

LEGISLATIVE COUNCIL BRIEF

Aviation Security Ordinance (Chapter 494)

Aviation Security (Amendment) Bill 2005

INTRODUCTION

At the meeting of the Executive Council on 1 February 2005, the Council ADVISED and the Chief Executive ORDERED that the Aviation Security (Amendment) Bill 2005 (the Bill), at **Annex A**, should be introduced into the Legislative Council.

JUSTIFICATIONS

2. To tackle the increasing number and gravity of reported incidents involving unruly or disruptive passengers in recent years, the International Civil Aviation Organization (ICAO) adopted a resolution at its Assembly in Montreal in October 2001, which urges Contracting States to enact law and regulations to deal effectively with the problem of unruly passenger offences, incorporating as far as practicable, a Model Legislation on Certain Offences Committed on Board Civil Aircraft (the Model Legislation) developed by ICAO. A copy of the ICAO resolution and Model Legislation is at **Annex B**.

Inadequacy of the Aviation Security Ordinance

3. In Hong Kong, the Aviation Security Ordinance (ASO) (Cap. 494) is the principal legislation on aviation security. The main purposes of the ASO are to prohibit acts which pose threat to international civil aviation and to give effect to international conventions on aviation security. The ASO addresses mainly very serious offences such as hijacking and sabotage, and does not specifically provide for offences involving unruly behaviour.

4. Section 3 of the ASO states that “any act or omission taking

place on board a Hong Kong-controlled aircraft¹ while in flight elsewhere than in or over Hong Kong which, if taking place in Hong Kong, would constitute an offence under the law of Hong Kong shall constitute that offence". Therefore, relevant criminal laws can be invoked against the offenders if the act takes place on board a Hong Kong-controlled aircraft, wherever the aircraft may be. The same cannot be done if the act takes place on board a non-Hong Kong-controlled aircraft outside Hong Kong.

Reasons for implementing the ICAO Model Legislation

5. As an international aviation centre, Hong Kong has observed closely the safety and security standards and practices promulgated by ICAO under the relevant international conventions. We have an obligation to play our part in the international effort to deal more effectively with the growing problem of unruly passengers. The international as well as Hong Kong based aviation industry have also called for such response.

6. Legislative amendment is needed to fill the gap in the existing legislation to strengthen the control over unruly passenger offences committed on board Hong Kong-controlled aircraft and to extend Hong Kong's jurisdiction over such acts committed on board non-Hong Kong-controlled aircraft outside Hong Kong while they are coming to land at Hong Kong. A number of other states, such as Australia, Canada, New Zealand, the UK and the US, have enacted legislation to extend their domestic jurisdiction to certain offences committed on board foreign aircraft subsequently landing in their respective territories.

THE LEGISLATIVE PROPOSAL

7. We propose to incorporate as far as practicable and with necessary adjustment the provisions of the ICAO Model Legislation into the ASO. The policy intent, consistent with that expressed in the ICAO resolution of October 2001, is to enable the Hong Kong authorities to prosecute in appropriate cases criminal acts and offences constituting unruly or disruptive behaviour on board Hong Kong-controlled and non-Hong Kong-controlled aircraft.

¹ As defined in s.2(1) of the Aviation Security Ordinance (Cap. 494), Hong Kong-controlled aircraft means an aircraft –

- (a) which is for the time being registered in Hong Kong; or
- (b) which, being for the time being registered outside Hong Kong, is for the time being chartered by demise to a person who, or to persons each of whom –
 - (i) is a person qualified to be the owner of a legal or beneficial interest in an aircraft registered in Hong Kong; and
 - (ii) resides or has his principal place of business in Hong Kong; or
- (c) which is not for the time being registered in any place but in the case of which either the operator of the aircraft or each person entitled as owner to any legal or beneficial interest in it –
 - (i) is a person qualified to be the owner of a legal or beneficial interest in an aircraft registered in Hong Kong; and
 - (ii) resides or has his principal place of business in Hong Kong.

New unruly passenger offences

8. As noted in paragraph 3, there are certain unruly passenger behaviours that are not covered by the existing law. To strengthen the control over such behaviour, we propose to incorporate a new part on unruly passenger offences (with penalties) in the ASO to provide against acts or omissions taking place on board civil aircraft which may be briefly described as follows -

- (a) obstructing a crew member in the performance of his or her duties;
- (b) failing to comply with the instructions given by the aircraft commander, or a crew member on behalf of the aircraft commander, for the purpose of ensuring the safety of the aircraft or for the purpose of maintaining good order and discipline on board;
- (c) behaving in a disorderly manner, whereby the good order or discipline on board the aircraft is or is likely to be jeopardised.
- (d) wilfully tampering or interfering with any component of an aircraft or its apparatus or equipment (including, but not limited to, smoke detectors) or system installed in an aircraft;
- (e) boarding an aircraft while intoxicated or becoming intoxicated on an aircraft to such an extent as to jeopardize (i) the safety of the aircraft or persons or property on the aircraft; or (ii) the good order and discipline on board the aircraft;
- (f) smoking when instructed not to smoke by a crew member or passenger information signs; and
- (g) operating an electronic device when such act is prohibited.

Other criminal acts and offences constituting unruly or disruptive behaviour

9. The ICAO Model Legislation also lists certain criminal acts and offences generally referred to as “assault”, “intimidation or threat”, “sexual assault” and “child molestation”. In incorporating these into the ASO, we propose to list the specific offences in our existing Ordinances that fall within the general description of assault, intimidation, sexual assault etc while at the same time limiting such list of offences to those that are more likely to occur on an aircraft and be regarded as unruly or disruptive behaviour. In addition, we also propose to include the offence of criminal damage.

10. Accordingly, we propose that the new legislation should list the following offences occurring on civil aircraft, over which Hong Kong would have jurisdiction to prosecute regardless of whether the aircraft is a Hong Kong-controlled aircraft or not -

- (a) Offences against the Person Ordinance (Cap. 212)
 - ✧ Wounding or inflicting grievous bodily harm with intent (s.17(a))
 - ✧ Wounding or inflicting grievous bodily harm (s. 19)
 - ✧ Assault occasioning actual bodily harm (s. 39)
 - ✧ Common assault (s. 40)

- (b) Crimes Ordinance (Cap. 200)
 - ✧ Criminal intimidation (s. 24)
 - ✧ Criminal damage (s. 60)
 - ✧ Rape (s.118)
 - ✧ Non-consensual buggery (s.118A)
 - ✧ Indecent assault (s. 122)
 - ✧ Indecent conduct towards child under 16 (s. 146)
 - ✧ Indecency in public (s. 148)

Restrictive conditions in extending jurisdiction

11. Taking reference from section 4 of the ICAO Model Legislation, we propose to extend Hong Kong's jurisdiction over the aforesaid offences that take place on board non-Hong Kong controlled aircraft while in flight outside Hong Kong subject to the following restrictive conditions -

- (a) the next place of landing of the aircraft is in Hong Kong; and

- (b) the commander of the aircraft must have made a request in a form to be specified in a schedule to the ASO that the Hong Kong authorities prosecute the suspected offender. The request by the commander of the aircraft should include an undertaking to the effect that no similar request has been or will be made by the commander or the aircraft operator to any other jurisdiction.

