

Chapter:	494	AVIATION SECURITY ORDINANCE	Gazette Number	Version Date
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		Long title		30/06/1997
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An Ordinance to make provisions for the prevention and suppression of acts of violence against civil air transport and for connected purposes.

(Enacted 1996)

[2 August 1996] L.N. 366 of 1996

(Originally 52 of 1996)

Section:	1	Short title		30/06/1997
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PART I

PRELIMINARIES

- (1) This Ordinance may be cited as the Aviation Security Ordinance.
- (2) (Omitted as spent)

(Enacted 1996)

Section:	2	Interpretation	L.N. 136 of 2005	10/11/2005
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(1) In this Ordinance, unless the context otherwise requires-
"act of violence" (暴力行為) means-

- (a) any act done in Hong Kong which constitutes the offence of murder, attempted murder, manslaughter, culpable homicide or assault, or an offence under section 17, 19, 20, 21, 22, 23, 28 or 29 of the Offences against the Person Ordinance (Cap 212) or under section 53 or 54 of the Crimes Ordinance (Cap 200); and
- (b) any act done outside Hong Kong which, if done in Hong Kong, would constitute an offence mentioned in paragraph (a);

"aerodrome" (機場) means any area of land or water in Hong Kong designed, equipped, set apart or commonly used for affording facilities for the landing and taking off of aircraft and area of land and water includes any area of space, whether on the ground, on the roof of a building or elsewhere, which is designed, equipped or set apart for affording facilities for the landing and taking off of aircraft capable of descending or climbing vertically;

"air navigation installation" (航空導航裝置) means any building, works, apparatus or equipment used wholly or mainly for the purpose of assisting air traffic control or as an aid to air navigation, together with any land adjacent to any such building, works, apparatus or equipment and used wholly or mainly for purposes connected therewith;

"aircraft" (飛機) means any aircraft other than an aircraft in military, customs or police service;

"Airport Authority" (機場管理局) means the Airport Authority established by the Airport Authority Ordinance (Cap 483);

"article" (物品) includes any substance, whether in solid or liquid form or in the form of a gas or vapour;

"Authority" (監督) means the Aviation Security Authority appointed under section 22(1);

"authorized officer" (獲授權人員) means an authorized officer appointed under section 63;

"commander" (機長), in relation to an aircraft, means the member of the crew designated as commander of that aircraft by the operator of the aircraft, or, where no such person is designated, the person who is for the time being in charge of the piloting of the aircraft without being under the direction of any other pilot in the aircraft;

"Committee" (委員會) means the Aviation Security Committee established by section 26;

"country or territory to which the Tokyo Convention applies" (《東京公約》適用的國家或地區) means a country or territory in which the Convention on Offences and certain other Acts Committed on board Aircraft signed at

Tokyo on 14 September 1963 is for the time being in force and which is specified in Schedule 1;

"Director" (處長) means the Director-General of Civil Aviation; (Amended L.N. 326 of 2000)

"enforcement notice" (強制執行通知) means an enforcement notice served under section 46;

"explosive" (爆炸品) means any article-

- (a) manufactured for the purpose of producing a practical effect of explosion;
- (b) manufactured or adapted (whether in the form of a bomb, grenade or otherwise) so as to have the appearance of being an explosive, whether it is capable of producing a practical effect of explosion or not; or
- (c) marked or labelled so as to indicate that it is or contains an explosive;

"firearm" (火器) has the same meaning as in the Firearms and Ammunitions Ordinance (Cap 238);

"The Hague Convention" (《海牙公約》) means the Convention for the Suppression of Unlawful Seizure of Aircraft signed at The Hague on 16 December 1970;

"Hong Kong-controlled aircraft" (香港控制的飛機) means an aircraft-

- (a) which is for the time being registered in Hong Kong; or
- (b) which, being for the time being registered outside Hong Kong, is for the time being chartered by demise to a person who, or to persons each of whom-
 - (i) is a person qualified to be the owner of a legal or beneficial interest in an aircraft registered in Hong Kong; and
 - (ii) resides or has his principal place of business in Hong Kong; or
- (c) which is not for the time being registered in any place but in the case of which either the operator of the aircraft or each person entitled as owner to any legal or beneficial interest in it-
 - (i) is a person qualified to be the owner of a legal or beneficial interest in an aircraft registered in Hong Kong; and
 - (ii) resides or has his principal place of business in Hong Kong;

"Hong Kong permanent resident" (香港永久性居民) has the same meaning as in the Immigration Ordinance (Cap 115);

"immigration officer" (入境事務人員) means any member of the Immigration Service;

"manager" (經理), in relation to an aerodrome, means the person who is principally responsible for the management of the aerodrome;

"measures" (措施) includes the construction, execution, alteration, demolition or removal of buildings or other works and also includes the institution or modification, and the supervision and enforcement, of any practice or procedure;

"the Montreal Convention" (《蒙特利爾公約》) means the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation signed at Montreal on 23 December 1971;

"the Montreal Protocol" (《蒙特利爾議定書》) means the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation which supplements the Montreal Convention;

"non-Hong Kong-controlled aircraft" (非香港控制的飛機) means an aircraft other than a Hong Kong-controlled aircraft; (Added 14 of 2005 s. 2)

"operator" (營運者), in relation to an aircraft, means the person who for the time being has the management or control of the aircraft; (Amended 14 of 2005 s. 9)

"Programme" (計劃) means the Aviation Security Programme drawn up under section 27(1);

"qualification" (資格), in relation to a person, includes training and experience;

"relevant offence" (有關罪行) means an offence under section 8, 9, 11, 12 or 15;

"restricted area" (禁區) means a restricted area designated under section 35;

"restricted article" (違禁物品) means-

- (a) any explosive;
- (b) arms or ammunition within the meaning of the Firearms and Ammunition Ordinance (Cap 238) or any article having the appearance of such arms or ammunition;
- (c) any article having the appearance of being a firearm, whether capable of being discharged or not;
- (d) any article made or adapted for use for causing injury or incapacity to a person or intended by the

- person having it with him for such use, whether by himself or any other person;
- (e) any poisonous or noxious substance that may cause death or serious bodily harm;
- (f) any dangerous goods within the meaning of the Dangerous Goods (Consignment by Air) (Safety) Ordinance (Cap 384); or
- (g) any other thing that may cause serious damage to the structure of an aircraft or any part of it or substantial impairment to the functioning of any system or equipment of an aircraft;

"security direction" (保安指示) means a security direction issued under section 28(1);

"unlawfully" (非法)-

- (a) in relation to the commission of an act in Hong Kong, means so as (apart from this Ordinance) to constitute an offence under the law of Hong Kong; and
- (b) in relation to the commission of an act outside Hong Kong, means so that the commission of the act would (apart from this Ordinance) have been an offence under the law of Hong Kong if it had been committed in Hong Kong.

(Amended L.N. 204 of 1997)

(2) For the purposes of this Ordinance-

- (a) the period during which an aircraft is in flight shall be deemed to include-
 - (i) any period from the moment when all its external doors are closed following embarkation for a flight until the moment when any such door is opened for disembarkation after that flight;
 - (ii) if the aircraft makes a forced landing, any period after the landing until the time when competent authorities of the country or territory in which the forced landing takes place take over the responsibility for the aircraft and for the persons and property on board the aircraft (being if the forced landing takes place in Hong Kong, the time when a police officer arrives at the place of landing); and
 - (iii) any period when it is on the surface of the sea or land but not within the territorial limits of any country or territory;
- (b) an aircraft shall be taken to be in service during the whole of the period which begins with the pre-flight preparation of the aircraft for a flight and ends 24 hours after the aircraft lands having completed that flight, and also at any time (not falling within that period) while, in accordance with paragraph (a), the aircraft is in flight; and
- (c) any act done on board an aircraft while in flight over Hong Kong shall be treated as done in Hong Kong.

(3) For the purposes of this Ordinance-

- (a) in the case of an air navigation installation provided by, or used wholly or mainly by the Civil Aviation Department, the Director; and
- (b) in the case of any other air navigation installation, the manager of an aerodrome by whom it is provided, or by whom it is wholly or mainly used,

shall be taken to be the authority responsible for that air navigation installation.

(4) In any proceedings, a certificate purporting to be signed by the Secretary of State that an aircraft is or is not a military aircraft for the purposes of this Ordinance shall be conclusive evidence of that fact.

(5) References in this Ordinance to any country or territory or the territorial limits of any country or territory shall be construed as including a reference to the waters, if any, under the jurisdiction of that country or territory, as the case may be.

(6) If the Authority by order published in the Gazette declares-

- (a) that any 2 or more countries or territories specified in the order have established an organization or agency which operates aircraft; and
- (b) that one of those countries or territories has been designated as exercising for aircraft so operated, the powers of the country or territory of registration,

the state declared to have been so designated shall be deemed for the purpose of this Ordinance to be the country or territory in which any aircraft so operated is registered.

(Enacted 1996)

Section:	3	Application of criminal law to aircraft	L.N. 362 of 1997	01/07/1997
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PART II

OFFENCES ON BOARD AIRCRAFT

(1) Any act or omission taking place on board a Hong Kong-controlled aircraft while in flight elsewhere than in or over Hong Kong which, if taking place in Hong Kong, would constitute an offence under the law of Hong Kong shall constitute that offence.

(2) Subsection (1) shall not apply to any act or omission which is expressly or impliedly authorized by or under the law of Hong Kong when taking place outside Hong Kong.

(3) No proceedings for any offence under the law of Hong Kong committed on board an aircraft while in flight elsewhere than in or over Hong Kong shall be instituted except by or with the consent of the Secretary for Justice, but this subsection shall not prevent the arrest, or the issue of a warrant for the arrest, of any person in respect of any offence, or the remanding in custody or on bail of any person charged with any offence. (Amended L.N. 362 of 1997) (Enacted 1996) [cf. 1967 c. 52 s. 1 U.K.]

Section:	4	Powers of commander of aircraft	L.N. 362 of 1997	01/07/1997
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(1) The provisions of subsections (2) to (5) have effect for the purposes of any proceedings before any court in Hong Kong.

(2) If the commander of an aircraft in flight, wherever the aircraft may be, has reasonable grounds to believe that a person on board the aircraft-

- (a) has done or is about to do any act on the aircraft while it is in flight which jeopardises or may jeopardise-
 - (i) the safety of the aircraft or of persons or property on board the aircraft; or
 - (ii) good order and discipline on board the aircraft; or
- (b) has done on the aircraft while in flight any act which in the opinion of the commander is a serious offence under any law in force in the country or territory in which the aircraft is registered, not being a law of a political nature or based on any form of discrimination as to race, colour, sex, language, religion, political or other opinion or national or social origin,

then, subject to subsection (4), the commander may take with respect to that person such reasonable measures, including restraint of his person, as may be necessary-

- (i) to protect the safety of the aircraft or of persons or property on board the aircraft;
- (ii) to maintain good order and discipline on board the aircraft; or
- (iii) to enable the commander to disembark or deliver that person in accordance with subsection (5),

and for the purposes of paragraph (b) any Hong Kong-controlled aircraft shall be deemed to be registered in Hong Kong whether or not it is in fact so registered.

(3) Any member of the crew of an aircraft and any other person on board the aircraft may, at the request or with the authority of the commander of the aircraft, and any such member shall if so required by that commander, render assistance in restraining any person whom the commander is entitled under subsection (2) to restrain; and at any time when the aircraft is in flight any such member or other person may, without obtaining the authority of the commander, take with respect to any person on board the aircraft any measures such as are mentioned in that subsection which he has reasonable grounds to believe are immediately necessary to protect the safety of the aircraft or of persons or property on board the aircraft.

