

LN151-E

Civil Aviation (Insurance) Order

(Made by the Chief Executive in Council under section 2A of the Civil Aviation Ordinance (Cap. 448))

1. Commencement

This Order shall come into operation on a day to be appointed by the Secretary for Economic Services by notice in the Gazette.

2. Interpretation

In this Order, unless the context otherwise requires---

"authorized person" (獲授權人) means a person authorized by the Director under section 16;

"commander" (機長), in relation to an aircraft, means the member of the aircraft crew designated as commander of that aircraft by the operator thereof, or, failing such a person, means the person who, for the time being, is the pilot in command of that aircraft;

"Director" (處長) means the Director of Civil Aviation;

"operator" (經營人), in relation to an aircraft, means---

(a) the person who for the time being has the management or control of that aircraft; and

(b) any other person authorized by that person to use the aircraft to provide air services.

3. Application

(1) Subject to subsection (2), this Order shall apply to civil aircraft only.

(2) This Order does not apply to---

(a) balloons that are incapable of carrying passengers; or

(b) hang gliders, kites, parachutes or model aircraft.

(3) For the avoidance of doubt, "aircraft" (飛機) includes---

(a) balloons that are capable of carrying passengers; and

(b) aeroplanes, rotorcraft, airships and gliders.

4. Exemption

(1) The Director or any authorized person may exempt an aircraft or operator or commander of an aircraft from any provision of this Order---

(a) where it is necessary for the safety of any aircraft or any of its passengers or members of the aircraft crew; or

(b) for reasons of operational necessity.

(2) The Director or any authorized person may, in exceptional circumstances, other than those specified in subsection (1), exempt an aircraft or operator or

commander of an aircraft from any provision of this Order.

5. Prohibition on landing or taking off without insurance

(1) Subject to this Order, an aircraft shall not land or take off in Hong Kong unless there is in force in relation to the use of that aircraft in Hong Kong a policy of insurance that complies with section 6.

(2) If an aircraft lands or takes off in contravention of subsection (1), the operator commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 1 year.

(3) Subsection (1) does not apply to an aircraft that lands or takes off for reason of emergency.

6. Requirements in respect of policy of insurance

(1) For the purposes of section 5, the policy of insurance must be a policy that insures the operator in respect of any liability which may be incurred by him in respect of---

- (a) third party risks;
- (b) the death of or bodily injury to any passenger in the aircraft;
- (c) any destruction or loss of or damage to baggage carried on board the aircraft;
- (d) any destruction or loss of or damage to cargo carried on board the aircraft; and
- (e) any destruction or loss of or damage to mail carried on board the aircraft, arising out of or caused by the use of the aircraft in Hong Kong and arising out of any one event.

(2) Subject to subsections (3) and (4), the policy of insurance must have a combined single limit coverage of not less than the applicable amount specified in the Schedule in respect of the liabilities mentioned in subsection (1).

(3) The combined single limit coverage required under subsection (2)---

- (a) may include liabilities other than those mentioned in subsection (1), except for the liability in respect of damage to the hull of the aircraft of the operator; and
- (b) need not cover liability in respect of the death of or bodily injury to any person in the employment of the operator which arises out of and in the course of that person's employment.

(4) The policy of insurance need not insure the operator in respect of a liability referred to in subsection (1)(b), (c), (d) or (e) if the aircraft does not carry passengers, baggage, cargo or mail, as the case may be, but the combined single limit coverage under such policy shall nevertheless be in an amount of not less than the applicable amount specified in the Schedule.

(5) The policy of insurance may be in the form of a single policy or a combination of policies.

7. Documentary proof of insurance to be carried on aircraft, etc.

(1) The operator of an aircraft shall cause documentary proof of the policy of insurance required by section 5 to be---

(a) carried on board the aircraft; or

(b) made available at the aerodrome in Hong Kong at which the aircraft lands or takes off.

(2) For the purposes of subsection (1), "documentary proof" (文件證明) means---

(a) a legible copy of---

(i) the policy of insurance;

(ii) the certificate of insurance issued in respect of the policy of insurance;

or

(iii) other document evidencing the policy of insurance; and

(b) where the term of the policy of insurance is due to expire imminently, proof in writing of continued insurance cover.