THE BILL

12. The main provisions of the Bill are -

- (a) Clause 2 adds a new definition of “non-Hong Kong-controlled aircraft” to section 2(1) of the principal Ordinance.

- (b) Clause 4 adds new sections 12A, 12B and 12C to the principal Ordinance.

- (i) Section 12A makes it an offence for any person on board any civil aircraft (wherever registered) and while outside Hong Kong to commit any act which if done in Hong Kong would constitute an offence under –
- section 17(a) (wounding or inflicting grievous bodily harm with intent), 19 (wounding or inflicting grievous bodily harm), 39 (assault occasioning actual bodily harm) or 40 (common assault) of the Offences against the Person Ordinance (Cap. 212); or
 - section 24 (criminal intimidation), 60 (criminal damage), 118 (rape), 118A (non-consensual buggery), 122 (indecent assault), 146 (indecent conduct towards child under 16) or 148 (indecent conduct in public) of the Crimes Ordinance (Cap. 200).
- (ii) Section 12B creates new offences relating to unruly behaviour committed on board civil aircraft including offences relating to the obstruction of crew members, the failure to comply with instructions given by crew members, behaving in a disorderly manner, the tampering or interfering with any aircraft component, apparatus, equipment or systems, intoxication by alcohol, drugs or other intoxicating substances, smoking and the operation of electronic devices.
- (iii) Section 12C provides that the offences under the new sections 12A and 12B shall not apply to an act committed on board a non-Hong Kong-controlled aircraft while in flight outside Hong Kong unless the next place of landing of the aircraft is in Hong Kong and unless the commander of the aircraft makes a request to the police that proceedings be taken against the person and gives an undertaking that he (and the operator of the aircraft) has not made and will not make a similar request to the authorities of any place outside Hong Kong.
- (c) Clause 7 amends section 64 of the ASO to allow the Chief Executive in Council to amend the new Schedule 3 by order.
- (d) Clause 8 adds the new Schedule 3 to the principal Ordinance which sets out the form of the request and undertaking to be provided by the commander of an aircraft for the purposes of the new section 12C.
- (e) Clause 10 makes a related amendment to section 20 of the Aviation Security Regulation (Cap. 494 sub. leg. A) to require

operators of civil aircraft to report to the Director-General of Civil Aviation incidents involving the commission of acts in contravention of the new section 12A or 12B added by clause 4 of the Bill.

13. The existing provisions being amended are at **Annex C**.

LEGISLATIVE TIMETABLE

14. The legislative timetable is as follows -

Publication in the Gazette	18 February 2005
First Reading and commencement of Second Reading debate	9 March 2005
Resumption of Second Reading debate, committee stage and Third Reading	To be notified

15. Subject to the passage of the Bill by the Legislative Council, the Secretary for Security will appoint a day by notice published in the Gazette to bring the new provisions into force.

IMPLICATIONS OF THE PROPOSAL

16. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It has no direct economic, productivity, environmental or sustainability implications. The financial implication will not be significant, and any additional resource requirement arising from the enforcement of the new legislation will be absorbed by the departments concerned within their existing resources.

17. The Bill does not affect the existing binding effect of the Ordinance.

PUBLIC CONSULTATION

18. The International Air Transportation Association (IATA) had been involved in the drafting of the ICAO Model Legislation. The aviation industry of Hong Kong, including both Hong Kong and foreign aircraft operators that are members of IATA, also supported the implementation of the ICAO Model Legislation in Hong Kong. The Aviation Security Committee

and Aviation Advisory Board have been consulted and they supported the early enactment of the legislation.

19. The Legislative Council Panel on Security was consulted on the legislative proposal at its meeting on 7 December 2004.

PUBLICITY

20. A press release will be issued on 17 February 2005. A spokesman will be available to answer media enquiries.

ENQUIRIES

21. Enquiries concerning the Bill may be directed to Mr Charles Wong, Principal Assistant Secretary for Security at 2810 3435.

Security Bureau
16 February 2005

AVIATION SECURITY (AMENDMENT) BILL 2005

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A BILL

To

Amend the Aviation Security Ordinance and to provide for a related matter.

Enacted by the Legislative Council.

1. Short title and commencement

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

(2) This Ordinance shall come into operation on a day to be appointed by the Secretary for Security by notice published in the Gazette.

2. Interpretation

Section 2(1) of the Aviation Security Ordinance (Cap. 494) is amended by adding –

““non-Hong Kong-controlled aircraft” (非香港控制的飛機) means an aircraft other than a Hong Kong-controlled aircraft;”.

3. Acts of violence committed during hijacking or attempted hijacking

Section 12(1) is amended by repealing “or to section 9(1)(b)” and substituting “, 9(1)(b) or 12A”.

4. Sections added

The following are added –

“12A. Acts of violence, threats, destruction of property, etc., in general

(1) Without prejudice to section 3, 9(1)(b) or 12 but subject to section 12C, where a person does on board any aircraft (wherever registered) and while outside Hong Kong any act which if done in Hong Kong would constitute an offence under section 17(a), 19, 39 or 40 of the

Offences against the Person Ordinance (Cap. 212) or section 24, 60, 118, 118A, 122, 146 or 148 of the Crimes Ordinance (Cap. 200), the act shall constitute that offence.

(2) For the avoidance of doubt, the references to “public place” and “the public” in section 148(1) of the Crimes Ordinance (Cap. 200) shall, for the purposes of subsection (1), be deemed to include an aircraft and the passengers and crew of an aircraft, respectively.

12B. Offences in relation to unruly behaviour, etc.

(1) Any person on board an aircraft who wilfully obstructs a member of the crew of the aircraft in the performance of his duties commits an offence.

(2) Any person on board an aircraft who, without reasonable excuse, fails to comply with any instruction given to the person by the commander of the aircraft, or on behalf of the commander by a member of the crew, for the purpose of –

- (a) protecting the safety of the aircraft or of persons or property on board the aircraft; or
- (b) maintaining good order and discipline on board the aircraft,

commits an offence.

(3) Any person on board an aircraft who behaves in a disorderly manner whereby the good order or discipline on board the aircraft is or is likely to be jeopardised commits an offence.

(4) Any person on board an aircraft who wilfully tampers or interferes with –

- (a) any component of the aircraft;
- (b) any apparatus or equipment of the aircraft (including, but not limited to, smoke detectors); or

(c) any system installed in the aircraft,
commits an offence.

(5) Any person who, without reasonable excuse, embarks on an aircraft in such a state of intoxication, or becomes intoxicated on board an aircraft to such an extent, as to jeopardise or be likely to jeopardise –

(a) the safety of the aircraft or of persons or property on board the aircraft; or

(b) good order and discipline on board the aircraft,

commits an offence.

