

LEGISLATIVE COUNCIL BRIEF

Civil Aviation Ordinance
(Chapter 448)

Civil Aviation (Aircraft Noise) Ordinance
(Chapter 312)

**Hong Kong Air Navigation (Fees)
(Amendment) Regulation 2011**

**Civil Aviation (Aircraft Noise) (Certification)
(Amendment) Regulation 2011**

INTRODUCTION

A At the meeting of the Executive Council on 8 November 2011, the Council ADVISED and the Acting Chief Executive ORDERED that the Hong Kong Air Navigation (Fees) (Amendment) Regulation 2011, at **Annex A**, should be made to revise the fees and charges under the Hong Kong Air Navigation (Fees) Regulations.

B 2. Concurrently, the Secretary for Financial Services and the Treasury has made the Civil Aviation (Aircraft Noise) (Certification) (Amendment) Regulation 2011 at **Annex B** to adjust the fees under the Civil Aviation (Aircraft Noise) (Certification) Regulations. The purpose of this Regulation is to reduce the fees payable for applications for the grant of noise certificates and the issue of duplicate noise certificates to the respective full costs.

JUSTIFICATIONS

3. The Government's policy is that fees and charges should in general be set at a level sufficient to recover the full cost of providing the services. The Civil Aviation Department (CAD) has reviewed the fees and charges related to civil aviation under the Hong Kong Air Navigation (Fees) Regulations and the Civil Aviation (Aircraft Noise) (Certification) Regulations.

4. At present, the fees and charges levied for some of the services do not recover all the costs of the services provided, with the cost recovery rates ranging from 5% to about 80%. Also, some services, such as approval of flight simulators and examinations for aircraft maintenance engineer licences, are being provided free of charge to the aviation industry. The fee proposals aim to achieve the full cost recovery principle for services provided by the Government.

5. Six existing fee items are over-recovering, while the fee for the renewal of the certificate of validation of a licence has become obsolete. The opportunity would be taken to adjust the over-recovery fees to the respective full costs in one go, while deleting the obsolete fee. CAD has also streamlined the structure of a number of fee items for applications that involved similar work processes.

6. The overall cost recovery rate of the existing fees and charges is about 91.5%. Full cost recovery will be achieved upon the full implementation of the fee proposals.

7. The fee proposals would not have a significant impact on the aviation industry, nor would they undermine Hong Kong's competitiveness as an aviation hub in the region. The fees should not be an undue financial burden on the operation of the airlines, as they only represent less than 1% of the aircraft operator's total operating expenses. The percentages would be smaller in the case of some larger aircraft operators in Hong Kong.

C 8. Details of the fee proposals are set out at **Annex C**. The assessment of the impact of the fee proposals on the relevant stakeholders is set out in **Annex D**.
D

THE AMENDMENT REGULATIONS

9. The Amendment Regulations include the following main provisions –

- (a) providing for the payment of the fees prescribed in the Schedule to the Hong Kong Air Navigation (Fees) Regulations;
- (b) adjusting the level of certain fees with a view to achieving full cost recovery;

- (c) introducing new fee items in respect of certain matters provided for in the Air Navigation (Hong Kong) Order 1995;
- (d) streamlining the structure of examination fees for the grant or renewal of a licence to act as a flight crew member;
- (e) deleting the fee item for the renewal of a certificate of validation; and
- (f) reflecting the abolition of official flying tests.

LEGISLATIVE TIMETABLE

10. The Hong Kong Air Navigation (Fees) (Amendment) Regulation 2011 and the Civil Aviation (Aircraft Noise) (Certification) (Amendment) Regulation 2011 will be gazetted on 18 November 2011 and tabled in the Legislative Council on 23 November 2011. The target commencement date of the Amendment Regulations is 13 January 2012.

IMPLICATIONS OF THE PROPOSALS

E 11. The fee proposals have financial implications as set out in **Annex E**. No additional staff will be required for implementing the fee proposals. The fee proposals have little economic implications as the additional costs are insignificant compared to the total operating costs of the aviation industry. The fee proposals are in conformity with the Basic Law, including provisions concerning human rights. They do not affect the binding effect of the legislation. They also do not have any productivity, environmental or substantial sustainability implications.

PUBLIC CONSULTATION

12. We have consulted the Technical Sub-committee of the Aviation Development Advisory Committee, the Airport Authority, the aviation industry including the local airlines, Airline Operators Committee, Board of Airline Representatives, Hong Kong Airline Pilots Association, Hong Kong Region of the Guild of Air Pilots and Air Navigators, as well as other related organisations such as Hong Kong Institution of Engineers, Hong Kong Aviation Club, aircraft maintenance and design organisations, flight training organisations and maintenance training organisations.

13. Some stakeholders, while recognising the user-pays principle, have expressed concern on its application to their particular sectors of the civil aviation industry. We have explained that it is appropriate to apply the principle across the board as CAD's fees are levied on commercial enterprises and professionals.

14. On their concern about the significant percentage increases proposed for certain items (notably the maximum fees for Air Operator's Certificate and for the inspection of a maintenance or design organisation), we have explained that the proposal of spreading the increases over three years is reasonable, which seeks to strike a balance between the users' interests and the Government's policy of full cost recovery. We do not consider it justified to spread the increases over a longer period.

15. On their concern about the details regarding the calculation of CAD's fees and charges in relation to those that are based on the cost of investigations, we have agreed to provide more information in the demand notes in the future, including the number of working hours spent by its staff and any overseas trips involved.

