

---

STATUTORY INSTRUMENTS

---

**1995 No. 2700**

**The Air Navigation (Hong Kong) Order 1995**

**PART V**

**OPERATION OF AIRCRAFT**

*Operations Manual*

**25.**—(1) This Article shall apply to public transport aircraft registered in Hong Kong except aircraft whose maximum total weight authorised does not exceed 2,730 kg and which are used for the time being solely for flights not intended to exceed 60 minutes in duration, which are either—

- (a) flights solely for training persons to perform duties in an aircraft; or
  - (b) flights intended to begin and end at the same aerodrome.
- (a) (2) (a) The operator of every aircraft to which this Article applies shall—
- (i) make available to each member of his operating staff an operations manual, and
  - (ii) ensure that each copy of the operations manual is kept up to date, and
  - (iii) ensure that on each flight every member of the crew has access to a copy of every part of the operations manual which is relevant to his duties on the flight.
- (b) Each operations manual shall contain all such information and instructions as may be necessary to enable the operating staff to perform their duties as such including in particular information and instructions relating to the matters specified in Part A of Schedule 11 to this Order:

Provided that the operations manual shall not be required to contain any information or instructions available in a flight manual accessible to the persons by whom the information or instructions may be required.

- (a) (3) (a) An aircraft to which this Article applies shall not fly unless, not less than 30 days prior to such flight, the operator of the aircraft has furnished to the Governor a copy of the whole of the operations manual for the time being in effect in respect of the aircraft.
- (b) Any amendments or additions to the operations manual shall be furnished to the Governor by the operator before or immediately after they come into effect:

Provided that, where an amendment or addition relates to the operation of an aircraft to which the operations manual did not previously relate, that aircraft shall not fly for the purpose of public transport until the amendment or addition has been furnished to the Governor.

- (c) Without prejudice to the foregoing sub-paragraphs the operator shall make such amendments or additions to the operations manual as the Governor may require for the purpose of ensuring the safety of the aircraft or of persons or property carried therein or the safety, efficiency or regularity of air navigation.

(4) For the purposes of this Article, Article 42 and Schedule 11 to this Order, “operating staff” means the servants and agents employed by the operator, whether or not as members of the crew of

the aircraft, to ensure that the flights of the aircraft are conducted in a safe manner and includes an operator who himself performs those functions.

(5) If in the course of a flight on which the equipment specified in Scale O in paragraph 5 of Schedule 5 hereto is required to be provided the said equipment becomes unserviceable, the aircraft shall be operated on the remainder of that flight in accordance with any relevant instructions in the operations manual.

#### *Training manual*

**26.**—(1) The operator of every aircraft registered in Hong Kong and flying for the purpose of public transport shall:

- (a) make a training manual available to every person appointed by the operator to give or to supervise the training, experience, practice or periodical tests required under Article 27(2) of this Order; and
- (b) ensure that each copy of that training manual is kept up to date.

(2) Each training manual shall contain all such information and instructions as may be necessary to enable a person appointed by the operator to give or to supervise the training, experience, practice and periodical tests required under Article 27(2) of this Order to perform his duties as such including in particular information and instructions relating to the matters specified in Part C of Schedule 11 to this Order.

- (a) (3) (a) An aircraft to which this Article applies shall not fly unless, not less than 30 days prior to such flight, the operator of the aircraft has furnished to the Governor a copy of the whole of his training manual relating to the crew of that aircraft.
- (b) Any amendments or additions to the training manual shall be furnished to the Governor by the operator before or immediately after they come into effect:
  - Provided that where an amendment or addition relates to training, experience, practice or periodical tests on an aircraft to which the training manual did not previously relate, that aircraft shall not fly for the purpose of public transport until the amendment or addition has been furnished to the Governor.
- (c) Without prejudice to the foregoing sub-paragraphs the operator shall make such amendments or additions to the training manual as the Governor may require for the purpose of ensuring the safety of the aircraft or of persons or property carried therein or the safety, efficiency or regularity of air navigation.

#### *Public transport—operator's responsibilities*

**27.**—(1) The operator of an aircraft registered in Hong Kong shall not permit the aircraft to fly for the purpose of public transport without first—

- (a) designating from among the flight crew a pilot to be the commander of the aircraft for the flight; and
- (b) satisfying himself by every reasonable means that the aeronautical radio stations and navigational aids serving the intended route or any planned diversion therefrom are adequate for the safe navigation of the aircraft; and
- (c) satisfying himself by every reasonable means that the aerodromes at which it is intended to take-off or land and any alternate aerodrome at which a landing may be made are suitable for the purpose and in particular are adequately manned and equipped (including such manning and equipment as is specified in Regulation 14 in Schedule 15 to this Order) to ensure the safety of the aircraft and its passengers:

Provided that the operator of the aircraft shall not be required to satisfy himself as to the adequacy of fire-fighting, search, rescue or other services which are required only after the occurrence of an accident.

(2) The operator of an aircraft registered in Hong Kong shall not permit any person to be a member of the crew thereof during any flight for the purpose of public transport (except a flight for the sole purpose of training persons to perform duties in aircraft) unless such person has had the training, experience, practice and periodical tests specified in Part B of Schedule 11 to this Order in respect of the duties which he is to perform and unless the operator has satisfied himself that such person is competent to perform his duties, and in particular to use the equipment provided in the aircraft for that purpose. The operator shall maintain, preserve, produce and furnish information respecting records relating to the foregoing matters in accordance with Part B of the said Schedule 11.

(3) The operator of an aircraft registered in Hong Kong shall not permit any member of the flight crew thereof, during any flight for the purpose of the public transport of passengers, to simulate emergency manoeuvres and procedures which the operator has reason to believe will adversely affect the flight characteristics of the aircraft.

*Loading—public transport aircraft and suspended loads*

**28.**—(1) The operator of an aircraft registered in Hong Kong shall not cause or permit it to be loaded for a flight for the purpose of public transport, or any load to be suspended therefrom, except under the supervision of a person whom he has caused to be furnished with written instructions as to the distribution and securing of the load so as to ensure that—

- (a) the load may safely be carried on the flight; and
- (b) any conditions subject to which the certificate of airworthiness in force in respect of the aircraft was issued or rendered valid, being conditions relating to the loading of the aircraft, are complied with.