(6) Any person on board an aircraft who smokes in the aircraft or in any compartment of the aircraft –

(a) when smoking in the aircraft, or in that compartment of the aircraft, as the case may be, is prohibited; or

(b) when instructed not to smoke by a member of the crew of the aircraft,

commits an offence.

(7) Any person on board an aircraft who operates an electronic device in the aircraft or in any compartment of the aircraft –

(a) when operating such a device in the aircraft, or in that compartment of the aircraft, as the case may be, is prohibited; or

(b) when instructed not to operate the device by a member of the crew of the aircraft,

commits an offence.

(8) Subject to section 12C, subsections (1), (2), (3), (4), (5), (6) and (7) apply whether any act mentioned in those subsections is committed in Hong Kong or elsewhere and whatever the country or territory in which the aircraft is registered.

(9) A person who commits an offence under subsection (1) or (2) is liable –

- (a) on summary conviction, to a fine at level 4 and to imprisonment for 1 year;
- (b) on conviction on indictment, to a fine at level 6 and to imprisonment for 5 years.

(10) A person who commits an offence under subsection (3), (4), (5), (6) or (7) is liable –

- (a) on summary conviction, to a fine at level 3 and to imprisonment for 6 months;
- (b) on conviction on indictment, to a fine at level 5 and to imprisonment for 2 years.

(11) For the purposes of subsection (6) but without limiting the generality of that subsection, smoking in an aircraft or in a compartment of an aircraft shall be treated as prohibited if passenger information signs on board the aircraft indicate that smoking in the aircraft or in that compartment of the aircraft, as the case may be, is prohibited.

(12) For the purposes of subsection (7) but without limiting the generality of that subsection, operating an electronic device in an aircraft or in a compartment of an aircraft shall be treated as prohibited if passenger information signs on board the aircraft indicate that the operation of such a device in the aircraft or in that compartment of the aircraft, as the case may be, is prohibited.

(13) In subsection (5), “state of intoxication” (神智不清的狀態) and “intoxicated” (神智不清) mean being under the influence of alcohol, drugs or other intoxicating substances.

12C. Request and undertaking

(1) Sections 12A and 12B do not apply to an act committed by any person on board a non-Hong Kong-controlled aircraft while in flight elsewhere than in or over Hong Kong unless –

- (a) the next place of landing of the aircraft is in Hong Kong; and
- (b) the commander of the aircraft, in the form set out in Schedule 3 –
 - (i) makes a request to the Hong Kong Police Force to commence proceedings against the person; and
 - (ii) gives an undertaking that he, and the operator of the aircraft, has not made and will not make a similar request to the authorities of any place outside Hong Kong.

(2) A request and undertaking by a commander of an aircraft in the form set out in Schedule 3 shall –

- (a) be admissible in evidence in any proceedings before a court in Hong Kong; and
- (b) in the absence of evidence to the contrary, be sufficient evidence of the matters stated in the form.

(3) For the avoidance of doubt, a person in respect of whom a request is made in the form set out in Schedule 3 may be charged with or convicted of any offence under the law of Hong Kong for which he may be liable, notwithstanding that the offence is not stated in that form to have been suspected to have been committed.”.

5. Powers exercisable on suspicion of intended offences

Section 13(1) is amended by repealing “or 12” and substituting “, 12, 12A or 12B”.

6. Extraterritorial application of sections 8, 9, 11, 12, 12A, 12B and 15

Section 21 is amended by adding “, 12A, 12B” after “12”.

7. Amendment of Schedules 1 and 3

Section 64 is amended by adding “or 3” after “1”.

8. Schedule 3 added

The following is added –

“SCHEDULE 3 [ss. 12C & 64]

REQUEST AND UNDERTAKING UNDER SECTION 12C
OF THE AVIATION SECURITY ORDINANCE (CAP. 494)

To: The Hong Kong Police Force

Request:

I, [*insert full name*], commander of flight [*insert number*], request, under section 12C of the Aviation Security Ordinance (Cap. 494), that proceedings be commenced against [*insert full name*] of [*insert address if known*], as I have reason to suspect that on [*insert date*] on flight [*insert number*] this person committed an offence under section 12A or 12B of the Aviation Security Ordinance (Cap. 494), namely:

[*state the offence(s) suspected to have been committed, e.g., an offence under section 17(a) of the Offences against the Person Ordinance (Cap. 212), an offence under section 12B(1) of the Aviation Security Ordinance (Cap. 494), etc.*]

Undertaking:

Pursuant to section 12C of the Aviation Security Ordinance (Cap. 494), I undertake that neither I nor [*insert name of the operator of the aircraft*] have made, or will make, a similar request to the authorities of any place

outside Hong Kong.

.....
Signature of commander

Witnessed by me at Hong Kong on
[insert date]

.....
Signature of police officer”.

9. Sections amended

(1) The Ordinance is amended in the following provisions by adding “而無合理辯解” after “而該行為在他被定罪後持續” –

- (a) section 39(4);
- (b) section 48(2).

(2) The Ordinance is amended in the following provisions by repealing “經營” wherever it appears and substituting “營運” –

- (a) section 2(1) (in the definitions of “香港控制的飛機” and “經營者”);
- (b) section 8(4);
- (c) section 37(5);
- (d) section 42(2).

Aviation Security Regulation

10. Reporting of incidents

Section 20 of the Aviation Security Regulation (Cap. 494 sub. leg. A) is amended by adding –

“(aa) an act by a passenger on one of its aircraft in contravention of section 12A or 12B of the Ordinance;”.

Explanatory Memorandum

The object of this Bill is to amend the Aviation Security Ordinance (Cap. 494) (“the principal Ordinance”) to add new offences to deal with the issue of unruly passengers on board civil aircraft and to extend Hong Kong’s jurisdiction over certain offences committed outside Hong Kong in connection with non-Hong Kong-controlled civil aircraft which next land in Hong Kong. The proposed amendments are intended to enhance the security of passengers and crew on international flights and follow the recommendations of the International Civil Aviation Organization.

2. Clause 2 adds a new definition of “non-Hong Kong-controlled aircraft” to section 2(1) of the principal Ordinance.

3. Clause 3 makes a consequential amendment to section 12(1) of the principal Ordinance.

4. Clause 4 adds new sections 12A, 12B and 12C to the principal Ordinance. Section 12A makes it an offence for any person on board any civil aircraft (wherever registered) and while outside Hong Kong to commit any act which if done in Hong Kong would constitute an offence under –

- (a) section 17(a) (wounding or inflicting grievous bodily harm with intent), 19 (wounding or inflicting grievous bodily harm), 39 (assault occasioning actual bodily harm) or 40 (common assault) of the Offences against the Person Ordinance (Cap. 212); or
- (b) section 24 (criminal intimidation), 60 (criminal damage), 118 (rape), 118A (non-consensual buggery), 122 (indecent assault), 146 (indecent conduct towards child under 16) or

148 (indecent in public) of the Crimes Ordinance (Cap. 200).

