

中华人民共和国民用航空法

CIVIL AVIATION LAW OF
THE PEOPLE'S REPUBLIC OF CHINA

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CIVIL AVIATION OF CHINA

**CIVIL AVIATION LAW OF
THE PEOPLE'S REPUBLIC OF CHINA**

Translated by the Legislative Affairs Commission of
the Standing Committee of
the National People's Congress of
the People's Republic of China

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**Order of the President of
the People's Republic of China
No. 56**

The Civil Aviation Law of the People's Republic of China, adopted at the 16th Meeting of the Standing Committee of the Eighth National People's Congress of the People's Republic of China on October 30, 1995, is hereby promulgated and shall enter into force as of March 1, 1996.

**Jiang Zemin
President of the People's Republic of China**

October 30, 1995

Civil Aviation Law of the People's Republic of China

*(Adopted at the 16th Meeting of the Standing Committee
of the Eighth National People's Congress on October 30, 1995,
promulgated by Order No. 56 of the President of the
People's Republic of China on October 30, 1995
and effective as of March 1, 1996)*

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Chapter I

General Provisions

Article 1 This Law is enacted with a view to safeguarding the national sovereignty of territorial airspace and the rights of civil aviation, to ensuring the conduct of civil aviation activities in a safe and orderly manner, to protecting the lawful rights and interests of the parties concerned in civil aviation activities, and to promoting the development of civil aviation industry.

Article 2 The airspace above the land territory and territorial waters of the People's Republic of China is the territorial airspace of the People's Republic of China. The People's Republic of China has complete and exclusive sovereignty over its territorial airspace.

Article 3 The competent civil aviation authority under the State Council exercises unified supervision and administration over civil aviation activities in the whole country; issues regulations and decisions concerning civil aviation activities within the scope of its authority in accordance with laws and the decisions of the State Council.

The regional civil aviation administrative organs set up by the competent civil aviation authority under the State Council supervise and administer the civil aviation activities in their respective regions in accordance

with the authorizations of the competent civil aviation authority under the State Council.

Article 4 The State supports the development of civil aviation industry, and encourages and supports the progress of scientific research and education in the field of civil aviation and the improvement of civil aviation science and technology.

The State supports the development of civil aircraft manufacturing industry so as to provide safe, advanced, economical and suitable civil aircraft for civil aviation activities.

Chapter II

Nationality of Civil Aircraft

Article 5 "Civil aircraft" as referred to in this Law means aircraft other than those used in flight missions of military, customs and police services.

Article 6 A civil aircraft that has performed its nationality registration with the competent civil aviation authority under the State Council of the People's Republic of China according to law has the nationality of the People's Republic of China, and shall be issued a nationality registration certificate by the competent civil aviation authority under the State Council.

The competent civil aviation authority under the State Council shall set up a Civil Aircraft Nationality Register of the People's Republic of China to exclusively record matters concerning nationality registration of civil aircraft.

Article 7 The following civil aircraft shall perform the nationality registration of the People's Republic of China:

(1) The civil aircraft of a State organ of the People's Republic of China;

(2) The civil aircraft of a corporate enterprise set up in accordance with the law of the People's Republic of China; if such corporate enterprise has foreign investment in its registered capital, its organizational structure and composition of personnel, and the proportion of contribution of Chinese investor shall conform to the provisions of administrative rules and regulations; and

(3) Other civil aircraft, the registration of which is approved by the competent civil aviation authority under the State Council.

Where a civil aircraft was leased from abroad, the lessee being in conformity with the provisions of the preceding paragraph, and the crew of the civil aircraft is provided by the lessee, the latter may apply for the nationality registration of the People's Republic of China, provided that the original nationality registration of such aircraft has been cancelled.

Article 8 A civil aircraft which has acquired the nationality of the People's Republic of China according to law shall display the specified nationality mark and registration mark.

Article 9 A civil aircraft shall not possess dual nationality. Application for the nationality registration of the People's Republic of China shall not be filed for a civil aircraft which has not cancelled its nationality of a foreign country.

Chapter III

Rights of Civil Aircraft

Section 1 Basic Principles

Article 10 The rights to a civil aircraft as referred to in this Chapter include the rights to the airframe, engines, propellers, radio apparatus of the civil aircraft and all other articles intended for use in such civil aircraft, no matter whether they are installed thereon or separated temporarily therefrom.

Article 11 The person entitled to the rights of a civil aircraft shall register the following rights respectively with the competent civil aviation authority

under the State Council:

- (1) The ownership of the civil aircraft;
- (2) The right for the acquisition and possession of the civil aircraft through an act of purchase;
- (3) The right to possess the civil aircraft in accordance with a lease contract covering a lease term of six months or over; and
- (4) Mortgage of the civil aircraft.

Article 12 A register of the rights of civil aircraft shall be maintained by the competent civil aviation authority under the State Council. Matters registered concerning the rights of one and the same civil aircraft shall be recorded in the same register of rights.

Matters registered concerning the rights of civil aircraft may be made available to the public for inquiry, reproduction or extraction.

Article 13 Unless a civil aircraft was the subject of a forced auction sale in accordance with the law, the nationality registration of such civil aircraft or the registration of rights thereof shall not be transferred abroad before the registered rights of such aircraft are compensated or before the consent of the person entitled to the aforesaid rights is given.

Section 2 Ownership and Mortgage of Civil Aircraft

Article 14 The acquisition, transference and extinction of the ownership of a civil aircraft shall be registered with the competent civil aviation authority under the State Council; no acquisition, transference or extinction of the ownership of the civil aircraft shall act against a third party unless registered.

The transference of the ownership of a civil aircraft shall be made by a contract in writing.

Article 15 Where a State-owned civil aircraft is authorized by the State to be operated, administered or utilized by a legal person, the provisions of this Law concerning the owner of civil aircraft shall be applicable to such legal person.

Article 16 The mortgage of a civil aircraft shall be established by registering the mortgage of the civil aircraft with the competent civil aviation authority under the State Council jointly by the mortgagee and the mortgagor; no mortgage may act against a third party unless registered.

Article 17 Once a mortgage is established on a civil aircraft, the ownership of the mortgaged civil aircraft shall not be transferred without the consent of the mortgagee.

Section 3 Civil Aircraft Liens

Article 18 A civil aircraft lien is the right of the claimant, subject to the provisions of Article 19 of this Law, to take priority in compensation against the owner and lessee of the civil aircraft with respect to the civil aircraft which gave rise to the said claim.

Article 19 The following obligatory rights shall be entitled to civil aircraft liens:

(1) Remuneration for rescuing the civil aircraft;
and

(2) Necessary expenses incurred for the custody of the civil aircraft.

With respect to the obligatory rights specified in the preceding paragraph, that arising later shall be satisfied first.

Article 20 The creditor of the civil aircraft liens specified in Article 19 of this Law shall register his obligatory rights with the competent civil aviation authority under the State Council within three months commencing from the date of the end of rescue or custody.

Article 21 For the common interests of creditors, the expenses incurred in enforcing the decision of

the People's Court and in the course of auction sale shall be deducted and paid first from the proceeds of the auction sale of the civil aircraft.

Article 22 A civil aircraft lien shall have priority over the mortgage of a civil aircraft.

Article 23 Where the obligatory rights provided in Article 19 of this Law are transferred, the civil aircraft liens attached thereto shall be transferred accordingly.

Article 24 A civil aircraft lien shall be enforced by the People's Court by arresting the civil aircraft that gave rise to the said civil aircraft lien.

Article 25 A civil aircraft lien shall be terminated at the expiry of three months commencing from the date of the end of rescue or custody; except that the creditor has registered his obligatory rights according to the provisions of Article 20 of this Law and that the case is under one of the following circumstances:

- (1) The creditor and debtor have reached agreement on the amount of the said obligatory rights; or
- (2) The legal action concerning the obligatory rights has started.

A civil aircraft lien shall not be extinguished because of the transference of the ownership of the civil aircraft; except that the civil aircraft was the subject of

a forced auction sale in accordance with law.

Section 4 Lease of Civil Aircraft

Article 26 A civil aircraft lease contract, including financing lease contract and other lease contracts, shall be made in writing.

Article 27 The "financing lease of civil aircraft" means that the lessor acquires a civil aircraft pursuant to the selection of the lessee with respect to supplier and civil aircraft, and leases it to the lessee, who shall pay rental periodically.

Article 28 During the period of financing lease, the lessor shall be legally entitled to the ownership of the civil aircraft, and the lessee shall be legally entitled to the rights of possession, utilization and earnings of the civil aircraft.

Article 29 During the period of financing lease, the lessor shall ensure the lessee to possess and use the civil aircraft without interference; the lessee shall take proper care of the civil aircraft and keep it in the condition in which it was delivered, subject to fair wear and tear and to any modification of the civil aircraft agreed by the lessor.

Article 30 When the financing lease contract comes to an end, the lessee, unless exercising a right to purchase the civil aircraft or to hold the civil aircraft on lease for a further period in accordance with the contract, shall return the civil aircraft to the lessor in the condition specified in Article 29 of this Law.

Article 31 The supplier in the financing lease of a civil aircraft shall not be liable to both the lessor and the lessee at the same time in respect of the same damage.

Article 32 During the period of financing lease, the lessee may transfer the right of the possession of the civil aircraft as well as other rights under the lease contract only with the consent of the lessor and without jeopardizing the interests of third parties.