(2) The instructions shall indicate the weight of the aircraft prepared for service, that is to say the aggregate of the weight of the aircraft (shown in the weight schedule referred to in Article 16 of this Order) and the weight of such additional items in or on the aircraft as the operator thinks fit to include; and the instructions shall indicate the additional items included in the weight of the aircraft prepared for service, and show the position of the centre of gravity of the aircraft at that weight:

Provided that this paragraph shall not apply in relation to a flight if—

- (a) the aircraft's maximum total weight authorised does not exceed 1,150 kg; or
- (b) the aircraft's maximum total weight authorised does not exceed 2,730 kg and the flight is intended not to exceed 60 minutes in duration and is either—
  - (i) a flight solely for training persons to perform duties in an aircraft; or
  - (ii) a flight intended to begin and end at the same aerodrome; or
- (c) the aircraft is a helicopter the maximum total weight authorised of which does not exceed 3,000 kg and the total seating capacity of which does not exceed five persons.

(3) The operator of an aircraft shall not cause or permit it to be loaded in contravention of the instructions referred to in paragraph (1) of this Article.

(4) The person supervising the loading of the aircraft shall, before the commencement of any such flight, prepare and sign a load sheet in duplicate conforming to the requirements specified in Regulation 1 in Schedule 15 to this Order, and shall (unless he is himself the commander of the aircraft) submit the load sheet for examination by the commander of the aircraft who shall sign his name thereon:

Provided that the foregoing requirements of this paragraph shall not apply if—

- (a) the load and the distributing and securing thereof upon the next intended flight are to be unchanged from the previous flight and the commander of the aircraft makes and signs an endorsement to that effect upon the load sheet for the previous flight, indicating the date of the endorsement, the place of departure upon the next intended flight and the next intended place of destination; or
- (b) paragraph (2) of this Article does not apply in relation to the flight.

(5) One copy of the load sheet shall be carried in the aircraft when Article 57 of this Order so requires until the flights to which it relates have been completed and one copy of that load sheet and of the instructions referred to in this Article shall be preserved by the operator until the expiration of a period of six months thereafter and shall not be carried in the aircraft:

Provided that in the case of an aeroplane of which the maximum total weight authorised does not exceed 2,730 kg, or a helicopter, if it is not reasonably practicable for the copy of the load sheet to be kept on the ground it may be carried in the aeroplane or helicopter, as the case may be, in a container approved by the Governor for that purpose.

(6) The operator of an aircraft registered in Hong Kong and flying for the purpose of the public transport of passengers shall not cause or permit baggage to be carried in the passenger compartment of the aircraft unless such baggage can be properly secured and, in the case of an aircraft capable of seating more than 30 passengers, such baggage shall not exceed the capacity of the spaces in the passenger compartment approved by the Governor for the purpose of stowing baggage, unless carried in accordance with the terms of a written permission granted by the Governor which permission may be granted subject to such conditions as the Governor thinks fit.

*Public transport—operating conditions*

**29.—(1)** An aircraft registered in Hong Kong shall not fly for the purpose of public transport, except for the sole purpose of training persons to perform duties in aircraft, unless the relevant requirements specified in Regulations 3 to 11 inclusive in Schedule 15 to this Order in respect of its weight and related performance and flight in specified meteorological conditions or at night are complied with.

(2) The assessment of the ability of an aircraft to comply with paragraph (1) of this Article shall be based on the information as to its performance contained in the certificate of airworthiness relating to the aircraft. In the event of the information given therein being insufficient for that purpose such assessment shall be based on the best information available to the commander of the aircraft.

(3) A flying machine registered in Hong Kong when flying over water for the purpose of public transport shall fly, except as may be necessary for the purpose of take-off or landing, at such an altitude as would enable the aircraft—

- (a) if it has one engine only, in the event of the failure of that engine; or
- (b) if it has more than one engine, in the event of the failure of one of those engines, and with the remaining engine or engines operating within the maximum continuous power conditions specified in the certificate of airworthiness relating to the aircraft;

to reach a place at which it can safely land at a height sufficient to enable it to do so.

(4) Without prejudice to the provisions of paragraph (3) of this Article, an aeroplane in respect of which there is in force under this Order a certificate of airworthiness designating the aeroplane as being of performance group X shall not fly over water for the purpose of public transport so as to be more than 60 minutes flying time from the nearest shore, unless the aeroplane has more than two power units. For the purposes of this paragraph, flying time shall be calculated at normal cruising speed with one power unit inoperative.

(5) Without prejudice to the provisions of paragraph (3) of this Article, a helicopter in respect of which there is in force under this Order a certificate of airworthiness designating the helicopter as

being of performance group B shall not fly over water for the purpose of public transport so as to be more than 20 seconds flying time from a point from which it can make an autorotative descent to land suitable for an emergency landing unless it is equipped with apparatus approved by the Governor enabling it to land safely on water, but shall not so fly on any flight for more than three minutes except with the permission in writing of the Governor and in accordance with any conditions subject to which that permission may have been given. For the purpose of this paragraph, flying time shall be calculated on the assumption that the helicopter is flying in still air at the speed specified in the certificate of airworthiness in force in respect of the helicopter as the speed for compliance with regulations governing flights over water.

(6) Without prejudice to the provisions of paragraph (3) of this Article, a helicopter in respect of which there is in force under this Order a certificate of airworthiness designating the helicopter as being of performance group A2 shall not fly over water for the purpose of public transport for more than 15 minutes during any flight unless it is equipped with apparatus approved by the Governor enabling it to land safely on water.