Section 12B creates new offences relating to unruly behaviour committed on board civil aircraft including offences relating to the obstruction of crew members, the failure to comply with instructions given by crew members, disorderly behaviour, the tampering or interfering with aircraft apparatus, equipment or systems, intoxication by alcohol, drugs or other intoxicating substances, smoking and the operation of electronic devices. Section 12C provides that the offences under the new sections 12A and 12B shall not apply to an act committed on board a non-Hong Kong-controlled aircraft while in flight outside Hong Kong unless the next place of landing of the aircraft is in Hong Kong and unless the commander of the aircraft makes a request to the Hong Kong Police Force that proceedings be commenced against the person and gives an undertaking that he, and the operator of the aircraft, has not made and will not make a similar request to the authorities of any place outside Hong Kong.

5. Clauses 5 and 6 make consequential amendments to sections 13(1) and 21 of the principal Ordinance.

6. Clause 7 amends section 64 of the principal Ordinance to empower the Chief Executive in Council to amend the new Schedule 3 added by clause 8 of the Bill.

7. Clause 8 adds a new Schedule 3 to the principal Ordinance. The new Schedule sets out the form of the request and undertaking to be provided by the commander of an aircraft for the purposes of the new section 12C added by clause 4 of the Bill.

8. Clause 9 makes technical amendments to the Chinese text of sections 2(1), 8(4), 37(5), 39(4), 42(2) and 48(2) of the principal Ordinance.

9. Clause 10 makes a related amendment to section 20 of the Aviation Security Regulation (Cap. 494 sub. leg. A) to require operators of civil aircraft to report to the Director-General of Civil Aviation incidents involving the

commission of acts in contravention of the new section 12A or 12B added to the principal Ordinance by clause 4 of the Bill.

RESOLUTION OF THE ICAO ASSEMBLY

A33-4: Adoption of national legislation on certain offences committed on board civil aircraft (unruly/disruptive passengers)

The Assembly:

Recognizing that, under the Preamble and Article 44 of the Convention on International Civil Aviation, one of the aims and objectives of the Organization is to foster the planning and development of international air transport so as to meet the needs of the peoples of the world for safe, regular, efficient and economical air transport;

Noting the increase of the number and gravity of reported incidents involving unruly or disruptive passengers on board civil aircraft;

Considering the implications of these incidents for the safety of the aircraft and the passengers and crew on board these aircraft;

Mindful of the fact that the existing international law as well as national law and regulations in many States are not fully adequate to deal effectively with this problem;

Recognizing the special environment of aircraft in flight and inherent risks connected therewith, as well as the need to adopt adequate measures of national law for the purpose of enabling States to prosecute criminal acts and offences constituting unruly or disruptive behaviour on board aircraft;

Encouraging the adoption of national legal rules enabling States to exercise jurisdiction in appropriate cases to prosecute criminal acts and offences constituting unruly or disruptive behaviour on board aircraft registered in other States;

Therefore:

Urges all Contracting States to enact as soon as possible national law and regulations to deal effectively with the problem of unruly or disruptive passengers, incorporating so far as practical the provisions set out in the Appendix to this Resolution; and

Calls on all Contracting States to submit to their competent authorities for consideration of prosecution all persons whom they have a reasonable ground to consider as having committed any of the offences set out in the national laws and regulations so enacted, and for which they have jurisdiction in accordance with these laws and regulations.

APPENDIX

Model Legislation on Certain Offences Committed on Board Civil Aircraft

Section 1: Assault and Other Acts of Interference against a Crew Member on Board a Civil Aircraft

Any person who commits on board a civil aircraft any of the following acts thereby commits an offence:

- (1) assault, intimidation or threat, whether physical or verbal, against a crew member if such act interferes with the performance of the duties of the crew member or lessens the ability of the crew member to perform those duties;
- (2) refusal to follow a lawful instruction given by the aircraft commander, or on behalf of the aircraft commander by a crew member, for the purpose of ensuring the safety of the aircraft or of any person or property on board or for the purpose of maintaining good order and discipline on board.

Section 2: Assault and Other Acts Endangering Safety or Jeopardizing Good Order and Discipline on Board a Civil Aircraft

- (1) Any person who commits on board a civil aircraft an act of physical violence against a person or of sexual assault or child molestation thereby commits an offence.
- (2) Any person who commits on board a civil aircraft any of the following acts thereby commits an offence if such act is likely to endanger the safety of the aircraft or of any person on board or if such act jeopardizes the good order and discipline on board the aircraft:
 - (a) assault, intimidation or threat, whether physical or verbal, against another person;
 - (b) intentionally causing damage to, or destruction of, property;
 - (c) consuming alcoholic beverages or drugs resulting in intoxication.

Section 3: Other Offences Committed on Board a Civil Aircraft

Any person who commits on board a civil aircraft any of the following acts thereby commits an offence:

- (1) smoking in a lavatory, or smoking elsewhere in a manner likely to endanger the safety of the aircraft;
- (2) tampering with a smoke detector or any other safety-related device on board the aircraft;
- (3) operating a portable electronic device when such act is prohibited.

Section 4: Jurisdiction

- (1) The jurisdiction of (*Name of State*) shall extend to any offence under Sections 1, 2, or 3 of this Act if the act constituting the offence took place on board:
 - (1) any civil aircraft registered in (*Name of State*); or
 - (2) any civil aircraft leased with or without crew to an operator whose principal place of business is in (*Name of State*) or, if the operator does not have a principal place of business, whose permanent residence is in (*Name of State*);
or
 - (3) any civil aircraft on or over the territory of (*Name of State*); or
 - (4) any other civil aircraft in flight outside (*Name of State*), if
 - (a) the next landing of the aircraft is in (*Name of State*); and
 - (b) the aircraft commander has delivered the suspected offender to the competent authorities of (*Name of State*), with the request that the authorities prosecute the suspected offender and with the affirmation that no similar request has been or will be made by the commander or the operator to any other State.
- (2) The term "in flight" as used in this section means the period from the moment when power is applied for the purpose of take-off until the moment when the landing run ends.

