
STATUTORY INSTRUMENTS

1995 No. 2700

The Air Navigation (Hong Kong) Order 1995

PART VIII

CONTROL OF AIR TRAFFIC

Rules of the air

64.—(1) The Governor may make rules of the air supplementary to, but not inconsistent with, the Rules of the Air contained in Schedule 14 to this Order.

(2) Subject to the provisions of paragraph (3) of this Article, it shall be an offence to contravene, to permit the contravention of, or to fail to comply with, the Rules of the Air contained in Schedule 14 to this Order.

(3) It shall be lawful for the Rules of the Air to be departed from to the extent necessary—

- (a) for avoiding immediate danger; or
- (b) for complying with the law of any country other than Hong Kong within which the aircraft then is; or
- (c) for complying with Military Flying Regulations (Joint Service Publication 318) or Flying Orders to Contractors (Aviation Publication 67) issued by the Secretary of State in relation to an aircraft of which the commander is acting as such in the course of his duty as a member of Her Majesty's naval, military or air forces.

(4) If any departure from the Rules of the Air is made for the purpose of avoiding immediate danger, the commander of the aircraft shall cause written particulars of the departure, and of the circumstances giving rise to it, to be given within 10 days thereafter to the competent authority of the country in whose territory the departure was made or if the departure was made over the high seas, to the Governor.

(5) Nothing in the Rules of the Air shall exonerate any person from the consequences of any neglect in the use of lights or signals or of the neglect of any precautions required by ordinary aviation practice or by the special circumstances of the case.

Provision of air traffic services

64A.—(1) No person shall provide an air traffic service otherwise than under and in accordance with the terms of an approval granted to him by the Governor, and the Governor shall grant an approval to any person applying therefor if he is satisfied that the person is competent, having regard to his organisation, staffing, equipment, maintenance and other arrangements, to provide a service which is safe for use by aircraft.

(2) The person in charge of an aerodrome (other than a Government aerodrome) in respect of which there is equipment for providing holding aid, let-down aid or approach aid by radio or radar shall:

- (a) inform the Governor in advance of periods during and times at which any such equipment is to be in operation for the purpose of providing such aid as is specified by the said person; and
- (b) during any period and at such times as so notified, cause an air traffic control service to be provided for any aircraft which is flying in, or in the vicinity of, the aerodrome traffic zone whether or not it is flying by visual reference to the surface.

(3) The Governor may direct that there shall be provided in respect of any aerodrome (other than a Government aerodrome) such air traffic control service, aerodrome flight information service or means of two-way radio communication as the Governor considers appropriate in respect thereof. The Governor may specify in his direction the periods during and the times at which such a service or such means shall be provided and the person in charge of the aerodrome shall cause such a service or such means to be provided in accordance with any such direction.

(4) Obligations to cause an air traffic control service to be provided arising under paragraphs (2) or (3) are without prejudice to each other.

Use of radio call signs at aerodromes

64B. The person in charge of an aerodrome provided with means of two-way radio communication shall not cause or permit any call sign to be used for a purpose other than a purpose for which that call sign has been notified.

Licensing of air traffic controllers, student air traffic controllers and aerodrome flight information service officers

65.—(1) The Governor may grant a licence subject to such conditions as he thinks fit to any person to act as an air traffic controller, as a student air traffic controller or as an aerodrome flight information service officer 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 so to act, and for that purpose the applicant shall furnish such evidence and undergo such examinations and tests (including in particular medical examinations) as the Governor may require of him:

Provided that the Governor shall not grant—

- (a) a student air traffic controller’s licence or an aerodrome flight information service officer’s licence to a person under the age of 18 years; or
- (b) an air traffic controller’s licence which includes an Aerodrome Control Rating, an Approach Control Rating or an Area Control Rating, to a person under the age of 20 years; or
- (c) an air traffic controller’s licence which includes any other rating, to a person under the age of 21 years.

(2) Every licence to act as an air traffic controller shall include (a) ratings of one or more of the classes set forth in Schedule 10 to this Order specifying the type of air traffic control service which the holder of the licence is competent to provide, (b) a list of the places at which, and (c) the type of radar equipment, if any, with the aid of which he may provide the service. If throughout any period of 90 days the holder of the licence has not at any time provided at a particular place the type of air traffic control service specified in the rating, the rating shall, without prejudice to the Governor’s powers under Article 62 of this order, cease to be valid for that place at the end of that period, and upon a rating ceasing to be valid for a place the holder of the licence shall forthwith inform the Governor to that effect and shall forward the licence to the Governor to enable it to be endorsed accordingly.