Article 33 In the case of a financing lease, or other leases covering a period of six months or longer, the lessee shall register his right of possession of the civil aircraft with the competent civil aviation authority under the State Council; no such lease may act against a third party unless registered.

Chapter IV

Airworthiness Management of Civil Aircraft

Article 34 Application shall be filed with the competent civil aviation authority under the State Council for type certificate for the designing of civil aircraft and its engines, propellers and on-board equipment. A type certificate shall be issued accordingly if found qualified through examination.

Article 35 Application shall be filed with the competent civil aviation authority under the State Council for production certificate and maintenance certificate for the production and maintenance of civil aircraft and its engines, propellers and on-board equipment. A corresponding certificate or certificates shall be issued accordingly if found qualified through examination.

Article 36 Where a civil aircraft and its engines, propellers and on-board equipment produced by a foreign manufacturer are imported into China for the first time, such foreign manufacturer shall file an application with the competent civil aviation authority under the State Council for type validation certificate. A type validation certificate shall be issued if found qualified through examination.

Where a civil aircraft and its engines, propellers

and on-board equipment, for which a type certificate has been issued in a foreign country, are produced for the first time in China, the holder of the type certificate shall file an application with the competent civil aviation authority under the State Council for type validation certificate. A type validation certificate shall be issued if found qualified through examination.

Article 37 A civil aircraft possessing the nationality of the People's Republic of China may fly only if it holds an airworthiness certificate issued by the competent civil aviation authority under the State Council.

Application shall be filed with the competent civil aviation authority under the State Council by the manufacturer for export airworthiness certificate with respect to the export of civil aircraft and its engines, propellers and on-board equipment. An export airworthiness certificate shall be issued if found qualified through examination.

A foreign civil aircraft on lease may fly only after the competent civil aviation authority under the State Council has examined and rendered valid its airworthiness certificate issued by the State in which the nationality of such aircraft was originally registered, or has issued a new airworthiness certificate therefor.

The regulations for the airworthiness of civil aircraft shall be formulated by the State Council.

Article 38 The owner and lessee of a civil aircraft shall use the aircraft in accordance with the scope of use prescribed in airworthiness certificate, conscientiously carry out the maintenance of the aircraft and ensure its airworthiness.

Chapter V

Airmen

Section 1 Basic Principles

Article 39 The "airmen" as referred to in this Law means the following flight personnel and ground personnel engaged in civil aviation activities:

(1) Flight personnel, including pilots, navigators, flight engineers, flight radio operators and cabin attendants; and

(2) Ground personnel, including civil aircraft maintenance personnel, air traffic controllers, flight dispatchers and aeronautical radio station operators.

Article 40 An airman may perform the duty specified in his licence only if he has received professional training, and has been qualified through examination and issued a licence by the competent civil aviation authority under the State Council.

Flight personnel and air traffic controllers shall, before obtaining licences, also be subject to the check of the physical examination unit approved by the competent civil aviation authority under the State Council, and obtain the physical examination certificate issued by the competent civil aviation authority under the State Council.

Article 41 Flight personnel shall, in performing flight missions, carry on their persons licences and physical examination certificates and be subject to the check of the competent civil aviation authority under the State Council.

Article 42 Airmen shall be subject to the periodical or non-periodical inspection and examination of the competent civil aviation authority under the State Council. Only those qualified in inspection and examination may continue to perform the duties specified in their licences.

Flight personnel shall also take part in periodical training of emergency procedures.

Flight personnel who have exceeded the time limit of interruption in flight prescribed by the competent civil aviation authority under the State Council shall be subject to inspection and examination; with the exception of cabin attendants, flight personnel shall also go through instruction flight. Only those qualified through inspection, examination and instruction flight may con-

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takeoff.

Article 46 The pilot-in-command has the right to take necessary and appropriate measures in flight, under the prerequisite of ensuring flight safety, against any acts which may destroy the civil aircraft, interfere with the order on board and jeopardize the safety of persons or property therein, and any other acts jeopardizing flight safety.

In case of extraordinary circumstances in flight, the pilot-in-command shall have authority as to disposition of the civil aircraft so as to ensure the safety of the aircraft and the persons therein.

Article 47 The pilot-in-command has the right to ask for a change of crew member(s) in order to ensure flight safety if he discovers that the crew member(s) are not suitable for performing the flight mission.

Article 48 In case a civil aircraft is in distress, the pilot-in-command has the right to take all necessary measures, and direct the crew members and other persons on board the aircraft to take rescue measures. In case of emergency which necessitates evacuation from the civil aircraft in distress, the pilot-in-command must take measures first to organize passengers to leave the civil aircraft safely; no crew member shall leave the civil aircraft unless authorized by the

pilot-in-command; the pilot-in-command shall be the last to leave the aircraft.

Article 49 In case an accident occurred to a civil aircraft, the pilot-in-command shall report in time the state of the accident accurately to the competent civil aviation authority under the State Council directly or through air traffic control unit.

Article 50 When a pilot-in-command received SOS signals from a ship or another aircraft, or discovered a ship or an aircraft and the persons therein in distress, he shall report the state of distress in time to the nearest air traffic control unit and give possible, rational assistance.

Article 51 In case a pilot-in-command is unable to perform his duties in flight due to one reason or another, the pilot holding a post next only to him shall act on his behalf; the owner or lessee of the civil aircraft shall assign a new pilot-in-command to take over before the aircraft takes off at the next place of stop.

Article 52 In the case of a civil aircraft with only one pilot and without the need to have other flight personnel, the provisions of this Section concerning the pilot-in-command shall be applicable to such pilot.

Chapter VI

Civil Airport

Article 53 The "civil airport" as referred to in this Law means a defined area, including any subsidiary buildings, installations and equipment, intended to be used for the takeoff, landing, taxiing, parking and other activities of civil aircraft.

The civil airport referred to in this Law does not include temporary airfield.

The measures for the management of airports used by both military and civil air operations shall be separately formulated by the State Council and the Central Military Commission jointly.

Article 54 The construction and utilization of civil airports shall be subject to overall arrangement and rational distribution, and the efficiency of airport utilization shall be raised.

The plan of distribution and construction of civil airports in the whole country shall be formulated jointly by the competent civil aviation authority under the State Council and other departments concerned under the State Council, and shall be implemented after being approved in accordance with the procedures prescribed by the State.

The People's Governments of provinces, autono-

mous regions and municipalities directly under the Central Government shall formulate the civil airport construction plans of their own administrative areas on the basis of the national plan of civil airport distribution and construction, and incorporate such plans into the national economic and social development programs at their respective levels after being approved in accordance with the procedures prescribed by the State.

Article 55 The civil airport construction plan shall be coordinated with city construction planning.

Article 56 The construction, modification and extension of a civil airport shall conform to the plan of civil airport distribution and construction formulated according to law and to the standards of civil airport, and shall be subject to the approval of the competent authority concerned and implemented in accordance with State regulations.

A construction project of civil airport not conforming to the plan of civil airport distribution and construction formulated according to law shall not be approved.

Article 57 With respect to the construction and extension of a civil airport, an announcement shall be issued by the local People's Government at or above the county level in the place where the civil airport is lo-

cated.

The announcement prescribed in the preceding paragraph shall be published in main local newspapers, and posted in areas around the airport to be constructed or extended.

Article 58 The following activities are prohibited within the limits of civil airport defined according to law and within the airport obstacle clearance protection zone defined according to State regulations:

(1) The construction of buildings or facilities that will possibly affect flight safety by emitting large amount of smoke, dust, flames and waste gas in the air;

(2) The construction of buildings or facilities that will affect flight safety such as shooting range and storage of strong explosives;

(3) The construction of buildings or facilities that do not meet the requirements of obstacle clearance of the airport;

(4) The installation of lights, signs or objects that will affect the use of airport visual navaid;

(5) The growing of plants that will affect flight safety or affect the use of airport navaid;

(6) The keeping and setting free of birds and other objects that will affect flight safety; and

(7) The construction of buildings or facilities that will affect the electromagnetic environment of the airport.

Herding of livestock within the limits of civil air-

port defined according to law is prohibited.

Article 59 Before the issue of announcement concerning the construction and extension of a civil airport, the buildings, structures, trees, lights and other obstacles existing within the limits of the civil airport defined according to law and within the airport obstacle clearance protection zone defined in accordance with State regulations that might affect flight safety shall be removed within prescribed time limit; the damage caused thereby shall be compensated or other remedial measures shall be taken according to law.

Article 60 After the issue of announcement concerning the construction and extension of a civil airport, the buildings, structures, trees, lights and other obstacles, that affect flight safety, built, planted or put up in violation of this Law and the provisions of relevant administrative rules and regulations by any unit or individual within the limits of the civil airport defined according to law and within the airport obstacle clearance protection zone defined in accordance with State regulations shall be removed by the order of the local People's Government at or above the county level in the place where the airport is located; the damage caused thereby shall be borne by the person who built, planted or put up such obstacles.

Article 61 In accordance with the relevant regu-

lations of the State, movement obstacle lights and marks shall be installed on high buildings or facilities, outside the civil airport and its obstacle clearance protection zone defined according to State regulations, that will possibly affect flight safety, and shall be kept in normal condition.

Article 62 A civil airport may be opened to traffic only if it holds an airport operating licence.