Chapter:	494	AVIATION SECURITY ORDINANCE	Gazette Number	Version Date
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Section:	2	Interpretation	L.N. 326 of 2000	01/01/2001
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- (1) In this Ordinance, unless the context otherwise requires-
- "act of violence" (暴力行為) means-
- (a) any act done in Hong Kong which constitutes the offence of murder, attempted murder, manslaughter, culpable homicide or assault, or an offence under section 17, 19, 20, 21, 22, 23, 28 or 29 of the Offences against the Person Ordinance (Cap 212) or under section 53 or 54 of the Crimes Ordinance (Cap 200); and
 - (b) any act done outside Hong Kong which, if done in Hong Kong, would constitute an offence mentioned in paragraph (a);
- "aerodrome" (機場) means any area of land or water in Hong Kong designed, equipped, set apart or commonly used for affording facilities for the landing and taking off of aircraft and area of land and water includes any area of space, whether on the ground, on the roof of a building or elsewhere, which is designed, equipped or set apart for affording facilities for the landing and taking off of aircraft capable of descending or climbing vertically;
- "air navigation installation" (航空導航裝置) means any building, works, apparatus or equipment used wholly or mainly for the purpose of assisting air traffic control or as an aid to air navigation, together with any land adjacent to any such building, works, apparatus or equipment and used wholly or mainly for purposes connected therewith;
- "aircraft" (飛機) means any aircraft other than an aircraft in military, customs or police service;
- "Airport Authority" (機場管理局) means the Airport Authority established by the Airport Authority Ordinance (Cap 483);
- "article" (物品) includes any substance, whether in solid or liquid form or in the form of a gas or vapour;
- "Authority" (監督) means the Aviation Security Authority appointed under section 22(1);
- "authorized officer" (獲授權人員) means an authorized officer appointed under section 63;
- "commander" (機長), in relation to an aircraft, means the member of the crew designated as commander of that aircraft by the operator of the aircraft, or, where no such person is designated, the person who is for the time being in charge of the piloting of the aircraft without being under the direction of any other pilot in the aircraft;
- "Committee" (委員會) means the Aviation Security Committee established by section 26;
- "country or territory to which the Tokyo Convention applies" (《東京公約》適用的國家或地區) means a country or territory in which the Convention on Offences and certain other Acts Committed on board Aircraft signed at Tokyo on 14 September 1963 is for the time being in force and which is specified in Schedule 1;
- "Director" (處長) means the Director-General of Civil Aviation; (Amended L.N. 326 of 2000)
- "enforcement notice" (強制執行通知) means an enforcement notice served under section 46;
- "explosive" (爆炸品) means any article-
- (a) manufactured for the purpose of producing a practical effect of explosion;
 - (b) manufactured or adapted (whether in the form of a bomb, grenade or otherwise) so as to have the appearance of being an explosive, whether it is capable of producing a practical effect of explosion or not; or
 - (c) marked or labelled so as to indicate that it is or contains an explosive;
- "firearm" (火器) has the same meaning as in the Firearms and Ammunitions Ordinance (Cap 238);
- "The Hague Convention" (《海牙公約》) means the Convention for the Suppression of Unlawful Seizure of Aircraft signed at The Hague on 16 December 1970;

"Hong Kong-controlled aircraft" (香港控制的飛機) means an aircraft-

- (a) which is for the time being registered in Hong Kong; or
- (b) which, being for the time being registered outside Hong Kong, is for the time being chartered by demise to a person who, or to persons each of whom-
 - (i) is a person qualified to be the owner of a legal or beneficial interest in an aircraft registered in Hong Kong; and
 - (ii) resides or has his principal place of business in Hong Kong; or
- (c) which is not for the time being registered in any place but in the case of which either the operator of the aircraft or each person entitled as owner to any legal or beneficial interest in it-
 - (i) is a person qualified to be the owner of a legal or beneficial interest in an aircraft registered in Hong Kong; and
 - (ii) resides or has his principal place of business in Hong Kong;

"Hong Kong permanent resident" (香港永久性居民) has the same meaning as in the Immigration Ordinance (Cap 115);

"immigration officer" (入境事務人員) means any member of the Immigration Service;

"manager" (經理), in relation to an aerodrome, means the person who is principally responsible for the management of the aerodrome;

"measures" (措施) includes the construction, execution, alteration, demolition or removal of buildings or other works and also includes the institution or modification, and the supervision and enforcement, of any practice or procedure;

"the Montreal Convention" (《蒙特利爾公約》) means the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation signed at Montreal on 23 December 1971;

"the Montreal Protocol" (《蒙特利爾議定書》) means the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation which supplements the Montreal Convention;

"operator" (經營者), in relation to an aircraft, means the person who for the time being has the management or control of the aircraft;

"Programme" (計劃) means the Aviation Security Programme drawn up under section 27(1);

"qualification" (資格), in relation to a person, includes training and experience;

"relevant offence" (有關罪行) means an offence under section 8, 9, 11, 12 or 15;

"restricted area" (禁區) means a restricted area designated under section 35;

"restricted article" (違禁物品) means-

- (a) any explosive;
- (b) arms or ammunition within the meaning of the Firearms and Ammunition Ordinance (Cap 238) or any article having the appearance of such arms or ammunition;
- (c) any article having the appearance of being a firearm, whether capable of being discharged or not;
- (d) any article made or adapted for use for causing injury or incapacity to a person or intended by the person having it with him for such use, whether by himself or any other person;
- (e) any poisonous or noxious substance that may cause death or serious bodily harm;
- (f) any dangerous goods within the meaning of the Dangerous Goods (Consignment by Air) (Safety) Ordinance (Cap 384); or
- (g) any other thing that may cause serious damage to the structure of an aircraft or any part of it or substantial impairment to the functioning of any system or equipment of an aircraft;

"security direction" (保安指示) means a security direction issued under section 28(1);

"unlawfully" (非法)-

- (a) in relation to the commission of an act in Hong Kong, means so as (apart from this

- Ordinance) to constitute an offence under the law of Hong Kong; and
- (b) in relation to the commission of an act outside Hong Kong, means so that the commission of the act would (apart from this Ordinance) have been an offence under the law of Hong Kong if it had been committed in Hong Kong.

(Amended L.N. 204 of 1997)

- (2) For the purposes of this Ordinance-
- (a) the period during which an aircraft is in flight shall be deemed to include-
- (i) any period from the moment when all its external doors are closed following embarkation for a flight until the moment when any such door is opened for disembarkation after that flight;
- (ii) if the aircraft makes a forced landing, any period after the landing until the time when competent authorities of the country or territory in which the forced landing takes place take over the responsibility for the aircraft and for the persons and property on board the aircraft (being if the forced landing takes place in Hong Kong, the time when a police officer arrives at the place of landing); and
- (iii) any period when it is on the surface of the sea or land but not within the territorial limits of any country or territory;
- (b) an aircraft shall be taken to be in service during the whole of the period which begins with the pre-flight preparation of the aircraft for a flight and ends 24 hours after the aircraft lands having completed that flight, and also at any time (not falling within that period) while, in accordance with paragraph (a), the aircraft is in flight; and
- (c) any act done on board an aircraft while in flight over Hong Kong shall be treated as done in Hong Kong.
- (3) For the purposes of this Ordinance-
- (a) in the case of an air navigation installation provided by, or used wholly or mainly by the Civil Aviation Department, the Director; and
- (b) in the case of any other air navigation installation, the manager of an aerodrome by whom it is provided, or by whom it is wholly or mainly used,

shall be taken to be the authority responsible for that air navigation installation.

(4) In any proceedings, a certificate purporting to be signed by the Secretary of State that an aircraft is or is not a military aircraft for the purposes of this Ordinance shall be conclusive evidence of that fact.

(5) References in this Ordinance to any country or territory or the territorial limits of any country or territory shall be construed as including a reference to the waters, if any, under the jurisdiction of that country or territory, as the case may be.

(6) If the Authority by order published in the Gazette declares-

- (a) that any 2 or more countries or territories specified in the order have established an organization or agency which operates aircraft; and
- (b) that one of those countries or territories has been designated as exercising for aircraft so operated, the powers of the country or territory of registration,

the state declared to have been so designated shall be deemed for the purpose of this Ordinance to be the country or territory in which any aircraft so operated is registered.

