aircraft.”.

3. Savings

Where a material loss or damage mentioned in subsection (2) of section 8 of the Civil Aviation Ordinance (Cap. 448) was caused by an incident occurring before the commencement date of this Ordinance, that section as in force immediately before that date shall continue to apply in relation to the loss or damage as if this Ordinance had not been enacted.

Explanatory Memorandum

The purpose of this Bill is to amend section 8 of the Civil Aviation Ordinance (Cap. 448) so that the owner of an aircraft who has hired out the aircraft without crew for a period exceeding 14 days and who does not have the management of the aircraft is exempted from strict liability for loss or damage to person or property on land or water caused by the aircraft. The amendment seeks to bring Hong Kong's aviation legislation in line with common practices overseas.