(7) Notwithstanding the provisions of paragraph (1) of this Article a helicopter in respect of which there is in force under this Order a Certificate of Airworthiness designating the helicopter as being of performance Group A or Group A (Restricted) may fly for the purpose of public transport in accordance with the weight and related performance requirements prescribed for helicopters designated as being of:—

- (a) performance Group A (Restricted) in the case of a helicopter designated as being of performance Group A if:
  - (i) the maximum total weight authorised of the helicopter is less than 5,700 kg; and
  - (ii) the total number of passengers carried on the helicopter does not exceed 15; or
- (b) performance Group B if:
  - (i) the maximum total weight authorised of the helicopter is less than 2,730 kg; and
  - (ii) the total number of passengers carried does not exceed 9.

*Aircraft registered in Hong Kong—Aerodrome operating minima*

- (a) **30.** (1) (a) The operator of every aircraft to which Article 25 of this Order applies shall establish and include in the operations manual relating to the aircraft such particulars of aerodrome operating minima as are appropriate to every aerodrome of intended departure or landing and every alternate aerodrome:

Provided that in relation to any flight wherein it is not practicable to include such information in the operations manual the operator of the said aircraft shall, prior to the commencement of the flight, cause to be furnished, in writing, to the commander of the aircraft such particulars of the aerodrome operating minima as are appropriate to every aerodrome of intended departure or landing and every alternate aerodrome and calculated in accordance with the specified method; and the operator shall cause a copy of the said particulars to be retained outside the aircraft for a minimum period of three months.

- (b) The operator of every such aircraft shall include in the operations manual relating to that aircraft such data and instructions as will enable the commander of the aircraft to calculate such aerodrome operating minima as are appropriate to aerodromes the use of which could not reasonably have been foreseen by the operator prior to the commencement of the flight.

(2) The aerodrome operating minima specified shall not, in respect of any aerodrome, be less favourable than any declared in respect of that aerodrome by the competent authority, unless that authority otherwise permits in writing.

(3) In establishing aerodrome operating minima for the purposes of this Article the operator of the aircraft shall take into account the following matters—

- (a) the type and performance and handling characteristics of the aircraft and any relevant conditions in its certificate of airworthiness; and
- (b) the composition of its crew; and
- (c) the physical characteristics of the relevant aerodrome and its surroundings; and
- (d) the dimensions of the runways which may be selected for use; and
- (e) whether or not there are in use at the relevant aerodrome any aids, visual or otherwise to assist aircraft in approach, landing or take-off, being aids which the crew of the aircraft are trained and equipped to use; the nature of any such aids that are in use; and the procedures for approach, landing and take-off which may be adopted according to the existence or absence of such aids:

and shall establish in relation to each runway which may be selected for use such aerodrome operating minima as are appropriate to each set of circumstances which can reasonably be expected.

(4) An aircraft to which Article 25 of this Order applies shall not commence a flight at a time when—

- (a) the cloud ceiling or the runway visual range at the aerodrome of departure is less than the relevant minimum specified for take-off; or
- (b) according to the information available to the commander of the aircraft it would not be able, without contravening paragraph (5) of this Article, to land at the aerodrome of intended destination at the estimated time of arrival there and at any alternate aerodrome at any time at which according to a reasonable estimate the aircraft would arrive there.

(5) An aircraft to which Article 25 of this Order applies when making a descent to an aerodrome shall not:—

- (a) descend below 1,000 feet above the height of the aerodrome if the relevant runway visual range at the aerodrome is at the time less than the specified minimum for landing; or
- (b) (i) continue an approach to landing at any aerodrome by flying below the relevant specified decision height, or
  - (ii) descend below the relevant specified minimum descent height unless from that height the specified visual reference for landing is established and is maintained.

(6) If, according to the information available, an aircraft would as regards any flight be required by the Rules of the Air and Air Traffic Control to be flown in accordance with the Instrument Flight Rules at the aerodrome of intended landing, the commander of the aircraft shall select prior to take-off an alternate aerodrome unless no aerodrome suitable for that purpose is available.

(7) In this Article “specified” in relation to aerodrome operating minima means such particulars of aerodrome operating minima as have been specified by the operator in, or are ascertainable by reference to, the operations manual relating to that aircraft, or furnished in writing to the commander of the aircraft by the operator pursuant to the proviso to paragraph (1)(a) of this Article.

*Aircraft not registered in Hong Kong— aerodrome operating minima*

**31.—**(1) A public transport aircraft registered in a country other than Hong Kong shall not fly in or over Hong Kong unless the operator thereof shall have furnished to the Governor such particulars as he may from time to time have required relating to the aerodrome operating minima specified by the operator in relation to aerodromes in Hong Kong for the purpose of limiting their use by the aircraft for take-off or landing, including any instructions given by the operator in relation to such aerodrome operating minima. The aircraft shall not fly in or over Hong Kong unless the operator

shall have made such amendments or additions to the aerodrome operating minima so specified and any instructions so given as the Governor may require for the purpose of ensuring the safety of the aircraft or the safety, efficiency or regularity of air navigation.

(2) The aircraft shall not take off or land at an aerodrome in Hong Kong in contravention of the specified aerodrome operating minima or the specified instruction.

(3) Without prejudice to the provisions of paragraph (2) of this Article, a public transport aircraft registered in a country other than Hong Kong when making a descent to an aerodrome shall not:—

- (a) descend below 1,000 feet above the height of the aerodrome if the relevant runway visual range at the aerodrome is at the time less than the specified minimum for landing; or
- (b) (i) continue an approach to landing at any aerodrome by flying below the relevant specified decision height, or  
(ii) descend below the relevant specified minimum descent height  
unless from that height the specified visual reference for landing is established and is maintained.

(4) In this Article “specified” in relation to an aircraft means specified by the operator in, or ascertainable by reference to, the particulars furnished by the operator to the Governor pursuant to paragraph (1) of this Article.

*Non-public transport aircraft— aerodrome operating minima*

**31A.**—(1) This Article shall apply to any aircraft which is not a public transport aircraft.

(2) An aircraft to which this Article applies when making a descent at an aerodrome to a runway in respect of which there is a notified instrument approach procedure shall not descend from a height of 1,000 feet or more above the aerodrome to a height of less than 1,000 feet above the aerodrome if the relevant runway visual range for that runway is at the time less than the specified minimum for landing.