16. On 28 March 2011, we consulted the Legislative Council Panel on Economic Development on the fee proposals. On 27 June 2011, we provided the Panel with more information on the fee proposals. The Panel supported the fee proposals. We assured Members that CAD would regularly review its work procedures to keep the costs of its services to a minimum. On the suggestion of imposing higher charges for the operation of noisier aircraft to address the concerns of the public, we explained that this was not in line with the existing policy.

PUBLICITY

17. A press release will be issued on 16 November 2011. A spokesman will be available to handle enquiries.

BACKGROUND

18. The Hong Kong Air Navigation (Fees) Regulations and the Civil Aviation (Aircraft Noise) (Certification) Regulations provide for the fees and charges related to civil aviation to be levied by CAD. Most of the fees under these regulations were last adjusted in 1986¹.

ENQUIRIES

19. Any enquiry on this brief should be directed to Miss Monica Chen, Principal Assistant Secretary (Transport) (telephone number: 2189 7719).

**Transport and Housing Bureau
16 November 2011**

¹ The exceptions are certain examination fees in connection with flight crew licensing (last revised in 1990), the fees for the noise certificates (last revised in 1996) and the maximum fee for aerodrome licensing (last revised in 1998).

Hong Kong Air Navigation (Fees) (Amendment) Regulation 2011

(Made by the Chief Executive under Article 97 of the Air Navigation (Hong Kong) Order 1995 (Cap. 448 sub. leg. C) after consultation with the Executive Council)

1. Commencement

This Regulation comes into operation on 13 January 2012.

2. Hong Kong Air Navigation (Fees) Regulations amended

The Hong Kong Air Navigation (Fees) Regulations (Cap. 448 sub. leg. D) are amended as set out in sections 3 to 7.

3. Regulation 2 amended (interpretation)

(1) Regulation 2(1), definition of *Order*—

Repeal

“the Air Navigation (Overseas Territories) Order 1977”

Substitute

“the Air Navigation (Hong Kong) Order 1995 (Cap. 448 sub. leg. C)”.

(2) Regulation 2(1)—

Add in alphabetical order

“*investigation* includes inspection, examination, calculation and test;”.

4. Regulation 4 substituted

Regulation 4—

Repeal the regulation

Substitute

“4. Payment of application fees to Director

- (1) This regulation applies to each fee set out in the Schedule, other than that in paragraph 8(5) or 11(6), (9) or (12) of the Schedule.
- (2) The fee set out in the Schedule in respect of a matter is payable to the Director at the time of the application in relation to the matter.
- (3) Despite paragraph (2), a fee is payable to the Director at the Director’s request if its amount is determined by reference to the cost of the investigations for the purpose of the matter or the cost of preparing a copy or replacement of a document.
- (4) If no request under paragraph (3) has been made for the payment of a fee, the Director may require that a deposit of an amount specified by the Director must be paid before the application in relation to the matter is entertained.
- (5) If the cost of the investigations for the purpose of the matter or the cost of preparing a copy or replacement of a document exceeds the amount of the deposit payable under paragraph (4), the difference between that cost and that amount is payable to the Director at the Director’s request.
- (6) If the cost of the investigations for the purpose of the matter or the cost of preparing a copy or replacement of a document is less than the amount of the deposit payable under paragraph (4), the Director must refund to the applicant the difference between that cost and that amount.
- (7) The amount payable under paragraph (3), or the aggregate amount payable under paragraphs (4) and (5), must not exceed the maximum amount of the fee set out in the Schedule in respect of the matter.

- (8) Paragraphs (2), (3), (4), (5), (6) and (7) apply even if the application in relation to the matter is refused or withdrawn or otherwise ceases to have effect.”.

5. Regulation 4A added

After regulation 4—

Add

“4A. Payment of certain investigation fees to Director

The fee set out in paragraph 8(5) or 11(6), (9) or (12) of the Schedule is payable to the Director at the Director’s request.”.

6. Regulation 5 repealed (official flying tests fees)

Regulation 5—

Repeal the regulation.

7. Schedule amended (fees)

- (1) The Schedule—

Repeal

“[reg. 3]”

Substitute

“[regs. 3, 4, 4A & 6]”.

- (2) The Schedule, heading immediately before paragraph 1, after “4(8)”—

Add

“of the Order”.

- (3) The Schedule, paragraph 1—

Repeal

everything after “an aircraft”

Substitute

“is \$660.”.

- (4) The Schedule, heading immediately before paragraph 2, after “6(2)”—

Add

“of the Order”.

- (5) The Schedule, paragraph 2—

Repeal subparagraph (1)

Substitute

- “(1) The fee for the grant or variation of an air operator’s certificate is an amount equal to the cost of making the investigations required by the Chief Executive as to the applicant’s competency, but not exceeding (whichever of the following is applicable)—

(a) the aggregate of the amount determined in accordance with subparagraph (2)(a)(i) and the amount determined in accordance with subparagraph (2)(a)(ii) or (2)(a)(iii), or both subparagraphs (2)(a)(ii) and (2)(a)(iii), as the case may be;

(b) the aggregate of the amount determined in accordance with subparagraph (2)(b)(i) and the amount determined in accordance with subparagraph (2)(b)(ii) or (2)(b)(iii), or both subparagraphs (2)(b)(ii) and (2)(b)(iii), as the case may be;

(c) the aggregate of the amount determined in accordance with subparagraph (2)(c)(i) and the amount determined in accordance with subparagraph (2)(c)(ii) or (2)(c)(iii), or both subparagraphs (2)(c)(ii) and (2)(c)(iii), as the case may be.”.