(4) Any restraint imposed on any person on board an aircraft under the powers conferred by this section-

- (a) shall not be continued after the time when the aircraft first thereafter ceases to be in flight unless before or as soon as is reasonably practicable after that time the commander of the aircraft causes notification of the fact that a person on board the aircraft is under restraint and of the reasons therefor to be sent to a competent authority of the place in which the aircraft so ceases to be in flight having functions corresponding to those of the Hong Kong Police Force; but (Amended L.N. 362 of 1997)
- (b) may, subject to such notification, be continued after that time-
 - (i) for any period (including the period of any further flight) between that time and the first occasion thereafter on which the commander is able with any requisite consent of the competent authorities to disembark or deliver the person under restraint in accordance with subsection (5); or
 - (ii) if the person under restraint agrees to continue his journey under restraint on board that aircraft.

(5) The commander of an aircraft-

- (a) if in the case of any person on board the aircraft he has reasonable grounds-
 - (i) to believe as mentioned in subsection (2)(a); and
 - (ii) to believe that it is necessary so to do in order to protect the safety of the aircraft or of persons or property on board the aircraft or to maintain good order and discipline on board the aircraft, may disembark that person in any place in which that aircraft may be; and
 - (b) if in the case of any person on board the aircraft he has reasonable grounds to believe as mentioned in subsection (2)(b), may deliver that person-
 - (i) in Hong Kong, to a police officer; or
 - (ii) in any other country or territory to which the Tokyo Convention applies to a public officer having functions corresponding to those of a police officer or an immigration officer.
- (6) The commander of an aircraft-
- (a) if he disembarks any person in pursuance of subsection (5)(a), in the case of a Hong Kong-controlled aircraft, in any place or, in the case of any other aircraft, in Hong Kong, shall report the fact of, and the reasons for, that disembarkation to-
 - (i) a competent authority in the place of disembarkation; and
 - (ii) the appropriate diplomatic or consular office of the country of nationality of that person;
 - (b) if he intends to deliver any person in accordance with subsection (5)(b) in Hong Kong or, in the case of a Hong Kong-controlled aircraft, in any other country or territory to which the Tokyo Convention applies, shall before or as soon as reasonably practicable after landing give notification of his intention and of the reasons therefor-
 - (i) where the place in question is Hong Kong, to a police officer or immigration officer or, in the case of any other country or territory to which the Tokyo Convention applies, to a public officer having functions corresponding to those of a police officer or an immigration officer; and
 - (ii) in either case to the appropriate diplomatic or consular office of the country of nationality of that person,

and any commander of an aircraft who without reasonable excuse fails to comply with the requirements of this subsection commits an offence and is liable on summary conviction to a fine at level 2.

(Enacted 1996) [cf. 1967 c. 52 s. 3 U.K.]

Section:	5	Piracy		30/06/1997
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For the avoidance of doubt, it is hereby declared that for the purposes of any proceedings before a court in Hong Kong in respect of piracy, the provisions set out in Schedule 2 shall be treated as constituting part of the law of nations and any court in Hong Kong having jurisdiction in respect of piracy committed on the high seas shall have jurisdiction in respect of piracy committed by or against an aircraft wherever that piracy is committed.

(Enacted 1996) [cf. 1967 c. 52 s. 4 U.K.]

Section:	6	Provisions as to evidence in connection with aircraft		30/06/1997
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(1) Where in any proceedings before a court in Hong Kong for an offence committed on board an aircraft the testimony of any person is required and the court is satisfied that the person cannot be found in Hong Kong, there shall be admissible in evidence before that court any deposition relating to the subject matter of those proceedings previously made on oath by that person outside Hong Kong which was so made-

- (a) in the presence of the person charged with the offence; and
- (b) before a judge or magistrate of a country or a consular officer of the country of nationality of the deponent.

(2) Any such deposition shall be authenticated by the signature of the judge, magistrate or consular officer before whom it was made who shall certify that the person charged with the offence was present at the taking of the deposition.

(3) It shall not be necessary in any proceedings to prove the signature or official character of the person appearing so to have authenticated any such deposition or to have given such a certificate, and such a certificate shall, unless the contrary is shown, be sufficient evidence in any proceedings that the person charged with the offence was present at the making of the deposition.

(4) In this section-

"deposition" (供詞) includes any affidavit, affirmation, declaration or statement made upon oath;
 "oath" (宣誓) includes an affirmation or declaration in the case of persons allowed by law to affirm or declare instead of swearing.

(5) Nothing in this section shall prejudice the admission as evidence of any deposition which is admissible in evidence apart from this section.

(Enacted 1996) [cf. 1967 c. 52 s. 5 U.K.]

Section:	7	Provisions as to documentary evidence	71 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 71 of 1999 s. 3

(1) In any proceedings a document purporting to be certified by such authority or person as may be designated for the purpose of this subsection by the Chief Executive in Council by regulation made under section 53(1) as being, or being a true copy of, or of part of, a document or record so designated shall be evidence of the matters appearing from that document.

(2) In any proceedings under this Ordinance any record made by such authority or person as may be designated for the purpose of this subsection by the Chief Executive in Council by regulation made under section 53(1), or by a person under the control of such authority or person, being a record purporting to show-

- (a) the position of any aircraft at any material time; or
- (b) the terms or content of any message or signal transmitted to any aircraft, either alone or in common with other aircraft, or received from any aircraft, by the first-mentioned authority or person, or by a person acting under the control of that authority or person,

shall, if produced from the custody of that authority or person, be evidence of the matters appearing from the record.

(Amended 71 of 1999 s. 3)

(Enacted 1996) [cf. 1967 c. 52 s. 6 U.K.]

Section:	8	Hijacking	71 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 71 of 1999 s. 3

PART III

OFFENCES AGAINST THE SAFETY OF AIRCRAFT ETC.

(1) Subject to subsection (2), a person on board an aircraft in flight who unlawfully, by the use of force or by threats of any kind, seizes the aircraft or exercises control of it, commits the offence of hijacking, whatever the country or territory in which the aircraft is registered and whether the aircraft is in Hong Kong or elsewhere.

(2) If both the place of take-off and the place of landing are within the territorial limit of the country or territory in which the aircraft is registered, subsection (1) shall not apply unless-

- (a) the person seizing or exercising control of the aircraft is a Hong Kong permanent resident;
- (b) his act is committed in Hong Kong; or
- (c) the aircraft is registered in Hong Kong.

(3) A person who commits the offence of hijacking is liable on conviction on indictment to imprisonment for life.

(4) If the Chief Executive in Council by order declares- (Amended 71 of 1999 s. 3)

- (a) that any 2 or more countries or territories named in the order have established an organization or agency which operates aircraft; and
- (b) that one of those countries or territories has been designated as exercising, for aircraft so operated, the powers of the country or territory of registration,

the country or territory declared under paragraph (b) shall be deemed for the purposes of this section to be the country or territory in which any aircraft so operated is registered; but in relation to such an aircraft subsection (2) shall have effect as if it referred to the territorial limit of any one of the countries or territories named in the order.

(Enacted 1996) [cf. 1971 c. 70 s. 1 U.K.]

Section:	9	Destroying, damaging or endangering safety of aircraft	30/06/1997
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- (1) Any person who unlawfully and intentionally-
- (a) destroys an aircraft in service or so damages such an aircraft as to render it incapable of flight or as to be likely to endanger its safety in flight; or
 - (b) commits on board an aircraft in flight any act of violence which is likely to endanger the safety of the aircraft,
- commits an offence.
- (2) Any person who unlawfully and intentionally places, or causes to be placed, on an aircraft in service any article, device or substance which is-
- (a) likely to destroy the aircraft; or
 - (b) likely so to damage it as to render it incapable of flight or as to be likely to endanger its safety in flight,
- commits an offence.
- (3) Nothing in subsection (2) shall be construed as limiting the circumstances in which the commission of any act-
- (a) may constitute an offence under subsection (1); or
 - (b) may constitute attempting or conspiring to commit, or aiding, abetting, counselling or procuring the commission of such an offence.
- (4) Subsections (1) and (2) apply whether any act mentioned in those subsections is committed in Hong Kong or elsewhere and whatever the country or territory in which the aircraft is registered.
- (5) A person who commits an offence under subsection (1) or (2) is liable on conviction on indictment to imprisonment for life.

(Enacted 1996) [cf. 1973 c. 47 s. 1 U.K.]

Section:	10	Offences in relation to certain dangerous articles	30/06/1997
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- (1) Any person who, without lawful authority or excuse, has with him-
- (a) on any aircraft registered in Hong Kong;
 - (b) on any other aircraft at a time when it is in, or in flight over, Hong Kong;
 - (c) in any part of an aerodrome; or
 - (d) in any air navigation installation in Hong Kong which does not form part of an aerodrome,
- any restricted article commits an offence.
- (2) For the purposes of this section a person who is for the time being in an aircraft, or in part of an aerodrome, shall be treated as having with him in the aircraft, or in that part of the aerodrome, as the case may be, a restricted article if-
- (a) where he is on an aircraft, the article is in the aircraft and has been-
 - (i) caused (whether by him or by any other person) to be brought there as being, or as forming part of, his baggage on a flight on the aircraft; or
 - (ii) caused by him to be brought there as being, or as forming part of, any other property to be carried on such a flight; or
 - (b) where he is in part of an aerodrome (otherwise than in an aircraft), the article, or an article in which it is contained, is in that or any other part of the aerodrome and has been-
 - (i) caused (whether by him or by any other person) to be brought into the aerodrome as being, or as forming part of, his baggage on a flight from that aerodrome; or
 - (ii) caused by him to be brought there as being, or as forming part of, any other property to be carried on such a flight on which he is also to be carried,

notwithstanding that the circumstances may be such that (apart from this subsection) he would not be regarded as having the article with him in the aircraft or in a part of the aerodrome, as the case may be.
- (3) Nothing in subsection (2) shall be construed as limiting the circumstances in which a person would, apart from that subsection, be regarded as having an article with him as mentioned in subsection (1).
- (4) A person guilty of an offence under subsection (1) is liable-
- (a) on summary conviction, to a fine at level 3 and to imprisonment for 6 months;
 - (b) on conviction on indictment, to a fine at level 6 and to imprisonment for 5 years.

(Enacted 1996) [cf. 1973 c. 47 s. 16 U.K.]

Section:	11	Other acts endangering or likely to endanger safety of aircraft		30/06/1997
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(1) Subject to subsections (5) and (6), it is an offence for any person unlawfully and intentionally to destroy or damage any property to which this subsection applies, or to interfere with the operation of any such property, where the destruction, damage or interference is likely to endanger the safety of aircraft in flight.

(2) Subsection (1) applies to any property used for the provision of air navigation facilities, including-

(a) any land, building or ship so used; and

(b) any apparatus or equipment so used, whether it is on board an aircraft or elsewhere.

(3) Subject to subsections (4) and (5), it is an offence for any person to intentionally to communicate any information which is false, misleading or deceptive in a material particular, if the communication of the information endangers the safety of an aircraft in flight or is likely to endanger the safety of aircraft in flight.

(4) It is a defence for a person charged with an offence under subsection (3) to prove-

(a) that he believed, and had reasonable grounds for believing, that the information was true; or

(b) that, when he communicated the information, he was lawfully employed to perform duties which consisted of or included the communication of information and that he communicated the information in good faith in the performance of those duties.

(5) Subsections (1) and (3) do not apply to the commission of any act unless either the act is committed in Hong Kong, or, where it is committed outside Hong Kong-

(a) the person committing it is a Hong Kong permanent resident;

(b) the act endangers or is likely to endanger the safety in flight of a Hong Kong-controlled aircraft; or

(c) the act is committed on board an aircraft which lands in Hong Kong with the person who committed the act still on board.

