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STATUTORY INSTRUMENTS

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**1995 No. 2700**

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

**PART IV**

**AIRCRAFT CREW AND LICENSING**

*Composition of crew of aircraft*

**18.**—(1) An aircraft shall not fly unless it carries a flight crew of the number and description required by the law of the country in which it is registered.

(2) An aircraft registered in Hong Kong shall carry a flight crew adequate in number and description to ensure the safety of the aircraft and of at least the number and description specified in the certificate of airworthiness issued or rendered valid under this Order or, if no certificate of airworthiness is required under this Order to be in force, the certificate of airworthiness, if any, last in force under this Order, in respect of that aircraft.

- (a) (3) (a) A flying machine registered in Hong Kong and flying for the purpose of public transport having a maximum total weight authorised exceeding 5,700 kg, shall carry not less than two pilots as members of the flight crew thereof.
- (b) An aeroplane registered in Hong Kong and flying for the purpose of public transport in circumstances where the aircraft commander is required to comply with Instrument Flight Rules and having a maximum total weight authorised of 5,700 kg, or less and powered by:—
- (i) one or more turbine jets;
  - (ii) one or more turbine propeller engines and provided with a means of pressurising the personnel compartments;
  - (iii) two or more turbine propeller engines and certificated to carry more than nine passengers;
  - (iv) two or more turbine propeller engines and certificated to carry fewer than ten passengers and not provided with a means of pressurising the personnel compartments unless it is equipped with an auto-pilot which has been approved by the Governor for the purposes of this Article and which is serviceable on take-off; or
  - (v) two or more piston engines unless it is equipped with an auto-pilot which has been approved by the Governor for the purposes of this Article and which is serviceable on take-off;

shall carry not less than two pilots as members of the flight crew thereof:

Provided that an aeroplane powered by two or more turbine propeller engines and certificated to carry fewer than ten passengers or an aeroplane powered by two or more piston engines and equipped with an appropriate auto-pilot shall not be required to carry two pilots notwithstanding that before take-off the approved auto-pilot is found to be unserviceable if the aeroplane flies in accordance with arrangements approved by the Governor.

(4) An aircraft registered in Hong Kong engaged on a flight for the purpose of public transport shall carry:

- (a) a flight navigator as a member of the flight crew; or
- (b) navigational equipment approved by the Governor and used in accordance with any conditions subject to which that approval may have been given;

if on the route or any diversion therefrom, being a route or diversion planned before take-off, the aircraft is intended to be more than 500 nautical miles from the point of take-off measured along the route to be flown, and to pass over part of an area specified in Schedule 8 to this Order. The flight navigator carried in compliance with this Article shall be carried in addition to any person who is carried in accordance with this Article to perform other duties.

(5) An aircraft registered in Hong Kong which is required by the provisions of Article 14 of this Order to be equipped with radio communication apparatus shall carry a flight radio operator as a member of the flight crew, who, if he is required to operate radiotelegraph apparatus, shall be carried in addition to any other person who is carried in accordance with this Article to perform other duties.

(6) If it appears to him to be expedient to do so in the interests of safety, the Governor may direct any particular operator of any aircraft registered in Hong Kong that the aircraft operated by him or any such aircraft shall not fly in such circumstances as the Governor may specify unless those aircraft carry in addition to the flight crew required to be carried therein by the foregoing provisions of this Article such additional persons as members of the flight crew as he may specify in the direction.

- (a) (7) (a) This paragraph applies to any flight for the purpose of public transport by an aircraft registered in Hong Kong:
  - (i) on which is carried twenty or more passengers; or
  - (ii) which may in accordance with its certificate of airworthiness carry more than thirty-five passengers and on which at least one passenger is carried.
- (b) The crew of an aircraft on a flight to which this paragraph applies shall include cabin attendants carried for the purposes of performing in the interests of the safety of passengers, duties to be assigned by the operator or the commander of the aircraft but who shall not act as members of the flight crew.
- (c) On a flight to which this paragraph applies, there shall be carried not less than one cabin attendant for every fifty, or fraction of fifty passenger seats installed in the aircraft:

Provided that the number of cabin attendants calculated in accordance with this sub-paragraph need not be carried where the Governor has granted written permission to the operator to carry a lesser number on that flight and the operator carries the number specified in that permission and complies with any other terms and conditions subject to which such permission is granted.