- (6) The Schedule, paragraph 2—

Repeal subparagraph (2)

Substitute

“(2) The maximum amounts under this paragraph are—

(a) where the application for the grant or variation is made on or after 13 January 2012 but before 13 January 2013—

(i)	Maximum total weight authorized	For heaviest aircraft type in applicant's fleet of aircraft	For every other aircraft type in applicant's fleet
(A)	not over 2 tonnes	\$19,300	\$9,660
(B)	over 2 but not over 55 tonnes	\$96,000	\$48,000
(C)	over 55 but not over 100 tonnes	\$128,000	\$64,000
(D)	over 100 but not over 160 tonnes	\$193,100	\$96,550
(E)	over 160 tonnes	\$386,300	\$193,100;

(ii) \$1.70 for each 1 000 passenger kilometres (or part thereof);

(iii) \$20 for each 1 000 freight tonne kilometres (or part thereof);

(b) where the application for the grant or variation is made on or after 13 January 2013 but before 13 January 2014—

- | (i) | Maximum total weight authorized | For heaviest aircraft type in applicant's fleet of aircraft | For every other aircraft type in applicant's fleet |
|-----|----------------------------------|---|--|
| (A) | not over 2 tonnes | \$53,300 | \$26,650 |
| (B) | over 2 but not over 55 tonnes | \$264,900 | \$132,500 |
| (C) | over 55 but not over 100 tonnes | \$353,200 | \$176,600 |
| (D) | over 100 but not over 160 tonnes | \$532,800 | \$266,400 |
| (E) | over 160 tonnes | \$1,065,700 | \$532,800; |
- (ii) \$4.60 for each 1 000 passenger kilometres (or part thereof);
- (iii) \$53.30 for each 1 000 freight tonne kilometres (or part thereof);
- (c) where the application for the grant or variation is made on or after 13 January 2014—

- (i)

Maximum total weight authorized	For heaviest aircraft type in applicant's fleet of aircraft	For every other aircraft type in applicant's fleet
(A) not over 2 tonnes	\$147,000	\$73,500
(B) over 2 but not over 55 tonnes	\$730,900	\$365,500
(C) over 55 but not over 100 tonnes	\$974,600	\$487,300
(D) over 100 but not over 160 tonnes	\$1,470,300	\$735,100
(E) over 160 tonnes	\$2,940,600	\$1,470,300;

 - (ii) \$12.60 for each 1 000 passenger kilometres (or part thereof);
 - (iii) \$147 for each 1 000 freight tonne kilometres (or part thereof)."
- (7) The Schedule, heading immediately before paragraph 3—
 - Repeal**
 - "Article 7(1)(e)"
 - Substitute**
 - "Article 7(1A)(e) of the Order".
- (8) The Schedule, heading immediately before paragraph 4—
 - Repeal**
 - "First Issue of Certificate of Airworthiness (Article 8(1))"

- Substitute**
- "Issue of Certificate of Airworthiness (Article 8(1) of the Order)".
- (9) The Schedule, paragraph 4(1)—
 - Repeal**
 - "first".
- (10) The Schedule, paragraph 4(1)(a)—
 - Repeal**
 - everything after "glider or"
 - Substitute**
 - "balloon—
 - (i) for an application made on or after 13 January 2012 but before 13 January 2013 \$720
 - (ii) for an application made on or after 13 January 2013 but before 13 January 2014 \$1,920
 - (iii) for an application made on or after 13 January 2014 \$5,040".
- (11) The Schedule, paragraph 4(2)—
 - Repeal**
 - "first".
- (12) The Schedule, paragraph 4(2)(a)—
 - Repeal**
 - everything after "glider or"
 - Substitute**
 - "balloon—

- (i) for an application made on or after 13 January 2012 but before 13 January 2013 \$720
 - (ii) for an application made on or after 13 January 2013 but before 13 January 2014 \$1,920
 - (iii) for an application made on or after 13 January 2014 \$5,040”.
- (13) The Schedule, heading immediately before paragraph 5, after “8(1)”—
Add
 “of the Order”.
- (14) The Schedule, heading immediately before paragraph 6—
Repeal
 “Article 8(1) and (6)”
Substitute
 “Article 8(6) of the Order”.
- (15) The Schedule, paragraph 6(a)—
Repeal
 “\$270”
Substitute
 “\$340”.
- (16) The Schedule, paragraph 6(b)—
Repeal
 “\$270”
Substitute
 “\$340”.
- (17) The Schedule, paragraph 6(c)—
Repeal

- “\$420”
Substitute
 “\$340”.
- (18) The Schedule, heading immediately before paragraph 7, after “(6)”—
Add
 “of the Order”.
- (19) The Schedule, paragraph 7(1)—
Repeal
 “first” (wherever appearing).
- (20) The Schedule, heading immediately before paragraph 8—
Repeal
 “11(5)(e)”
Substitute
 “11(6)(c) of the Order”.
- (21) The Schedule—
Repeal paragraph 8
Substitute
- “8. (1) This paragraph applies to an approval under Article 8(8) or 11(6)(c) of the Order.
 (2) Subject to subparagraphs (3) and (4), the application fee for the grant or variation of an approval is—
 (a) where the application is made on or after 13 January 2012 but before 13 January 2013—
 (i) for the investigations required by the Chief Executive for the purpose of the grant or any variation of the approval, \$7,700; or