(6) Subsection (1) also does not apply to any act committed outside Hong Kong in relation to property which-

(a) is situated outside Hong Kong; and

(b) is not used for the provision of air navigation facilities in connection with international air navigation, unless the person committing the act is a Hong Kong permanent resident.

(7) A person who commits an offence under subsection (1) or (3) is liable, on conviction on indictment, to imprisonment for life.

(Enacted 1996) [cf. 1973 c. 47 s. 2 U.K.]

Section:	12	Acts of violence committed during hijacking or attempted hijacking, etc.	L.N. 136 of 2005	10/11/2005
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(1) Without prejudice to section 3, 9(1)(b) or 12A, where a person does on board any aircraft (wherever registered) and while outside Hong Kong any act which if done in Hong Kong would constitute the offence of murder, attempted murder, manslaughter, culpable homicide or assault or an offence under section 17, 19, 20, 21, 22, 23, 28 or 29 of the Offences against the Person Ordinance (Cap 212) or under section 53 or 54 of the Crimes Ordinance (Cap 200), the act shall constitute that offence if it is done in connection with an offence of hijacking committed or attempted by that person on board that aircraft. (Amended 14 of 2005 s. 3)

(2) It is an offence for any person in Hong Kong to induce or assist in the commission outside Hong Kong of any act which-

(a) would, but for subsection (2) of section 8, be an offence under that section; or

(b) would, but for subsection (5) or (6) of section 11, be an offence under that section.

(3) A person who commits an offence under subsection (2) is liable, on conviction on indictment, to imprisonment for life.

(4) Subsection (2) has effect without prejudice to the operation, in relation to any offence under section 8 or 11, of any law relating to accessories.

(Enacted 1996)

[cf. 1971 c. 70 s. 2 U.K.]

Section:	12A	Acts of violence, threats, destruction of property, etc., in general	L.N. 136 of 2005	10/11/2005
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(1) Without prejudice to section 3, 9(1)(b) or 12 but subject to section 12C, where a person does on board any

aircraft (wherever registered) and while outside Hong Kong any act which if done in Hong Kong would constitute an offence under section 17(a), 19, 39 or 40 of the Offences against the Person Ordinance (Cap 212) or section 24, 60, 118, 118A, 122, 146 or 148 of the Crimes Ordinance (Cap 200), the act shall constitute that offence.

(2) For the avoidance of doubt, the references to “public place” and “the public” in section 148(1) of the Crimes Ordinance (Cap 200) shall, for the purposes of subsection (1), be deemed to include an aircraft and the passengers and crew of an aircraft, respectively.

(Added 14 of 2005 s. 4)

Section:	12B	Offences in relation to unruly behaviour, etc.	L.N. 136 of 2005	10/11/2005
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(1) Any person on board an aircraft who wilfully obstructs a member of the crew of the aircraft in the performance of his duties commits an offence.

(2) Any person on board an aircraft who, without reasonable excuse, fails to comply with any instruction given to the person by the commander of the aircraft, or on behalf of the commander by a member of the crew, for the purpose of—

- (a) protecting the safety of the aircraft or of persons or property on board the aircraft; or
- (b) maintaining good order and discipline on board the aircraft,

commits an offence.

(3) Any person on board an aircraft who behaves in a disorderly manner whereby the good order or discipline on board the aircraft is or is likely to be jeopardised commits an offence.

(4) Any person on board an aircraft who wilfully tampers or interferes with—

- (a) any component of the aircraft;
- (b) any apparatus or equipment of the aircraft (including, but not limited to, smoke detectors); or
- (c) any system installed in the aircraft,

commits an offence.

(5) Any person who, without reasonable excuse, embarks on an aircraft in such a state of intoxication, or becomes intoxicated on board an aircraft to such an extent, as to jeopardise or be likely to jeopardise—

- (a) the safety of the aircraft or of persons or property on board the aircraft; or
- (b) good order and discipline on board the aircraft,

commits an offence.

(6) Any person on board an aircraft who smokes in the aircraft or in any compartment of the aircraft—

- (a) when smoking in the aircraft, or in that compartment of the aircraft, as the case may be, is prohibited; or
- (b) when instructed not to smoke by a member of the crew of the aircraft,

commits an offence.

(7) Any person on board an aircraft who operates an electronic device in the aircraft or in any compartment of the aircraft—

- (a) when operating such a device in the aircraft, or in that compartment of the aircraft, as the case may be, is prohibited; or
- (b) when instructed not to operate the device by a member of the crew of the aircraft,

commits an offence.

(8) Subject to section 12C, subsections (1), (2), (3), (4), (5), (6) and (7) apply whether any act mentioned in those subsections is committed in Hong Kong or elsewhere and whatever the country or territory in which the aircraft is registered.

(9) A person who commits an offence under subsection (1) or (2) is liable—

- (a) on summary conviction, to a fine at level 4 and to imprisonment for 1 year;
- (b) on conviction on indictment, to a fine at level 6 and to imprisonment for 5 years.

(10) A person who commits an offence under subsection (3), (4), (5), (6) or (7) is liable—

- (a) on summary conviction, to a fine at level 3 and to imprisonment for 6 months;
- (b) on conviction on indictment, to a fine at level 5 and to imprisonment for 2 years.

(11) For the purposes of subsection (6) but without limiting the generality of that subsection, smoking in an aircraft or in a compartment of an aircraft shall be treated as prohibited if passenger information signs on board the aircraft indicate that smoking in the aircraft or in that compartment of the aircraft, as the case may be, is prohibited.

(12) For the purposes of subsection (7) but without limiting the generality of that subsection, operating an

electronic device in an aircraft or in a compartment of an aircraft shall be treated as prohibited if passenger information signs on board the aircraft indicate that the operation of such a device in the aircraft or in that compartment of the aircraft, as the case may be, is prohibited.

(13) In subsection (5), “state of intoxication” (神智不清的狀態) and “intoxicated” (神智不清) mean being under the influence of alcohol, drugs or other intoxicating substances.

(Added 14 of 2005 s. 4)

Section:	12C	Request and undertaking	L.N. 136 of 2005	10/11/2005
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(1) Sections 12A and 12B do not apply to an act committed by any person on board a non-Hong Kong-controlled aircraft while in flight elsewhere than in or over Hong Kong unless—

- (a) the next place of landing of the aircraft is in Hong Kong; and
- (b) the commander of the aircraft, in the form set out in Schedule 3—
 - (i) makes a request to the Hong Kong Police Force to commence proceedings against the person; and
 - (ii) gives an undertaking that he, and the operator of the aircraft, has not made and will not make a similar request to the authorities of any place outside Hong Kong.

(2) A request and undertaking by a commander of an aircraft in the form set out in Schedule 3 shall—

- (a) be admissible in evidence in any proceedings before a court in Hong Kong; and
- (b) in the absence of evidence to the contrary, be sufficient evidence of the matters stated in the form.

(3) For the avoidance of doubt, a person in respect of whom a request is made in the form set out in Schedule 3 may be charged with or convicted of any offence under the law of Hong Kong for which he may be liable, notwithstanding that the offence is not stated in that form to have been suspected to have been committed.

(Added 14 of 2005 s. 4)

Section:	13	Powers exercisable on suspicion of intended offences	L.N. 136 of 2005	10/11/2005
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(1) Where an employee of an operator of an aircraft, a person authorized in that behalf by such operator, the manager of an aerodrome, a person authorized in that behalf by such manager, a police officer or any other public officer has reasonable grounds to suspect that a person about to embark on an aircraft in Hong Kong or a person on board such an aircraft intends to commit, in relation to the aircraft, an offence under section 8, 9, 11, 12, 12A or 12B, the employee, manager, person or officer may prohibit such person from travelling on board the aircraft, and for the purpose of enforcing that prohibition the employee or officer- (Amended 14 of 2005 s. 5)

- (a) may prevent the person from boarding the aircraft or, as the case may be, remove the person from the aircraft; and
- (b) may arrest the person without warrant and-
 - (i) detain the person for so long as may be necessary for that purpose; or
 - (ii) (if the person making the arrest is not himself a police officer) shall deliver the person so arrested to a police officer as soon as reasonably practicable.

(2) A person who wilfully obstructs any person acting in the exercise of a power conferred by subsection (1) commits an offence and is liable-

- (a) on summary conviction, to a fine at level 2;
- (b) on conviction on indictment, to a fine at level 4 and to imprisonment for 2 years.

(3) Subsection (1) has effect without prejudice to the operation in relation to any offence under this Ordinance of any law relating to the power to arrest without warrant.

(Enacted 1996)
[cf. 1973 c. 47 s. 19 U.K.]

Section:	14	Prosecution of offences	L.N. 362 of 1997	01/07/1997
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Proceedings for a relevant offence shall not be instituted except by or with the consent of the Secretary for Justice.

(Enacted 1996. Amended L.N. 362 of 1997)

Section:	15	Endangering safety at aerodromes	30/06/1997
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PART IV

UNLAWFUL ACTS AGAINST SAFETY AT AERODROMES

(1) It is an offence for any person to commit, whether by means of any device, substance or weapon or otherwise, wilfully in an aerodrome serving international civil aviation any act of violence which-

- (a) causes or is likely to cause death or serious personal injury; and
- (b) endangers or is likely to endanger the safe operation of the aerodrome or the safety of persons in the aerodrome.

(2) It is an offence for any person by means of any device, substance, weapon or otherwise unlawfully and wilfully-

- (a) to destroy or seriously to damage-
 - (i) property used for the provision of any facilities in an aerodrome serving international civil aviation (including any apparatus or equipment so used); or
 - (ii) any aircraft which is in such an aerodrome but is not in service; or
- (b) to disrupt the services of such an aerodrome,

in such a way as to endanger or be likely to endanger the safe operation of the aerodrome or the safety of persons in the aerodrome.

(3) Subsections (1) and (2) apply whether any such act as is referred to in those subsections is committed in Hong Kong or elsewhere.

(4) A person who commits an offence under this section is liable on conviction on indictment to imprisonment for life.

(5) In this section "aerodrome" (機場) includes any area of land or water outside Hong Kong which would have fallen within the definition of "aerodrome" in section 2(1) if it was in Hong Kong.

(Enacted 1996)

Section:	16	False statements relating to baggage, cargo etc.	30/06/1997
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- (1) Any person who, in answer to a question which-
- (a) relates to any baggage, cargo or stores (whether belonging to him or to another) that is or are intended for carriage by an aircraft registered or operating in Hong Kong; and
 - (b) is put to him for the purposes to which Part VIII applies-
 - (i) by any of the persons to whom subsection (2) applies;
 - (ii) by any employee or agent of such a person in his capacity as employee or agent; or
 - (iii) by a police officer,

makes a statement which he knows to be false or misleading in a material particular, or recklessly makes a statement which is false or misleading in a material particular commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 6 months.

- (2) This subsection applies to-
- (a) the manager of an aerodrome;
 - (b) the operator of an aircraft registered or operating in Hong Kong; or
 - (c) any person who-
 - (i) is permitted to have access to a restricted area in an aerodrome for the purposes of the business carried on by him; or
 - (ii) has control in that restricted area over the baggage, cargo or stores to which the question relates.

(3) In this section-

"cargo" (貨物) includes mail;

"stores" (物料) means goods intended for sale or use in the restricted zone, including spare parts and other articles of equipment, whether or not for immediate fitting.

(Enacted 1996)

Section:	17	Unauthorized presence on board aircraft		30/06/1997
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- (1) A person shall not-
- (a) get onto an aircraft in an aerodrome except with the permission of the operator of the aircraft or a person acting on his behalf; or
 - (b) remain on such an aircraft after being requested to leave by the operator of the aircraft or a person acting on his behalf.