(8) If it appears to him to be expedient to do so in the interests of safety, the Governor may direct any particular operator of any aircraft registered in Hong Kong that the aircraft operated by him or any such aircraft shall not fly in such circumstances as the Governor may specify unless those aircraft carry in addition to the cabin attendants required to be carried therein by the foregoing provisions of this Article such additional persons as cabin attendants as he may specify in the direction.

#### *Members of flight crew—requirement of licences*

**19.—**(1) Subject to the provisions of this Article, a person shall not act as a member of the flight crew of an aircraft registered in Hong Kong unless he is the holder of an appropriate licence granted or rendered valid under this Order:

Provided that a person may within Hong Kong without being the holder of such a licence—

- (a) act as a flight radiotelephony operator if—

- (i) he does so as the pilot of a glider not flying for the purpose of public transport or aerial work, or as a person being trained in an aircraft registered in Hong Kong to perform duties as a member of the flight crew of an aircraft; and
  - (ii) he is authorised to operate the radiotelephony station by the holder of the licence granted in respect of that station under any enactment; and
  - (iii) messages are transmitted only for the purposes of instruction, or of the safety or navigation of the aircraft; and
  - (iv) messages are transmitted only on a frequency exceeding 60 MHz assigned by the Governor for use on flights on which a flight radiotelephony operator acts in one of the capacities specified in paragraph (i) of this proviso; and
  - (v) the transmitter is pre-set to one or more of the frequencies so assigned and cannot be adjusted in flight to any other frequency; and
  - (vi) the operation of the transmitter requires the use only of external switches; and
  - (vii) the stability of the frequency radiated is maintained automatically by the transmitter;
- (b) subject to the provisions of Article 20(8) of this Order, act as pilot in command of an aircraft for purpose of becoming qualified for the grant or renewal of a pilot's licence or the inclusion or variation of any rating in a pilot's licence if—
- (i) he is at least 17 years of age; and
  - (ii) he is the holder of a valid medical certificate to the effect that he is fit so to act issued by a person approved by the Governor; and
  - (iii) he complies with any conditions subject to which that medical certificate was issued; and
  - (iv) no other person is carried in the aircraft; and
  - (v) the aircraft is not flying for the purpose of public transport or aerial work other than aerial work which consists of the giving of instruction in flying or the conducting of flying tests; and
  - (vi) he so acts in accordance with instructions given by a person holding a pilot's licence granted under this Order being a licence which includes a flying instructor's rating or an assistant flying instructor's rating entitling him to give instruction in flying the type of aircraft being flown;
- (c) subject to the provisions of Article 20(8) of this Order, act as pilot of an aircraft in respect of which the flight crew required to be carried by or under this Order does not exceed one pilot for the purpose of becoming qualified for the grant or renewal of a pilot's licence or the inclusion or variation of any rating in a pilot's licence if—
- (i) the aircraft is not flying for the purpose of public transport or aerial work other than aerial work which consists of the giving of instruction in flying or the conducting of flying tests; and
  - (ii) he so acts in accordance with instructions given by a person holding a pilot's licence granted under this Order being a licence which includes a flying instructor's rating or an assistant flying instructor's rating entitling him to give instruction in flying the type of aircraft being flown; and
  - (iii) the aircraft is fitted with dual controls and he is accompanied in the aircraft by the said instructor who is seated at the other set of controls or the aircraft is fitted with controls designed for and capable of use by two persons and he is accompanied in the aircraft by the said instructor who is seated so as to be able to use the controls;