(3) Every licence to act as a student air traffic controller shall be valid only for the purpose of authorising the holder to provide air traffic control service under the supervision of another person who is present at the time and is the holder of a valid air traffic controller's licence which includes a rating specifying the type of air traffic control service which is being provided by the student air traffic controller and valid at the place in question.

(4) Every licence to act as an aerodrome flight information service officer shall be valid only for the purpose of authorising the holder to provide an aerodrome flight information service at an aerodrome specified in the licence. If, throughout any period of 180 days, the holder of the licence has not at any time provided such a service at a particular aerodrome, the licence shall cease to be valid for that aerodrome at the end of that period.

(5) A licence to act as an air traffic controller, as a student air traffic controller or as an aerodrome flight information service officer shall not be valid unless the holder of the licence has signed his name thereon in ink with his ordinary signature.

(6) Subject to the provisions of Article 62 of this Order, a licence to act as an air traffic controller, as a student air traffic controller or as an aerodrome flight information service officer shall remain in force for the period indicated in the licence and may be renewed by the Governor from time to time, upon his being satisfied that the applicant is a fit person and is 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.

(7) Every applicant for and holder of an air traffic controller's licence or a student air traffic controller's licence shall upon such occasions as the Governor may require—

- (a) submit himself to medical examination by a person approved by the Governor either generally or in a particular case who shall make a report to the Governor in such form as the Governor may require; and
- (b) submit himself to such examinations and tests and furnish such evidence as to his knowledge, experience, competence and skill, as the Governor may require, and such examinations and tests may be conducted by the Governor or by a person approved by the Governor.

(8) Every applicant for and holder of an aerodrome flight information service officer's licence shall, upon such occasions as the Governor may require, subject himself to such examinations and tests and furnish such evidence as to his knowledge, experience, competence and skill as the Governor may require, and such examinations and tests may be conducted by the Governor or by a person approved by the Governor.

(9) On the basis of the medical examination referred to in paragraph (7) of this Article, the Governor or any person approved by him as competent to do so may issue a medical certificate subject to such conditions as he thinks fit to the effect that the holder of the licence has been assessed as fit to perform the functions to which the licence relates. The certificate shall, without prejudice to Article 68 of this Order, be valid for such period as is therein specified, and shall be deemed to form part of the licence.

(10) The holder of an air traffic controller's licence or student air traffic controller's licence shall not provide any type of air traffic control service at any such aerodrome or place as is referred to in article 66(1) of this Order unless his licence includes a medical certificate issued and in force under paragraph (9) of this Article.

Prohibition of unlicensed air traffic controllers, student air traffic controllers and aerodrome flight information service officers

66.—(1) A person shall not provide at any place any type of air traffic control service or an aerodrome flight information service or hold himself out, whether by use of a radio call sign or in any other way, as a person who may provide any type of air traffic control service or an aerodrome flight information service unless:

- (a) in the case of an air traffic control service, he is the holder, and complies with the terms of:
 - (i) a valid student air traffic controller's licence granted under this Order and he is supervised in accordance with Article 65(3) of this Order; or
 - (ii) a valid air traffic controller's licence so granted authorising him to provide that type of service at that place; or
 - (iii) a valid air traffic controller's licence so granted which does not authorise him to provide that type of service at that place, but he is supervised by a person who is present at the time and who is the holder of a valid air traffic controller's licence so granted which authorises him to provide at that place the type of air traffic control service which is being provided; or
- (b) in the case of an aerodrome flight information service, he is the holder and complies with the terms of an aerodrome flight information service officer's licence granted under this Order authorising him to provide such a service at that place:

Provided that a licence shall not be required by any person who acts in the course of his duty as a member of any of Her Majesty's naval, military or air forces or a visiting force.

- (2) The holder of an air traffic controller's licence shall not be entitled to perform any of the functions specified in Schedule 10 to this Order in respect of a rating at any place unless:
 - (a) his licence includes that rating and the rating is valid for the place at which, and the type of radar equipment, if any, with the aid of which, the functions are performed; or
 - (b) he is supervised by a person who is present at the time and who is the holder of a valid air traffic controller's licence granted under this Order which authorises him to provide at that place the type of air traffic control service which is being provided.
- (3) A person shall not provide any type of air traffic control service or an aerodrome flight information service unless he identifies himself in such a manner as may be notified.
- (4) Nothing in a licence granted under Article 65 of this Order shall permit any person to operate manually any direction-finding equipment for the purpose of providing air traffic control service to an aircraft at a time when he is providing air traffic control service or making signals to that aircraft or to another aircraft.
- (5) Nothing in this Article shall prohibit the holder of a valid air traffic controller's licence from providing at any place for which the licence includes a valid rating, information to aircraft in flight in the interests of safety.