A civil airport may apply for an airport operating licence if it meets the following conditions and has been checked and accepted as qualified according to State regulations:

(1) It has available a movement area, a terminal area, a working area and service facilities and personnel corresponding to its operation;

(2) It has available air traffic control, communication, navigation and meteorological facilities and personnel that can ensure flight safety;

(3) It has available security protection conditions conforming to State regulations;

(4) It has an emergency plan to deal with extraordinary circumstances and corresponding facilities and personnel; and

(5) It has available other conditions prescribed by the competent civil aviation authority under the State Council.

An international airport shall also have the conditions for operating international air transport and be

provided with customs and other port inspection organs.

Article 63 A civil airport operating licence shall be applied for by airport administrative organ to the competent civil aviation authority under the State Council, and shall be issued after the application being examined and approved by the competent civil aviation authority under the State Council.

Article 64 The establishment of an international airport shall be reported by the competent civil aviation authority under the State Council for the examination and approval of the State Council.

The opening to traffic of an international airport shall be announced to the public by the competent civil aviation authority under the State Council; the data of an international airport shall be exclusively provided by the competent civil aviation authority under the State Council.

Article 65 A civil airport shall take measures to ensure the safety of personnel and property in the airport in accordance with the provisions of the competent civil aviation authority under the State Council.

Article 66 A civil airport used by civil aircraft for the purpose of transporting passengers and cargo shall be equipped with necessary facilities to provide

good service to passengers, shippers and consignees in accordance with the standards provided by the competent civil aviation authority under the State Council.

Article 67 A civil airport administrative organ shall protect well the environment of the civil airport in accordance with the provisions of the laws and administrative rules and regulations concerning environmental protection.

Article 68 A user's charge and a service charge shall be paid for the use of civil airport and its navaid by a civil aircraft; the rates of user's charge and service charge shall be formulated jointly by the competent civil aviation authority under the State Council and the finance department and the competent authority of prices under the State Council.

Article 69 Where a civil airport is abandoned or used for other purposes, the civil airport administrative organ shall go through the formalities of reporting and approval in accordance with State regulations.

Chapter VII

Air Navigation

Section 1 Airspace Management

Article 70 The State exercises unified management over the airspace.

Article 71 In delineating the airspace, consideration shall be given to the requirements of both civil aviation and the security of national defence and to public interest for the rational, full and effective utilization of the airspace.

Article 72 The specific measures for airspace management shall be formulated jointly by the State Council and the Central Military Commission.

Section 2 Flight Management

Article 73 Responsibility for the control of aircraft operating within a defined, controlled airspace shall be vested in a single air traffic control unit.

Article 74 The approval of an air traffic control unit shall be obtained for a civil aircraft to conduct flight activities in a controlled airspace.

Article 75 A civil aircraft in flight shall follow the air route and fly at the altitude specified by the air traffic control unit; permission shall be obtained from the air traffic control unit if a deviation from the air route or a change in flight altitude specified is necessary for one reason or another.

Article 76 Aircraft flying in the territory of the People's Republic of China must observe unified rules of the air.

A civil aircraft performing visual flight shall observe visual flight rules and keep a safe separation from other aircraft and ground obstacles.

A civil aircraft performing instrument flight shall observe instrument flight rules.

The rules of the air shall be formulated jointly by the State Council and the Central Military Commission.

Article 77 No crew member of a civil aircraft shall perform a flight mission if his flight time or time on duty exceeds the time limits prescribed by the competent civil aviation authority under the State Council.

No crew member of a civil aircraft shall perform a flight mission if his work capacity is impaired by the effect of alcoholic beverage, narcotic or other drugs.

Article 78 No civil aircraft shall fly into a pro-

hibited area unless it is specially approved in accordance with State regulations; no civil aircraft shall fly into a restricted area unless it observes the prescribed conditions of restriction.

The prohibited area and restricted area specified in the preceding paragraph are defined in accordance with State regulations.

Article 79 No civil aircraft shall fly across the airspace over a city except in one of the following circumstances:

(1) It is necessary for takeoff, landing or specified air route;

(2) The flight altitude is high enough to permit the civil aircraft to leave the airspace over the city in the event of emergency without undue hazard to persons or property on the surface;

(3) The flight has been approved in accordance with the procedures prescribed by the State.

Article 80 Nothing shall be dropped or sprayed from a civil aircraft in flight except in one of the following circumstances:

(1) It is indispensable for flight safety; or

(2) It is indispensable for performing a rescue mission or other flight missions conforming to the public interest of the society.

Article 81 No civil aircraft shall fly out of the

territorial airspace of the People's Republic of China unless approved.

Where a civil aircraft is leaving the airspace of the People's Republic of China without authorization, the department concerned has the right to take necessary measures to stop it in accordance with concrete conditions.

Section 3 Flight Support

Article 82 An air traffic control unit shall provide air traffic services to civil aircraft in flight, including air traffic control service, flight information service and alerting service.

The purpose of providing air traffic control service is to prevent collisions between civil aircraft and aircraft, and between civil aircraft and obstacles, and maintain and expedite an orderly flow of air traffic.

The purpose of providing flight information service is to provide advice and information useful for the safe and efficient conduct of flights.

The purpose of providing alerting service is to notify appropriate organizations regarding aircraft in need of search and rescue aid, and assist such organizations as required.

Article 83 In the event that an air traffic control unit discovers a civil aircraft deviated from its

specified air route or lost its course, it shall rapidly take all necessary measures to enable the aircraft to regain course.

Article 84 Necessary navigation, communication, meteorological and ground monitoring equipments shall be installed on the air route.

Article 85 The natural obstacles that affect flight safety on air route shall be marked on aeronautical charts; flight obstacle lights and marks shall be installed on man-made obstacles that affect flight safety on air route and shall be kept in normal condition.

Article 86 The construction of a shooting range or other facilities that will possibly affect flight safety is prohibited within the area extending 30 kilometers from the edges of an air route, unless it is a shooting range for flat trajectory light weapon.

The construction of a fixed or temporary air shooting ground beyond the area prescribed in the preceding paragraph shall be subject to approval according to relevant State regulations; the shooting direction of an air shooting range shall not intersect an air route.

Article 87 Any activity that will possibly affect flight safety may be carried out only after being approved according to law with necessary measures being taken to ensure flight safety.

Article 88 The competent civil aviation authority under the State Council shall exercise control over civil aviation radio stations and the special frequencies assigned to be used by civil aviation system according to law.

No radio station or other instrument and device used by a unit or an individual shall hinder the normal use of civil aviation special radio frequencies. Where harmful interference has been caused to civil aviation special radio frequencies, the unit or individual concerned shall rapidly remove such interference; the use of such radio station or other instrument and device shall be stopped before the removal of the interference.

Article 89 The post and telecommunication enterprise shall give priority in service to civil aviation telecommunication transmission.

The State meteorological organ shall provide necessary meteorological data to civil aviation meteorological organ.

Section 4 Essential Documents for Flight

Article 90 A civil aircraft engaged in flight operation shall carry the following documents:

(1) Civil aircraft certificate of nationality registration;

- (2) Civil aircraft certificate of airworthiness;
- (3) Appropriate licences for crew members;
- (4) Civil aircraft journey log book;
- (5) If the civil aircraft is equipped with radio apparatus, its radio station licence;
- (6) If the civil aircraft carries passengers, a list of their names and places of embarkation and destination;
- (7) If the civil aircraft carries cargo, a manifest and detailed declarations of the cargo; and
- (8) Other documents that should be carried according to the flight mission.

Where a civil aircraft fails to carry the documents as listed in the preceding paragraph according to regulations, the competent civil aviation authority under the State Council or the regional civil aviation administrative organ authorized by it may prohibit such civil aircraft to take off.

Chapter VIII

Public Air Transport Enterprise

Article 91 "Public air transport enterprise" means a corporate enterprise engaged in the transport of passengers, baggage, mail or cargo with civil aircraft for the purpose of making profit.

Article 92 In establishing a public air transport

enterprise, application shall be filed with the competent civil aviation authority under the State Council for operating licence, and registration with the administrative department for industry and commerce shall be performed according to law; where a public air transport enterprise fails to obtain operating licence, no registration shall be performed for such enterprise by the administrative department for industry and commerce.

Article 93 The establishment of a public air transport enterprise shall satisfy the following conditions:

(1) It has the civil aircraft conforming to the requirements of ensuring flight safety as stipulated by the State;

(2) It has the necessary airmen who have been issued licences according to law;

(3) It has the registered capital not less than the minimum limit prescribed by the State Council; and

(4) Other conditions prescribed by laws and administrative rules and regulations.

Article 94 The provisions of the Company Law shall be applicable to the form of organization and institutional framework of public air transport enterprises.

Where the form of organization and institutional framework of the public air transport enterprises established before the implementation of this Law do not

completely conform to the provisions of the Company Law, original provisions can continue to be followed, and the date of the application of the provisions in the preceding paragraph shall be specified by the State Council.

Article 95 A public air transport enterprise shall take the assurance of flight safety, the regularity of flight and the provision of good service as guiding principles, and take effective measures to improve transport service quality.

A public air transport enterprise shall educate and require its staff and workers to strictly perform their duties, and conscientiously accomplish the services of transporting passengers and cargo with refined manners and thoughtfulness.

In the event of delay in passenger transport flight, relevant information shall be announced in time in the airport.

Article 96 A public air transport enterprise shall apply to the competent civil aviation authority under the State Council for approval with respect to the air route to be operated for scheduled air services, and the suspension or termination of the operation of air route.