(3) An aircraft to which this Article applies when making a descent to a runway in respect of which there is a notified instrument approach procedure shall not:

- (a) continue an approach to landing on such a runway by flying below the relevant specified decision height; or
- (b) descend below the relevant specified minimum descent height;

unless in either case the specified visual reference for landing is established from such height and is maintained.

(4) In this Article “specified” in relation to aerodrome operating minima means such particulars of aerodrome operating minima as have been notified in respect of the aerodrome or if the relevant minima have not been notified such minima as are ascertainable by reference to the notified method for calculating aerodrome operating minima.

*Pre-flight action by commander of aircraft*

**32.** The commander of an aircraft registered in Hong Kong shall satisfy himself before the aircraft takes off—

- (a) that the flight can safely be made, taking into account the latest information available as to the route and aerodromes to be used, the weather reports and forecasts available, and any alternative course of action which can be adopted in case the flight cannot be completed as planned;
- (b) that the equipment (including radio apparatus) required by or under this Order to be carried in the circumstances of the intended flight is carried and is in a fit condition for use;

- (c) that the aircraft is in every way fit for the intended flight, and that where a certificate of maintenance review is required by Article 9(1) of this Order to be in force, it is in force and will not cease to be in force during the intended flight;
- (d) that the load carried by the aircraft is of such weight, and is so distributed and secured that it may safely be carried on the intended flight;
- (e) in the case of a flying machine or airship, that sufficient fuel, oil and engine coolant (if required) are carried for the intended flight and that a safe margin has been allowed for contingencies and, in the case of a flight for the purpose of public transport, that the instructions in the operations manual relating to fuel, oil and engine coolant have been complied with;
- (f) in the case of an airship or balloon, that sufficient ballast is carried for the intended flight;
- (g) in the case of a flying machine, that, having regard to the performance of the flying machine in the conditions to be expected on the intended flight, and to any obstructions at the places of departure and intended destination and on the intended route, it is capable of safely taking off, reaching and maintaining a safe height thereafter, and making a safe landing at the place of intended destination;
- (h) that any pre-flight check system established by the operator and set forth in the operations manual or elsewhere has been complied with by each member of the crew of the aircraft.

*Pilots to remain at controls*

**33.**—(1) The commander of an aircraft registered in Hong Kong, being a flying machine or glider, shall cause one pilot to remain at the controls at all times while the aircraft is in flight. If the aircraft is required by or under this Order to carry two pilots, the commander shall cause both pilots to remain at the controls during take-off and landing. If the aircraft carries two or more pilots (whether or not it is required to do so) and is engaged on a flight for the purpose of the public transport of passengers the commander shall remain at the controls during take-off and landing.

(2) Each pilot at the controls shall be secured in his seat by either a safety belt with or without one diagonal shoulder strap, or a safety harness except that during take-off and landing a safety harness shall be worn if it is required by Article 13 of this Order to be provided.

*Wearing of survival suits by crew*

**33A.** Each member of the crew of an aircraft registered in Hong Kong shall wear a survival suit if such a suit is required by Article 13 of this Order to be carried.

*Public transport of passengers—duties of commander*

**34.**—(1) This Article applies to flights for the purpose of the public transport of passengers by aircraft registered in Hong Kong.

- (2) In relation to every flight to which this Article applies the commander of the aircraft shall—
  - (a) before the aircraft takes off, take all reasonable steps to ensure that all passengers are made familiar with the position and method of use of emergency exits, safety belts, safety harnesses, and (where required to be carried) oxygen equipment, life jackets and the floor path lighting system and all other devices required by or under this Order and intended for use by passengers individually in case of an emergency occurring to the aircraft;
  - (b) (i) if the aircraft is not a seaplane but is intended in the course of the flight to reach a point more than 30 minutes flying time (while flying in still air at the speed specified in the relevant certificate of airworthiness as the speed for compliance with regulations governing flights over water) from the nearest land, take all reasonable



steps to ensure that before take-off, all passengers are given a demonstration of the method of use of the lifejackets required by or under this Order for the use of passengers.

(ii) if the aircraft is not a seaplane but is required by Article 18(7) of this Order to carry cabin attendants, take all reasonable steps to ensure that, before the aircraft takes-off on a flight:

(aa) which is intended to proceed beyond gliding distance from land, or

(bb) on which in the event of any emergency occurring during the take-off or during the landing at the intended destination or any likely alternate destination it is reasonably possible that the aircraft would be forced to land onto water;

all passengers are given a demonstration of the method of use of the lifejackets required by or under this Order for the use of passengers:

Provided that where the only requirement to give such a demonstration arises because it is reasonably possible that the aircraft would be forced to land onto water at one or more of the likely alternate destinations the demonstration need not be given until after the decision has been taken to divert to such a destination.

(c) if the aircraft is a seaplane, take all reasonable steps to ensure that before the aircraft takes off all passengers are given a demonstration of the method of use of the equipment referred to in the preceding sub-paragraph;

(d) before the aircraft takes off, and before it lands, take all reasonable steps to ensure that the crew of the aircraft are properly secured in their seats and that any persons carried in compliance with Article 18(7) of this Order are properly secured in seats which shall be in a passenger compartment and which shall be so situated that those persons can readily assist passengers;

(e) before the aircraft takes-off, and before it lands, and whenever by reason of turbulent air or any emergency occurring during the flight he considers the precaution necessary:

(i) take all reasonable steps to ensure that all passengers of two years of age or more are properly secured in their seats by safety belts or safety harnesses and that all passengers under the age of two years are properly secured by means of a child restraint device; and

(ii) take all reasonable steps to ensure that those items of baggage in the passenger compartment which he reasonably considers ought by virtue of their size, weight or nature to be properly secured are properly secured and, in the case of an aircraft capable of seating more than 30 passengers, that such baggage is either stowed in the passenger compartment stowage spaces approved by the Governor for the purpose of stowing baggage or carried in accordance with the terms of a written permission granted by the Governor which permission may be granted subject to such conditions as the Governor thinks fit.