- (ii) if the cost of making those investigations exceeds \$7,700, an amount equal to that cost but not exceeding \$192,800;
- (b) where the application is made on or after 13 January 2013 but before 13 January 2014—
 - (i) for the investigations required by the Chief Executive for the purpose of the grant or any variation of the approval, \$11,150; or
 - (ii) if the cost of making those investigations exceeds \$11,150, an amount equal to that cost but not exceeding \$278,500; or
- (c) where the application is made on or after 13 January 2014—
 - (i) for the investigations required by the Chief Executive for the purpose of the grant or any variation of the approval, \$16,100; or
 - (ii) if the cost of making those investigations exceeds \$16,100, an amount equal to that cost but not exceeding \$402,500.
- (3) The application fee mentioned in subparagraph (2) for the grant of an approval under Article 8(8) of the Order is \$0 if—
 - (a) the applicant was granted an approval under Article 8(8) of the Order; and
 - (b) the approval is still in force when the application is made.
- (4) The application fee mentioned in subparagraph (2) for the grant of an approval under Article 11(6)(c) of the Order is \$0 if—
 - (a) the applicant was granted an approval under Article 11(6)(c) of the Order; and
 - (b) the approval is still in force when the application is made.

- (5) The fee for making the investigations required by the Chief Executive for the purpose of satisfying himself or herself that an approval (including any subsequent approval) should remain in force is as follows—
 - (a) in respect of the initial period (or part of it) during which the approval remains in force—
 - (i) where the first day of the initial period falls on or after 13 January 2012 but before 13 January 2013, \$7,700 or, if the cost of making those investigations exceeds \$7,700, an amount equal to that cost but not exceeding \$192,800;
 - (ii) where the first day of the initial period falls on or after 13 January 2013 but before 13 January 2014, \$11,150 or, if the cost of making those investigations exceeds \$11,150, an amount equal to that cost but not exceeding \$278,500; or
 - (iii) where the first day of the initial period falls on or after 13 January 2014, \$16,100 or, if the cost of making those investigations exceeds \$16,100, an amount equal to that cost but not exceeding \$402,500; and
 - (b) in respect of each subsequent financial year (or part of it) during which the approval remains in force—
 - (i) where the financial year begins on 1 April 2012, \$7,700 or, if the cost of making those investigations exceeds \$7,700, an amount equal to that cost but not exceeding \$192,800;
 - (ii) where the financial year begins on 1 April 2013, \$11,150 or, if the cost of making those investigations exceeds \$11,150, an amount equal to that cost but not exceeding \$278,500; or

- (iii) where the financial year begins on or after 1 April 2014, \$16,100 or, if the cost of making those investigations exceeds \$16,100, an amount equal to that cost but not exceeding \$402,500.

(6) In this paragraph—

initial period, in relation to an approval, means the period beginning on the date on which the approval comes into force and ending on 31 March next following;

subsequent approval, in relation to an approval, means—

- (a) any subsequent approval granted as a result of an application made while the approval is in force; and
- (b) any approval granted as a result of an application made while any subsequent approval mentioned in paragraph (a) is in force.”.

- (22) The Schedule, heading immediately before paragraph 9, after “Part III”—

Add

“of the Order”.

- (23) The Schedule, heading immediately before paragraph 10, after “14(5)—

Add

“of the Order”.

- (24) The Schedule, heading immediately before paragraph 11, after “12”—

Add

“of the Order”.

- (25) The Schedule, paragraph 11—

Re-number the paragraph as paragraph 11(1).

- (26) The Schedule, paragraph 11(1)(a)—

Repeal

“or inclusion in a licence without type rating”

Substitute

“a licence without type rating or for the inclusion of a category or sub-division of a category in a licence”.

- (27) The Schedule, paragraph 11(1)(a)(i)—

Repeal

“for each sub-division of a category”.

- (28) The Schedule, paragraph 11(1)(a)(i)—

Repeal

“\$ 80”

Substitute

“\$605”.

- (29) The Schedule, paragraph 11(1)(a)(ii)—

Repeal

“\$130”

Substitute

“\$605”.

- (30) The Schedule, paragraph 11(1)(a)(iii)—

Repeal

“\$230”

Substitute

“\$605”.

- (31) The Schedule, paragraph 11(1)(a)(iv)—

Repeal

“\$230”

Substitute

“\$605”.

- (32) The Schedule, paragraph 11(1)(b)(i)—
Repeal
 “\$ 80”
Substitute
 “\$535”.
- (33) The Schedule, paragraph 11(1)(b)(ii)—
Repeal
 “\$230”
Substitute
 “\$535”.
- (34) The Schedule, paragraph 11(1)(b)(iii)—
Repeal
 “\$230”
Substitute
 “\$535”.
- (35) The Schedule, paragraph 11(1)(c)—
Repeal
 “\$120”
Substitute
 “\$310”.
- (36) The Schedule, paragraph 11(1)(d)—
Repeal
 “\$230”
Substitute
 “\$310”.
- (37) The Schedule, paragraph 11(1)(e)—
Repeal
 “\$120”