(2) A person who contravenes subsection (1) without reasonable excuse commits an offence and is liable on conviction to a fine at level 3.

(Enacted 1996)

Section:	18	(Repealed L.N. 204 of 1997)		30/06/1997
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PART V

EXTRADITION AND EXTRATERRITORIALITY

Section:	19	(Repealed L.N. 204 of 1997)		30/06/1997
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Section:	20	(Repealed L.N. 204 of 1997)		30/06/1997
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Section:	21	Extraterritorial application of sections 8, 9, 11, 12, 12A, 12B and 15	L.N. 136 of 2005	10/11/2005
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Where an act constitutes an offence by virtue of section 8, 9, 11, 12, 12A, 12B or 15 and proceedings are taken for the offence and the court in which the proceedings are brought has not, apart from this section, jurisdiction to hear and determine the proceedings, then for the purpose of conferring such jurisdiction the act shall be treated as having occurred in Hong Kong.

(Enacted 1996. Amended 14 of 2005 s. 6)

Section:	22	Aviation Security Authority	71 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 71 of 1999 s. 3

PART VI

AVIATION SECURITY AUTHORITY AND AVIATION SECURITY COMMITTEE

(1) The Chief Executive shall appoint a public officer to be the Aviation Security Authority for the purposes of this Ordinance. (Amended 71 of 1999 s. 3)

(2) Any appointment made under subsection (1) shall be published in the Gazette.

(Enacted 1996)

Section:	23	Functions of the Authority		30/06/1997
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(1) The function of the Authority is to develop, maintain and implement the Programme.

(2) Without prejudice to the generality of subsection (1), the Authority shall-

- (a) supervise compliance with the provisions of this Part; and
- (b) advise persons affected by the implementation of the Programme.

(Enacted 1996)

Section:	24	Chief Executive may give directions	71 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 71 of 1999 s. 3

(1) The Chief Executive may give directions in writing either generally or in a particular case in relation to the exercise of any of the powers or performance of any of the functions conferred or imposed on the Authority under this Ordinance. (Amended 71 of 1999 s. 3)

(2) The Authority shall comply with any direction given under subsection (1).

(Enacted 1996)

Section:	25	Delegation by the Authority		30/06/1997
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(1) Subject to subsections (2) and (3), the Authority may, in writing, delegate to any public officer, either generally or for any particular purpose and either by name or by reference to an office or post, such of his powers and functions under this Ordinance as he thinks fit.

(2) No delegation made under subsection (1) shall preclude the Authority from exercising or performing at any time of the powers or functions so delegated.

(3) The Authority shall not delegate any power conferred on him by sections 53(2) and 54.

(Enacted 1996)

Section:	26	Aviation Security Committee	71 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 71 of 1999 s. 3

(1) There is hereby established a committee by the name of the Aviation Security Committee.

(2) The functions of the Committee are-

(a) to advise the Authority upon-

- (i) any matter relevant to the development, maintenance and implementation of the Programme; and
- (ii) such other matters relating to aviation security as the Chief Executive or the Authority may refer to the Committee;

(b) such other functions related to aviation security as the Chief Executive may from time to time direct. (Amended 71 of 1999 s. 3)

(3) The Committee shall consist of-

- (a) the Authority or a representative nominated by him, who shall be the Chairman ("Chairman");
- (b) the Director or a representative nominated by him;
- (c) the Commissioner of Police or a representative nominated by him;
- (d) such number of public officers as the Authority thinks fit appointed by the Authority; and
- (e) such number of other persons, not being public officers, as the Authority thinks fit appointed by the Authority.

(4) Appointment under subsection (3)(d) may be made by reference to an office or post and where such an appointment is made, the individual who is for the time being occupying the office or post or who is discharging the functions of that office or post shall be the member so appointed.

(5) The members appointed under subsection (3)(d) and (e) shall hold office for such period and upon such terms as the Authority may specify in their respective appointments.

(6) A member of the Committee appointed under subsection (3)(e) may resign at any time by notice in writing delivered to the Authority.

(7) The Committee shall meet as often as the Chairman may determine to be necessary for the consideration of any matters referred to in subsection (2).

(8) The procedure of the Committee shall be determined by the Committee.

(9) The Committee may-

- (a) establish such sub-committees as the Committee sees fit to assist the Committee in the discharge of its functions;

- (b) appoint such persons as the Committee sees fit as members of any such sub-committee; and
- (c) consult with such other persons as the Committee sees fit.

(Enacted 1996)

Section:	27	Aviation security Programme	30/06/1997
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PART VII

AVIATION SECURITY PROGRAMME AND THE AUTHORITY'S POWER TO GIVE DIRECTION

(1) The Authority shall, with the advice of the Committee, draw up an Aviation Security Programme to provide for the protection and safeguarding of aircraft including passengers and crew operating in and through Hong Kong, of the facilities of aerodromes serving international civil aviation and of the ground personnel and the general public within such aerodromes against interferences which constitute an offence under this Ordinance or any other law.

(2) The Programme may include a security programme which-

(a) applies to a particular aerodrome;

(b) applies to-

(i) an operator of an aircraft registered or operating in Hong Kong;

(ii) a person who occupies any land forming part of an aerodrome; or

(iii) a person who carries on a business-

(A) which involves handling of any article intended to be carried into an aerodrome for any purpose;

(B) which involves provision of service by personnel who have access to a restricted area;

(C) which, in the opinion of the Authority, otherwise impinges on the security of an aerodrome.

(3) The Authority may by notice in writing require-

(a) the manager of an aerodrome to submit a security programme which applies to the aerodrome;

(b) a person referred to in subsection (2) to submit a security programme which applies in relation to him, in accordance with the requirement in the notice.

(4) Where a notice is served under subsection (3) on a person, he shall submit the relevant security programme within such period as may be specified in the notice.

(5) Where a security programme is submitted by a person under subsection (4), the Authority may by notice in writing require the person to amend the security programme in such manner as the Authority may specify in that notice.

(6) Where a notice is served under subsection (5) on a person, he shall amend the relevant security programme in such manner and within such period as may be specified in the notice.

(7) The period specified in-

(a) a notice served under subsection (3) shall not be less than 42 days after the day on which the notice is served;

(b) a notice served under subsection (5) shall not be less than 21 days after the day on which the notice is served.

(8) The person-

(a) who submits a security programme under subsection (4); or

(b) who amends a security programme under subsection (6),

shall bear the costs of the preparation or amendment, as the case may be, of the security programme.

(9) Any person who without reasonable excuse contravenes subsection (4) or (6) commits an offence and is liable to a fine at level 6.

(10) The Authority may, with the advice of the Committee, amend the Programme.

(Enacted 1996)

Section:	28	Security direction	30/06/1997
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(1) The Authority may, for the purpose of implementation of the Programme, issue a security direction to any person to whom subsection (3) applies requiring him to take such measures as are specified in the direction.

(2) Where the Authority intends to issue a security direction, he may seek the Committee's advice on the

proposed direction before issuing it.

- (3) This subsection applies to-
 - (a) the Airport Authority;
 - (b) the manager of an aerodrome other than an aerodrome which is principally used by aircraft in military service;
 - (c) any operator of an aircraft registered or operating in Hong Kong;
 - (d) any person who occupies any land forming part of an aerodrome;
 - (e) any person who is permitted to have access to a restricted area in an aerodrome for the purposes of the activities of a business carried on by him;
 - (f) any person who manages navigational or other aviation related facilities that are important to the continued operation of international civil aviation;
 - (g) any person who carries on a business-
 - (i) which involves handling of any article intended to be carried into an aerodrome for any purpose;
 - (ii) which involves provision of service by personnels who have access to a restricted area;
 - (iii) which, in the opinion of the Authority, otherwise impinges on the security of an aerodrome.
- (4) The Authority may, by a security direction-
 - (a) revoke wholly or partly another security direction issued previously;
 - (b) modify another security direction issued previously in such manner as he thinks fit.
- (5) Any person who without reasonable excuse fails to comply with the requirements of a security direction issued to him commits an offence and is liable-
 - (a) on summary conviction, to a fine at level 3;
 - (b) on conviction on indictment, to a fine of \$500000 and to imprisonment for 2 years.
- (6) Where a person is convicted of an offence under subsection (5)(a), then, if without reasonable excuse the failure in respect of which he was convicted is continued after the conviction, he shall be guilty of a further offence and liable on conviction to a fine not exceeding \$1000 for each day on which such further offence continues.

(Enacted 1996)

Section:	29	Provisions relating to security direction	30/06/1997
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- (1) A security direction shall be issued in writing.
- (2) A security direction may-
 - (a) be either of a general or of a specific character;
 - (b) require any measure to be taken, or require any person not to cause or permit anything to be done, at such time and during such period as may be specified in the direction;
 - (c) require different measures be taken in relation to different kinds or level of threat specified in the direction;
 - (d) specify-
 - (i) the minimum number of persons to be employed for the purposes of implementing any measures required to be taken by the person to whom it is issued;
 - (ii) the manner in which persons employed for such purposes are to be deployed; and
 - (iii) the qualifications which persons employed for such purposes are to have;
 - (e) specify any apparatus, equipment or other aids to be used for such purposes.
- (3) A security direction to any person not to cause or permit anything to be done shall be construed as requiring him to take all such steps as in any particular circumstances are practicable and necessary to prevent that thing from being done.
- (4) A security direction may be issued to a person appearing to the Authority to be about to become a person to whom section 28(3) applies, but a security direction issued to a person by virtue of this subsection shall not take effect until he becomes such a person, and, in relation to a security direction so issued, the preceding provisions of this section shall apply with the necessary modifications.

(Enacted 1996)

Section:	30	Authority may grant exception	30/06/1997
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- (1) If it appears to the Authority that an exception should be made to a security direction or any part or provision thereof as a matter of urgency in any particular case he may, by a notification given otherwise than in

writing to the person for the time being subject to the direction, authorize that person to disregard the requirements of the direction-

- (a) in relation to such-
 - (i) aircraft or class of aircraft;
 - (ii) aerodrome or part of an aerodrome;
 - (iii) land outside an aerodrome;
 - (iv) property;
 - (v) activity; or
 - (vi) person;
- (b) on such occasion; or
- (c) for such period,

as he may specify, and the security direction shall have effect in relation to such person in that case subject to any such exception.

(2) Any notification given to any person under subsection (1) with respect to any security direction shall cease to have effect-

- (a) if a security direction is subsequently issued under section 28(4) to that person revoking or modifying the original security direction, from the date on which the new security direction becomes effective; or
- (b) if no such new direction is issued within the period of 30 days after the day on which the notification is given, upon the expiry of that period.

(3) Any notification given to any person under subsection (1) shall be regarded to have been given if it is communicated by whatever means-

- (a) in the case of an individual, to that individual;
- (b) in the case of a body corporate, to any director or the chief executive officer or secretary or other similar officer of the body corporate;
- (c) in the case of a partnership, to any partner of the partnership in accordance with paragraph (a) or (b), as the case may be.

(Enacted 1996)

Section:	31	Objection to security direction		30/06/1997
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(1) A person to whom a security direction is issued may serve on the Authority a notice in writing objecting to the direction, on the grounds that the measures specified in the direction-

- (a) are unnecessary and should be dispensed with; or
- (b) are excessively onerous or inconvenient and should be modified.

(2) Where the person to whom a security direction is issued serves a notice under subsection (1) objecting to the direction, the Authority shall consider the grounds of the objection and, if so requested by the objector, shall afford to him a reasonable opportunity of appearing before and being heard by a public officer appointed by the Authority for this purpose, who shall then decide on the objection by-

- (a) confirming the direction as originally issued;
- (b) confirming the direction subject to one or more modifications specified in the notice served under subsection (3); or
- (c) withdrawing the direction.