- (d) subject to the provisions of Article 20(8) of this Order, act as pilot in command of an aircraft at night if—
- (i) he is the holder of an appropriate licence granted or rendered valid under this Order in all respects save that the licence does not include an instrument rating and he has not within the immediately preceding thirteen months carried out as pilot in command not less than five take-offs and landings at a time when the depression of the centre of the sun was not less than 12° below the horizon;
  - (ii) he so acts in accordance with instructions given by a person holding a pilot's licence granted under this Order being a licence which includes a flying instructor's rating or an assistant flying instructor's rating entitling him to give instruction in flying the type of aircraft being flown by night;
  - (iii) no person other than that specified in sub-paragraph (ii) above is carried; and
  - (iv) the aircraft is not flying for the purpose of public transport or aerial work other than aerial work which consists of the giving of instruction in flying or the conducting of flying tests.
- (2) Subject as aforesaid, a person shall not act as a member of the flight crew required by or under this Order to be carried in an aircraft registered in a country other than Hong Kong unless—
- (a) in the case of an aircraft flying for the purpose of public transport or aerial work he is the holder of an appropriate licence granted or rendered valid under the law of the country in which the aircraft is registered; or
  - (b) in the case of any other aircraft, he is the holder of an appropriate licence granted or rendered valid under the law of the country in which the aircraft is registered or under this Order, and the Governor does not in the particular case give a direction to the contrary.
- (3) For the purposes of this Article, a licence granted under the law of a Contracting State other than Hong Kong purporting to authorise the holder thereof to act as a member of the flight crew of an aircraft, not being a licence purporting to authorise him to act as a student pilot only, shall, unless the Governor in the particular case gives a direction to the contrary, be deemed to be a licence rendered valid under this Order but does not entitle the holder—
- (a) to act as a member of the flight crew of any aircraft flying for the purpose of public transport or aerial work or on any flight in respect of which he receives remuneration for his services as a member of the flight crew; or
  - (b) in the case of a pilot's licence, to act on any flight as pilot of any aircraft flying in controlled airspace in circumstances requiring compliance with the Instrument Flight Rules or to give any instruction in flying.
- (4) Notwithstanding the provisions of paragraph (1) of this Article, a person may, unless the certificate of airworthiness in force in respect of the aircraft otherwise requires, act as pilot of an aircraft registered in Hong Kong for the purpose of undergoing training or tests for the grant or renewal of a pilot's licence or for the inclusion, renewal or extension of a rating therein without being the holder of an appropriate licence, if the following conditions are complied with:
- (a) no other person shall be carried in the aircraft or in an aircraft being towed thereby except a person carried as a member of the flight crew in compliance with this Order, a person authorised by the Governor to witness the aforesaid training or tests or to conduct the aforesaid tests, or, if the pilot in command of the aircraft is the holder of an appropriate licence, a person carried for the purpose of being trained or tested as a member of the flight crew of an aircraft; and
  - (b) the person acting as the pilot of the aircraft without being the holder of an appropriate licence either—

- (i) within the period of 6 months immediately preceding was serving as a qualified pilot of aircraft in any of Her Majesty's naval, military or air forces, and his physical condition has not, so far as he is aware, so deteriorated during that period as to render him unfit for the licence for which he intends to qualify; or
- (ii) holds a pilot's, a flight navigator's or a flight engineer's licence granted or rendered valid under this Order and the purpose of the training or test is to enable him to qualify under this Order for the grant of a pilot's licence or for the inclusion of an additional type in the aircraft rating in his licence and he acts under the supervision of a person who is the holder of an appropriate licence.

(5) Notwithstanding the provisions of paragraph (1) of this Article a person may act as a member of the flight crew (otherwise than as a pilot) of an aircraft registered in Hong Kong for the purposes of undergoing training or tests for the grant or renewal of a flight navigator's or a flight engineer's licence or for the inclusion, renewal or extension of a rating thereon, without being the holder of an appropriate licence if he acts under supervision and in the presence of another person who is the holder of the type of licence or rating for which the person undergoing the training or tests is being trained or tested.

(6) Notwithstanding the provisions of paragraph (1) of this Article, a person may act as a member of the flight crew of an aircraft registered in Hong Kong without being the holder of an appropriate licence if, in so doing, he is acting in the course of his duty as a member of any of Her Majesty's naval, military or air forces.

(7) An appropriate licence for the purposes of this Article means a licence which entitles the holder to perform the functions which he undertakes in relation to the aircraft concerned and the flight on which it is engaged.