A public air transport enterprise operating scheduled air services shall have its timetable published.

Article 97 The chargeable business items of a public air transport enterprise shall be determined by the competent civil aviation authority under the State Council.

The measures for the control of tariff of domestic air transport shall be formulated jointly by the competent civil aviation authority under the State Council and the competent authority of prices under the State Council, and shall be implemented after being approved by the State Council.

The tariff of international air transport shall be implemented in accordance with the provisions of the agreements signed between the Government of the People's Republic of China and foreign governments; in the absence of any agreement, the tariff shall be formulated with reference to the market prices of international air transport, and shall be implemented after being approved by the competent civil aviation authority under the State Council.

Article 98 The operation of non-scheduled air transport by a public air transport enterprise shall be subject to the approval of the competent civil aviation authority under the State Council, provided that it shall not affect the normal operation of scheduled air transport.

Article 99 A public air transport enterprise shall formulate a security plan in accordance with the

public air transport security regulations formulated by the State Council, and report to the competent civil aviation authority under the State Council for the record.

Article 100 No public air transport enterprise shall carry articles the transport of which is prohibited by the provisions of laws and administrative rules and regulations.

No public air transport enterprise shall carry munitions of war and implements of war unless approved by the competent civil aviation authority under the State Council.

Passengers bringing on their persons articles the transport of which is prohibited by the provisions of laws and administrative rules and regulations are prohibited from flying in a civil aircraft.

Article 101 A public air transport enterprise shall observe the relevant regulations of the State in the transport of dangerous articles.

The consigning of dangerous articles for shipment under the name of non-dangerous articles is prohibited.

Passengers bringing dangerous articles on their persons are prohibited from flying in a civil aircraft. Passengers bringing firearms or controlled knives are prohibited from flying in a civil aircraft unless they are performing official duties and approved in accordance

with State regulations. The consigning of dangerous articles as baggage for shipment against the provisions stipulated by the competent civil aviation authority under the State Council is prohibited.

The names of dangerous articles shall be prescribed and published by the competent civil aviation authority under the State Council.

Article 102 No public air transport enterprise shall carry passengers who refused to accept security inspection, nor shall it carry baggage which have not gone through security inspection against State regulation.

A public air transport enterprise must carry out security inspection or take other measures to ensure the security of the cargo it undertakes to transport in accordance with the provisions stipulated by the competent civil aviation authority under the State Council.

Article 103 The civil aircraft of a public air transport enterprise engaged in international air transport and the persons, baggage and cargo carried therein shall accept the inspection of such competent authorities as frontier inspection, customs and quarantine; provided that unnecessary delay shall be prevented at the time of inspection.

Article 104 A public air transport enterprise shall give priority to the transport of mail in accordance

with the provisions of relevant laws and administrative rules and regulations.

Article 105 A public air transport enterprise shall be covered by insurance against liability for third parties on the surface.

Chapter IX

Public Air Transport

Section 1 Basic Principles

Article 106 This Chapter shall apply to the transport of persons, baggage, or cargo performed by the civil aircraft of public air transport enterprise, including the gratuitous transport performed by the civil aircraft of public air transport enterprise.

This Chapter shall not apply to the transport of mail performed by civil aircraft.

The provisions of this Chapter shall apply to the part of transport by air in the case of multi-modal transport.

Article 107 "Domestic air transport" referred to in this Chapter means any transport in which, according to the contract of transport by air between the parties, the place of departure, the place of destination and

the agreed stopping place are all situated within the territory of the People's Republic of China.

"International air transport" referred to in this Chapter means any transport in which, according to the contract of transport by air between the parties, the place of departure, the place of destination or the agreed stopping place, whether or not there be a break in the transport or a transshipment, is not situated within the territory of the People's Republic of China.

Article 108 Transport to be performed by several successive air carriers is deemed to be one undivided transport, if it has been regarded by the parties to the contract of transport by air as a single operation, whether it had been agreed upon under the form of a single contract or of a series of contracts.

Section 2 Transport Documents

Article 109 For the transport of passengers the carrier shall deliver a passenger ticket. A passenger to travel in civil aircraft shall produce a valid passenger ticket for check.

Article 110 The contents of a passenger ticket shall be prescribed by the competent civil aviation authority under the State Council. A passenger ticket shall at least contain the following particulars:

- (1) The place of departure and of destination;
- (2) If the places of departure and destination are within the territory of the People's Republic of China, one or more agreed stopping places being outside the said territory, an indication of at least one such stopping place; and
- (3) If the ultimate destination, the place of departure or the agreed stopping place of the passenger's journey is not situated within the territory of the People's Republic of China, a notice indicating the international air transport convention applicable to such transport, in case such convention requires the inclusion of the notice in the passenger ticket.

Article 111 The passenger ticket shall constitute prima facie evidence of the conclusion and conditions of the contract of transport of passenger by air.

The failure of the passenger to produce the passenger ticket, or the irregularity or loss of the passenger ticket does not affect the existence or validity of the contract of transport.

In domestic air transport, if, with the consent of the carrier, the passenger embarks on a civil aircraft without a passenger ticket having been delivered, the carrier shall not be entitled to avail himself of the provisions of Article 128 of this Law concerning the limit of liability.

In international air transport, if, with the consent of the carrier, the passenger embarks on a civil aircraft

without a passenger ticket having been delivered, or if the ticket does not include the notice required by sub-paragraph (3) of Article 110 of this Law, the carrier shall not be entitled to avail himself of the provisions of Article 129 of this Law concerning the limit of liability.

Article 112 In respect of the transport of checked baggage by a carrier, a baggage check may be combined with or incorporated in a passenger ticket. In addition to the provisions of Article 110 of this Law, a baggage check shall also include the following particulars:

(1) The number of packages and weight of the baggage; and

(2) If a declaration of interest in delivery at destination of the checked baggage is required, indicate the sum of declared interest.

The baggage check shall constitute prima facie evidence of the checking of the baggage and of the conditions of the contract of transport.

The failure of the passenger to produce the baggage check, or the irregularity or loss of the baggage check does not affect the existence or validity of the contract of transport.

In domestic air transport, if the carrier carries the checked baggage without a baggage check having been delivered, he shall not be entitled to avail himself of the provisions of Article 128 of this Law concerning the

limit of liability.

In international air transport, if the carrier carries the checked baggage without a baggage check having been delivered, or if the baggage check does not include the notice required by sub-paragraph (3) of Article 110 of this Law, the carrier shall not be entitled to avail himself of the provisions of Article 129 of this Law concerning the limit of liability.

Article 113 The carrier has the right to require the shipper to make out an air waybill; a shipper has the right to require the carrier to accept the air waybill. The failure of the shipper to produce the air waybill, or the irregularity or loss of the air waybill shall not affect the existence or validity of the contract of transport.

Article 114 The air waybill shall be made out by the shipper in three original parts and be handed over to the carrier with the cargo.

The first part of the air waybill shall be marked "for the carrier" and shall be signed and sealed by the shipper; the second part shall be marked "for the consignee" and shall be signed and sealed by both the shipper and the carrier; the third part shall be signed and sealed by the carrier and handed by him to the shipper after the cargo has been accepted.

If, at the request of the shipper, the carrier makes out the air waybill, he shall be deemed, subject to proof to the contrary, to have done so on behalf of the ship-

per.

Article 115 The contents of an air waybill shall be prescribed by the competent civil aviation authority under the State Council. An air waybill shall at least contain the following particulars:

(1) The place of departure and of destination;

(2) If the places of departure and destination are within the territory of the People's Republic of China, one or more agreed stopping places being outside such territory, an indication of at least one such stopping place; and

(3) If the ultimate destination, the place of departure or the agreed stopping place of the cargo transport is not situated within the territory of the People's Republic of China, a notice indicating the international air transport convention applicable to such transport, in case such convention requires the inclusion of the notice in the air waybill.

Article 116 In domestic air transport, if, with the consent of the carrier, cargo is carried without an air waybill having been made out, the carrier shall not be entitled to avail himself of the provisions of Article 128 of this Law concerning the limit of liability.

In international air transport, if, with the consent of the carrier, cargo is carried without an air waybill having been made out, or if the air waybill does not include the notice required by sub-paragraph (3) of Arti-

cle 115 of this Law, the carrier shall not be entitled to avail himself of the provisions of Article 129 of this Law concerning the limit of liability.

Article 117 The shipper shall be responsible for the correctness of the particulars and statements relating to the cargo which he inserts in the air waybill.

The shipper shall indemnify the carrier against all damage suffered by him, or by any other person to whom the carrier is liable, by reason of the irregularity, incorrectness or incompleteness of the particulars and statements inserted in the air waybill.

Article 118 The air waybill shall be prima facie evidence of the conclusion of the contract of transport of cargo by air, of the conditions of transport and of the receipt of the cargo by the carrier.

The statements in the air waybill relating to the weight, dimensions, and packing of the cargo, as well as those relating to the number of packages, shall be prima facie evidence of the facts stated. Those relating to the quantity, volume, and conditions of the cargo shall not constitute evidence against the carrier except so far as they both have been and are stated in the air waybill to have been checked by him in the presence of the shipper, or relate to the apparent condition of the cargo.