(3) A decision under subsection (2) shall be notified to the objector by the Authority by a notice in writing.

(Enacted 1996)

Section:	32	Appeal	L.N. 362 of 1997	01/07/1997
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(1) A person who objects under section 31(1) and is aggrieved by a decision of the Authority made under section 31(2)(a) or (b) in respect of him may, within 28 days after the receipt of the notification of the decision, appeal to the Chief Secretary for Administration by lodging a notice of appeal with the Chief Secretary for Administration.

(2) On an appeal under subsection (1) against a decision of the Authority, the Chief Secretary for Administration may confirm, vary or revoke the decision.

(3) An appeal under subsection (1) shall not affect the operation of the security direction in respect of which the appeal is brought.

(Enacted 1996. Amended L.N. 362 of 1997)

Section:	33	Purposes to which this Part applies	30/06/1997
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PART VIII

POWERS OF THE AUTHORITY

The purposes to which this Part applies are the protection against acts of violence-

- (a) of aircraft, and of persons or property on board aircraft;
- (b) of aerodromes, and of such persons or property as (in the case of persons) are present in any part of an aerodrome or (in the case of property) forms part of an aerodrome or is in any part of an aerodrome; and
- (c) of air navigation installations which do not form part of an aerodrome.

(Enacted 1996)

Section:	34	Power for the Authority to require information	30/06/1997
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- (1) The Authority may, by notice in writing given to any person who-
 - (a) is the operator of one or more aircraft registered or operating in Hong Kong;
 - (b) is the manager of an aerodrome;
 - (c) occupies any land forming part of an aerodrome; or
 - (d) is permitted to have access to a restricted area in an aerodrome for the purposes of the business carried on by him,

require that person to provide the Authority with such information specified in the notice as the Authority may require in connection with the exercise by the Authority of his functions under this Part or any incident which impinges on aviation security.

(2) A notice under subsection (1) shall specify a date (not being earlier than 7 days after the day on which the notice is served) before which the information required by the notice in accordance with subsection (1) is to be furnished to the Authority.

(3) Any such notice may also require the person to whom it is given, after he has furnished to the Authority the information required by the notice in accordance with subsection (1), to inform the Authority if at any time the information previously furnished to the Authority (including any information furnished in pursuance of a requirement imposed by virtue of this subsection) is rendered inaccurate by any change of circumstances (including the taking of any further measures for purposes to which this Part applies or the alteration or discontinuance of any measures already being taken).

(4) In so far as such a notice requires further information to be furnished to the Authority in accordance with subsection (3), it shall require that information to be furnished to him before the end of such period not being less than 7 days after the day on which the change of circumstances occurs as is specified in the notice for the purposes of this subsection.

- (5) Any person who-
 - (a) without reasonable excuse, fails to comply with a requirement imposed on him by a notice under this section; or
 - (b) in furnishing any information so required, makes a statement which he knows to be false or misleading in a material particular, or recklessly makes a statement which is false or misleading in a material particular,

commits an offence and is liable-

- (i) on summary conviction, to a fine at level 3;
 - (ii) on conviction on indictment, to a fine at level 5 and to imprisonment for 2 years.
- (6) A notice given to a person under subsection (1) may at any time-
 - (a) be revoked by a notice in writing given to him by the Authority; or
 - (b) be varied by a further notice under subsection (1).

(Enacted 1996)

Section:	35	Designation of restricted area	30/06/1997
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- (1) The Authority may by notice in the Gazette designate-
 - (a) the whole or any part of any aerodrome; or
 - (b) any part of the sea adjacent to any aerodrome,
 to be a restricted area.
 - (2) Before designating a restricted area under subsection (1), the Authority shall consult-
 - (a) the manager of the relevant aerodrome; and
 - (b) (where the relevant aerodrome includes an air navigation installation) the authority responsible for the air navigation installation.
 - (3) The whole or any part of an aerodrome may be designated under subsection (1) as a restricted area for specified days or times of days only.
 - (4) A designation under subsection (1) shall not come into effect before the date on which the relevant notice is published in the Gazette.
 - (5) In relation to an air navigation installation in Hong Kong which does not form part of an aerodrome, this section has effect as if any reference to an aerodrome were a reference to such an air navigation installation and any reference to the manager of an aerodrome were a reference to the authority responsible for such an air navigation installation.
 - (6) Where the whole or any part of an aerodrome has been designated under this section as a restricted area-
 - (a) subsections (1) to (5) also have effect in relation to any variation of the designation; and
 - (b) the designation may be revoked by the Authority by notice in the Gazette.
- (Enacted 1996)

Section:	36	Exclusion from restricted area	30/06/1997
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- (1) The Authority may, for the purposes to which this Part applies, by order prohibit any person, aircraft, vehicle or vessel from entering or staying in such part of the restricted area or any land or water adjacent thereto as he may specify by reference to a map or otherwise.
 - (2) Subject to subsection (5), an order made under subsection (1) shall be published in the Gazette.
 - (3) Subject to subsection (5), an order made under subsection (1)-
 - (a) shall not be effective prior to its publication in the Gazette;
 - (b) may be effective for a definite or indefinite period.
 - (4) An order made under subsection (1) is not subsidiary legislation.
 - (5) Where in the opinion of the Authority-
 - (a) an emergency exists; and
 - (b) publication of an order under subsection (2) will occasion unreasonable delay,
 he may direct that an order shall become effective immediately or at such other time as he may specify notwithstanding that subsection (2) has not been complied with in relation to the order.
 - (6) Where a direction is given under subsection (5), the Authority shall publish the order in such manner as he thinks fit.
 - (7) Any person who, without reasonable excuse, enters or remains in the restricted area or any land or sea adjacent thereto in contravention of an order made under subsection (1) commits an offence and is liable to a fine at level 5 and to imprisonment for 1 year.
 - (8) Any authorized officer or police officer may remove, by force if necessary, any person, aircraft, vehicle or vessel found in the restricted area or any land or water adjacent thereto in contravention of an order made under subsection (1).
- (Enacted 1996)

Section:	37	Power to impose restrictions in relation to aircraft	30/06/1997
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- (1) For the purposes to which this Part applies the Authority may give a direction to the operator of an aircraft registered or operating in Hong Kong, or to the manager of any aerodrome, requiring him-
 - (a) not to cause or permit persons or property to go or be taken on board any aircraft to which the direction relates, or to come or be brought into proximity to any such aircraft, unless such searches of those persons or that property as are specified in the direction have been carried out; or

(b) not to cause or permit any such aircraft to fly unless such searches of the aircraft as are specified in the direction have been carried out.

(2) Subject to subsection (3), the Authority may give a direction in writing to the operator of an aircraft registered or operating in Hong Kong requiring him not to cause or permit the aircraft to fly unless such modifications or alterations of the aircraft, or of apparatus or equipment installed in the aircraft, as are specified in the direction have first been carried out, or such additional apparatus or equipment as is so specified is first installed in the aircraft.

(3) Before giving any direction under subsection (2), the Authority shall inform the Director of the modifications, alterations or additional apparatus or equipment proposed to be required, and shall take account of any advice given to him by the Director with respect to those proposals.

(4) In giving any direction under subsection (2), the Authority shall allow, and shall specify in the direction, such period as appears to him to be reasonably required for carrying out the modifications or alterations or installing the additional apparatus or equipment in question; and the direction shall not take effect before the end of the period so specified.

(5) Subject to the following provisions of this Part, a direction given to an operator of aircraft under subsection (1) may be given so as to relate-

- (a) either to all the aircraft registered or operating in Hong Kong of which at the time when the direction is given or at any subsequent time he is the operator or only to one or more such aircraft, or to a class of such aircraft, specified in the direction;
- (b) either to all persons or only to one or more persons, or persons of one or more descriptions, specified in the direction; and
- (c) either to property of every description or only to particular property, or property of one or more descriptions, specified in the direction,

and a direction given to an operator of aircraft under subsection (2) may be given so as to relate either to all the aircraft registered or operating in Hong Kong of which at the time when the direction is given or at any subsequent time he is the operator or only to one or more such aircraft, or to a class of such aircraft, specified in the direction.

(6) Subject to the following provisions of this Part, a direction given to the manager of an aerodrome under subsection (1) may be given so as to relate-

- (a) either to all aircraft which at the time when the direction is given or at any subsequent time are in any part of the aerodrome, or to a class of such aircraft specified in the direction;
- (b) either to all persons or only to one or more persons, or persons of one or more descriptions, specified in the direction; and
- (c) either to property of every description or only to particular property, or property of one or more descriptions, specified in the direction.

(7) Subject to the following provisions of this Part, any direction given under this section to any person not to cause or permit anything to be done shall be construed as requiring him to take all such steps as in any particular circumstances are practicable and necessary to prevent that thing from being done.

(8) A direction may be given under this section to a person appearing to the Authority to be about to become-

- (a) such an operator as is mentioned in subsection (1) or (2); or
- (b) such a manager as is mentioned in subsection (1),

but a direction given to a person by virtue of this subsection shall not take effect until he becomes such an operator or manager, and in relation to a direction so given, the preceding provisions of this section shall apply with the necessary modifications.

(9) Any person who, without reasonable excuse, fails to comply with a direction given to him under this section commits an offence and is liable-

- (a) on summary conviction, to a fine at level 3;
- (b) on conviction on indictment, to a fine of \$500000 and to imprisonment for 2 years.

(10) Where a person is convicted of an offence under subsection (9), then, if without reasonable excuse the failure in respect of which he was convicted is continued after the conviction, he shall be guilty of a further offence and liable on conviction to a fine not exceeding \$1000 for each day on which such further offence continues.

(Enacted 1996)

Section:	38	Power to require searches at aerodrome	30/06/1997
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(1) For the purposes to which this Part applies, the Authority may give a direction to the manager of any aerodrome requiring him to use his best endeavours to ensure that such searches to which this section applies as are

specified in the direction are carried out.

- (2) The searches to which this section applies, in relation to an aerodrome, are searches-
 - (a) of the aerodrome or any part of it;
 - (b) of any aircraft which at the time when the direction is given or at any subsequent times is in any part of the aerodrome; and
 - (c) of persons or property (other than aircraft) which may at any such time be in any part of the aerodrome.

(3) Without prejudice to section 13, where a direction given under this section to the manager of an aerodrome is for the time being in force, then if any person specified in the direction in accordance with this section has reasonable ground to suspect that a restricted article is in, or may be brought into, any part of the aerodrome, he may, by virtue of this subsection and without a warrant, search any part of the aerodrome or any aircraft, vehicle, goods or other movable property of any description which, or any person who, is for the time being in any part of the aerodrome, and for that purpose-

- (a) may enter any building or works in the aerodrome, or enter upon any land in the aerodrome, if necessary by force; and
- (b) may stop any such aircraft, vehicle, goods, property or person and detain it or him for so long as may be necessary for that purpose.

- (4) Any person who-
 - (a) without reasonable excuse fails to comply with a direction given to him under this section; or
 - (b) wilfully obstructs a person acting in the exercise of a power conferred on him by subsection (3),

commits an offence and is liable-

- (i) on summary conviction, to a fine at level 3;
- (ii) on conviction on indictment, to a fine of \$500000 and to imprisonment for 2 year.

(5) Where a person is convicted of an offence under subsection (4)(a), then, if without reasonable excuse the failure in respect of which he was convicted is continued after the conviction, he shall be guilty of a further offence and liable on conviction to a fine of \$1000 for each day on which such further offence continues.