(Enacted 1996)

Chapter:	494	AVIATION SECURITY ORDINANCE	Gazette Number	Version Date
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Section:	12	Violence against persons on board an aircraft		30/06/1997
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- (1) Without prejudice to section 3 or to section 9(1)(b), where a person does on board any

aircraft (wherever registered) and while outside Hong Kong any act which if done in Hong Kong would constitute the offence of murder, attempted murder, manslaughter, culpable homicide or assault or an offence under section 17, 19, 20, 21, 22, 23, 28 or 29 of the Offences against the Person Ordinance (Cap 212) or under section 53 or 54 of the Crimes Ordinance (Cap 200), the act shall constitute that offence if it is done in connection with an offence of hijacking committed or attempted by that person on board that aircraft.

(2) It is an offence for any person in Hong Kong to induce or assist in the commission outside Hong Kong of any act which-

(a) would, but for subsection (2) of section 8, be an offence under that section; or

(b) would, but for subsection (5) or (6) of section 11, be an offence under that section.

(3) A person who commits an offence under subsection (2) is liable, on conviction on indictment, to imprisonment for life.

(4) Subsection (2) has effect without prejudice to the operation, in relation to any offence under section 8 or 11, of any law relating to accessories.

(Enacted 1996) [cf. 1971 c. 70 s. 2 U.K.]

Chapter:	494	AVIATION SECURITY ORDINANCE	Gazette Number	Version Date
Section:	13	Powers exercisable on suspicion of intended offences		30/06/1997

(1) Where an employee of an operator of an aircraft, a person authorized in that behalf by such operator, the manager of an aerodrome, a person authorized in that behalf by such manager, a police officer or any other public officer has reasonable grounds to suspect that a person about to embark on an aircraft in Hong Kong or a person on board such an aircraft intends to commit, in relation to the aircraft, an offence under section 8, 9, 11 or 12, the employee, manager, person or officer may prohibit such person from travelling on board the aircraft, and for the purpose of enforcing that prohibition the employee or officer-

(a) may prevent the person from boarding the aircraft or, as the case may be, remove the person from the aircraft; and

(b) may arrest the person without warrant and-

(i) detain the person for so long as may be necessary for that purpose; or

(ii) (if the person making the arrest is not himself a police officer) shall deliver the person so arrested to a police officer as soon as reasonably practicable.

(2) A person who wilfully obstructs any person acting in the exercise of a power conferred by subsection (1) commits an offence and is liable-

(a) on summary conviction, to a fine at level 2;

(b) on conviction on indictment, to a fine at level 4 and to imprisonment for 2 years.

(3) Subsection (1) has effect without prejudice to the operation in relation to any offence under this Ordinance of any law relating to the power to arrest without warrant.

(Enacted 1996) [cf. 1973 c. 47 s. 19 U.K.]

Chapter:	494	AVIATION SECURITY ORDINANCE	Gazette Number	Version Date
Section:	21	Extraterritorial application of sections 8, 9, 11, 12 and 15		30/06/1997

Where an act constitutes an offence by virtue of section 8, 9, 11, 12 or 15 and proceedings are taken for the offence and the court in which the proceedings are brought has not, apart from this section, jurisdiction to hear and determine the proceedings, then for the purpose of conferring such jurisdiction the act shall be treated as having occurred in Hong Kong.

(Enacted 1996)

Chapter:	494	AVIATION SECURITY ORDINANCE	Gazette Number	Version Date
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Section:	64	Amendment of Schedule 1	71 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 71 of 1999 s. 3

The Chief Executive in Council may by order amend Schedule 1.

(Amended 71 of 1999 s. 3)

Chapter:	494	AVIATION SECURITY ORDINANCE	Gazette Number	Version Date
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Section:	39	Power to require other persons to conduct searches		30/06/1997
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(1) For the purposes to which this Part applies, the Authority may give a direction to any person (other than the manager of an aerodrome) who-

- (a) occupies any land forming part of an aerodrome; or
- (b) is permitted to have access to a restricted area in an aerodrome for the purposes of the business carried on by him,

requiring him to use his best endeavours to secure that such searches to which this section applies as are specified in the direction are carried out.

(2) The searches to which this section applies are-

- (a) in relation to a person falling within subsection (1)(a), searches-
 - (i) of the land which he occupies within the aerodrome; and
 - (ii) of persons or property which is on that land; and
- (b) in relation to a person falling within subsection (1)(b), searches-
 - (i) of any land which he occupies outside the aerodrome for the purposes of his business; and
 - (ii) of persons or property which is on that land.

(3) Any person who, without reasonable excuse, fails to comply with a direction given to him under this section commits an offence and is liable-

- (a) on summary conviction, to a fine at level 3;
- (b) on conviction on indictment, to a fine of \$500000 and to imprisonment for 2 years.

(4) Where a person is convicted of an offence under subsection (3), then, if without reasonable excuse the failure in respect of which he was convicted is continued after the conviction, he shall be guilty of a further offence and liable on conviction to a fine not exceeding \$1000 for each day on which such further offence continues.

(Enacted 1996)

Chapter:	494	AVIATION SECURITY ORDINANCE	Gazette Number	Version Date
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Section:	48	Offences relating to enforcement notice		30/06/1997
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(1) Any person who, without reasonable excuse, fails to comply with an enforcement notice served on him commits an offence and is liable-

- (a) on summary conviction, to a fine at level 3;
- (b) on conviction on indictment, to a fine at level 6.

(2) Where a person is convicted of an offence under subsection (1), then, if without reasonable excuse the failure in respect of which he was convicted is continued after the conviction, he shall be guilty of a further offence and liable on conviction to a fine not exceeding \$1000 for each day on which such further offence continues.

(3) Any person who wilfully interferes with any building constructed or works executed on any land in compliance with an enforcement notice or with anything installed on, under, over or across any land in compliance with such a notice commits an offence and is liable-

- (a) on summary conviction, to a fine at level 3;
- (b) on conviction on indictment, to a fine at level 6.