(f) in an emergency, take all reasonable steps to ensure that all passengers are instructed in the emergency action which they should take;

(g) in the case of aircraft in respect of which a certificate of airworthiness was first issued (whether in Hong Kong or elsewhere) on or after 1st January 1989 except in a case where a pressure greater than 700 millibars is maintained in all passenger and crew compartments throughout the flight, take all reasonable steps to ensure that—

- (i) before the aircraft reaches flight level 100 the method of use of the oxygen provided in the aircraft in compliance with the requirements of Article 13 of this Order is demonstrated to all passengers;
  - (ii) when flying above flight level 120 all passengers and cabin attendants are recommended to use oxygen; and
  - (iii) during any period when the aircraft is flying above flight level 100 oxygen is used by all the flight crew of the aircraft;
- (h) in the case of aircraft in respect of which a certificate of airworthiness was first issued (whether in Hong Kong or elsewhere) prior to 1st January 1991, except in the case where a pressure greater than 700 millibars is maintained in all passenger and crew compartments throughout the flight, take all reasonable steps to ensure that—
- (i) before the aircraft reaches flight level 130 the method of use of the oxygen provided in the aircraft in compliance with the requirements of Article 13 of this Order is demonstrated to all passengers;
  - (ii) when flying above flight level 130 all passengers and cabin attendants are recommended to use oxygen; and
  - (iii) during any period when the aircraft is flying above flight level 100 oxygen is used by all the flight crew of the aircraft;

Provided that he need not comply with the provisions of this sub-paragraph (h) if he complies instead with the provisions of sub-paragraph (g) of this Article.

*Operation of radio in aircraft*

**35.**—(1) The radio station in an aircraft shall not be operated, whether or not the aircraft is in flight, except in accordance with the conditions of the licence issued in respect of that station under the law of the country in which the aircraft is registered, and by a person duly licensed or otherwise permitted to operate the radio station under that law.

(2) Whenever an aircraft is in flight in such circumstances that it is required by or under this Order to be equipped with radio communications apparatus, a continuous radio watch shall be maintained by a member of the flight crew listening to the signals transmitted upon the frequency notified, or designated by a message received from an appropriate aeronautical radio station, for use by the aircraft:

Provided that—

- (a) the radio watch may be discontinued or continued on another frequency to the extent that a message as aforesaid so permits; and
- (b) the watch may be kept by a device installed in the aircraft if—
  - (i) the appropriate aeronautical radio station has been informed to that effect and has raised no objection; and
  - (ii) that station is notified, or in the case of a station situated in a country other than Hong Kong, otherwise designated as transmitting a signal suitable for that purpose.

(3) Whenever an aircraft is in flight in such circumstances that it is required by or under this Order to be equipped with radio or radio navigation equipment a member of the flight crew shall operate that equipment in such a manner as he may be instructed by the appropriate air traffic control unit or as may be notified in relation to any notified airspace in which the aircraft is flying.

(4) The radio station in an aircraft shall not be operated so as to cause interference which impairs the efficiency of aeronautical telecommunications or navigational services, and in particular emissions shall not be made except as follows:

- (a) emissions of the class and frequency for the time being in use, in accordance with general international aeronautical practice, in the airspace in which the aircraft is flying;
  - (b) distress, urgency and safety messages and signals, in accordance with general international aeronautical practice;
  - (c) messages and signals relating to the flight of the aircraft, in accordance with general international aeronautical practice;
  - (d) such public correspondence messages as may be permitted by or under the aircraft radio station licence referred to in paragraph (1) of this Article.
- (5) In every aircraft registered in Hong Kong which is equipped with radio communication apparatus a telecommunication log book shall be kept in which the following entries shall be made:
- (a) the identification of the aircraft radio station;
  - (b) the date and time of the beginning and end of every radio watch maintained in the aircraft and of the frequency on which it was maintained;
  - (c) the date and time, and particulars of all messages and signals sent or received, including in particular details of any distress signals or distress messages sent or received;
  - (d) particulars of any action taken upon the receipt of a distress signal or distress message;
  - (e) particulars of any failure or interruption of radio communications and the cause thereof:
- Provided that a telecommunication log book shall not be required to be kept in respect of communication by radiotelephony with a radio station on land or on a ship which provides a radio service for aircraft.
- (6) The flight radio operator maintaining radio watch shall sign the entries in the telecommunication log book indicating the times at which he began and ended the maintenance of such watch.
- (7) The telecommunication log book shall be preserved by the operator of the aircraft until a date 6 months after the date of the last entry therein.
- (8) In any flying machine registered in Hong Kong which is engaged on a flight for the purpose of public transport the pilot and the flight engineer (if any) shall not make use of a hand-held microphone (whether for the purpose of radio communication or of intercommunication within the aircraft) whilst the aircraft is flying in controlled airspace below flight level 150 or is taking off or landing.

*Minimum navigation performance*

**36.** An aircraft registered in Hong Kong shall not fly in airspace prescribed for the purpose of this Article by Regulation 17 of Schedule 15 of this Order unless—

- (a) it is equipped with navigation systems which enable the aircraft to maintain the prescribed navigation performance capability; and
- (b) the navigation systems required by paragraph (a) hereof are approved by the Governor and installed and maintained in a manner approved by the Governor; and
- (c) the operating procedures for the navigation systems required by paragraph (a) hereof are approved by the Governor; and
- (d) the equipment is operated in accordance with the approved procedures while the aircraft is flying in the said airspace.

*Use of flight recording systems and preservation of records*

**37.**—(1) On any flight on which a flight data recorder or a cockpit voice recorder or a combined cockpit voice recorder/flight data recorder is required by sub-paragraph 4(4), (5), (6) or (7) of Schedule 5 to this Order to be carried in an aeroplane, it shall always be in use from the beginning of the take-off run to the end of the landing run.