Article 119 Subject to his liability to carry out

all his obligations under the contract of transport of cargo by air, the shipper shall have the right to dispose of the cargo by withdrawing them at the airport of departure or destination, or by stopping them in the course of the journey on any landing, or by calling for them to be delivered at the place of destination, or in the course of the journey to a person other than the consignee named in the air waybill, or by requiring them to be returned to the airport of departure; provided that the shipper must not exercise this right of disposition in such a way as to prejudice the carrier or other shippers and he must repay any expenses occasioned by the exercise of this right.

If it is impossible to carry out the orders of the shipper, the carrier must so inform him forthwith.

If the carrier obeys the orders of the shipper for the disposition of the cargo without requiring the production of the part of the air waybill delivered to the latter, he will be liable, without prejudice to his right of recovery from the shipper, for any damage which may be caused thereby to any person who is lawfully in possession of that part of the air waybill.

The right conferred on the shipper shall cease at the moment when that of the consignee begins in accordance with the provisions of Article 120 of this Law; provided that if the consignee declines to accept the air waybill or the cargo, or if he cannot be communicated with, the shipper shall resume his right of disposition.

Article 120 Except in the circumstances set out in Article 119, the consignee shall be entitled, on arrival of the cargo at the place of destination, to require the carrier to hand over to him the air waybill and to deliver the cargo to him, on payment of the charges due and on complying with the conditions of transport set out in the air waybill.

Unless it is otherwise agreed, it shall be the duty of the carrier to give notice to the consignee as soon as the cargo arrives.

If the carrier admits the loss of the cargo, or if the cargo has not arrived at the expiration of seven days after the date on which it ought to have arrived, the consignee shall be entitled to put into force against the carrier the rights which flow from the contract of transport of cargo by air.

Article 121 The shipper and the consignee can respectively enforce all the rights given them by Articles 119 and 120 of this Law, each in his own name, whether he is acting in his own interest or in the interest of another, provided that he carries out the obligations imposed by the contract of transport of cargo by air.

Article 122 The provisions of Articles 119, 120 and 121 of this Law shall not affect the relations of the shipper and the consignee with each other or the mutual relations of third parties whose right are derived ei-

ther from the shipper or from the consignee.

Any terms of the contract which are different from the provisions of Articles 119, 120 and 121 of this Law shall be expressly stated in the air waybill.

Article 123 The shipper shall furnish such information and documents as are necessary to meet the formalities provided by laws and administrative rules and regulations before the cargo can be delivered to the consignee. The shipper shall be liable to the carrier for any damage occasioned by the absence, insufficiency or irregularity of any such information or documents, unless the damage is due to the fault of the carrier, his servants or agents.

The carrier is under no obligation to check such information or documents unless otherwise provided by laws and administrative rules and regulations.

Section 3 Liability of the Carrier

Article 124 The carrier shall be liable for the death or personal injury of a passenger, if the accident took place on board the civil aircraft or in the course of any of the operations of embarking on or disembarking from the civil aircraft; provided that the carrier is not liable if the death or injury resulted solely from the state of health of the passenger.

Article 125 The carrier shall be liable for the destruction or loss of, or damage to , any carry-on articles of the passenger, if the occurrence took place on board the civil aircraft or in the course of any of the operations of embarking on or disembarking from the civil aircraft of the passenger. The carrier shall be liable for the destruction or loss of, or damage to any checked baggage of the passenger, if the occurrence took place during the transport by air.

The carrier shall not be liable for the destruction or loss of, or damage to, any carry-on articles or checked baggage of the passenger if such destruction or loss or damage resulted solely from the inherent defect, quality or vice of the baggage.

"Baggage" referred to in this Chapter includes both checked baggage and the carry-on articles of the passenger.

The carrier shall be liable for the destruction or loss of, or damage to, any cargo if the occurrence took place during the transport by air; provided that the carrier is not liable if he proves that the destruction or loss of, or damage to, the cargo resulted solely from one or more of the following:

- (1) Inherent defect, quality or vice of that cargo;
- (2) Defective packing of that cargo performed by a person other than the carrier or his servants or agents;
- (3) An act of war or an armed conflict; or
- (4) An act of public authority carried out in connection with the entry, exit or transit of the cargo.

The "period of the transport by air" referred to in this Article means the whole period during which the checked baggage or cargo is in the charge of the carrier, whether in an airport or on board a civil aircraft, or, in the case of a landing outside the airport, in any place whatsoever.

The period of the transport by air does not extend to any transport by land, by sea or by river performed outside an airport; provided that if such transport is used for loading, delivery or transshipment for the performance of a contract of transport by air, any damage took place during such transport is presumed, subject to proof to the contrary, to have been the damage taken place during the period of transport by air.

Article 126 The carrier shall be liable for damage occasioned by delay in the transport by air of passengers, baggage or cargo; provided that the carrier is not liable if he proved that he and his servants or agents have taken all necessary measures to avoid the damage or that it was impossible for him or them to take such measures.

Article 127 In the transport of passengers and baggage, if the carrier proves that the damage was caused by or contributed to by the fault of the claimant, the carrier may be wholly or partly exonerated from his liability in accordance with the extent of the fault that caused or contributed to such damage.

Where a person other than the passenger claims compensation with respect to the death or injury of the passenger, the carrier may similarly be wholly or partly exonerated from his liability in accordance with the extent of the fault that caused or contributed to such damage, if the carrier proves that the death or injury was caused by or contributed to by the fault of the passenger himself.

In the transport of cargo, if the carrier proves that the damage was caused by or contributed to the fault of the person claiming compensation, or the person from whom he derived his right, the carrier shall be wholly or partly exonerated from his liability in accordance with the extent of the fault that caused or contributed to such damage.

Article 128 The limits of carrier's liability in domestic air transport shall be formulated by the competent civil aviation authority under the State Council and put in force after being approved by the State Council.

If the passenger or the shipper has made, at the time when the checked baggage or cargo was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires, the carrier shall be liable to pay a sum not exceeding the declared sum, unless he proves that the sum declared by the passenger or shipper is greater than the actual interest of the checked

baggage or cargo in delivery at destination; the other provisions of Article 129 of this Law shall be applicable to domestic air transport except the limits of liability.

Article 129 In international air transport, the liability of the carrier shall be as the following:

(1) The liability of the carrier for each passenger is limited to the sum of 16600 units of account. Nevertheless, the passenger may agree with the carrier in writing to a limit of liability higher than that prescribed by this sub-paragraph;

(2) The liability of the carrier for each kilogram of checked baggage or cargo is limited to a sum of 17 units of account. If the passenger or shipper has made, at the time when the package was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires, the carrier shall be liable to pay a sum not exceeding the declared sum, unless he proves that the sum declared by the passenger or shipper is greater than the actual interest of the checked baggage or cargo in delivery at destination.

In the case of destruction, loss, damage or delay of a part of checked baggage or cargo, or of any object contained therein, the weight to be taken into consideration in determining the amount to which the carrier's liability is limited shall only be the total weight of the package or packages concerned. Nevertheless, when the destruction, loss, damage or delay of a part of the

checked baggage or cargo, or of an object contained therein, affects the value of other packages covered by the same baggage check or the same air waybill, the total weight of such package or packages shall also be taken into consideration in determining the limit of liability of the carrier.

(3) The liability of the carrier for carry-on baggage of a passenger is limited to 332 units of account per passenger.

Article 130 Any provision tending to relieve the carrier of the liability prescribed by this Law or to fix a lower limit than that which is laid down in this Law shall be null and void, but the nullity of any such provision shall not involve the nullity of the whole contract of transport by air.

Article 131 Any action for damage occurred in air transport, however founded, can only be brought subject to the conditions and limits of liability set out in this Law, without prejudice to the question as to who are the persons who have the right to bring suit and what are their respective rights.

Article 132 The carrier shall not be entitled to avail himself of the provisions of Articles 128 and 129 of this Law concerning the limit of liability if it is proved that the damage in the air transport resulted from an act or omission of the carrier, his servants or

agents, done with intent to cause damage or recklessly and with knowledge that damage would probably result; provided that, in the case of such act or omission of a servant or agent of the carrier, it is also proved that he was acting within the scope of his employment.

Article 133 If an action is brought against a servant or agent of the carrier arising out of damage during air transport, such servant or agent, if it proves that he acted within the scope of his employment, shall be entitled to avail himself of the limits of liability as provided in Articles 128 and 129 of this Law.

The aggregate of the amounts recoverable from the carrier, his servants and agents, in the case provided in the preceding paragraph, shall not exceed the legal limits of liability.

The provisions of paragraphs 1 and 2 of this Article shall not apply if it is proved that the damage in air transport resulted from an act or omission of the servant or agent of the carrier done with intent to cause damage or recklessly and with knowledge that damage would probably result.

Article 134 Receipt by the passenger of checked baggage or receipt of cargo by the consignee without complaint shall be prima facie evidence that the same have been delivered in good condition and in accordance with the document of transport.

In the case of damage to checked baggage or

cargo, the passenger or consignee must complain to the carrier forthwith after the discovery of the damage, and at the latest, within seven days from the date of receipt in the case of checked baggage and fourteen days from the date of receipt in the case of cargo. In the case of delay the complaint must be made at the latest within twenty-one days from the date on which the checked baggage or cargo have been placed at the disposition of the passenger or consignee.

Every complaint must be made in writing upon the document of transport or by separate notice dispatched within the periods prescribed in the preceding paragraph.

Failing complaint within the periods provided in paragraph 2 of this Article, the passenger or consignee shall be deprived of the right to claim compensation from the carrier, save in the case of fraud on the part of the carrier.