(6) Subsection (3) has effect without prejudice to the operation, in relation to any offence under this Ordinance, of any law relating to the power to arrest with or without warrant.

(Enacted 1996)

Section:	39	Power to require other persons to conduct searches	30/06/1997
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(1) For the purposes to which this Part applies, the Authority may give a direction to any person (other than the manager of an aerodrome) who-

- (a) occupies any land forming part of an aerodrome; or
- (b) is permitted to have access to a restricted area in an aerodrome for the purposes of the business carried on by him,

requiring him to use his best endeavours to secure that such searches to which this section applies as are specified in the direction are carried out.

- (2) The searches to which this section applies are-
 - (a) in relation to a person falling within subsection (1)(a), searches-
 - (i) of the land which he occupies within the aerodrome; and
 - (ii) of persons or property which is on that land; and
 - (b) in relation to a person falling within subsection (1)(b), searches-
 - (i) of any land which he occupies outside the aerodrome for the purposes of his business; and
 - (ii) of persons or property which is on that land.

(3) Any person who, without reasonable excuse, fails to comply with a direction given to him under this section commits an offence and is liable-

- (a) on summary conviction, to a fine at level 3;
- (b) on conviction on indictment, to a fine of \$500000 and to imprisonment for 2 years.

(4) Where a person is convicted of an offence under subsection (3), then, if without reasonable excuse the failure in respect of which he was convicted is continued after the conviction, he shall be guilty of a further offence and liable on conviction to a fine not exceeding \$1000 for each day on which such further offence continues.

(Enacted 1996)

Section:	40	Matters which may be included in directions under sections 38 and 39		30/06/1997
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A direction under section 38(1) or 39(1) may specify-

- (a) the minimum number of persons by whom any search to which the direction relates is to be carried out;
- (b) the qualifications which persons carrying out any such search are to have;
- (c) the manner in which any such search is to be carried out; and
- (d) any apparatus, equipment or other aids to be used for the purpose of carrying out any such search.

(Enacted 1996)

Section:	41	Certain works must be to the satisfaction of the Authority		30/06/1997
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- (1) No person shall undertake any work relating to the construction, installation or alteration of-
 - (a) any equipment or facilities in any part of an aerodrome specified by the Authority; or
 - (b) any air navigation installation,

unless the provisions of Programme are complied with to the satisfaction of the Authority in relation to such equipment, facilities or installation.

(2) No person shall undertake any work for the construction or alteration of any part of an aerodrome specified by the Authority except in accordance with a written proposal for the work is submitted to and approved by the Authority under subsection (4)(a) or (b) before the commencement of such work.

- (3) A proposal for any work submitted under subsection (2) shall-
 - (a) contain such particulars; and
 - (b) be accompanied by such plans,

as the Authority may reasonably require to enable himself to properly consider the proposal.

(4) Where a proposal is received by the Authority from any person, the Authority shall, within 30 days after the day on which the proposal is received, by written notice given to the person-

- (a) approve the proposal;
- (b) approve the proposal subject to the conditions specified in the notice; or
- (c) reject the proposal.

(5) Where the Authority fails to comply with subsection (4) in relation to a proposal, the proposal shall be deemed to be approved by the Authority upon the expiry of the period of 30 days after the day on which the proposal is received.

- (6) Any person who contravenes subsection (1) or (2) commits an offence and is liable to a fine at level 6.

(Enacted 1996)

Section:	42	Procedures for handling certain classes of passengers		30/06/1997
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(1) The authority may give directions specifying the procedure to be followed in the handling of particular classes or descriptions of passengers specified in the direction by the manager of any aerodrome or the operator of any aircraft which is registered or operating in Hong Kong.

(2) A direction given under subsection (1) shall be contained in a notice in writing served on the relevant manager or operator.

(3) A person who fails to follow a procedure specified in a direction given to him under subsection (1) commits an offence and is liable to a fine at level 5.

(Enacted 1996)

Section:	43	Interpretation (Part IX)		30/06/1997
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PART IX

PROVISIONS RELATING TO SECURITY DIRECTIONS OR DIRECTIONS GIVEN UNDER SECTIONS 37 TO 39

In this Part-
"direction" (指示) means-

- (a) a security direction; or
- (b) a direction given under section 38(1) or 39(1).

(Enacted 1996)

Section:	44	Limitations on scope of directions	71 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 71 of 1999 s. 3

(1) A direction shall not have effect in relation to any aircraft of which the operator is the government of a country, territory or place outside Hong Kong or is a department or agency of such a government, except at a time when any such aircraft is being used for the carriage of passengers or cargo for reward or is for the time being allocated by that government, department or agency for such use. (Amended 71 of 1999 s. 3)

(2) A direction (except in so far as it requires any building or other works to be constructed, executed, altered, demolished or removed) shall not be construed as requiring or authorizing the person to whom the direction was given, or any person acting as his employee or agent, to do anything which, apart from the direction, would constitute an act of violence; but nothing in this subsection shall restrict the use of such force as is reasonable in the circumstances whether at the instance of the person to whom the direction was given or otherwise by a police officer.

(3) In so far as a direction requires anything to be done or not done at a place outside Hong Kong-

- (a) it shall not have effect except in relation to aircraft registered in Hong Kong; and
- (b) it shall not have effect so as to require anything to be done or not done in contravention of any provision of the law (whether civil or criminal) in force at that place, other than any such provision relating to breach of contract.

(4) In so far as a direction given to the manager of an aerodrome or to any person mentioned in section 28(3)(d) or (e) requires any building or other works to be constructed, executed, altered, demolished or removed on land outside the aerodrome, or requires any other measures to be taken on such land, the direction shall not confer on the person to whom it is given any rights as against a person having-

- (a) an interest in that land; or
- (b) a right to occupy that land; or
- (c) a right restrictive of its use,

and accordingly the direction shall not be construed as requiring the person to whom it is given to do anything which would be actionable at the suit or instance of such a person having such interest or right in his capacity as a person having that interest or right.

(5) A direction shall be given by serving a notice in writing containing the direction.

(6) Nothing in this section shall be construed as derogating from any immunity of the Government.

(Enacted 1996)

Section:	45	General direction		30/06/1997
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A direction need not be addressed to a particular person, but may be framed in general terms applicable to all persons to whom such a direction may be given or to any class of such persons to which that particular person belongs.

(Enacted 1996)

Section:	46	Enforcement notice		30/06/1997
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(1) Where an authorized officer is of the opinion that any person has failed to comply with any requirement of a direction given to him, he may serve on that person a notice-

- (a) specifying that requirement of the direction with which he has, in the opinion of the authorized officer, failed to comply; and
- (b) specifying, subject to section 47, the measures that ought to be taken in order to comply with those requirements.

(2) Before serving any enforcement notice which relates to a direction given under section 39(1), the authorized officer shall inform the Authority of the measures proposed to be specified in the notice, and shall take account of any advice given to him by the Authority with respect to those proposals.

(Enacted 1996)

Section:	47	Contents of enforcement notice	30/06/1997
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(1) An enforcement notice may specify in greater detail measures which are described in general terms in those provisions of the direction to which it relates which impose general requirements, but may not impose any requirement which could not have been imposed by a direction given by the Authority under the provision under which the direction was given.

(2) An enforcement notice may be framed so as to afford the person on whom it is served a choice between different ways of complying with the specified requirements of the direction.

(3) Subject to subsection (4), an enforcement notice which relates to a direction given under section 39 must require the person to whom the direction was given not to cause or permit things to be done as mentioned in subsection (1)(a) or (b) or (2) of that section, as the case requires, until the specified measures have been taken.

(4) In serving an enforcement notice which relates to a direction under section 39(2), the authorized officer shall allow, and shall specify in the notice, such period as appears to him to be reasonably required for taking the measures specified in the notice; and the notice shall not take effect before the end of the period so specified.

(5) An enforcement notice which relates to a direction must either-

(a) require the person to whom the direction was given to take the measures specified in the notice within a period so specified which-

(i) where the measures consist of or include the construction, execution, alteration, demolition or removal of a building or other works, must not be less than 30 days after the day on which the notice is served; and

(ii) in any other case, must not be less than 7 days after the day on which the notice is served; or

(b) require him not to do things so specified, or cause or permit things to be done, until the measures so specified have been taken.

(6) Subject to section 50, an enforcement notice requiring a person not to cause or permit anything to be done shall be construed as requiring him to take all such steps as in any particular circumstances are practicable and necessary to prevent that thing from being done.

(Enacted 1996)

Section:	48	Offences relating to enforcement notice	30/06/1997
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(1) Any person who, without reasonable excuse, fails to comply with an enforcement notice served on him commits an offence and is liable-

(a) on summary conviction, to a fine at level 3;

(b) on conviction on indictment, to a fine at level 6.

(2) Where a person is convicted of an offence under subsection (1), then, if without reasonable excuse the failure in respect of which he was convicted is continued after the conviction, he shall be guilty of a further offence and liable on conviction to a fine not exceeding \$1000 for each day on which such further offence continues.

(3) Any person who wilfully interferes with any building constructed or works executed on any land in compliance with an enforcement notice or with anything installed on, under, over or across any land in compliance with such a notice commits an offence and is liable-

(a) on summary conviction, to a fine at level 3;

(b) on conviction on indictment, to a fine at level 6.

(Enacted 1996)

Section:	49	Objections to enforcement notice	30/06/1997
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(1) The person on whom an enforcement notice is served may serve on the Authority a notice in writing of his objection to the enforcement notice, specifying the grounds of the objection.

(2) Any notice of objection under subsection (1) must be served-

(a) where the enforcement notice specifies measures falling within section 47(5)(a)(i) before the end of the

- period of 30 days after the day on which the enforcement notice was served; or
 - (b) in any other case, before the end of the period of 7 days after the day on which the enforcement notice was served.
- (3) The grounds of objection to an enforcement notice are-
- (a) that the general requirements of the direction which are specified in the notice for the purposes of section 46(1)(a) have been complied with;
 - (b) that the notice purports to impose a requirement which could not have been imposed by a direction given under the provision under which the direction to which the notice relates was given; or
 - (c) that any requirement of the notice-
 - (i) is unnecessary for complying with the general requirements specified as mentioned in paragraph (a) and should be dispensed with; or
 - (ii) having regard to the terms of those general requirements, is excessively onerous or inconvenient and should be modified in a manner specified in the notice of objection under subsection (1).

(4) Where the person on whom an enforcement notice is served serves a notice under subsection (1) objecting to the enforcement notice, the Authority shall consider the grounds of the objection and, if so required by the objector, shall afford to him a reasonable opportunity of appearing before and being heard by a public officer appointed by the Authority for the purpose, who shall then decide on the objection by-

- (a) confirming the enforcement notice as originally served; or
- (b) confirming the enforcement notice subject to one or more modifications specified in the notice under this subsection; or
- (c) cancelling the enforcement notice.

(5) A decision under subsection (4) shall be notified to the objector by the Authority by a notice in writing.

(6) An enforcement notice to which an objection has been made under subsection (1)-

- (a) if it contains such a requirement as is mentioned in section 47(3) or (5)(b), shall continue to have effect as originally served until it has been cancelled, or it has been confirmed subject to modification by a notice under subsection (5); and
- (b) in any other case, shall not take effect until it has been confirmed (with or without modification) by a notice under subsection (5).

(Enacted 1996)

Section:	50	Enforcement notices: supplementary		30/06/1997
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(1) An enforcement notice served on any person-

- (a) may be revoked by a notice served on him by an authorized officer; and
- (b) may be varied by a further enforcement notice.

(2) Sections 29(2), (3) and (4), 40 and 44 apply to an enforcement notice as they apply to the direction to which the notice relates.