(3) An operator of an aircraft who without reasonable excuse contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 5.

8. Requirements as to the production of documentary proof

(1) The operator or commander of an aircraft shall, within a reasonable time and in any event within 24 hours after being requested to do so by the Director or any authorized person, cause to be produced to the Director or the authorized person the documentary proof required by section 7.

(2) The Director or the authorized person may retain or take copies of any documentary proof produced under subsection (1).

(3) An operator or a commander of an aircraft who without reasonable excuse contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 5.

9. Power to require production of declaration

(1) The operator or commander of an aircraft shall, within a reasonable time and in any event within 24 hours after being requested to do so by the Director or any authorized person, cause to be produced to the Director or the authorized person a declaration of the items carried on board that aircraft.

(2) The Director or the authorized person may retain or take copies of any document produced under subsection (1).

(3) An operator or a commander of an aircraft who without reasonable excuse contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 5.

10. Power to require documentary proof in advance

The Director or any authorized person may require an operator or a commander of

an aircraft intending to land or take off in Hong Kong to cause to be produced to the Director or the authorized person in respect of that aircraft the documentary proof required by section 7.

11. Power to prohibit aircraft from landing or taking off

(1) Where the operator or commander fails or refuses to produce documentary proof required under section 10 within a reasonable time after being requested to do so by the Director or any authorized person, or the Director or the authorized person has reason to believe that the documents caused to be produced by the operator or commander under that section do not provide documentary proof that the aircraft is covered by a policy of insurance that complies with section 6, the Director or the authorized person may direct the operator or commander of the aircraft that he is not to permit the aircraft to land or take off in Hong Kong, until the direction has been revoked by the Director or the authorized person.

(2) Where the Director or any authorized person issues a direction under subsection (1), any previous permission granted by him to the operator or commander in respect of that landing or taking off shall be deemed to have been revoked.

(3) An operator or a commander of an aircraft who fails without reasonable excuse to comply with any direction issued to him under subsection (1) commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 2 years.

12. Power to inspect aircraft, etc.

(1) The Director or any authorized person may, for the purposes of this Order, enter upon and inspect any aircraft.

(2) The Director or any authorized person may, in the course of inspecting an aircraft, retain or take copies of any document that he has the power pursuant to this Order to require to be produced to him.

13. Obstruction of persons

Any person who intentionally obstructs or impedes the Director or any authorized person in the exercise of his powers under this Order commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 2 years.

14. Offences in relation to the production of documentary proof

Any person who, in purported compliance with any request made to him under section 8 or 10---

(a) furnishes any information or produces a document that he knows to be false or misleading; or

(b) recklessly furnishes any information or produces a document that is false or misleading in a material particular,

commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 2 years.

15. Offences in relation to the production of declaration

A person who, with intent to deceive, makes any false statement in a declaration made by him for the purpose of section 9(1) commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 2 years.

16. Appointment of authorized persons

The Director may authorize in writing any public officer or other person to exercise any of the powers and perform any of the duties conferred or imposed on an authorized person by this Order.

SCHEDULE [s. 6]

Aircraft maximum ramp or taxi weight,
whichever is greater (if not applicable,
maximum take-off weight or maximum weight,
whichever is greater), as stipulated in its
manufacturer's flight manual or Applicable amount

Item operations manual (equivalent to)

1. Not exceeding 5 700 kg US\$15,000,000
2. Exceeding 5 700 kg but not exceeding 10 000 kg US\$25,000,000
3. Exceeding 10 000 kg but not exceeding 28 000 kg US\$60,000,000
4. Exceeding 28 000 kg but not exceeding 100 000 kg US\$200,000,000
5. Exceeding 100 000 kg but not exceeding 170 000 kg US\$500,000,000
6. Exceeding 170 000 kg US\$1,000,000,000

CHENG Mei-sze, Maisie

Clerk to the Executive Council

Council Chamber

16 May 2000

Explanatory Note

The main purpose of this Order is to prohibit civil aircraft from landing or taking off in Hong Kong unless there is in force in relation to the use of the aircraft in Hong Kong a policy of insurance in a combined single limit coverage which covers third party risks and passenger, baggage, cargo and mail liabilities.