

# **REGULATION ON APPLICATION FOR ROUTE OPERATING PERMIT BY FOREIGN AIR TRANSPORT ENTERPRISES**

## **CHAPTER 1 GENERAL PROVISIONS**

### **Article 1**

This Regulation is made in accordance with *Civil Aviation Law of the People's Republic of China* and with the view of standardizing the regulation of operation on the specified route by foreign air transport enterprise between point in foreign country and point in the People's Republic of China.

### **Article 2**

Application filed by foreign air transport enterprise (hereinafter referred to as “foreign airline”) for operation on the specified route between point in foreign country and point in the People's Republic of China shall be in conformity with the provisions specified in the bilateral Air Services Agreement or the relevant agreement concluded between the governments of China and the foreign country. The said foreign airline shall be first designated through diplomatic channel by its government, unless otherwise provided in the bilateral Air Services Agreement or the relevant agreement.

### **Article 3**

Civil Aviation Administration of China (hereinafter referred to as “CAAC”) is responsible for the regulation of the route operating permit for foreign airline.

Foreign airline, after being formally designated through diplomatic channel by its government, shall submit application in accordance with this Regulation to CAAC for permit to operate the specified route between point in the foreign country and point in the People's Republic of China.

Regional Administrations of CAAC are responsible for the oversight on the operation by foreign airline within their respective region.

### **Article 4**

CAAC applies the principle of mutual-benefit and reciprocal treatment when examining and approving the application for operating permit submitted by foreign airline. CAAC shall take reciprocal measures in the event that the aeronautical authorities of the foreign country would place unreasonable restriction on the application submitted by the air transport enterprise of the People's Republic of China for permit to operate the specified route between point in the People's Republic of China and point in the foreign country.

## **CHAPTER 2**

### **APPLICATION PROCEDURES FOR OPERATING PERMIT**

#### **Article 5**

Application for operating permit shall be submitted by foreign airline to CAAC no later than 60 days before the proposed commencing date.

CAAC does not accept the application for operating permit submitted by foreign airline if the application does not conform to the required time limit, unless otherwise provided in the bilateral Air Services Agreement or the relevant agreement.

#### **Article 6**

Foreign airline applying for operating permit shall provide CAAC with the application letter and supplementary documents in the Chinese or English language, which shall be signed by the legal representative of the headquarters of the foreign airline or by the person authorized in writing by the legal representative.

The application letter shall include the specified route planned to operate between point in the foreign country and point in the People's Republic of China, the proposed commencing date, flight number and code-sharing flight number, weekly frequency and operation days, type of aircraft owned by the foreign airline or wet-leased from other enterprise and aircraft registration number.

The supplementary documents submitted together with the application letter by foreign airline shall include:

- 1) Photocopy of the document certifying that the foreign airline is designated by the foreign government to operate the specified route between point in the foreign country and point in the People's Republic of China;
- 2) Photocopy of the Air Operator Certificate (AOC) issued by the aeronautical authorities of the foreign country to the foreign airline for engaging in public air transport;
- 3) Photocopy of the Enterprise Registration Certificate;
- 4) Charter (or called "Articles of Association") of the enterprise or certificate issued by the legal enterprise registration body, which contains information about the principle places of business of the enterprise, nature of the enterprise (state-owned or private enterprise), equity structure, nationalities of the investors, names and nationalities of the board members;
- 5) General conditions of carriage for passenger and cargo of the enterprise;
- 6) The formal Chinese and English name of the enterprise, enterprise profile (including the date of establishment, aircraft fleet, route network, etc.), contact persons in the headquarters and in the People's Republic of China and their address, telephone and fax number, e-mail address, the three-letter designator assigned to the foreign airline by International Civil Aviation Organization (ICAO) and the two-character designator assigned to the foreign airline by International Air Transport Association (IATA);
- 7) When wet-leased aircraft is used for the operation, photocopy of the wet-lease agreement shall be provided together with the documents as required by the bilateral Air Services Agreement

- or the relevant agreement pertaining to the use of wet-leased aircraft;
- 8) Other documents to be submitted by foreign airline as requested by CAAC in accordance with laws, regulations and bilateral agreement.

#### **Article 7**

When foreign airline requests to operate a new route after it commences the operation of the specified route between point in the foreign country and point in the People's Republic of China as per the operating permit issued by CAAC, the foreign airline shall reapply to CAAC for a new route operating permit. The documents listed in subparagraph 2), 3), 4), 5) and 6) of Article 6 of this Regulation may not be submitted if the foreign airline applies for new route operating permit.