(2) The operator of the aeroplane shall at all times, subject to the provisions of Article 61 of this Order, preserve:

- (a) the last 25 hours of recording made by any flight data recorder required by or under this Order to be carried in an aeroplane; and
- (b) a record of not less than one representative flight, that is to say, a recording of a flight made within the last 12 months which includes a take-off, climb, cruise, descent, approach to landing and landing, together with a means of identifying the record with the flight to which it relates;

and shall preserve such records for such period as the Governor may in a particular case direct.

(3) On any flight on which a cockpit voice recorder or a flight data recorder or a combined cockpit voice recorder/flight data recorder is required by paragraph 4(14) of Schedule 5 of this Order to be carried in a helicopter, it shall always be in use from the time the rotors first turn for the purpose of taking off until the rotors are next stopped.

(4) The operator of the helicopter shall at all times, subject to Article 61 of this Order, preserve:

- (a) the last 8 hours of recording made by any flight data recorder specified at sub-paragraph (i) or (ii) of Scale SS of paragraph 5 of Schedule 5 to this Order and required by or under this Order to be carried in the helicopter;
- (b) in the case of a combined cockpit voice recorder/flight data recorder specified at sub-paragraph (iii) of the said Scale SS and required by or under this Order to be carried in a helicopter either:
  - (i) the last eight hours of recording; or
  - (ii) the last five hours of recording or the duration of the last flight, whichever is the greater (together hereinafter referred to in this Article as the “required recording”), together with an additional period of recording for either:
    - (aa) the period immediately preceding the required recording; or
    - (bb) such period or periods as the Governor may permit in any particular case or class of cases generally.

(5) The additional recording retained pursuant to sub-paragraphs (b)(ii)(aa) and (bb) of paragraph (4) above shall, together with the required recording, total a period of eight hours and shall be retained in accordance with arrangements approved by the Governor.

(6) An approval granted by the Governor for the purposes of this Article shall be in writing and may be subject to such conditions as the Governor thinks fit.

*Towing of gliders*

**38.**—(1) An aircraft in flight shall not tow a glider unless the certificate of airworthiness issued or rendered valid in respect of the towing aircraft under the law of the country in which that aircraft is registered includes an express provision that it may be used for that purpose.

(2) The length of the combination of towing aircraft, tow rope and glider in flight shall not exceed 150 metres.

(3) The commander of an aircraft which is about to tow a glider shall satisfy himself, before the towing aircraft takes off—

- (a) that the tow rope is in good condition and is of adequate strength for the purpose, and that the combination of towing aircraft and glider, having regard to its performance in the conditions to be expected on the intended flight and to any obstructions at the place of departure and on the intended route, is capable of safely taking off, reaching and maintaining a safe height at which to separate the combination and that thereafter the towing aircraft can make a safe landing at the place of intended destination;
  - (b) that signals have been agreed and communication established with persons suitably stationed so as to enable the glider to take off safely;
  - (c) that emergency signals have been agreed between the commander of the towing aircraft and the commander of the glider, to be used, respectively, by the commander of the towing aircraft to indicate that the tow should immediately be released by the glider, and by the commander of the glider to indicate that the tow cannot be released.
- (4) The glider shall be attached to the towing aircraft by means of the tow rope before the aircraft takes off.

*Towing, picking up and raising of persons and articles*

**39.**—(1) Subject to the provisions of this Article, an aircraft in flight shall not, by means external to the aircraft, tow any article, other than a glider, or pick up or raise any person, animal or article, unless the certificate of airworthiness issued or rendered valid in respect of that aircraft under the law of the country in which the aircraft is registered includes an express provision that it may be used for that purpose.

(2) An aircraft shall not launch or pick up tow ropes, banners or similar articles other than at an aerodrome.

(3) An aircraft in flight shall not tow any article, other than a glider, at night or when flight visibility is less than one nautical mile.

(4) The length of the combination of towing aircraft, tow rope, and article in tow, shall not exceed 150 metres.

(5) A helicopter shall not fly at any height over a congested area of a city, town or settlement at any time when any person, article or animal is suspended from the helicopter.

(6) A passenger shall not be carried in a helicopter at any time when an article, person or animal is suspended therefrom, other than a passenger who has duties to perform in connection with the article, person or animal or a passenger who has been picked up or raised by means external to the helicopter or a passenger who it is intended shall be lowered to the surface by such means.

(7) Nothing in this Article shall—

- (a) prohibit the towing in a reasonable manner by an aircraft in flight of any radio aerial, any instrument which is being used for experimental purposes, or any signal, apparatus or article required or permitted by or under this Order to be towed or displayed by an aircraft in flight;
- (b) prohibit the picking up or raising of any person, animal or article in an emergency or for the purpose of saving life;
- (c) apply to any aircraft while it is flying in accordance with the “B Conditions” set forth in Schedule 2 to this Order;
- (d) be taken to permit the towing or picking up of a glider otherwise than in accordance with Article 38 of this Order.

### *Dropping of animals and articles*

**40.**—(1) Articles and animals (whether or not attached to a parachute) shall not be dropped, or permitted to drop, from an aircraft in flight so as to endanger persons or property.

(2) Except under and in accordance with the terms of an aerial application certificate granted under Article 42 of this Order articles and animals (whether or not attached to a parachute) shall not be dropped or permitted to drop, to the surface from an aircraft flying over Hong Kong:

Provided that this paragraph shall not apply to the dropping of articles by, or with the authority of, the commander of the aircraft in any of the following circumstances:

- (a) the dropping of articles for the purpose of saving life;
- (b) the jettisoning, in case of emergency, of fuel or other articles in the aircraft;
- (c) the dropping of ballast in the form of fine sand or water;
- (d) the dropping of articles solely for the purpose of navigating the aircraft in accordance with ordinary practice or with the provisions of this Order;
- (e) the dropping at an aerodrome of tow ropes, banners, or similar articles towed by aircraft;
- (f) the dropping of articles for the purposes of public health or as a measure against weather conditions, surface icing or oil pollution, or for training for the dropping of articles for any such purposes, if the articles are dropped with the permission of the Governor and in accordance with any conditions subject to which that permission may have been given;
- (g) the dropping of wind drift indicators for the purpose of enabling parachute descents to be made if the wind drift indicators are dropped with the permission of the Governor and in accordance with any conditions subject to which that permission may have been given.