(3) Where an authorized officer has served an enforcement notice specifying the general requirements of a direction with which the person on whom it is served has, in the opinion of the authorized officer, failed to comply, the person on whom the notice is served shall not be taken, for the purposes of section 28(5), 37(9), 38(4) or 39(3) to have failed to comply with the direction by reason of the matters specified in the notice.

(4) Subsection (3) does not apply in relation to any proceedings commenced before the service of the enforcement notice.

(5) Where an enforcement notice has been served in relation to a direction, the fact that the notice specifies certain general requirements of the direction as those with which the person on whom the notice is served has, in the opinion of the authorized officer, failed to comply shall not in any proceedings be evidence that any other requirement of the direction has been complied with.

(Enacted 1996)

Section:	51	Operation of directions in relation to rights and duties under other laws		30/06/1997
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(1) The following provisions of this section, where they refer to a direction, shall be construed as referring to that direction as it has effect subject to any limitation imposed on its operation-

- (a) by section 44; or

(b) by any immunity of the Government, and any reference in those provisions to compliance with such a direction shall be construed as a reference to compliance with it subject to any limitation so imposed.

(2) In so far as any such direction requires anything to be done or not done in Hong Kong the direction shall have effect notwithstanding anything contained in any contract (whether a Hong Kong contract or not) or contained in, or having effect by virtue of, any other law, and accordingly no proceedings (whether civil or criminal) shall lie against any person in any Hong Kong court by reason of anything done or not done by him or on his behalf in compliance with such a direction.

(3) In so far as a direction requires anything to be done or not done at a place outside Hong Kong, the direction shall have effect notwithstanding anything contained in any contract (whether a Hong Kong contract or not), and accordingly, where such a direction is inconsistent with anything in such a contract, it shall (without prejudice to any proceedings in a court other than a Hong Kong court) be construed as requiring compliance with the direction notwithstanding that compliance would be in breach of that contract.

(4) No proceedings for breach of contract shall lie against any person in a Hong Kong court by reason of anything done or not done by him or on his behalf at a place outside Hong Kong in compliance with any such direction, if the contract in question is a Hong Kong contract.

(5) Any reference in this section to a direction includes a reference to an enforcement notice.

(6) In this section-

"Hong Kong contract" (香港合約) means a contract which is expressed to have effect in accordance with the law of Hong Kong or (not being so expressed) is a contract of which the proper law is the law of Hong Kong;

"Hong Kong court" (香港法院) means a court exercising jurisdiction in Hong Kong under the law of Hong Kong.

(Enacted 1996)

Section:	52	Authority may take action		30/06/1997
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(1) Where a person who is given a direction or served an enforcement notice fails to comply with it, the Authority may, whether or not the person is or will be prosecuted for any offence under this Ordinance, take or cause to be taken any action as may be necessary to give effect to the direction or notice, as the case may be.

(2) The costs (if any) incurred by the Authority in any action taken under subsection (1) shall be recoverable from the person who is given the relevant direction or served the relevant notice, as the case may be, as a debt due to the Government.

(Enacted 1996)

Section:	53	Regulations: general power	71 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 71 of 1999 s. 3

PART X

MISCELLANEOUS

- (1) The Chief Executive in Council may make regulations for the purposes of- (Amended 71 of 1999 s. 3)
 - (a) section 7(1); and
 - (b) section 7(2).
- (2) The Authority may with the advice of the Committee make regulations-
 - (a) providing, without prejudice to section 36, for prohibiting, restricting or otherwise controlling of access to, or restricting or otherwise controlling the movement within a restricted area or any part thereof of persons, or animals, vehicles, vessels or other things;
 - (b) providing for the issue and display of permits or identity documents for the entrance to or movement within a restricted area of persons and vehicles;
 - (c) providing for-
 - (i) the control of any restricted article carried or to be carried in an aircraft; or
 - (ii) the prohibition of the carriage of any restricted article in an aircraft; and

- (d) providing generally for the better or more effectual-
 - (i) carrying out of the provisions of this Ordinance; and
 - (ii) implementation of the Programme.

(Enacted 1996)

Section:	54	Regulations: duty to report occurrences		30/06/1997
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(1) For the purposes to which Part VIII applies, the Authority may with the advice of the Committee by regulation require such persons as are specified in the regulation to make a report to him, in such manner and within such period as are so specified, of any occurrence of a description so specified.

(2) Regulation made under this section may require the reporting of occurrences taking place outside Hong Kong only if those occurrences relate to an aircraft registered in Hong Kong.

(Enacted 1996)

Section:	55	Regulations: general provisions	71 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 71 of 1999 s. 3

- (1) Any regulation made under section 53 or 54 may-
 - (a) make different provisions for different circumstances or different classes of persons;
 - (b) make provision for a particular case or class of cases;
 - (c) be made so as to apply only in such circumstances as are prescribed by the regulation;
 - (d) specify forms for the purposes of the regulation;
 - (e) empower the Authority to grant exemptions from the regulation;
 - (f) make such incidental, supplementary, consequential transitional provision as the Chief Executive in Council or Authority, as the case may be, considers necessary or expedient in consequence of any provision made by the regulation. (Amended 71 of 1999 s. 3)

(2) Any regulation made under section 53 or 54 may prescribe offences in respect of contraventions of the regulation, and may provide for the imposition of-

- (a) a fine not exceeding level 5;
- (b) in the case of a continuing offence, a daily fine not exceeding \$10000 for each day during which the offence continues; and
- (c) imprisonment for a period not exceeding 2 years.

(Enacted 1996)

Section:	56	Financial Secretary may direct ex gratia payment		30/06/1997
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- (1) Where-
 - (a) a security direction or a direction given under section 38(1) or 39(1) or an enforcement notice is given or served on a person; and
 - (b) in compliance with such direction or enforcement notice, as the case may be, that person takes any measure and thereby incurs any costs or suffers any loss,

the Financial Secretary may, in his absolute discretion, direct that an ex gratia payment of such amount not exceeding such costs or losses, as the case may be, be made to such person.

- (2) Any payment made under subsection (1) shall be a charge on the general revenue.

(Enacted 1996)

Section:	57	Entry to premises etc. and power to search, seize etc.		30/06/1997
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(1) Where a warrant has been issued under subsection (2) in respect of any premises, or subsection (3) applies in respect of any premises, any authorized officer or police officer may-

- (a) at any time, using such force as may be necessary, enter and search such premises;
- (b) remove anything which obstructs any such entry and search;
- (c) detain any person found in such premises, during such period as is reasonably required to permit any

such search to be carried out, where the person might prejudice the purpose of such search if he was not so detained;

(d) inspect, seize and detain anything which is or appears to him to be or to contain, or to be likely to contain, evidence of the commission of an offence under this Ordinance.

(2) Where a magistrate is satisfied by information upon oath that there are reasonable grounds for suspecting that-

(a) an offence under this Ordinance is being or has been committed in any premises; or

(b) there is or may be in any premises anything which is or contains, or is likely to be or contain, evidence of the commission of an offence under this Ordinance,

he may issue a warrant authorizing any authorized officer or police officer to enter such premises.

(3) An authorized officer or police officer may exercise any of the powers conferred by subsection (1) without a warrant issued under subsection (2) in respect of any premises not being domestic premises where-

(a) he has reasonable grounds to suspect that-

(i) an offence under this Ordinance is being or has been committed in that premises; or

(ii) there is or may be in that premises anything which is or contains, or is likely to be or contain, evidence of the commission of an offence under this Ordinance; and

(b) it is not reasonably practicable to obtain such a warrant in respect of that premises before exercising those powers.

(4) This section shall not prejudice any power of entry and search conferred on police officers under any other law.

(5) In this section-

"domestic premises" (住宅處所) means any premises used wholly or mainly for residential purposes and constituting a separate household unit;

"premises" (處所) includes an aircraft and entering premises includes boarding an aircraft.

(Enacted 1996)

Section:	58	Inspection of aircraft and aerodromes	30/06/1997
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(1) For the purpose of-

(a) enabling the Authority to determine whether to give a direction to any person under any provision of Parts VIII and IX; or

(b) ascertaining whether any such direction or any enforcement notice is being or has been complied with, an authorized officer may, on production (if required) of the proof of his authority, inspect-

(i) any aircraft registered or operating in Hong Kong, at a time when it is in Hong Kong;

(ii) any vessel or vehicle;

(iii) any part of any aerodrome; or

(iv) any land outside an aerodrome which is occupied for the purposes of a business by a person who-

(A) also occupies (or appears to the authorized officer to be about to occupy) land within an aerodrome for the purposes of that business; or

(B) is permitted (or appears to the authorized officer to be about to be permitted) to have access to a restricted area in an aerodrome for the purposes of the activities of that business.

(2) An authorized officer inspecting an aircraft, any part of an aerodrome or any land outside an aerodrome under subsection (1) shall have power-

(a) to subject any property found by him in the aircraft (but not the aircraft itself or any apparatus or equipment installed in it) or, as the case may be, to subject that part of the aerodrome or any property found by him there or on that land, to such tests;

(b) to take such steps-

(i) to ascertain what practices or procedures are being followed in relation to security; or

(ii) to test the effectiveness of any practice or procedure relating to security; or

(c) to require the operator of the aircraft, the manager of the aerodrome or the occupier of the land, to furnish to him such information or to produce to him such books records or computer records or summary in the possession or under the control of the operator, manager or occupier,

as the authorized officer may reasonably consider necessary for the purpose for which the inspection is carried out.

(3) Subject to subsection (4), an authorized officer, for the purpose of exercising any power conferred on him

by this section in relation to an aircraft, an aerodrome or any land outside an aerodrome, shall have power-

- (a) for the purpose of inspecting an aircraft, to board it and to take all such steps as are necessary to detain it;
- (b) for the purpose of inspecting any part of an aerodrome, to enter any building or works in the aerodrome or enter upon any land in the aerodrome;
- (c) for the purpose of inspecting any land outside an aerodrome, to enter upon the land and to enter any building or works on the land.

(4) The powers conferred by subsection (3) shall not include power for any authorized officer to use force for the purpose of boarding any aircraft or entering building or works or entering upon any land.

(Enacted 1996)

Section:	59	Offences relating to authorized officers	30/06/1997
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(1) Without prejudice to any other law, any person who-

- (a) wilfully obstructs an authorized officer in the exercise of his powers or the performance of his duties under this Ordinance;
- (b) wilfully fails to comply with any requirement properly made to him by any such authorized officer;
- (c) without reasonable excuse, fails to give such authorized officer any assistance which he may reasonably require to be given for the purpose of exercising his powers or performing his duties under this Ordinance; or
- (d) falsely pretends to be an authorized officer,

commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 6 months.

(2) Any person who, when required to give information to an authorized officer in the exercise of his powers or the performance of his duties under this Ordinance, gives any information which he knows to be false or misleading in a material particular or recklessly makes a statement which is false or misleading in a material particular commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 6 months.

(3) Nothing in this section shall be construed as requiring a person to give any information which may incriminate him.

(Enacted 1996)

Section:	60	Summary apprehension of offender	30/06/1997
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Any offence under this Ordinance shall, for the purposes of section 101(2) of the Criminal Procedure Ordinance (Cap 221), be regarded as an arrestable offence.