Article 135 The time for bringing up an action concerning air transport is limited to two years, reckoned from the date of arrival of civil aircraft at the destination, or from the date on which the civil aircraft ought to have arrived, or from the date on which the transport stopped.

Article 136 In the case of transport to be performed by various successive carriers, each carrier who accepts passengers, baggage or cargo shall be subject to

the provisions of this Law, and shall be deemed to be one of the contracting parties to the contract of transport in so far as that part of the transport is concerned which is performed by it in accordance with the contract.

In the case of transport of this nature, the passenger or his successor can take action only against the carrier who performed the part of transport during which the accident or the delay occurred, save in the case where, by express agreement, the first carrier shall assume liability for the whole journey.

As regards checked baggage or cargo, the passenger or shipper shall have the right of action against the first carrier, and the passenger or consignee shall have the right of action against the last carrier, and further, each may take action against the carrier who performed the part of transport during which the destruction, loss, damage, or delay took place. These carriers shall be jointly and severally liable to the passenger or to the shipper or consignee.

Section 4 Special Provisions Governing Air Transport Performed by Actual Carrier

Article 137 "Contracting carrier" referred to in this Section means any person who has concluded a contract of transport by air subject to the regulations of this Chapter in his own name with a passenger or a

shipper, or with the agent of a passenger or of a shipper.

"Actual carrier" referred to in this Section means any person to whom the performance of the whole or part of the transport referred to in the preceding paragraph has been authorized by the contracting carrier, and who is not the successive carrier as provided in this Chapter; in the absence of a proof to the contrary, such authorization is deemed to be in existence.

Article 138 Both the contracting carrier and the actual carrier shall, except as otherwise provided in this Section, be subject to the provisions of this Chapter. The contracting carrier shall be responsible for the whole of the transport contemplated in the contract. The actual carrier shall be responsible for the transport which he performs.

Article 139 The acts and omissions of an actual carrier and of his servants and agents acting within the scope of their employment shall, in relation to the transport performed by the actual carrier, be deemed to be also those of the contracting carrier.

The acts and omissions of the contracting carrier and of his servants and agents acting within the scope of their employment shall, in relation to the transport performed by the actual carrier, be deemed to be also those of the actual carrier. Nevertheless, no such act or omission shall subject the actual carrier to liability ex-

ceeding the legal limits.

Any special agreement under which the contracting carrier concerned assumes obligations not imposed by this Chapter or waives the rights conferred by this Chapter or any special declaration of interest in delivery at destination contemplated in Articles 128 and 129 of this Law, shall not affect the actual carrier unless agreed by him.

Article 140 Any claim to be made or order to be given under the provisions of this Chapter shall have equal effect whether addressed to the contracting carrier or to the actual carrier. Nevertheless, orders referred to in Article 119 of this Law shall only be effective if addressed to the contracting carrier.

Article 141 In relation to the transport performed by the actual carrier, any servant or agent of that carrier or of the contracting carrier shall, if he proves that he acted within the scope of his employment, be entitled to avail himself of the provisions of Articles 128 and 129 of this Law concerning the limits of liability, unless he acted in a manner which, under the provisions of this Law, prevents the limits of liability from being invoked.

Article 142 In relation to the transport performed by the actual carrier, the aggregate of the amounts recoverable from that carrier and the con-

tracting carrier, and from their servants and agents acting within the scope of their employment, shall not exceed the highest amount which could be awarded against either the contracting carrier or the actual carrier under this Law, but none of the persons mentioned shall be liable for a sum in excess of the limit of liability applicable to him.

Article 143 In relation to the transport performed by the actual carrier, an action may be brought against that carrier or the contracting carrier separately, or against both together; the carrier against whom an action has been brought shall have the right to require the other carrier to join in the proceedings.

Article 144 Except as provided in Article 143 of this Law, nothing in this Section shall affect the rights and obligations between the actual carrier and the contracting carrier.

Chapter X

General Aviation

Article 145 "General aviation" means civil aviation operations other than public air transport with civil aircraft, including aerial work in the fields of industry, agriculture, forestry, fishery and building in-

dustry, and flight operations in the fields of medical and health work, emergency and disaster relief, meteorological service, ocean monitoring, scientific experiment, education and training, culture and sports.

Article 146 The operation of general aviation shall satisfy the following conditions:

(1) The availability of civil aircraft suitable to the general aviation activities to be operated and conforming to the requirements of ensuring flight safety;

(2) The availability of necessary airmen who have been issued licences according to law; and

(3) Other conditions conforming to the provisions of laws and administrative rules and regulations.

The operation of general aviation for commercial purposes is limited to corporate enterprises.

Article 147 Those engaged in general aviation operations not for commercial purposes shall register with the competent civil aviation authority under the State Council.

Those engaged in general aviation operations for commercial purposes shall apply to the competent civil aviation authority under the State Council for general aviation operating licences, and register with the administrative department for industry and commerce according to law; no registration shall be performed by the administrative department for industry and commerce for those that failed to obtain operating licences.

Article 148 A general aviation enterprise engaged in general aviation operations for commercial purposes shall enter into agreement in writing with users with the exception of rescue or disaster relief operations under emergent circumstances.

Article 149 In organizing and carrying out aerial work, effective measures shall be taken to ensure flight safety, protect environment and ecological balance and prevent damage to be caused to environment, residents, crops or livestock.

Article 150 Those engaged in general aviation operations shall be covered by insurance against liability for third parties on the surface.

Chapter XI

Search and Rescue and Accident Investigation

Article 151 A civil aircraft in emergency shall flash signals and report to air traffic control unit to request rescue; the air traffic control unit shall notify immediately the search and rescue coordination centre. A civil aircraft in emergency on the sea shall also flash signals to vessels and national maritime search and rescue service.

Article 152 Any unit or person observing or listening in to the emergency of a civil aircraft shall immediately notify the search and rescue coordination centre concerned, the maritime search and rescue service concerned or the local People's Government.

Article 153 Upon receiving the notification, the search and rescue coordination centre, the local People's Government and the maritime search and rescue service shall immediately organize the search and rescue operation.

The search and rescue coordination centre which has received the notice shall manage to notify the civil aircraft in emergency of the search and rescue measures already taken.

The specific measures for searching and rescuing civil aircraft shall be formulated by the State Council.

Article 154 The unit or person performing search and rescue mission shall do their best to rescue the persons carried in the civil aircraft, and take measures to rescue the civil aircraft, protect the scene of accident and preserve evidences according to regulations.

Article 155 The parties to an accident of civil aircraft and persons concerned shall, at the time of investigation, truthfully reflect the situation at the scene of accident and other information concerning the acci-

dent.

Article 156 The organization and procedures of the investigation of civil aircraft accident shall be prescribed by the State Council.

Chapter XII

Liability for Damage to Third Parties on the Surface

Article 157 Any person on the surface (including water surface, the same below) who suffers death or personal injury or damage to property caused by a civil aircraft in flight or by any person or thing falling therefrom shall be entitled to compensation. Nevertheless, the person suffers damage shall have no right to compensation if the damage is not a direct consequence of the incident giving rise thereto, or if the damage results from the mere fact of passage of the civil aircraft through the airspace in conformity with air traffic regulations concerned of the State.

The term "in flight" mentioned in the preceding paragraph means the period beginning from the moment when power is applied by a civil aircraft for the purpose of actual takeoff until the moment when the landing run ends. In the case of a civil aircraft lighter than air, the expression "in flight" relates to the period

from the moment when it becomes detached from the surface until it becomes again attached thereto.

Article 158 The liability for compensation contemplated by Article 157 of this Law shall attach to the operator of the civil aircraft.

The term “operator” mentioned in the preceding paragraph means the person who was making use of the civil aircraft at the time the damage was caused. However, if the control of the navigation of the civil aircraft was retained by the person from whom the right to make use of the civil aircraft was derived, whether directly or indirectly, that person shall still be considered the operator.

The operator shall be considered to be making use of a civil aircraft when his servants or agents are using the civil aircraft in the course of their employment, whether or not within the scope of their authority.

The registered owner of the civil aircraft shall be presumed to be the operator and shall be liable as such unless, in the proceedings for the determination of his liability, he proves that some other person was the operator and, in so far as legal procedures permit, takes appropriate measures to make that other person a party in the proceedings.

Article 159 If a person makes use of a civil aircraft without the consent of the person entitled to its navigational control and caused a damage to third par-

ties on the surface, the person entitled to the navigation control, unless he proves that he has exercised due care to prevent such use, shall be jointly and severally liable with the unlawful user.

Article 160 Any person who would otherwise be liable under the provisions of this Chapter shall not be liable if the damage is the direct consequence of armed conflict or civil disturbance.

Any person who would otherwise be liable under the provision of this Chapter shall not be liable if such person has been deprived of the right to use the civil aircraft by the public authority according to law.

Article 161 Any person who would otherwise be liable under the provisions of this Chapter shall be exonerated from the liability for damage if he proves that the damage was caused solely by the fault of the person who suffers the damage or of the latter's servants or agents. If the person liable proves that the damage was contributed to by the fault of the person who suffers the damage, or of his servants or agents, the compensation shall be reduced to the extent to which such fault contributed to the damage. Nevertheless, there shall be no such exoneration or reduction if, in the case of the fault of a servant or agent, the person who suffers the damage proves that his servant or agent was acting outside the scope of his authority.