#### **Article 8**

In case any change to the contents listed in subparagraph 2), 3), 4), 5), 6) and 7) of Article 6 of this Regulation takes place while in the course of operating the specified route as per the operating permit issued by CAAC or at the time when applying for new route operating permit, the foreign airline shall notify CAAC in writing of such change within 30 days from the date when such change is made or at the time when the application for new route operating permit is submitted.

#### **Article 9**

If foreign airline delegates an agency to submit, on its behalf, an application for operating permit to CAAC, it shall delegate the agency capable of handling relevant business and shall issue an official letter of delegation to such agency.

### **CHAPTER 3**

#### **EXAMINATION AND APPROVAL OF OPERATING PERMIT**

#### **Article 10**

CAAC makes procedural examination of the application documents submitted by foreign airline and may conduct substantial examination when it is deemed necessary.

Foreign airline shall be responsible for the authenticity of all application documents submitted.

#### **Article 11**

CAAC accepts the application filed by foreign airline if such application documents are complete and in conformity with the statutory forms. If the application documents are not complete and not in conformity with the statutory forms, CAAC will give a notification within 5 working days to foreign airline to complement all required documents. Otherwise the application is considered as accepted as of the day when the application documents are received.

CAAC accepts the application after the foreign airline has complemented all the required documents. CAAC does not accept the application and will give a written notification of un-acceptance if the application documents are still not in conformity with the requirements.

#### **Article 12**

CAAC shall make a decision on whether granting approval or not within 20 working days from the day when it accepts such application, unless otherwise provided in the bilateral Air Services Agreement or the relevant agreement. If CAAC can not make a decision within 20 working days, it may, with the approval of the minister of CAAC, defer the decision for 10 working days and shall give explanations about the deferment to the foreign airline.

#### **Article 13**

CAAC shall issue the operating permit to foreign airline within 10 working days from the day when an approval decision is made. If CAAC makes a disapproval decision on the application in accordance with the law and regulations, it shall give a written decision to the foreign airline with relevant explanations.

### **CHAPTER 4 RENEWAL OF AND CHANGE TO OPERATING PERMIT**

#### **Article 14**

Foreign airlines shall submit application for renewal of operating permit to CAAC no later than 30 days before its expiry date as specified in the operating permit. If the application is not submitted within the time limit without any appropriate reasons, CAAC will make a written decision of un-acceptance. If the foreign airline fails to submit an application for renewal of the operating permit after it is expired, CAAC will revoke the operating permit.

#### **Article 15**

Foreign airline, in applying for renewal of operating permit, shall provide with the following documents:

- 1) Photocopy of the operating permit to be renewed;
- 2) Flight schedules for the route being operated in accordance with the specified Route Schedule between point in the foreign country and point in the People's Republic of China.

#### **Article 16**

Application filed by foreign airline for making changes to the contents of the current effective operating permit shall be submitted in written form to CAAC with detailed contents to be modified as well as reasons for the modification.

**Article 17**

CAAC shall make a decision on the application submitted by foreign airline for renewal or modification of the operating permit within the time limit as specified in Article 12 and 13 of this Regulation.

## **CHAPTER 5**

### **REGULATION ON OPERATING PERMIT**

**Article 18**

Foreign airline shall operate the specified route between point in foreign country and point in the People's Republic of China within the scope of operation and the term of validity as authorized by the operating permit.

**Article 19**

Foreign airline shall take effective measures to properly keep the operating permit issued by CAAC and to prevent damage or loss thereof.

**Article 20**

Foreign airline shall immediately submit a written report to CAAC in the event that the operating permit is damaged or lost and shall file an application for the duplicate of the original copy.

**Article 21**

Foreign airline shall not alter, transfer, lease or trade the operating permit issued by CAAC. The operating permit which is altered, transferred, leased or traded shall be deemed null and void.

## **CHAPTER 6**

### **APPLICATION FOR AND APPROVAL OF FLIGHT SCHEDULE**

**Article 22**

Foreign airline, while in the course of providing air services pursuant to the operating permit issued by CAAC, shall file application to CAAC for flight schedules by IATA Northern Summer and Winter Scheduling season in accordance with the prescribed format and contents no later than 60 days before beginning of the new season. CAAC will, after examining the flight schedules according to this Regulation, make a decision on approval or disapproval. If foreign airline fails to apply for flight schedules within the time limit, it shall be deemed as suspending the operation.

**Article 23**

Flight schedules shall include air route, weekly frequency, operation days, flight number, type of aircraft, and information about whether flight is operated by using wet-leased aircraft and by way of code-sharing arrangement etc.