- Substitute**
 “\$535”.
- (38) The Schedule, after paragraph 11(1)—
Add
 “(2) The fees for taking examinations for the grant or variation of a licence or for the inclusion of a category or sub-division of a category or type rating in a licence are—
- | | |
|--|-------|
| (a) for every multiple choice question paper | \$315 |
| (b) for every essay question paper .. | \$775 |
- (3) The application fee for approval of any course of training or instruction under Article 12(6)(a) of the Order is an amount equal to the cost of making the investigations required by the Chief Executive but not exceeding \$192,800.
- (4) Subject to subparagraph (5), the application fee for authorization under Article 12(6)(b) of the Order to conduct examinations or tests is an amount equal to the cost of making the investigations required by the Chief Executive but not exceeding \$192,800.
- (5) The application fee mentioned in subparagraph (4) is \$0 if—
- (a) the applicant was granted an authorization under Article 12(6)(b) of the Order; and
 - (b) the authorization is still in force when the application is made.
- (6) The fee for making the investigations required by the Chief Executive for the purpose of satisfying himself or herself that an authorization (including any subsequent authorization) under Article 12(6)(b) of the Order should remain in force, in respect of each financial year (or part of it) during which the authorization remains in force, is

- an amount equal to the cost of making those investigations but not exceeding \$192,800.
- (7) Subject to subparagraph (8), the application fee for approval under Article 12(6)(c) of the Order to provide or conduct any course of training or instruction is an amount equal to the cost of making the investigations required by the Chief Executive but not exceeding \$192,800.
- (8) The application fee mentioned in subparagraph (7) is \$0 if—
- (a) the applicant was granted an approval under Article 12(6)(c) of the Order; and
 - (b) the approval is still in force when the application is made.
- (9) The fee for making the investigations required by the Chief Executive for the purpose of satisfying himself or herself that an approval (including any subsequent approval) under Article 12(6)(c) of the Order should remain in force, in respect of each financial year (or part of it) during which the approval remains in force, is an amount equal to the cost of making those investigations but not exceeding \$192,800.
- (10) Subject to subparagraph (11), the application fee for approval as a qualified person under Article 12(6)(d) of the Order to furnish reports to the Chief Executive is an amount equal to the cost of making the investigations required by the Chief Executive but not exceeding \$192,800.
- (11) The application fee mentioned in subparagraph (10) is \$0 if—
- (a) the applicant was granted an approval under Article 12(6)(d) of the Order; and
 - (b) the approval is still in force when the application is made.

- (12) The fee for making the investigations required by the Chief Executive for the purpose of satisfying himself or herself that an approval (including any subsequent approval) under Article 12(6)(d) of the Order should remain in force, in respect of each financial year (or part of it) during which the approval remains in force, is an amount equal to the cost of making those investigations but not exceeding \$192,800.
- (13) In this paragraph—
- subsequent approval**, in relation to an approval, means—
- (a) any subsequent approval granted as a result of an application made while the approval is in force; and
 - (b) any approval granted as a result of an application made while any subsequent approval mentioned in paragraph (a) is in force;
- subsequent authorization**, in relation to an authorization, means—
- (a) any subsequent authorization granted as a result of an application made while the authorization is in force; and
 - (b) any authorization granted as a result of an application made while any subsequent authorization mentioned in paragraph (a) is in force.”.
- (39) The Schedule, heading immediately before paragraph 12—
- Repeal**
- “therein (Article 20)”
- Substitute**
- “in licences (Articles 20 and 20A of the Order)”.
- (40) The Schedule, paragraph 12(1)(a)—
- Repeal**

everything after “grant of a”

Substitute

“professional pilot’s licence, private pilot’s licence or a licence to act as a flight engineer—

- (i) in the case of an applicant holding a licence to act as a flight crew member issued in a jurisdiction outside Hong Kong \$2,055
- (ii) in any other case \$1,100”.

(41) The Schedule, paragraph 12(1)(b)—

Repeal

everything after “renewal of a”

Substitute

“professional pilot’s licence or a licence to act as a flight engineer \$595”.

(42) The Schedule, paragraph 12(1)(c)—

Repeal

everything after “renewal of a”

Substitute

“flight radio-telephony operator’s restricted licence (except in the case of an applicant holding a professional pilot’s licence or a licence to act as a flight engineer) \$595”.

(43) The Schedule, paragraph 12—

Repeal subparagraph (2)

Substitute

“(2) The fees for taking examinations in connection with a licence to act as a flight crew member are—

- (a) for each examination for the grant of a private pilot’s licence, the inclusion of a rating in the licence, the inclusion of an endorsement or restriction in the licence, or the renewal of any such inclusions \$880

- (b) for each examination for the grant or renewal of a professional pilot’s licence or a licence to act as a flight engineer, the inclusion of a rating in the licence, the inclusion of an endorsement or restriction in the licence, or the renewal of any such inclusions \$895”.

(44) The Schedule, paragraph 12(3)—

Repeal

“grant”

Substitute

“inclusion”.

(45) The Schedule, paragraph 12(3)(a)—

Repeal

everything after “inclusion of”

Substitute

“a flying instructor’s rating or assistant flying instructor’s rating in a pilot’s licence \$680”.