(8) This Article shall not require a licence to be held by a person by reason of his acting as a member of the flight crew of a glider unless:

- (a) he acts as a flight radio operator, or
- (b) the flight is for the purpose of public transport or aerial work, other than aerial work which consists of the giving of instruction in flying in a glider owned or operated by a flying club of which the person giving and the person receiving instruction are both members.

(9) Notwithstanding anything in this Article—

- (a) the holder of a licence granted or rendered valid under this Order, being a licence endorsed to the effect that the holder does not satisfy in full the relevant international standard, shall not act as a member of the flight crew of an aircraft registered in Hong Kong in or over the territory of a Contracting State other than Hong Kong, except in accordance with permission granted by the competent authorities of that State;
- (b) the holder of a licence granted or rendered valid under the law of a Contracting State other than Hong Kong, being a licence endorsed as aforesaid, shall not act as a member of the flight crew of any aircraft in or over Hong Kong except in accordance with permission granted by the Governor, whether or not the licence is or is deemed to be rendered valid under this Order.

#### *Grant, renewal and effect of Flight Crew Licences*

- (a) **20.** (1) (a) The Governor may grant licences, subject to such conditions as he thinks fit, of any of the classes specified in Part A of Schedule 9 to this Order authorising the holder to act as a member of the flight crew of an aircraft registered in Hong Kong, upon his being satisfied that the applicant is a fit person to hold the licence, and is qualified by reason of his knowledge, experience, competence, skill, physical and mental fitness to act in the capacity to which the licence relates, and for that purpose the applicant shall furnish

such evidence and undergo such examinations and tests (including in particular medical examinations) and undertake such courses of training as the Governor may require of him.

- (b) A licence of any class shall not be granted to any person who is under the minimum age specified for that class of licence in Part A of the said Schedule.
- (c) A licence granted under this Article shall not be valid unless it bears thereon the ordinary signature of the holder in ink.
- (d) Subject to paragraph (1)(a) of this Article and to the provisions of Article 62 of this Order, a licence shall remain in force for the period indicated in the licence not exceeding the period specified in respect of a licence of that class in the said Schedule, and may be renewed by the Governor from time to time upon his being satisfied that the applicant is a fit person and qualified as aforesaid. If no period is indicated in the licence, it shall remain in force subject as aforesaid, for the lifetime of the holder.

Provided that, until 1st December 1996, the said Part A of Schedule 9 shall be applied as if—

- (i) in the privileges of the Commercial Pilot's Licence (Aeroplanes), proviso (e) to paragraph (2), the proviso to paragraph (3) and paragraph (4) were omitted;
- (ii) the privileges of the Airline Transport Pilot's Licence (Aeroplanes) were amended to read—"the holder of the licence shall be entitled to exercise the privileges of a Commercial Pilot's Licence (Aeroplanes) except that for proviso (d) to paragraph (2) of those privileges, there shall be substituted—
  - (d) he shall not at any time after he attains the age of 60 years fly such an aeroplane for the purpose of public transport if its maximum total weight authorised exceeds 20,000 kg.";
- (iii) in the privileges of the Commercial Pilot's Licence (Helicopters and Gyroplanes), proviso (e) to paragraph (2), the proviso to paragraph (3) and paragraph (4) were omitted; and
- (iv) in the privileges of the Airline Transport Pilot's Licence (Helicopters and Gyroplanes), all the words after "shall not apply" were omitted.

(2) The Governor may include in a licence a rating, subject to such conditions as he thinks fit, of any of the classes specified in Part B of the said Schedule, upon his being satisfied that the applicant is qualified as aforesaid to act in the capacity to which the rating relates, and such rating shall be deemed to form part of the licence.

(3) Subject to any conditions of the licence and to the provisions of this Order, a licence of any class shall entitle the holder to perform the functions specified in respect of that licence in Part A of the said Schedule under the heading "privileges", and a rating of any class shall entitle the holder of the licence in which such rating is included to perform the functions specified in respect of that rating in Part B of the said Schedule.