#### **Article 24**

Foreign airline shall not make arbitrary change to flight schedules during the period of operation in each season. If change to flight schedules is required due to commercial reasons, the foreign airline shall submit application to CAAC no later than 30 days before the date when the change is proposed to make, and such change can be made only after the approval is granted.

#### **Article 25**

If temporary change to flight schedules is required due to weather, mechanical or other operational conditions, the foreign airline shall immediately submit an application to CAAC and the change can be made only after the approval is granted.

#### **Article 26**

Foreign airline shall operate the specified route between point in the foreign country and point in the People's Republic of China as per the flight schedules approved by CAAC. If foreign airline plans to suspend the operation of all or part of the specified routes due to commercial reasons, a written notice with reasons shall be submitted to CAAC. If foreign airline suspends the operation without any prior notification, flight schedules for a new season submitted by the foreign airline shall not be approved by CAAC.

#### **Article 27**

If temporary extra section flight is required due to the market demand, foreign airline shall submit application to CAAC no later than 5 working days before the proposed operation date. The extra section flight can be operated only after the approval is granted, unless otherwise provided in the bilateral Air Services Agreement or the relevant agreement.

Except for special circumstances, the number of weekly extra section flights to be applied for by foreign airline shall not exceed the number of the scheduled flights. CAAC does not grant approval of the application for fixed extra section flights submitted by foreign airline.

## **CHAPTER 7**

### **STATISTICS OF TRAFFIC VOLUME**

#### **Article 28**

After commencing operation of the specified routes in accordance with the provisions of the operating permit, foreign airline shall, by the 15<sup>th</sup> of each month, provide CAAC with the

statistical data of the route traffic volume carried in the precious month according to the requirements as stated in the *Statistical Reporting Form for Traffic Volume Carried by Foreign Air Carriers* which is attached to this Regulation. The foreign airline shall be responsible for the accuracy, authenticity and completeness of the statistical data.

## **CHAPTER 8**

### **LEGAL LIABILITY**

#### **Article 29**

CAAC will withdraw the operating permit and impose a fine of less than RMB 30,000 yuan if foreign airline obtains an operating permit by improper means of fraud or bribery etc. The applicant shall not reapply for operating permit within three years as of the day when the operating permit is withdrawn and shall be subject to investigation for criminal responsibilities according to law if the case constitutes a crime.

#### **Article 30**

CAAC will, according to law, give a warning and impose a fine of less than RMB 30,000 yuan if foreign airline, in violation of the provisions of Article 8 of this Regulation, fails to notify CAAC in writing of the changed information in time.

#### **Article 31**

CAAC will, according to law, give a warning and impose a fine of less than RMB 30,000 yuan if foreign airline, in violation of the provisions of Article 21 of this Regulation, alters, transfers, leases or trades the operating permit. CAAC will withhold or cancel the operating permit under aggravating circumstances; and the foreign airline shall be investigated for criminal responsibilities if the case constitutes a crime.

#### **Article 32**

CAAC will, according to law, give a warning and impose a fine of less than RMB 30,000 yuan if foreign airline, in violation of the provisions of Article 24 of this Regulation, arbitrary changes flight schedules without obtaining approval. CAAC will withhold or cancel the operating permit under aggravating circumstances.

#### **Article 33**

CAAC will, according to law, give a warning and impose a fine of less than RMB 30,000 yuan if foreign airline, in violation of the provisions of Articles 28 of this Regulation, postpones the reporting, conceals relevant information, provides with false documents or refuses to provide with the actualities or data which can reflect its operational activities. CAAC will withhold or cancel the operating permit under aggravating circumstances; and foreign airline shall be investigated for

criminal responsibilities if the case constitutes a crime.

**Article 34**

Foreign airline, in violation of the provisions of other laws, regulations or rules shall be investigated for responsibilities in accordance with relevant provisions.

**CHAPTER 9**  
**SUPPLEMENTARY PROVISIONS**

**Article 35**

This Regulation shall be referred to and implemented when the air transport enterprises of Hong Kong Special Administrative Region, Macao Special Administrative Region and Taiwan Region of the People's Republic of China apply for operating permit.

**Article 36**

Scheduled operation between Hong Kong Special Administrative Region, Macao Special Administration Region, Taiwan Region of the People's Republic of China and foreign country shall be subject to relevant laws and procedures.

**Article 37**

This Regulation shall enter into force after 30 days as of the day when it is promulgated. The *Provisional Application Procedures for Operating Permit by Foreign Airlines* promulgated on March 2, 1996 under document Ref. of Minhang Yunhan No. [1996]243 are hereby abolished.

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*(Note: This English translation is only for reference. In case of discrepancy between the English translation and the original Chinese text, the Chinese text shall prevail.)*