(46) The Schedule, paragraph 12(3)(b)—

Repeal

everything after “aircraft in”

- Substitute**
 “a flying instructor’s rating or assistant flying instructor’s rating in a pilot’s licence \$595”.
- (47) The Schedule, paragraph 12(3)(c)—
- Repeal**
 “\$140”
- Substitute**
 “\$595”.
- (48) The Schedule, paragraph 12(4)—
- Repeal**
 “\$130”
- Substitute**
 “\$155”.
- (49) The Schedule, after paragraph 12(4)—
- Add**
- “(4A) The fee for the inclusion of an instrument rating in a professional pilot’s licence or private pilot’s licence is \$595
- (4B) The fee for the inclusion of an additional aircraft type rating in a Private Pilot’s Licence (Helicopters) is \$595
- (4C) The fee for the inclusion of an additional group rating in a Private Pilot’s Licence (Aeroplanes) is \$595
- (4D) The fee for the inclusion of an endorsement in respect of language proficiency in a pilot’s

- licence is \$595
- (4E) The application fee for approval of a flight simulator under Article 20(10) of the Order is an amount equal to the cost of making the investigations required by the Chief Executive but not exceeding \$209,700.
- (4F) The application fee for approval of any course of training or instruction under Article 20(11)(a) of the Order is an amount equal to the cost of making the investigations required by the Chief Executive but not exceeding \$1,033,700.
- (4G) The application fee for authorization under Article 20(11)(b) of the Order to conduct examinations or tests is an amount equal to the cost of making the investigations required by the Chief Executive but not exceeding \$209,700.
- (4H) The application fee for approval under Article 20(11)(c) of the Order to provide any course of training or instruction is an amount equal to the cost of making the investigations required by the Chief Executive but not exceeding \$209,700.
- (4I) The application fee for approval as a qualified person under Article 20(11)(d) of the Order to furnish reports to the Chief Executive is an amount equal to the cost of making the investigations required by the Chief Executive but not exceeding \$209,700.”.
- (50) The Schedule, paragraph 12—
- Repeal subparagraph (5)**
- Substitute**
- “(5) In this paragraph—
- private pilot’s licence* means a licence of one of the following classes—

- (a) Private Pilot's Licence (Aeroplanes);
- (b) Private Pilot's Licence (Helicopters and Gyroplanes);
- (c) Private Pilot's Licence (Balloons and Airships);
- (d) Private Pilot's Licence (Gliders);

professional pilot's licence means a licence of one of the following classes—

- (a) Commercial Pilot's Licence (Aeroplanes);
- (b) Multi-Crew Pilot's Licence (Aeroplanes);
- (c) Air Transport Pilot's Licence (Aeroplanes);
- (d) Commercial Pilot's Licence (Helicopters and Gyroplanes);
- (e) Air Transport Pilot's Licence (Helicopters and Gyroplanes);
- (f) Commercial Pilot's Licence (Balloons);
- (g) Commercial Pilot's Licence (Airships);
- (h) Commercial Pilot's Licence (Gliders)."

(51) The Schedule, heading immediately before paragraph 13, after "21"—

Add

"of the Order".

(52) The Schedule, paragraph 13—

Repeal

"For an official flying test (if required)"

(53) The Schedule, paragraph 13—

Repeal

"initial issue"

Substitute

"issue".

(54) The Schedule, paragraph 13—

Repeal

"\$100"

Substitute

"\$485".

(55) The Schedule, paragraph 13—

Repeal

"For the renewal of a certificate \$ 90".

(56) The Schedule, after paragraph 13—

Add

"Permission to drop articles etc. from aircraft (Article 40 of the Order)

13A. The application fee for permission to drop articles or wind drift indicators from an aircraft under paragraph (f) or (g) of the proviso to Article 40(2) of the Order is \$1,470."

(57) The Schedule, after paragraph 13A—

Add

"Permission to drop persons from aircraft (Article 41 of the Order)

13B. The application fee for permission to drop persons from an aircraft under Article 41(1) of the Order is \$1,470."

(58) The Schedule, after paragraph 13B—

Add

"Permission to carry munitions of war (Article 43 of the Order)

13C. The application fees for permission to carry munitions of war under Article 43(1) of the Order are—

- (a) for permission for a specified period of time \$785
- (b) for permission for a single consignment \$565”.
- (59) The Schedule, after paragraph 13C—
Add
“Permission relating to captive balloons etc. (Article 70 of the Order)
- 13D. The application fee for the grant of permission in respect of captive balloons, kites, balloons, airships, gliders or parascending parachutes under Article 70(1) of the Order is \$1,470.”.
- (60) The Schedule, heading immediately before paragraph 14—
Repeal
“Article 68”
Substitute
“Article 73 of the Order”.
- (61) The Schedule, after paragraph 14—
Add
“Permission for aerial photography or aerial survey etc. (Article 84 of the Order)
- 14A. The application fee for the grant of permission in respect of aerial photography, aerial survey or any other form of aerial work under Article 84 of the Order is \$1,470.”.
- (62) The Schedule, heading immediately before paragraph 15—
Repeal
“Article 91(3)”
Substitute

- “Article 97(3) of the Order”.
- (63) The Schedule, paragraph 15—
Repeal
“\$50”
Substitute
“\$78”.
- (64) The Schedule, after paragraph 15—
Add
“Approval to furnish reports (Article 101 of the Order)
16. The application fee for the grant or variation of an approval under Article 101 of the Order is an amount equal to the cost of making the investigations required by the Chief Executive but not exceeding \$192,800.”.
- (65) The Schedule, after paragraph 16—
Add
“Permission for low flying (Rule 5 of Schedule 14 to the Order)
17. The application fee for the grant of permission for low flying under Rule 5 of Schedule 14 to the Order is \$1,470.”.
- (66) The Schedule, after paragraph 17—
Add
“Permission for carriage etc. of dangerous goods (Regulation 3 of Schedule 16 to the Order)
18. The application fee for permission to carry, load or suspend dangerous goods under Regulation 3(1) of Schedule 16 to the Order is \$6,800.”.