(Enacted 1996)

Chapter:	494	AVIATION SECURITY ORDINANCE	Gazette Number	Version Date
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Section:	2	Interpretation	L.N. 326 of 2000	01/01/2001
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(1) In this Ordinance, unless the context otherwise requires-
"act of violence" (暴力行為) means-

- (a) any act done in Hong Kong which constitutes the offence of murder, attempted murder, manslaughter, culpable homicide or assault, or an offence under section 17, 19, 20, 21, 22, 23, 28 or 29 of the Offences against the Person Ordinance (Cap 212) or under section 53 or 54 of the Crimes Ordinance (Cap 200); and
- (b) any act done outside Hong Kong which, if done in Hong Kong, would constitute an offence mentioned in paragraph (a);

"aerodrome" (機場) means any area of land or water in Hong Kong designed, equipped, set apart or commonly used for affording facilities for the landing and taking off of aircraft and area of land and water includes any area of space, whether on the ground, on the roof of a building or elsewhere, which is designed, equipped or set apart for affording facilities for the landing and taking off of aircraft capable of descending or climbing vertically;

"air navigation installation" (航空導航裝置) means any building, works, apparatus or equipment used wholly or mainly for the purpose of assisting air traffic control or as an aid to air navigation, together with any land adjacent to any such building, works, apparatus or equipment and used wholly or mainly for purposes connected therewith;

"aircraft" (飛機) means any aircraft other than an aircraft in military, customs or police service;

"Airport Authority" (機場管理局) means the Airport Authority established by the Airport Authority Ordinance (Cap 483);

"article" (物品) includes any substance, whether in solid or liquid form or in the form of a gas or vapour;

"Authority" (監督) means the Aviation Security Authority appointed under section 22(1);

"authorized officer" (獲授權人員) means an authorized officer appointed under section 63;

"commander" (機長), in relation to an aircraft, means the member of the crew designated as commander of that aircraft by the operator of the aircraft, or, where no such person is designated, the person who is for the time being in charge of the piloting of the aircraft without being under the direction of any other pilot in the aircraft;

"Committee" (委員會) means the Aviation Security Committee established by section 26;

"country or territory to which the Tokyo Convention applies" (《東京公約》適用的國家或地區) means a country or territory in which the Convention on Offences and certain other Acts Committed on board Aircraft signed at Tokyo on 14 September 1963 is for the time being in force and which is specified in Schedule 1;

"Director" (處長) means the Director-General of Civil Aviation; (Amended L.N. 326 of 2000)

"enforcement notice" (強制執行通知) means an enforcement notice served under section 46;

"explosive" (爆炸品) means any article-

- (a) manufactured for the purpose of producing a practical effect of explosion;
- (b) manufactured or adapted (whether in the form of a bomb, grenade or otherwise) so as to have the appearance of being an explosive, whether it is capable of producing a practical effect of explosion or not; or
- (c) marked or labelled so as to indicate that it is or contains an explosive;

"firearm" (火器) has the same meaning as in the Firearms and Ammunitions Ordinance (Cap 238);

"The Hague Convention" (《海牙公約》) means the Convention for the Suppression of Unlawful Seizure of Aircraft signed at The Hague on 16 December 1970;

"Hong Kong-controlled aircraft" (香港控制的飛機) means an aircraft-

- (a) which is for the time being registered in Hong Kong; or
- (b) which, being for the time being registered outside Hong Kong, is for the time being chartered by demise to a person who, or to persons each of whom-
 - (i) is a person qualified to be the owner of a legal or beneficial interest in an aircraft registered in Hong Kong; and
 - (ii) resides or has his principal place of business in Hong Kong; or
- (c) which is not for the time being registered in any place but in the case of which either the operator of the aircraft or each person entitled as owner to any legal or beneficial interest in it-
 - (i) is a person qualified to be the owner of a legal or beneficial interest in an aircraft registered in Hong Kong; and
 - (ii) resides or has his principal place of business in Hong Kong;

"Hong Kong permanent resident" (香港永久性居民) has the same meaning as in the Immigration Ordinance (Cap 115);

"immigration officer" (入境事務人員) means any member of the Immigration Service;

"manager" (經理), in relation to an aerodrome, means the person who is principally responsible for the management of the aerodrome;

"measures" (措施) includes the construction, execution, alteration, demolition or removal of buildings or other works and also includes the institution or modification, and the supervision and enforcement, of any practice or procedure;

"the Montreal Convention" (《蒙特利爾公約》) means the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation signed at Montreal on 23 December 1971;

"the Montreal Protocol" (《蒙特利爾議定書》) means the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation which supplements the Montreal Convention;

"operator" (經營者), in relation to an aircraft, means the person who for the time being has the management or control of the aircraft;

"Programme" (計劃) means the Aviation Security Programme drawn up under section 27(1);

"qualification" (資格), in relation to a person, includes training and experience;

"relevant offence" (有關罪行) means an offence under section 8, 9, 11, 12 or 15;

"restricted area" (禁區) means a restricted area designated under section 35;

"restricted article" (違禁物品) means-

- (a) any explosive;
- (b) arms or ammunition within the meaning of the Firearms and Ammunition Ordinance (Cap 238) or any article having the appearance of such arms or ammunition;
- (c) any article having the appearance of being a firearm, whether capable of being discharged or not;
- (d) any article made or adapted for use for causing injury or incapacity to a person or intended by the person having it with him for such use, whether by himself or any other person;
- (e) any poisonous or noxious substance that may cause death or serious bodily harm;
- (f) any dangerous goods within the meaning of the Dangerous Goods (Consignment by Air) (Safety) Ordinance (Cap 384); or
- (g) any other thing that may cause serious damage to the structure of an aircraft or any part of it or substantial impairment to the functioning of any system or equipment of an aircraft;

"security direction" (保安指示) means a security direction issued under section 28(1);

"unlawfully" (非法)-

- (a) in relation to the commission of an act in Hong Kong, means so as (apart from this Ordinance) to constitute an offence under the law of Hong Kong; and
- (b) in relation to the commission of an act outside Hong Kong, means so that the commission of the act would (apart from this Ordinance) have been an offence under the law of Hong Kong if it had been committed in Hong Kong.

(Amended L.N. 204 of 1997)

(2) For the purposes of this Ordinance-

- (a) the period during which an aircraft is in flight shall be deemed to include-
 - (i) any period from the moment when all its external doors are closed following embarkation for a flight until the moment when any such door is opened for disembarkation after that flight;
 - (ii) if the aircraft makes a forced landing, any period after the landing until the time when competent authorities of the country or territory in which the forced landing takes place take over the responsibility for the aircraft and for the persons and property on board the aircraft (being if the forced landing takes place in Hong Kong, the time when a police officer arrives at the place of landing); and
 - (iii) any period when it is on the surface of the sea or land but not within the territorial limits of any country or territory;
- (b) an aircraft shall be taken to be in service during the whole of the period which begins with the pre-flight preparation of the aircraft for a flight and ends 24 hours after the aircraft lands having completed that flight, and also at any time (not falling within that period) while, in accordance with paragraph (a), the aircraft is in flight; and
- (c) any act done on board an aircraft while in flight over Hong Kong shall be treated as done in Hong Kong.

(3) For the purposes of this Ordinance-

- (a) in the case of an air navigation installation provided by, or used wholly or mainly by the Civil Aviation Department, the Director; and
- (b) in the case of any other air navigation installation, the manager of an aerodrome by whom it is provided, or by whom it is wholly or mainly used,

shall be taken to be the authority responsible for that air navigation installation.

(4) In any proceedings, a certificate purporting to be signed by the Secretary of State that an aircraft is or is not a military aircraft for the purposes of this Ordinance shall be conclusive

evidence of that fact.

(5) References in this Ordinance to any country or territory or the territorial limits of any country or territory shall be construed as including a reference to the waters, if any, under the jurisdiction of that country or territory, as the case may be.