Where an action is brought by one person to re-

cover the damage arising from the death or injury of another person, and the damage was caused by the fault of such other person, or of his servants or agents, the provisions of the preceding paragraph shall apply.

Article 162 When two or more civil aircraft have collided or interfered with each other in flight and damage for which a right to compensation as contemplated in Article 157 of this Law results, or when two or more civil aircraft have jointly caused such damage, each of the civil aircraft concerned shall be considered to have caused the damage and the operator of each civil aircraft shall be liable.

Article 163 The persons referred to in paragraph 4 of Article 158 and Article 159 of this Law shall be entitled to all defences which are available to an operator under the provisions of this Chapter.

Article 164 Neither the operator, the owner, any person liable under Article 159 of this Law, nor their respective servants or agents, shall be liable for damage on the surface caused by a civil aircraft in flight or any person or thing falling therefrom otherwise than as expressly provided in this Chapter, except any such person who has caused the damage deliberately.

Article 165 Nothing in this Chapter shall pre-
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dice the question whether a person liable for damage in accordance with its provisions has a right of recourse against any other person.

Article 166 The operator of a civil aircraft shall be covered by insurance against liability for third parties on the surface or obtain corresponding guarantee.

Article 167 The insurer or the guarantor may, in addition to the defences available to the operator, and the defence of forgery, set up only the following defences against claims brought up in accordance with the provisions of this Chapter:

(1) That the damage occurred after the insurance or guarantee ceased to be effective. However, if the insurance or guarantee expires during a flight, it should be continued in force until the next landing specified in the flight plan, but no longer than twenty-four hours; and

(2) That the damage occurred outside the territorial limits provided by the insurance or guarantee, unless flight outside of such limits was caused by force majeure, assistance justified by the circumstances or an error in piloting, operation or navigation.

The continuation in force of the insurance and guarantee under the provisions of the preceding paragraph shall apply only for the benefit of the person suffering damage.

Article 168 Without prejudice to any right of direct action which the person suffering damage may have under the law governing the contract of insurance or guarantee, such person may bring a direct action against the insurer or guarantor only in the following cases:

(1) Where the insurance or guarantee is continued in force under the provisions of sub-paragraphs (1) and (2) of Article 167 of this Law;and

(2) The bankruptcy of the operator.

Excepting the defences specified in paragraph 1 of Article 167 of this Law, the insurer or guarantor may not, with respect to direct actions brought by the person suffering damage in accordance with the provisions of this Chapter, avail himself of any ground of nullity of the insurance or guarantee or any right of retroactive cancellation in setting up defences.

Article 169 If insurance or guarantee is furnished in accordance with Article 166 of this Law, it shall be specifically and preferentially assigned to payment of claims under this Chapter.

Article 170 Any sum due to an operator from an insurer shall be exempt from seizure and execution by creditors of the operator until claims of third parties under this Chapter have been satisfied.

Article 171 Actions concerning indemnity for

damage to third parties on the surface shall be subject to a period of limitation of two years from the date of the incident which caused the damage; but in any case such period shall not go beyond a period of three years from the date of the incident which caused the damage.

Article 172 The provisions of this Chapter shall not apply to the following damage:

(1) The damage caused to a civil aircraft in flight, or to persons or cargo on board such aircraft;

(2) The damage which is regulated either by a contract between the person who suffers such damage and the operator or the person entitled to use the civil aircraft at the time the damage occurred, or by the law relating to workman's compensation applicable to a contract of employment between such persons; and

(3) Nuclear damage.

Chapter XIII

Special Provisions Governing Foreign Civil Aircraft

Article 173 The provisions of this Chapter shall be applicable to foreign civil aircraft operated by foreigners and engaged in civil aviation activities in the territory of the People's Republic of China; where no provisions are available in this Chapter, other provi-

sions concerned in this Law shall apply.

Article 174 A foreign civil aircraft may enter or leave the airspace of the People's Republic of China, and operate or land in the territory of the People's Republic of China only in accordance with the air transport agreement concluded between the Government of the People's Republic of China and the government of the State in which the aircraft is registered, or in accordance with the approval or clearance of the competent civil aviation authority under the State Council of the People's Republic of China.

If a foreign civil aircraft, not conforming to the provisions of the preceding paragraph, is entering or leaving the airspace of the People's Republic of China without authorization, the authorities concerned of the People's Republic of China have the right to take necessary measures to order the aircraft to land at a designated airport; if there is reasonable ground to deem that it is necessary to make an inspection of a foreign civil aircraft which operates in conformity with the provisions of the preceding paragraph, the authorities concerned have the right to order the aircraft to land at a designated airport.

Article 175 The operator of a foreign civil aircraft entering the airspace of the People's Republic of China shall furnish relevant certificate(s) to prove that he has been covered by insurance against liability for

third parties on the surface, or obtained corresponding guarantee; where the operator fails to furnish the relevant certificate(s), the competent civil aviation authority under the State Council of the People's Republic of China has the right to refuse him to operate into the airspace of the People's Republic of China.

Article 176 The operator of a foreign civil aircraft may operate the international scheduled air services specified in the air transport agreement concluded between the Government of the People's Republic of China and his own government only after he has been designated by his own government and obtained the operating licence issued by the competent civil aviation authority under the State Council of the People's Republic of China; the operator of a foreign civil aircraft may operate non-scheduled air transport between a place within the territory of the People's Republic of China and a place without said territory only after he has been approved by his own government and by the competent civil aviation authority under the State Council of the People's Republic of China.

The operator of foreign civil aircraft mentioned in the preceding paragraph shall, in accordance with the provisions of the laws and administrative rules and regulations of the People's Republic of China, formulate corresponding plan of security and submit it to the competent civil aviation authority under the State Council of the People's Republic of China for the re-

cord.

Article 177 No operator of foreign civil aircraft shall operate the air transport between two points in the People's Republic of China.

Article 178 The flight of a foreign civil aircraft shall be conducted in accordance with the timetable or flight plan approved by the competent civil aviation authority under the State Council of the People's Republic of China; approval of the competent civil aviation authority under the State Council of the People's Republic of China shall be obtained by the operator in respect of any change in timetable or flight plan; the operator shall report in time to the competent civil aviation authority under the State Council of the People's Republic of China in respect of any change or cancellation of flight.

Article 179 A foreign civil aircraft shall take off or land at a customs airport designated by the competent civil aviation authority under the State Council of the People's Republic of China.

Article 180 The competent civil aviation authority under the State Council of the People's Republic of China and other competent authorities shall have the right to inspect the documents specified in Article 90 of this Law of a foreign civil aircraft on its landing

or departure.

Foreign civil aircraft and the persons, baggage and cargo carried therein shall be subject to entry, exit, customs, quarantine and other inspections exercised by the competent authorities concerned of the People's Republic of China according to law.

In exercising the inspections prescribed in the two preceding paragraphs, undue delay shall be prevented.

Article 181 The civil aircraft certificates of airworthiness and certificates of competency and licences of crew members issued or rendered valid by the State in which the nationality of a foreign civil aircraft is registered, shall be recognized as valid by the Government of the People's Republic of China, provided that the requirements under which such certificates or licences were issued or rendered valid shall be equal to or above the minimum standards established by the International Civil Aviation Organization.

Article 182 In the event that a foreign civil aircraft is in emergency within the search and rescue area of the People's Republic of China, the participation of its owner or of the State in which the nationality of the aircraft is registered shall be subject to the approval of the competent civil aviation authority under the State Council of the People's Republic of China or in accordance with the agreement between the governments of the two States.

Article 183 In the event of an accident occurred to a foreign civil aircraft in the territory of the People's Republic of China, the State in which the nationality of the aircraft is registered or other States concerned may appoint observers to take part in accident investigation. The report of accident investigation and findings in the matter shall be communicated by the competent civil aviation authority under the State Council of the People's Republic of China to the State in which the nationality of such civil aircraft is registered and other States concerned.

Chapter XIV

Application of Law to Foreign-related Matters

Article 184 Where the provisions of an international treaty concluded or acceded to by the People's Republic of China are different from those of this Law, the provisions of that international treaty shall apply, except the provisions for which reservation has been declared by the People's Republic of China.

In respect of cases which are not provided by the law of the People's Republic of China or by the international treaties concluded or acceded to by the People's Republic of China, international practices may apply.

Article 185 The law of the State in which the nationality of a civil aircraft is registered shall be applicable to the acquisition, transference and extinction of the ownership of the civil aircraft.

Article 186 The law of the State in which the nationality of a civil aircraft is registered shall be applicable to the mortgage of the civil aircraft.

Article 187 The law of the location of the court which takes up the case shall be applicable to civil aviation liens.

Article 188 The parties to a contract of civil air transport may choose the law applicable to the contract unless otherwise provided by law. In case the parties to the contract have made no such choice, the law of the State most closely related to the contract shall apply.

Article 189 The law of the place where an act of tort occurred shall be applicable to indemnity for damage caused by a civil aircraft to third parties on the surface.

The law of the location of the court which takes up the case shall be applicable to the indemnity for damage caused by civil aircraft over the high seas to third parties on the surface.

Article 190 The application of foreign laws or international practices in accordance with the provisions of this Chapter shall in no way violate the public interest of the People's Republic of China.

Chapter XV

Legal Liability

Article 191 Where a person seized an aircraft by violence, threats thereof or other means, his criminal responsibility shall be investigated in accordance with the Decision Regarding the Punishment of the Criminals Engaged in Aircraft Hijacking.

