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STATUTORY INSTRUMENTS

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**1995 No. 2700**

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

**PART VI**

**FATIGUE OF CREW**

*Application and interpretation of Part VI*

**53.**—(1) Articles 54 and 55 of this Order apply in relation to any aircraft registered in Hong Kong which is either:—

- (a) engaged on a flight for the purpose of public transport, or
- (b) operated by an air transport undertaking:

Provided that the said Articles shall not apply in relation to a flight made only for the purpose of instruction in flying given by or on behalf of a flying club or flying school, or a person who is not an air transport undertaking.

(2) In this Part of this Order, the following expressions shall, except where the context otherwise requires, have the meanings hereby respectively assigned to them, that is to say—

- (a) “flight time”, in relation to any person, means all time spent by that person in an aircraft whether or not registered in Hong Kong (other than an aircraft of which the maximum total weight authorised does not exceed 1,600 kg and which is not flying for the purpose of public transport or aerial work) while it is in flight and he is carried therein as a member of the crew thereof;
- (b) “day” means a continuous period of 24 hours beginning at midnight Greenwich Mean Time.

(3) For the purposes of this Part of the Order, a helicopter shall be deemed to be in flight from the moment the helicopter first moves under its own power for the purpose of taking off until the rotors are next stopped.

*Fatigue of crew—operator’s responsibilities*

**54.**—(1) The operator of an aircraft to which this Article applies shall not cause or permit that aircraft to make a flight unless:

- (a) he has established a scheme for the regulation of flight times for every person flying in that aircraft as a member of its crew; and
- (b) the scheme is approved by the Governor subject to such conditions as he thinks fit; and
- (c) either—
  - (i) the scheme is incorporated in the operations manual required by Article 25 of this Order, or
  - (ii) in a case where an operations manual is not required by that Article the scheme is incorporated in a document, a copy of which has been made available to every person flying in that aircraft as a member of its crew; and

(d) he has taken all such steps as are reasonably practicable to ensure that the provisions of the scheme will be complied with in relation to every person flying in that aircraft as a member of its crew.

(2) The operator of an aircraft to which this Article applies shall not cause or permit any person to fly therein as a member of its crew if he knows or has reason to believe that that person is suffering from, or, having regard to the circumstances of the flight to be undertaken, is likely to suffer from, such fatigue while he is so flying as may endanger the safety of the aircraft or of its occupants.

(3) The operator of an aircraft to which this Article applies shall not cause or permit any person to fly therein as a member of its flight crew unless the operator has in his possession an accurate and up-to-date record in respect of that person and in respect of the 28 days immediately preceding the flight showing—

- (a) all his flight times; and
- (b) brief particulars of the nature of the functions performed by him in the course of his flight times.

(4) The record referred to in paragraph (3) of this Article shall, subject to the provisions of Article 61, be preserved by the operator of the aircraft until a date 12 months after the flight referred to in that paragraph.

*Fatigue of crew—responsibilities of crew*

**55.**—(1) A person shall not act as a member of the crew of an aircraft to which this Article applies if he knows or suspects that he is suffering from, or, having regard to the circumstances of the flight to be undertaken, is likely to suffer from, such fatigue as may endanger the safety of the aircraft or of its occupants.

(2) A person shall not act as a member of the flight crew of an aircraft to which this Article applies unless he has ensured that the operator of the aircraft is aware of his flight times during the period of 28 days preceding the flight.

*Flight times—responsibilities of flight crew*

**56.** A person shall not act as a member of the flight crew of an aircraft registered in Hong Kong if at the beginning of the flight the aggregate of all his previous flight times:—

- (a) during the period of 28 consecutive days expiring at the end of the day on which the flight begins exceeds 100 hours; or
- (b) during the period of 12 months expiring at the end of the previous month exceeds 900 hours.

Provided that this Article shall not apply to a flight made—

- (i) in an aircraft of which the maximum total weight authorised does not exceed 1,600 kg and which is not flying for the purposes of public transport or aerial work; or
- (ii) in an aircraft not flying for the purpose of public transport nor operated by an air transport undertaking, if at the time when the flight begins the aggregate of all the flight times of the aforesaid person since he was last medically examined and found fit by a person approved by the Governor for the purpose of Article 20(7) does not exceed 25 hours.