- (a) (4) (a) Subject to the provisions of sub-paragraph (c) of this paragraph, the holder of a pilot's licence or a flight engineer's licence shall not be entitled to exercise the privileges of an aircraft rating contained in the licence on a flight unless the licence bears a valid certificate of test or a valid certificate of experience, which certificate shall in either case be appropriate to the functions he is to perform on that flight in accordance with Part C of the said Schedule and shall otherwise comply with that Part:

Provided that the holder of a Private Pilot's Licence (Balloons and Airships) or a Commercial Pilot's Licence (Balloons) shall be entitled to exercise the privileges of an aircraft rating contained in the licence on a flight when the licence does not bear such a certificate.

- (b) The holder of a flight navigator's licence shall not be entitled to perform functions on a flight to which Article 18(4) of this Order applies unless the licence bears a valid certificate

of experience which certificate shall be appropriate to the functions he is to perform on that flight in accordance with Part C of Schedule 9 and shall otherwise comply with that Part.

- (c) In any case where the Private Pilot's Licence is in such a form that it is not possible to include certificates therein, the holder of such a licence shall not be entitled to exercise the privileges of an aircraft rating contained in the licence on a flight unless the certificate of test or certificate of experience required by sub-paragraph (a) of this paragraph is included in the personal flying log book required to be kept by him under Article 22 of this Order.

(5) A person shall not be entitled to perform the functions to which an instrument rating (aeroplanes), an instrument rating (helicopters), a flying instructor's rating or an assistant flying instructor's rating relates unless his licence bears a valid certificate of test which certificate shall be appropriate to the functions to which the rating relates in accordance with Part C of the said Schedule and shall otherwise comply with that Part.

(6) A person who, on the last occasion when he took a test for the purposes of paragraphs (4) or (5) of this Article, failed that test shall not be entitled to fly in the capacity for which that test would have qualified him had he passed it.

- (a) (7) (a) The holder of a licence, other than a flight radiotelephony operator's licence, granted under this Article shall not be entitled to perform any of the functions to which his licence relates unless it includes a valid medical certificate.

- (b) Every applicant for or holder of such a licence shall upon such occasions as the Governor may require submit himself to medical examination by a person approved by the Governor either generally or in a particular case or class of case who shall make a report to the Governor in such form as the Governor may require.

- (c) Where the medical examination referred to in sub-paragraph (b) of this paragraph has been conducted in Hong Kong, the Governor or any person approved by him as competent to do so may, on the basis thereof, issue a medical certificate subject to such conditions as he thinks fit to the effect that he has assessed the holder of the licence as fit to perform the functions to which the licence relates. The certificate shall without prejudice to paragraph (8) of this Article, be valid for such period as is therein specified and shall be deemed to form part of the licence.

- (d) Where the medical examination is conducted outside Hong Kong, the person conducting the examination shall, in addition to making a report to the Governor, issue a certificate certifying, if such is, in his opinion, the case, that the holder of the licence is fit to perform the functions to which the licence relates and the said certificate may be deemed by the Governor to be a medical certificate for the purposes of this Article, and if so shall be valid for such period as may be specified therein in writing by the person conducting the examination.

- (a) (8) (a) A person shall not be entitled to act as a member of the flight crew of an aircraft registered in Hong Kong if he knows or suspects that his physical or mental condition renders him temporarily or permanently unfit to perform such functions or to act in such capacity.

- (b) Every holder of a medical certificate issued under Article 19 or 20 of this Order who—
- (i) suffers any personal injury involving incapacity to undertake his functions as a member of the flight crew; or
  - (ii) suffers any illness involving incapacity to undertake those functions throughout a period of 20 days or more; or
  - (iii) in the case of a woman, has reason to believe that she is pregnant:

shall inform the Governor in writing of such injury, illness or pregnancy, as soon as possible in the case of injury or pregnancy, and as soon as the period

of 20 days has elapsed in the case of illness. The medical certificate shall be deemed to be suspended upon the occurrence of such injury or the elapse of such period of illness or the confirmation of the pregnancy, and—

- (aa) in the case of injury or illness the suspension shall cease upon the holder being medically examined under arrangements made by the Governor and pronounced fit to resume his functions as a member of the flight crew or upon the Governor exempting, subject to such conditions as he thinks fit, the holder from the requirement of a medical examination; and
- (bb) in the case of pregnancy, the suspension may be lifted by the Governor for such period and subject to such conditions as he thinks fit and shall cease upon the holder being medically examined under arrangements made by the Governor after the pregnancy has ended and pronounced fit to resume her functions as a member of the flight crew.