Flight Information Service Manual

67. A person shall not provide an aerodrome flight information service at any aerodrome unless:

- (a) the service is provided in accordance with the standards and procedures specified in an aerodrome flight information service manual in respect of that aerodrome;
- (b) the manual is produced to the Governor within a reasonable time after a request for its production is made by the Governor;
- (c) such amendments or additions as the Governor may from time to time require have been made to the manual.

Incapacity of air traffic controllers

68.—(1) Every holder of an air traffic controller's licence granted under Article 65 of this Order who—

- (a) suffers any personal injury or illness involving incapacity to undertake the functions to which his licence relates throughout a period of 20 consecutive days; or
 - (b) in the case of a woman, who has reason to believe that she is pregnant;
- shall inform the Governor in writing of such injury, illness or pregnancy as soon as possible.

(2) An air traffic controller's licence shall be deemed to be suspended upon the elapse of such period of injury or illness as is referred to in paragraph (1)(a) of this Article. The suspension of the licence shall cease:

- (a) upon the holder being medically examined under arrangements made by the Governor and pronounced fit to resume his functions under the licence; or
- (b) upon the Governor exempting the holder from the requirement of a medical examination subject to such condition as the Governor may think fit.

(3) Upon the pregnancy of the holder of an air traffic controller's licence being confirmed, the licence shall be deemed to be suspended and such suspension may be lifted by the Governor 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 under the licence.

Power to prohibit or restrict flying

- (a) **69.** (1) (a) Where the Governor deems it necessary in the public interest to restrict or prohibit flying by reason of—
 - (i) the intended gathering or movement of a large number of persons, or
 - (ii) the intended holding of an aircraft race or contest or of an exhibition of flying, or
 - (iii) national defence or any other reason affecting the public interest,the Governor may make regulations prohibiting, restricting or imposing conditions on flight—
 - (aa) by any aircraft, whether or not registered in Hong Kong, in any airspace over Hong Kong;
 - (bb) by aircraft registered in Hong Kong, in any other airspace, being airspace in respect of which the Government of Hong Kong has in pursuance of international arrangements undertaken to provide navigation services for aircraft.
- (b) Regulations made under this Article may apply either generally or in relation to any class of aircraft.

(2) If the commander of an aircraft becomes aware that the aircraft is flying in contravention of any regulations which have been made for any of the reasons referred to in paragraph (1)(a)(iii) of this Article he shall unless otherwise instructed pursuant to paragraph (3) of this Article cause the aircraft to leave the area to which the regulations relate by flying to the least possible extent over such area and the aircraft shall not begin to descend while over such an area.

(3) The commander of an aircraft flying either within an area for which regulations have been made for any of the reasons referred to in paragraph (1)(a)(iii) of this Article or within airspace notified as a Danger Area shall forthwith comply with instructions given by radio or by one of the prescribed visual signals by the appropriate air traffic control unit or by, or on behalf of, the person responsible for safety within the relevant airspace.

Balloons, kites, airships, gliders and parascending parachutes

- 70.**—(1) Within Hong Kong—

- (a) a captive balloon or kite shall not be flown at a height of more than 60 metres above the ground level or within 60 metres of any vessel, vehicle or structure;
 - (b) a captive balloon shall not be flown within five kilometres of an aerodrome;
 - (c) a balloon exceeding two metres in any linear dimension at any stage of its flight, including any basket or other equipment attached to the balloon, shall not be flown in controlled airspace;
 - (d) a kite shall not be flown within five kilometres of an aerodrome;
 - (e) an airship shall not be moored;
 - (f) a glider or parascending parachute shall not be launched by winch and cable or by ground or sea tow to a height of more than 60 metres above ground or sea level;
 - (g) a parascending parachute shall not be launched within five kilometres of an airfield;
- without the permission in writing of the Governor and in accordance with any conditions subject to which that permission may be granted.

(2) A captive balloon when not in flight shall be securely moored, shall not be left unattended and shall be fitted with a device which ensures its automatic deflation if it breaks free of its moorings.