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By fax: 2509 0775
Clerk to Panel on Security
Legislative Council Secretariat
Legislative Council Building
8 Jackson Road
Central
Hong Kong

(Attn: Mr Raymond LAM)

Dear Mr LAM,

Panel on Security

Follow-up to the Meeting on 7 December 2004

In discussing the Administration's paper entitled "Proposal to amend the Aviation Security Ordinance (Cap. 494) (LC Paper No. CB(2)305/04-05(04)) at the meeting held on 7 December 2004, Members requested the Administration to provide overseas precedents relating to the acts referred to in paragraph 10(a) and (b) of the paper, namely –

- (a) acting in a manner that interferes with the performance of the duties of a crew member or lessens the ability of the crew member to perform those duties; and
- (b) intentionally failing to comply with the lawful instructions given by the aircraft commander, or a crew member on behalf of the commander of the aircraft, for the purpose of ensuring the safety of the aircraft or for the purpose of maintaining good order and discipline on board.

Our response is as follows.

The United Kingdom

- (a) In the UK, there are similar provisions for unruly behaviour offences in the Air Navigation Order 2000 which are set out below -

Authority of commander and members of the crew of an aircraft

Article 67 Every person in an aircraft shall obey all lawful commands which the commander of that aircraft may give for the purpose of securing the safety of the aircraft and of persons or property carried therein, or the safety, efficiency or regularity of air navigation.

Acting in a disruptive manner

Article 68 No person shall while in an aircraft :

- (a) use any threatening, abusive or insulting words towards a member of the crew of the aircraft;*
- (b) behave in a threatening, abusive, insulting or disorderly manner towards a member of the crew of the aircraft; or*
- (c) intentionally interfere with the performance by a member of the crew of the aircraft of his duties."*

- (b) The UK Civil Aviation Authority has provided a number of precedent cases which are tabulated at **Annex** for Members' information.

New Zealand

- (c) In New Zealand, the Civil Aviation Act 1990 as amended in June 2004 contains similar provisions related to unruly passenger offences. Details are as follows -

Section 65G Disruptive conduct towards crew member

- (1) Every person commits an offence who, while in an aircraft, -*
 - (a) uses any threatening, offensive, or insulting words towards a crew member; or*
 - (b) behaves in a threatening, offensive, insulting, or disorderly manner towards a crew member; or*


- (c) *behaves in a manner that interferes with the performance by a crew member of his or her duties; or*
- (d) *intentionally interferes with the performance by a crew member of his or her duties.*

Section 65J Non-compliance with commands given by pilot-in-command

- (1) *Every person commits an offence who fails to comply with any commands given to the person directly by the pilot-in-command or indirectly by the pilot-in-command through a crew member, in accordance with his or her duties under section 13 or the rules.*

- (d) According to the Ministry of Transport of New Zealand, no prosecution has been made under the above provisions since they came into operation in June 2004.

Yours sincerely,


(Lau Wai Ming)
for Secretary for Security

c.c. DGCA (Attn: Mr Simon Li) Fax: 2362 4257
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Precedent Cases Related to Unruly Passenger Offences Provided by The UK Civil Aviation Authority

Case	Description of the Offence
April 2001	A passenger was charged with disobeying a lawful command of the aircraft commander, being drunk on the aircraft, damaging the crockery, interfering with the performance of a crew member's duties, using threatening behaviour and assaulting crew members on a British Airways flight from Seattle to London.
March 2002	A passenger was charged with assaulting a member of the cabin crew on a Britannia Airways flight from Bristol to the Canary Islands. The passenger was fined £200.
May 2003	A passenger was charged with assaulting and being threatening and abusive towards the cabin crew on a Virgin Atlantic flight from London to Tokyo. The passenger was sentenced to community service and fined £1 100.
May 2003	A passenger was charged with interfering with a flight crew (refusing to sit down and fasten seat belt before arguing with flight attendants) on a flight from Manchester to Orlando.
December 2003	A passenger was charged with drunken and disruptive behaviour during a Thai Airlines flight from Thailand to London.
April 2004	A passenger was charged with assaulting a cabin supervisor and being threatening and abusive during a flight from Belfast to the Canary Islands. The passenger was sentenced to two three-month prison terms, both of which were suspended and fined £1 300.

Note: The details of some of the above cases do not include prosecution results or penalties, as these have not been made available to us by the UK Civil Aviation Authority.