(9) Nothing in this Order shall prohibit the holder of a pilot's licence from acting as pilot of an aircraft having a maximum total weight authorised not exceeding 5,700 kg when, with the permission of the Governor, he is testing any person for the purposes of paragraphs (1), (2), (4) or (5) of this Article, notwithstanding that the type of aircraft in which the test is conducted is not specified in the aircraft rating included in his licence or that the licence or personal flying log book, as the case may be, does not include a valid certificate of test or a valid certificate of experience in respect of the type of aircraft.

(10) Where any provision of Part C of Schedule 9 or Part B of Schedule 11 to this Order permits a test to be conducted in a flight simulator approved by the Governor, that approval may be granted subject to such conditions as the Governor thinks fit.

(11) Without prejudice to any other provision of this Order the Governor may, for the purpose of this Article, either absolutely or subject to such conditions as he thinks fit—

- (a) approve any course of training or instruction;
- (b) authorise a person to conduct such examinations or tests as he may specify;
- (c) approve a person to provide any course of training or instruction; and
- (d) approve a person as qualified to furnish reports to him and to accept such reports.

#### *Validation of licences*

**21.** The Governor may issue a certificate of validation rendering valid for the purposes of this Order any licence as a member of the flight crew of aircraft granted under the law of any country other than Hong Kong. A certificate of validation may be issued subject to such conditions and for such periods as the Governor thinks fit.

#### *Personal flying log book*

**22.**—(1) Every Member of the flight crew of an aircraft registered in Hong Kong and every person who engages in flying for the purpose of qualifying for the grant or renewal of a licence under this Order shall keep a personal flying log book in which the following particulars shall be recorded—

- (a) the name and address of the holder of the log book;
- (b) particulars of the holder's licence (if any) to act as member of the flight crew of an aircraft;
- (c) the name and address of his employer (if any).

(2) Particulars of each flight during which the holder of the log book acted either as a member of the flight crew of an aircraft or for the purpose of qualifying for the grant or renewal of a licence under this Order as the case may be, shall be recorded in the log book at the end of each flight or as soon thereafter as is reasonably practicable, including—



- (a) the date, the places at which the holder embarked on and disembarked from the aircraft and the time spent during the course of a flight when he was acting in either capacity;
- (b) the type and registration mark of the aircraft;
- (c) the capacity in which the holder acted in flight;
- (d) particulars of any special conditions under which the flight was conducted, including night-flying and instrument flying; and
- (e) particulars of any test or examination undertaken whilst in flight.

(3) For the purposes of this Article, 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.

(4) Particulars of any test or examination undertaken whilst in a flight simulator shall be recorded in the log book, including—

- (a) the date of the test or examination;
- (b) the type of simulator;
- (c) the capacity in which the holder acted; and
- (d) the nature of the test or examination.

#### *Instruction in flying*

**23.**—(1) A person shall not give any instruction in flying to which this Article applies unless—

- (a) he holds a licence, granted or rendered valid under this Order, entitling him to act as pilot in command of the aircraft for the purpose and in the circumstances under which the instruction is to be given; and
- (b) his licence includes a flying instructor's rating or an assistant flying instructor's rating entitling the holder to give the instruction.

(2) This Article applies to instruction in flying given to any person flying or about to fly a flying machine or glider for the purpose of becoming qualified for—

- (a) the grant of a pilot's licence;
- (b) the inclusion or variation of any rating in his licence:

Provided that this Article shall not apply to any instruction in flying given to a person for the purpose of becoming qualified for the inclusion in his licence of an aircraft rating entitling him to act as pilot of a multi-engined aircraft, or of an aircraft of any class appearing in column 4 of the Table in Part A of Schedule 1 to this Order if that person has previously been entitled under the Order, or qualified in any of Her Majesty's naval, military or air forces, to act as pilot of multi-engined aircraft, or of an aircraft of that class as the case may be.

#### *Glider pilot—minimum age*

**24.** —A person under the age of 16 years shall not act as pilot in command of a glider.