Article 192 Where a person endangers flight safety by using violence against a person on board a civil aircraft in flight, but without resulting in serious consequences, his criminal responsibility shall be investigated in accordance with the provisions of Article 105 of the Criminal Law; if grave consequences result from such act, his criminal responsibility shall be investigated in accordance with the provisions of Article 106 of the Criminal Law.

Article 193 A person who, in violation of the provisions of this Law, conceals and brings explosives, detonators or other dangerous articles while flying in a

civil aircraft, or consigns dangerous articles for shipment under the name of non-dangerous articles, but without resulting in serious consequences, shall be investigated for his criminal responsibility by applying *mutatis mutandis* the provisions of Article 163 of the Criminal Law; if grave consequences result from such crime, his criminal responsibility shall be investigated in accordance with the provisions of Article 110 of the Criminal Law.

An enterprise or institution which commits the crime prescribed in the preceding paragraph shall be subject to a fine, and criminal responsibilities shall be investigated against the person directly in charge and other personnel directly responsible for the crime in accordance with the provisions of the preceding paragraph.

A person who conceals and brings firearms, ammunition and controlled knives while flying in a civil aircraft shall be investigated for his criminal responsibility by applying *mutatis mutandis* the provisions of Article 163 of the Criminal Law.

Article 194 Where a public air transport enterprise carries dangerous articles in violation of the provisions of Article 101 of this Law, the competent civil aviation authority under the State Council shall confiscate its unlawful earnings and may also impose a fine of not more than 100% of the unlawful earnings.

Where a public air transport enterprise commits an

act described in the preceding paragraph and thereby creates a serious accident, its unlawful earnings shall be confiscated and a fine shall be imposed; and criminal responsibilities shall be investigated against the person directly in charge and other personnel directly responsible for the crime in accordance with the provisions of Article 115 of the Criminal Law.

Article 195 A person who deliberately places or instigates another person to place dangerous articles on board a civil aircraft in use, sufficient to destroy the civil aircraft and endanger flight safety but without resulting in serious consequences, shall be investigated for his criminal responsibility in accordance with the provisions of Article 107 of the Criminal Law; if grave consequences result from such crime, he shall be investigated for criminal responsibility in accordance with the provisions of Article 110 of the Criminal Law.

Article 196 A person who deliberately transmits false information and disturbs the normal order of flight, resulting in serious losses to public or private property, shall be investigated for criminal responsibility in accordance with the provisions of Article 158 of the Criminal Law.

Article 197 A person who steals or deliberately damages or removes navigational facilities in use and thereby creates danger to flight safety, sufficient to

cause the fall or destruction of the civil aircraft but without resulting in serious consequences, shall be investigated for criminal responsibility in accordance with the provisions of Article 108 of the Criminal Law; if grave consequences result from such crime, he shall be investigated for criminal responsibility in accordance with the provisions of Article 110 of the Criminal Law.

Article 198 A person who assembles a crowd to disturb the order in a civil airport shall be investigated for his criminal responsibility in accordance with the provisions of Article 159 of the Criminal Law.

Article 199 Where an airman neglects his duty or violates the rules and regulations, thereby creating a serious flight accident resulting in grave consequences, his criminal responsibility shall be investigated in accordance with the provisions of Article 187 or by applying *mutatis mutandis* the provisions of Article 114 of the Criminal Law respectively.

Article 200 A person who violates the provisions of this Law, not seriously enough for criminal punishment but should be subject to penalty for public security, shall be punished in accordance with the Regulations on Administrative Penalties for Public Security.

Article 201 Where in violation of the provisions of Article 37 of this Law, a civil aircraft flies without the certificate of airworthiness, or a foreign civil aircraft on lease flies without having its certificate of airworthiness, issued by the State in which the nationality of the aircraft was originally registered, examined and rendered valid by the State Council, or without having a new certificate of airworthiness issued therefor by the said authority, the competent civil aviation authority under the State Council shall order it to stop flying, confiscate the unlawful earnings, and may also impose a fine of more than 100% but not exceeding 500% of the unlawful earnings; in case there is no unlawful earnings, a fine of not less than 100,000 yuan but not more than 1,000,000 yuan shall be imposed.

Where a certificate of airworthiness has lost its effect or a flight was conducted beyond the scope prescribed in the certificate of airworthiness, the punishment prescribed in the preceding paragraph shall apply.

Article 202 Where a person, in violation of the provisions of Article 34 and paragraph 2 of Article 36 of this Law, carries out the production of civil aircraft and its engines, propellers or on-board equipment without obtaining type certificate and type validation certificate, the competent civil aviation authority under the State Council shall order him to stop such production, confiscate his unlawful earnings and may also im-

pose on him a fine of not more than 100% of his unlawful earnings; in case there is no unlawful earnings, a fine of not less than 50,000 yuan but not more than 500,000 yuan shall be imposed.

Article 203 Where a person, in violation of the provisions of Article 35 of this Law, is engaged in the activities of production and maintenance without obtaining production certificate and maintenance certificate or, in violation of the provisions of Article 92 and paragraph 2 of Article 147 of this Law, is engaged in public air transport or general aviation operations for commercial purposes without obtaining a public air transport operating licence or a general aviation operating licence, the competent civil aviation authority under the State Council shall order him to stop such production, maintenance or operations.

Article 204 Where an enterprise having obtained the production certificate and maintenance certificate prescribed in Article 35 of this Law creates a serious accident because of the problem in the quality of production and maintenance, the competent civil aviation authority under the State Council may cancel its production certificate or maintenance certificate.

Article 205 Where a person, in violation of the provisions of Article 40 of this Law, is engaged in civil aviation activities without obtaining the corresponding

airman's licence and physical examination certificate, the competent civil aviation authority under the State Council shall order him to stop such activities, no such licence and certificate shall be issued within the time limit prescribed by the competent civil aviation authority under the State Council, and a fine of not more than 200,000 yuan shall be imposed on the unit that the person belongs to.

Article 206 In one of the following circumstances in which the law is violated, the competent civil aviation authority under the State Council shall punish the pilot-in-command by warning or by withholding his licence for a period of one to six months, or under aggravating circumstances, punish him by cancelling his licence:

(1) The pilot-in-command, in violation of the provisions of paragraph 1 of Article 45 of this Law, takes off without carrying out an inspection of the civil aircraft; or

(2) A civil aircraft, in violation of the provisions of Article 75 of this Law, fails to follow the air route and to fly at the altitude specified by the air traffic unit, or in violation of the provisions of Article 79 of this Law, flies across the airspace over a city.

Article 207 Where a civil aircraft, in violation of the provisions of Article 74 of this Law, conducts flight activities without the approval of the air traffic

control unit, the competent civil aviation authority under the State Council shall order it to stop flying, and impose a fine on the owner or lessee of the civil aircraft of not less than 10,000 yuan but not more than 100,000 yuan; and punish the pilot-in-command of the civil aircraft by warning or by withholding his licence for a period of one to six months, or under aggravating circumstances, punish him by cancelling his licence.

Article 208 Where the pilot-in-command of a civil aircraft or another member of the crew commits one of the following acts, the competent civil aviation authority under the State Council shall punish him by warning or by withholding his licence for a period of one to six months; if the act listed in sub-paragraph (2) or (3) is committed, he shall be punished by having his licence cancelled:

(1) Failure to carry on his person licence and physical examination certificate in performing a flight mission as required by the provisions of Article 41 of this Law; or

(2) Leaving the civil aircraft in distress in violation of the provisions of Article 48 of this Law;

(3) Performing a flight mission in violation of the provisions of paragraph 2 of Article 77 of this Law.

Article 209 Where some articles are dropped or sprayed from a civil aircraft in flight in violation of the

provisions of Article 80 of this Law, the competent civil aviation authority under the State Council shall give a warning, and may impose a fine of not less than 2,000 yuan but not more than 20,000 yuan on the person directly responsible.

Article 210 Where a civil airport is opened to traffic without obtaining an airport operating licence in violation of the provisions of Article 62 of this Law, the competent civil aviation authority under the State Council shall order it to stop its opening to traffic, confiscate its unlawful earnings, and may impose a fine of not exceeding 100% of the unlawful earnings.

Article 211 Where a public air transport enterprise or a general aviation enterprise violates the provisions of this Law, in circumstances of a serious nature, the competent civil aviation authority under the State Council may, in addition to the punishment prescribed by this Law, cancel its operating licence. If the operating licence of such enterprise is cancelled, the administrative department for industry and commerce shall cancel its business licence.

Article 212 The working personnel of the competent civil aviation authority under the State Council and of regional civil aviation administrative organs, who neglect their duties, abuse their powers, practise favouritism and embezzlement, if the case constitutes a

crime, shall be investigated for criminal responsibilities according to law; if the case does not constitute a crime, they shall be subject to administrative sanctions according to law.

Chapter XVI

Supplementary Provisions

Article 213 "Unit of account" mentioned in this Law refers to the Special Drawing Right as defined by the International Monetary Fund; its equivalent in Renminbi shall be the amount calculated in terms of the conversion rate from the Special Drawing Right of the International Monetary Fund to Renminbi as prescribed by the competent State foreign exchange authority at the date of the judgement of the court, the date of the award of arbitration agency or the date agreed between the parties concerned.

Article 214 This Law shall go into effect as of March 1, 1996.

(In case of discrepancy between the English translation and the original Chinese text, the Chinese text shall prevail. --Tr.)