(3) For the purposes of this Article dropping includes projecting and lowering.

(4) Nothing in this Article shall prohibit the lowering of any animal or article from a helicopter to the surface, if the certificate of airworthiness issued or rendered valid in respect of the helicopter under the law of the country in which it is registered includes an express provision that it may be used for that purpose.

### *Dropping of persons*

**41.**—(1) A person shall not drop, be dropped or permitted to drop to the surface or jump from an aircraft flying over Hong Kong except under and in accordance with the terms of a written permission granted by the Governor under this Article.

(2) For the purpose of this Article dropping includes projecting and lowering.

(3) Notwithstanding the grant of a permission under paragraph (1) of this Article, a person shall not drop, be dropped or be permitted to drop from an aircraft in flight so as to endanger persons or property.

(4) An aircraft shall not be used for the purpose of dropping persons unless the certificate of airworthiness issued or rendered valid in respect of that aircraft under the law of the country in which the aircraft is registered includes an express provision that it may be used for that purpose and the aircraft is operated in accordance with the written permission granted by the Governor under this Article.

(5) Every applicant for and every holder of a permission shall make available to the Governor if requested to do so a parachuting manual and shall make such amendments or additions to such manual as the Governor may require. The holder of a permission shall make available to every employee or person who is engaged or may engage in parachuting activities conducted by him the manual which shall contain all such information and instructions as may be necessary to enable such employees or persons to perform their duties.

(6) Nothing in this Article shall apply to the descent of persons by parachute from an aircraft in an emergency.

(7) Nothing in this Article shall prohibit the lowering of any person in an emergency or for the purpose of saving life.

(8) Nothing in this Article shall prohibit the lowering of any person from a helicopter to the surface, if the certificate of airworthiness issued or rendered valid in respect of the helicopter under the law of the country in which it is registered includes an express provision that it may be used for that purpose.

#### *Issue of aerial application certificates*

**42.**—(1) An aircraft shall not be used for the dropping of articles for the purposes of agriculture, horticulture or forestry or for training for the dropping of articles for any of such purposes, otherwise than under and in accordance with the terms of an aerial application certificate granted to the operator of the aircraft under paragraph (2) of this Article.

(2) The Governor may grant to any person applying therefor an aerial application certificate if he is satisfied that that person is a fit person to hold the certificate and is competent, having regard in particular to his previous conduct and experience, his equipment, organisation, staffing and other arrangements, to secure the safe operation of the aircraft specified in the certificate on flights for the purposes specified in paragraph (1) of this Article. The certificate may be granted subject to such conditions as the Governor thinks fit including, without prejudice to the generality of the foregoing, conditions for ensuring that the aircraft and any article dropped from it do not endanger persons or property in the aircraft or elsewhere, and shall, subject to the provisions of Article 62 of this Order, remain in force for the period specified in the certificate.

(3) Every applicant for and the holder of an aerial application certificate shall make available to the Governor upon application and to every member of his operating staff upon the certificate being granted an aerial application manual which shall contain all such information and instructions as may be necessary to enable the operating staff to perform their duties as such. The holder of a certificate shall make such amendments of or additions to the manual as the Governor may require.

(4) For the purposes of this Article “operating staff” has the meaning ascribed to it in Article 25(4) of this Order.

#### *Carriage of weapons and of munitions of war*

**43.**—(1) An aircraft shall not carry any munition of war unless:

- (a) such munition of war is carried with the written permission of the Governor and in accordance with any conditions relating thereto; and
- (b) the commander or the aircraft is informed in writing by the operator before the flight commences of the type, weight or quantity and location of any such munition of war on board or suspended beneath the aircraft and any conditions of the permission of the Governor.

(2) Notwithstanding paragraph (1) of this Article it shall be unlawful for an aircraft to carry any weapon or munition of war in any compartment or apparatus to which passengers have access.

(3) It shall be unlawful for a person to carry or have in his possession or take or cause to be taken on board an aircraft, to suspend or cause to be suspended beneath an aircraft or to deliver or cause to be delivered for carriage thereon any weapon or munition of war unless—

- (a) the weapon or munition of war:
  - (i) is either part of the baggage of a passenger on the aircraft or consigned as cargo to be carried thereby;

- (ii) is carried in a part of the aircraft, or in any apparatus attached to the aircraft inaccessible to passengers; and
- (iii) in case of a firearm, is unloaded;
- (b) particulars of the weapon or munition of war have been furnished by that passenger or by the consignor to the operator before the flight commences; and
- (c) without prejudice to paragraph (1) of this Article the operator consents to the carriage of such weapon or munition of war by the aircraft.

(4) Nothing in this Article shall apply to any weapon or munition of war taken or carried on board an aircraft registered in a country other than Hong Kong, if the weapon or munition of war, as the case may be, may under the law of the country in which the aircraft is registered be lawfully taken or carried on board for the purpose of ensuring the safety of the aircraft or of persons on board.

(5) For the purposes of this Article a “munition of war” means any weapon, ammunition or article containing an explosive or any noxious liquid, gas or other thing which is designed or made for use in warfare or against persons, including parts, whether components or accessories, for such weapon, ammunition or article.

#### *Carriage of dangerous goods*

**44.**—(1) It shall be an offence to contravene or permit the contravention of or fail to comply with any of the regulations set out in Schedule 16 to this Order:

Provided that the Governor may make regulations which supplement, amend or replace the regulations set out in the said Schedule 16, and which prescribe—

- (a) the classification of certain articles and substances as dangerous goods;
- (b) the categories of dangerous goods which an aircraft may not carry;
- (c) the conditions which apply to the loading on, suspension beneath and carriage by an aircraft of dangerous goods;
- (d) the manner in which dangerous goods must be packed, marked, labelled and consigned before being loaded on, suspended beneath or carried by an aircraft;
- (e) any other provisions for securing the safety of aircraft and any apparatus attached thereto, and the safety of persons and property on the surface in relation to the loading on, suspension beneath or carriage by an aircraft of dangerous goods;
- (f) the persons to whom information about the carriage of dangerous goods must be provided;
- (g) the documents relating to the carriage by an aircraft of dangerous goods which must be produced to the Governor or an authorised person on request.