2011

Chief Executive

Explanatory Note

This Regulation amends the Hong Kong Air Navigation (Fees) Regulations (Cap. 448 sub. leg. D) (*Regulations*) mainly to—

- (a) provide for the payment of the fees prescribed in the Schedule to the Regulations;
- (b) adjust the level of certain fees prescribed in the Schedule to the Regulations with a view to achieving full cost recovery;
- (c) introduce new fee items in respect of certain matters provided for in the Air Navigation (Hong Kong) Order 1995 (Cap. 448 sub. leg. C);
- (d) streamline the structure of examination fees for the grant or renewal of a licence to act as a flight crew member;
- (e) delete the fee item for the renewal of a certificate of validation; and
- (f) reflect the abolition of official flying tests.

**Civil Aviation (Aircraft Noise) (Certification)
(Amendment) Regulation 2011**

Substitute

“\$200”.

(Made by the Secretary for Financial Services and the Treasury under section 29A of the Interpretation and General Clauses Ordinance (Cap. 1) by virtue of section 9 of the Civil Aviation (Aircraft Noise) Ordinance (Cap. 312))

Secretary for Financial Services and
the Treasury

1. Commencement

This Regulation comes into operation on 13 January 2012.

2. Civil Aviation (Aircraft Noise) (Certification) Regulations amended

2011

The Civil Aviation (Aircraft Noise) (Certification) Regulations (Cap. 312 sub. leg. A) are amended as set out in section 3.

3. Second Schedule amended (fees)

(1) Second Schedule, item 1—

Repeal

“\$1,105”

Substitute

“\$505”.

(2) Second Schedule, item 2—

Repeal

“\$1,105”

Substitute

“\$505”.

(3) Second Schedule, item 3—

Repeal

“\$580”

Explanatory Note

The purpose of this Regulation is to reduce the fees payable for applications for the grant of noise certificates and the issue of duplicate noise certificates.

Details of Fee Proposals

Fee or maximum fee adjustments to achieve full cost recovery

Six fee items are over-recovering which include the renewal of a Certificate of Airworthiness (COA) for larger aircraft under the Hong Kong Air Navigation (Fees) Regulations, applications for the grant of noise certificates and the issue of duplicate noise certificates under the Civil Aviation (Aircraft Noise) (Certification) Regulations. They should be adjusted downwards to the respective full costs in one go. On the other hand, 48 items are under-recovering, and should be increased in one go except for the following items which are subject to a phased implementation over a three-year period –

- (a) the components of the maximum fee for the grant or variation of an Air Operator's Certificate (AOC);
- (b) the minimum and maximum fees for the inspection of a maintenance or design organisation for the purpose of granting approval of persons; and
- (c) the fees for the issue of a Certificate of Airworthiness, and of a Certificate of Validation of a Certificate of Airworthiness, in the case of a glider or balloon.

Streamlining the structure of the examination fees for the grant or renewal of flight crew licences

2. We propose to streamline the structure of the examination fees for the grant or renewal of flight crew licences. At present, pilots and flight engineers need to pass various examinations to obtain the required qualifications and pay the examination fees. Since the costs of conducting various examinations are similar, we propose to consolidate the examination fees into two items, namely examination in connection with a Private Pilot's Licence and examination in connection with a Professional Pilot's Licence or a Flight Engineer's Licence. Consequential to such consolidation,

regulation 5 of the Hong Kong Air Navigation (Fees) Regulations (which relates to official flying tests fees) will be repealed.

Deletion of an obsolete fee item

3. Since CAD no longer renews the certificate of validation of a licence, we propose to delete the fee for the renewal of such a certificate.

New fee items

4. Certain services are being provided free of charge to the industry at present or the charges levied do not recover all the costs of the services involved. To provide the legal basis for recovering the costs of providing these services, we propose to introduce fee items to cover –

- (a) approval of flight simulators;
- (b) approval of training courses, and of persons providing the training, conducting examinations or furnishing reports, for the purpose of licensing of flight crew;
- (c) grant of a flight crew licence where the applicant holds a flight crew licence issued by a jurisdiction outside Hong Kong;
- (d) inclusion of instrument rating or additional aircraft type rating in a pilot's licence;
- (e) inclusion of an endorsement in respect of language proficiency in a pilot's licence;
- (f) approval of training courses, and of persons providing the training, conducting examinations or furnishing reports, for the purpose of licensing of aircraft maintenance engineers;
- (g) examinations for aircraft maintenance engineer licences;
- (h) approval of persons to furnish reports for any purposes in relation to civil aviation; and
- (i) permission to carry dangerous goods or munitions of war, to fly

a captive balloon, glider or parascending parachute, to moor an airship, or to conduct parachute jump, low fly, aerial photography or aerial survey.

5. The approval of flight simulators and approval of flight training courses and the related persons for the purpose of flight crew licensing are currently subsumed under the AOC fees. Once these new fee items are created, we will no longer levy these fees as part of the AOC fees.