(Enacted 1996)

Section:	61	Service of notice	30/06/1997
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A notice (howsoever described) which is required to be served under this Ordinance, or which may be served under this Ordinance, on a person (howsoever described) shall, in the absence of evidence to the contrary, be deemed to be so served if-

- (a) in the case of an individual, it is-
 - (i) delivered to him;
 - (ii) left at his last known address for service, or at his last known place of residence or business, in Hong Kong;
 - (iii) sent by post to him at his last known address for service, or at his last known postal address, in Hong Kong; or
 - (iv) sent by telex, facsimile transmission or other similar method to him at his last known address for service, or at his last known postal address, or at his last known place of residence or business, in Hong Kong;
- (b) in the case of a body corporate, it is-
 - (i) given to or served on any director or the chief executive officer or secretary or other similar officer of the body corporate;
 - (ii) left at the body corporate's last known address for service, or at its last known place of business, in Hong Kong;

- (iii) sent by post to the body corporate at its last known address for service, or at its last known postal address, in Hong Kong; or
- (iv) sent by telex, facsimile transmission or other similar method to the body corporate at its last known address for service, or at its last known postal address, or at its last known place of business, in Hong Kong;
- (c) in the case of a partnership, it is-
 - (i) delivered, left or sent in accordance with paragraph (a) in respect of any partner who is an individual; or
 - (ii) given, served, left or sent in accordance with paragraph (b) in respect of any partner which is a company;
- (d) in the case of a person ("attorney") holding a power of attorney under which the attorney is authorized to accept service in respect of another person, it is-
 - (i) delivered, left or sent in accordance with paragraph (a) where the attorney is an individual;
 - (ii) given, served, left or sent in accordance with paragraph (b) where the attorney is a company;
 - (iii) delivered, left or sent in accordance with paragraph (a) in respect of any partner who is an individual where the attorney is a partnership; or
 - (iv) given, served, left or sent in accordance with paragraph (b) in respect of any partner which is a company where the attorney is a partnership.

(Enacted 1996)

Section:	62	Liability of directors, etc.		30/06/1997
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(1) Where an offence under this Ordinance committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director or the chief executive officer or secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of the offence and liable to be proceeded against and punished accordingly.

(2) Subject to subsection (3), for the purposes of this section, a person is deemed to be a director of a body corporate if he occupies the position of a director by whatever name called or is a person in accordance with whose directions or instructions the directors of the body corporate or any of them act.

(3) A person shall not, by reason only that the directors of a body corporate act on advice given by him in a professional capacity, be taken to be a person in accordance with whose directions or instructions those directors act.

(4) Where an offence under this Ordinance committed by a partner in a partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any other partner of the partnership, that other partner shall be guilty of the offence and liable to be proceeded against and punished accordingly.

(5) The application of subsection (1) to a member of the Airport Authority shall be subject to section 45 of the Airport Authority Ordinance (Cap 483).

(Enacted 1996)

Section:	63	Appointment of authorized officer		30/06/1997
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The Authority may by instrument under his hand appoint any public officer to be an authorized officer to exercise any of the powers and perform any of the duties conferred or imposed on an authorized officer under this Ordinance.

(Enacted 1996)

Section:	64	Amendment of Schedules 1 and 3	L.N. 136 of 2005	10/11/2005
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The Chief Executive in Council may by order amend Schedule 1 or 3.

(Amended 71 of 1999 s. 3; 14 of 2005 s. 7)

Section:	65	Repeal		30/06/1997
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(1) The Tokyo Convention Act 1967 (Overseas Territories) Order 1968 (App. III, p. CS1) is amended in Schedule 2 by repealing "Hong Kong".

(2) The Hijacking Act 1971 (Overseas Territories) Order 1971 (App. III, p. CZ1) is amended in Schedule 2 by repealing "Hong Kong".

(3) The Protection of Aircraft Act 1973 (Overseas Territories) Order 1973 (App. III, p. DF1) is amended in Schedule 2 by repealing "Hong Kong".

(4) Sections 23 to 25 of the Interpretation and General Clauses Ordinance (Cap 1) apply to repeals made by subsections (1) to (3) as if the provisions repealed were part of an Ordinance.

(Enacted 1996)

Schedule:	1	COUNTRIES OR TERRITORIES TO WHICH THE TOKYO CONVENTION APPLIES	L.N. 155 of 2002	18/12/2002
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[sections 2(1) & 64]

1. The Islamic State of Afghanistan
2. The Republic of Albania
3. The Democratic People's Republic of Algeria
4. The Republic of Angola
5. Antigua and Barbuda
6. The Republic of Argentina
7. The Commonwealth of Australia
8. The Republic of Austria
9. The Commonwealth of the Bahamas
10. The State of Bahrain
11. The People's Republic of Bangladesh
12. Barbados
13. The Republic of Belarus
14. The Kingdom of Belgium
15. Belize
16. The kingdom of Bhutan
17. The Republic of Bolivia
18. Bosnia and Herzegovina
19. The Republic of Botswana
20. The Federative Republic of Brazil
21. Brunei Darussalam
22. The Republic of Bulgaria
23. The Burkina Faso
24. The Republic of Burundi
25. The Kingdom of Cambodia
26. The Republic of Cameroon
27. Canada
28. The Republic of Cape Verde
29. The Central African Republic
30. The Republic of Chad
31. The Republic of Chile
32. The People's Republic of China
33. The Republic of Colombia
34. The Federal Islamic Republic of the Comoros
35. The Democratic Republic of Congo
36. The Republic of Congo
37. The Republic of Costa Rica
38. The Republic of Cote d'Ivoire

39. The Republic of Croatia
40. The Republic of Cuba
41. The Czech Republic
42. The Kingdom of Denmark
43. The Republic of Djibouti
44. The Dominican Republic
45. The Republic of Ecuador
46. The Arab Republic of Egypt
47. The Republic of El Salvador
48. The Republic of Equatorial Guinea
49. The Republic of Estonia
50. The Federal Democratic Republic of Ethiopia
51. The Republic of the Fiji Islands
52. The Republic of Finland
53. The Republic of France
54. The Gabonese Republic
55. The Republic of the Gambia
56. Georgia
57. The Federal Republic of Germany
58. The Republic of Ghana
59. Grenada
60. The Republic of Guatemala
61. The Republic of Guinea
62. The Cooperative Republic of Guyana
63. The Republic of Haiti
64. The Hellenic Republic (Greece)
65. The Republic of Honduras
66. The Republic of Hungary
67. The Republic of Iceland
68. The Republic of India
69. The Republic of Indonesia
70. The Islamic Republic of Iran
71. The Republic of Iraq
72. Ireland
73. The State of Israel
74. The Republic of Italy
75. Jamaica
76. Japan
77. The Hashemite Kingdom of Jordan
78. The Republic of Kazakhstan
79. The Republic of Kenya
80. The Democratic People's Republic of Korea
81. The Republic of Korea
82. The State of Kuwait
83. The Kyrgyz Republic
84. The Lao People's Democratic Republic
85. The Republic of Latvia
86. The Republic of Lebanon
87. The Kingdom of Lesotho
88. The Great Socialist People's Libyan Arab Jamahiriya
89. The Principality of Liechtenstein
90. The Republic of Lithuania
91. The Grand Duchy of Luxembourg
92. The Republic of Macedonia
93. The Republic of Madagascar

94. The Republic of Malawi
95. Malaysia
96. The Republic of Maldives
97. The Republic of Mali
98. The Republic of Malta
99. The Republic of the Marshall Islands
100. The Islamic Republic of Mauritania
101. The Republic of Mauritius
102. The Republic of Moldova
103. The Principality of Monaco
104. Mongolia
105. The Kingdom of Morocco
106. The Union of Myanmar
107. The Republic of Nauru
108. The Kingdom of Nepal
109. The kingdom of the Netherlands
110. New Zealand
111. The Republic of Nicaragua
112. The Republic of Niger
113. The Federal Republic of Nigeria
114. The Kingdom of Norway
115. The Sultanate of Oman
116. The Islamic Republic of Pakistan
117. The Republic of Palau
118. The Republic of Panama
119. The Independent State of Papua New Guinea
120. The Republic of Paraguay
121. The Republic of Peru
122. The Republic of the Philippines
123. The Republic of Poland
124. The Portuguese Republic
125. The State of Qatar
126. Romania
127. The Russian Federation
128. The Republic of Rwanda
129. Saint Lucia
130. Saint Vincent and the Grenadines
131. The Independent State of Samoa
132. The Kingdom of Saudi Arabia
133. The Republic of Senegal
134. The Republic of Seychelles
135. The Republic of Sierra Leone
136. The Republic of Singapore
137. The Slovak Republic
138. The Republic of Slovenia
139. The Solomon Islands
140. The Republic of South Africa
141. Spain
142. The Democratic Socialist Republic of Sri Lanka
143. The Republic of the Sudan
144. The Republic of Suriname
145. The Kingdom of Swaziland
146. The Kingdom of Sweden
147. The Swiss Confederation
148. The Republic of Syprus (Cyprus)

- 149. The Syrian Arab Republic
- 150. The Republic of Tajikistan
- 151. The Kingdom of Thailand
- 152. The Republic of Togo
- 153. The Kingdom of Tonga
- 154. The Republic of Trinidad and Tobago
- 155. The Republic of Tunisia
- 156. The Republic of Turkey
- 157. Turkmenistan
- 158. The Republic of Uganda
- 159. Ukraine
- 160. The United Arab Emirates
- 161. The United Kingdom of Great Britain and Northern Ireland
- 162. The United Republic of Tanzania
- 163. The United States of America
- 164. The United States of Mexico
- 165. The Oriental Republic of Uruguay
- 166. The Republic of Uzbekistan
- 167. The Republic of Vanuatu
- 168. The Bolivar Republic of Venezuela
- 169. The Socialist Republic of Viet Nam
- 170. The Republic of Yemen
- 171. The Federal Republic of Yugoslavia
- 172. The Republic of Zambia
- 173. The Republic of Zimbabwe

(Schedule 1 replaced L.N. 155 of 2002)

Schedule:	2	PROVISIONS TO BE TREATED AS PART OF THE LAW OF NATIONS		30/06/1997
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[section 5]

1. Piracy consists of any of the following acts-
 - (a) any illegal acts of violence, detention or depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed-
 - (i) on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;
 - (ii) against a ship, aircraft, persons or property in a place outside the jurisdiction of any state;
 - (b) any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft; or
 - (c) any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b).
2. The acts of piracy, as defined in paragraph 1, committed by a warship, government ship or government aircraft whose crew has mutinied and taken control of the ship or aircraft are assimilated to acts committed by a private ship.
3. A ship or aircraft is considered a pirate ship or aircraft if it is intended by the persons in dominant control to be used for the purpose of committing one of the acts referred to in paragraph 1. The same applies if the ship or aircraft has been used to commit any such act, so long as it remains under the control of the persons guilty of that act.

(Enacted 1996)

Schedule:	3	REQUEST AND UNDERTAKING UNDER SECTION 12C OF THE AVIATION SECURITY ORDINANCE (CAP 494)	L.N. 136 of 2005	10/11/2005
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[sections 12C & 64]

To: The Hong Kong Police Force

Request:

I, *[insert full name]*, commander of flight *[insert number]*, request, under section 12C of the Aviation Security Ordinance (Cap 494), that proceedings be commenced against *[insert full name]* of *[insert address if known]*, as I have reason to suspect that on *[insert date]* on flight *[insert number]* this person committed an offence under section 12A or 12B of the Aviation Security Ordinance (Cap 494), namely:

[state the offence(s) suspected to have been committed, e.g., an offence under section 17(a) of the Offences against the Person Ordinance (Cap 212), an offence under section 12B(1) of the Aviation Security Ordinance (Cap 494), etc.]

Undertaking:

Pursuant to section 12C of the Aviation Security Ordinance (Cap 494), I undertake that neither I nor *[insert name of the operator of the aircraft]* have made, or will make, a similar request to the authorities of any place outside Hong Kong.

.....
Signature of commander

Witnessed by me at Hong Kong on
[insert date]

.....
Signature of police officer
(Schedule 3 added 14 of 2005 s. 8)