(2) The provisions of paragraph (1) of this Article shall be without prejudice to any other provisions of this Order; and the provisions of paragraph (1) of this Article, of Schedule 16 to this Order and of any regulations supplementing, amending or replacing the regulations set out in the said Schedule 16 shall be additional to and not in derogation from the provisions of Article 43 of this Order.

#### *Method of carriage of persons*

**45.** A person shall not be in or on any part of an aircraft in flight which is not a part designed for the accommodation of persons and in particular a person shall not be on the wings or undercarriage of an aircraft. A person shall not be in or on any object, other than a glider or flying machine, towed by or attached to an aircraft in flight:

Provided that a person may have temporary access to—



- (a) any part of an aircraft for the purpose of taking action necessary for the safety of the aircraft or of any person, animal or goods therein;
- (b) any part of an aircraft in which cargo or stores are carried, being a part which is designed to enable a person to have access thereto while the aircraft is in flight.

*Exits and break-in markings*

**46.**—(1) This Article shall apply to every public transport aircraft registered in Hong Kong.

(2) Whenever an aircraft to which this Article applies is carrying passengers, every exit therefrom and every internal door in the aircraft shall be in working order, and during take-off and landing and during any emergency, every such exit and door shall be kept free of obstruction and shall not be fastened by locking or otherwise so as to prevent, hinder or delay its use by passengers:

Provided that—

- (a) an exit may be obstructed by cargo if it is an exit which, in accordance with arrangements approved by the Governor either generally or in relation to a class of aircraft or a particular aircraft, is not required for use by passengers;
- (b) a door between the flight crew compartment and any adjacent compartment to which passengers have access may be locked or bolted if the commander of the aircraft so determines, for the purpose of preventing access by passengers to the flight crew compartment; and
- (c) nothing in this paragraph shall apply to any internal door which is so placed that it cannot prevent, hinder or delay the exit of passengers from the aircraft in an emergency if it is not in working order.

(3) Every exit from the aircraft shall be marked with the words “Exit” or “Emergency Exit” in capital letters.

- (a) (4) (a) Every exit from the aircraft shall be marked with instructions in English and with diagrams, to indicate the correct method of opening the exit;
- (b) The markings shall be placed on or near the inside surface of the door or other closure of the exit and, if it is openable from the outside of the aircraft, on or near the exterior surface.
- (a) (5) (a) Every aircraft to which this Article applies, being an aircraft of which the maximum total weight authorised exceeds 3,600 kg, shall be marked upon the exterior surface of its fuselage with markings to show the areas (in this paragraph referred to as “break-in areas”) which can, for purposes of rescue in an emergency, be most readily and effectively broken into by persons outside the aircraft.
- (b) The break-in areas shall be rectangular in shape and shall be marked by right-angled corner markings, each arm of which shall be 10 centimetres in length along its outer edge and 2.5 centimetres in width.
- (c) The words “Cut Here in Emergency” shall be marked across the centre of each break-in area in capital letters:

Provided that this paragraph shall not apply to helicopters.

(6) On every flight by an aircraft to which this Article applies, being an aircraft of which the maximum total weight authorised exceeds 5,700 kg, every exit from such an aircraft intended to be used by passengers in an emergency shall be marked upon the exterior of the aircraft by a band not less than 5 centimetres in width outlining the exit.

(7) The markings required by this Article shall—

- (a) be painted, or affixed by other equally permanent means;

- (b) except in the case of the markings required by paragraph (6) of this Article, be red in colour, and in any case in which the colour of the adjacent background is such as to render red markings not readily visible, be outlined in white or some other contrasting colour in such a manner as to render them readily visible;
  - (c) in the case of the markings required by paragraph (6) of this Article, be of a colour clearly contrasting with the background on which it appears; and
  - (d) be kept at all times clean and unobscured.
- (8) If one, but not more than one, exit from an aircraft becomes inoperative at a place where it is not reasonably practicable for it to be repaired or replaced, nothing in this Article shall prevent that aircraft from carrying passengers until it next lands at a place where the exit can be repaired or replaced:

Provided that—

- (a) the number of passengers carried and the position of the seats which they occupy is in accordance with arrangements approved by the Governor either in relation to the particular aircraft or to a class of aircraft; and
- (b) in accordance with arrangements so approved, the exit is fastened by locking or otherwise, the words “Exit” or “Emergency Exit” are covered, and the exit is marked by a red disc at least 23 centimetres in diameter with a horizontal white bar across it bearing the words “No exit” in red letters.

#### *Imperilling safety of aircraft*

**47.** A person shall not recklessly or negligently act in a manner likely to endanger an aircraft, or any person therein.

#### *Imperilling safety of any person or property*

**48.** A person shall not recklessly or negligently cause or permit an aircraft to endanger any person or property.

#### *Drunkenness in aircraft*

**49.—(1)** A person shall not enter any aircraft when drunk, or be drunk in any aircraft.

(2) A person shall not, when acting as a member of the crew of any aircraft or being carried in any aircraft for the purpose of so acting, be under the influence of drink or a drug to such an extent as to impair his capacity so to act.

#### *Smoking in aircraft*

**50.—(1)** Notices indicating when smoking is prohibited shall be exhibited in every aircraft registered in Hong Kong so as to be visible from each passenger seat therein.

(2) A person shall not smoke in any compartment of an aircraft registered in Hong Kong at a time when smoking is prohibited in that compartment by a notice to that effect exhibited by or on behalf of the commander of the aircraft.

#### *Authority of commander of aircraft*

**51.** Every person in an aircraft registered in Hong Kong 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.

*Stowaways*

**52.** A person shall not secrete himself for the purpose of being carried in an aircraft without the consent of either the operator or the commander thereof or of any other person entitled to give consent to his being carried in the aircraft.