New provisions on recovery of costs

6. We propose to introduce provisions to provide for the recovery of the cost of investigations conducted in connection with applications¹, regardless of whether the application is approved, withdrawn by the applicant, refused by CAD or otherwise ceases to have effect, and also regardless of whether a deposit has been collected. The fees for these applications are determined by reference to the cost of investigations rather than at fixed rates.

¹ Such applications are submitted under the Air Navigation (Hong Kong) Order 1995. They may be for –

- (a) the grant or variation of an Air Operator's Certificate;
- (b) the issue or variation of a permit for an aircraft to fly without a Certificate of Airworthiness;
- (c) the issue of a Certificate of Airworthiness, or a certificate of validation of a Certificate of Airworthiness, in respect of an aircraft (excluding a glider or balloon);
- (d) the approval of an engine;
- (e) the grant or variation of an approval of a maintenance organisation;
- (f) the approval in respect of aircraft and equipment;
- (g) the issue of an aerodrome licence;
- (h) the approval of a flight simulator;
- (i) the approval of a course of flight training or instruction;
- (j) the authorization or approval of a person for the purposes of flight training or instruction;
- (k) the grant of approval of a person to furnish reports or of any variation of such approval;
- (l) the approval of a course of maintenance training or instruction;
- (m) the authorisation or approval of a person for the purposes of maintenance training or instruction.

Impact on Stakeholders

Air Operator's Certificate (AOC) Holders

The AOC holders would mainly be affected by the increase in the maximum fee for AOC¹ and the reduction in the fee for the renewal of Certificates of Airworthiness (COA).

2. We anticipate that the increase in the maximum fee for AOC would not affect those airlines which are already paying the full costs. At the same time, the reduction in the fee for COA renewal would result in savings ranging from \$0.1 million to \$6 million per annum for these operators.

3. Regarding the other AOC holders which are not currently paying the full cost of investigations, they would be affected by the phased increase in the maximum fee for AOC, partly offset by a reduction in the fee for COA renewal. As compared with the existing fees, we estimate that these operators would pay an additional amount of \$0.1 million to \$1 million in the first year, \$0.3 million to \$1 million in the second year and \$0.6 million to \$1 million in the third year.

Maintenance and Design Organisations

4. The maintenance and design organisations would mainly be affected by an increase in the maximum fee for the inspections conducted by CAD.² An organisation which is currently paying the maximum fee prescribed by law (i.e. \$133,400) might have to pay an additional sum of up to \$59,400 in the first year after the implementation of the fee proposals. The additional sum that such organisation might need to pay will be \$145,100 and \$269,100 in the second and the third years respectively as compared with the existing fee.

¹ The fee for the grant or variation of an AOC is equal to CAD's costs of investigations but subject to a maximum fee calculated in accordance with paragraph 2 of the Schedule to the Hong Kong Air Navigation (Fees) Regulations.

² The fee for the inspections of the maintenance and design organisations is equal to CAD's cost of investigations but subject to the minimum and maximum fees prescribed in paragraph 8 of the Schedule to the Hong Kong Air Navigation (Fees) Regulations.

Maintenance Training Organisations

5. Due to the introduction of new fees for the approval of maintenance training courses and the related persons, a maintenance training organisation would pay an additional sum depending on the scope of investigations conducted by CAD. Based on past experience, the amount could range from \$7,500 for a relatively straightforward case to over \$100,000 for a large organisation.

Flight Training Organisations

6. Due to the introduction of new fees for the approval of flight simulators, flight training courses and the related persons for the purpose of flight crew licensing, a flight training organisation which is not an AOC holder would have to pay a sum ranging from about \$62,000 to \$263,000. The actual amount varies depending on the man-hours required for processing the applications, whether the flight training organisations are located outside Hong Kong, and the type and combination of approvals applied for.

Flight Crew and Aircraft Maintenance Engineers

7. For the licensing of flight crew, a licence applicant would have to pay an additional sum of \$2,400 for a typical professional pilot's licence or \$6,200 for a typical private pilot's licence because of the increase in the examination and licence fees.

8. For the licensing of aircraft maintenance engineers, a person would have to pay an additional sum of \$5,200 in order to obtain a typical aircraft maintenance engineer licence, arising from the introduction of new examination fees and an increase in the licence fee.

Other Stakeholders

9. New fees would be introduced for the permission issued to an airline for the carriage of dangerous goods or munitions of war. Depending on the permission sought, an airline would have to pay between \$785 and \$6,800 to obtain permission with a validity period of two years.

10. New fees would also be introduced for the permission to fly a balloon, glider or parascending parachute, to moor an airship, or to conduct parachute jump, low fly, aerial photography or aerial survey. A person would have to pay \$1,470 for each application.

Implications of Fee Proposals

On financial implications under the Hong Kong Air Navigation (Fees) (Amendment) Regulation 2011, when the proposed fees and charges revisions are implemented in stages, there will be a net increase in annual revenue of about \$3.5 million in the first year, \$4.5 million in the second year and \$5.9 million in the third year and after, as compared with the existing revenue.

2. On financial implications under the Civil Aviation (Aircraft Noise) (Certification) (Amendment) Regulation 2011, when the proposed fees and charges revisions are implemented, there will be a net decrease in annual revenue of about \$14,000.

3. CAD regularly reviews its day-to-day management and procedures with a view to reducing the cost of their services through implementing efficiency initiatives and streamlining procedures. Efficiency savings from these efforts have been factored into CAD's proposed revisions of the fees and charges.