(6) If the Authority by order published in the Gazette declares-

(a) that any 2 or more countries or territories specified in the order have established an organization or agency which operates aircraft; and

(b) that one of those countries or territories has been designated as exercising for aircraft so operated, the powers of the country or territory of registration,

the state declared to have been so designated shall be deemed for the purpose of this Ordinance to be the country or territory in which any aircraft so operated is registered.

(Enacted 1996)

Chapter:	494	AVIATION SECURITY ORDINANCE	Gazette Number	Version Date
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Section:	8	Hijacking	71 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 71 of 1999 s. 3

PART III

OFFENCES AGAINST THE SAFETY OF AIRCRAFT ETC.

(1) Subject to subsection (2), a person on board an aircraft in flight who unlawfully, by the use of force or by threats of any kind, seizes the aircraft or exercises control of it, commits the offence of hijacking, whatever the country or territory in which the aircraft is registered and whether the aircraft is in Hong Kong or elsewhere.

(2) If both the place of take-off and the place of landing are within the territorial limit of the country or territory in which the aircraft is registered, subsection (1) shall not apply unless-

(a) the person seizing or exercising control of the aircraft is a Hong Kong permanent resident;

(b) his act is committed in Hong Kong; or

(c) the aircraft is registered in Hong Kong.

(3) A person who commits the offence of hijacking is liable on conviction on indictment to imprisonment for life.

(4) If the Chief Executive in Council by order declares- (Amended 71 of 1999 s. 3)

(a) that any 2 or more countries or territories named in the order have established an organization or agency which operates aircraft; and

(b) that one of those countries or territories has been designated as exercising, for aircraft so operated, the powers of the country or territory of registration,

the country or territory declared under paragraph (b) shall be deemed for the purposes of this section to be the country or territory in which any aircraft so operated is registered; but in relation to such an aircraft subsection (2) shall have effect as if it referred to the territorial limit of any one of the countries or territories named in the order.

(Enacted 1996) [cf. 1971 c. 70 s. 1 U.K.]

Chapter:	494	AVIATION SECURITY ORDINANCE	Gazette Number	Version Date
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Section:	37	Power to impose restrictions in relation to aircraft		30/06/1997
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(1) For the purposes to which this Part applies the Authority may give a direction to the operator of an aircraft registered or operating in Hong Kong, or to the manager of any aerodrome, requiring him-

- (a) not to cause or permit persons or property to go or be taken on board any aircraft to which the direction relates, or to come or be brought into proximity to any such aircraft, unless such searches of those persons or that property as are specified in the direction have been carried out; or
- (b) not to cause or permit any such aircraft to fly unless such searches of the aircraft as are specified in the direction have been carried out.

(2) Subject to subsection (3), the Authority may give a direction in writing to the operator of an aircraft registered or operating in Hong Kong requiring him not to cause or permit the aircraft to fly unless such modifications or alterations of the aircraft, or of apparatus or equipment installed in the aircraft, as are specified in the direction have first been carried out, or such additional apparatus or equipment as is so specified is first installed in the aircraft.

(3) Before giving any direction under subsection (2), the Authority shall inform the Director of the modifications, alterations or additional apparatus or equipment proposed to be required, and shall take account of any advice given to him by the Director with respect to those proposals.

(4) In giving any direction under subsection (2), the Authority shall allow, and shall specify in the direction, such period as appears to him to be reasonably required for carrying out the modifications or alterations or installing the additional apparatus or equipment in question; and the direction shall not take effect before the end of the period so specified.

(5) Subject to the following provisions of this Part, a direction given to an operator of aircraft under subsection (1) may be given so as to relate-

- (a) either to all the aircraft registered or operating in Hong Kong of which at the time when the direction is given or at any subsequent time he is the operator or only to one or more such aircraft, or to a class of such aircraft, specified in the direction;
- (b) either to all persons or only to one or more persons, or persons of one or more descriptions, specified in the direction; and
- (c) either to property of every description or only to particular property, or property of one or more descriptions, specified in the direction,

and a direction given to an operator of aircraft under subsection (2) may be given so as to relate either to all the aircraft registered or operating in Hong Kong of which at the time when the direction is given or at any subsequent time he is the operator or only to one or more such aircraft, or to a class of such aircraft, specified in the direction.

(6) Subject to the following provisions of this Part, a direction given to the manager of an aerodrome under subsection (1) may be given so as to relate-

- (a) either to all aircraft which at the time when the direction is given or at any subsequent time are in any part of the aerodrome, or to a class of such aircraft specified in the direction;
- (b) either to all persons or only to one or more persons, or persons of one or more descriptions, specified in the direction; and
- (c) either to property of every description or only to particular property, or property of one or more descriptions, specified in the direction.

(7) Subject to the following provisions of this Part, any direction given under this section to any person not to cause or permit anything to be done shall be construed as requiring him to take all such steps as in any particular circumstances are practicable and necessary to prevent that thing from being done.

(8) A direction may be given under this section to a person appearing to the Authority to be about to become-

- (a) such an operator as is mentioned in subsection (1) or (2); or

(b) such a manager as is mentioned in subsection (1), but a direction given to a person by virtue of this subsection shall not take effect until he becomes such an operator or manager, and in relation to a direction so given, the preceding provisions of this section shall apply with the necessary modifications.

(9) Any person who, without reasonable excuse, fails to comply with a direction given to him under this section commits an offence and is liable-

(a) on summary conviction, to a fine at level 3;

(b) on conviction on indictment, to a fine of \$500000 and to imprisonment for 2 years.

(10) Where a person is convicted of an offence under subsection (9), then, if without reasonable excuse the failure in respect of which he was convicted is continued after the conviction, he shall be guilty of a further offence and liable on conviction to a fine not exceeding \$1000 for each day on which such further offence continues.

(Enacted 1996)

Chapter:	494	AVIATION SECURITY ORDINANCE	Gazette Number	Version Date
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Section:	42	Procedures for handling certain classes of passengers		30/06/1997
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(1) The authority may give directions specifying the procedure to be followed in the handling of particular classes or descriptions of passengers specified in the direction by the manager of any aerodrome or the operator of any aircraft which is registered or operating in Hong Kong.

(2) A direction given under subsection (1) shall be contained in a notice in writing served on the relevant manager or operator.

(3) A person who fails to follow a procedure specified in a direction given to him under subsection (1) commits an offence and is liable to a fine at level 5.

(Enacted 1996)

Chapter:	494A	AVIATION SECURITY REGULATION	Gazette Number	Version Date
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Section:	20	Reporting of incidents	L.N. 247 of 1998	22/06/1998
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The operator of an aircraft shall, as soon as reasonably possible, report to the Director any of the following types of incidents-

- (a) an act or threat of assault by a passenger on one of its aircraft against another passenger or against an air-crew member while the aircraft-
 - (i) is on the ground in Hong Kong or within Hong Kong air space; or
 - (ii) in the case of an aircraft registered in Hong Kong, is on the ground or in air space outside Hong Kong;
- (b) the discovery on one of its passengers or in the baggage or other effects belonging to such a passenger of an object or materials that could possibly be used for or in connection with an act of violence referred to in section 33 of the Ordinance.