

L.N. 144 of 2000

AIR NAVIGATION (FLIGHT PROHIBITION) ORDER

(Made by the Chief Executive in Council under sections 2A(2) and 12(2) of the Civil Aviation Ordinance (Cap. 448))

1. Commencement

This Order shall come into operation on a day to be appointed by the Director of Civil Aviation by notice in the Gazette.

2. Interpretation

(1) In this Order—

“commander” (機長), in relation to an aircraft, means the member of the crew designated as commander of that aircraft by the operator thereof, or, failing such a person, means the person who, for the time being, is in charge of the piloting of the aircraft without being under the direction of any other pilot of the aircraft;

“operator” (營運者), in relation to an aircraft, means the person who for the time being has the management or control of the aircraft;

“parascending parachute” (拖引式降落傘) means a parachute which is towed by cable in such a manner as to cause it to ascend and includes a parasailer towed by boat or vehicle;

“prescribed altitude” (指定高度) means an altitude of less than 4 000 feet above mean sea level;

“Prohibition Area” (禁區) means the area delineated in red in the plan numbered AN(FP)1, dated and signed by the Director of Civil Aviation and deposited at the Headquarters of the Civil Aviation Department.

(2) For the avoidance of doubt, it is hereby declared that in this Order—

(a) “aircraft” (飛機) includes any free or captive balloon, airship, glider, kite, parascending parachute, parachute other than a parascending parachute, remote-controlled or unmanned aircraft and ultra-light aircraft;

(b) “fly over” (飛越), in relation to the Prohibition Area, includes fly within the airspace above the Prohibition Area.

3. Flight restriction

(1) Subject to subsections (2) and (3), no aircraft may at any time fly over the Prohibition Area at a prescribed altitude.

- (2) Subsection (1) shall not apply to—
- (a) any aircraft that flies over the Prohibition Area at a prescribed altitude in accordance with the air traffic control instructions or Civil Aviation Department published approach and departure procedures, or in deviation from such instructions or procedures for weather avoidance or due to technical problems;
 - (b) any aircraft that flies over the Prohibition Area at a prescribed altitude for the purposes of fire fighting or prevention, life-saving, casualty evacuation or police operations; or
 - (c) any aircraft of the Government Flying Service that flies over the Prohibition Area at a prescribed altitude, if—
 - (i) the cloud ceiling is less than 1 600 feet over Mui Wo at all times during the period when the aircraft flies over the Prohibition Area; and
 - (ii) the movement of the aircraft over the Prohibition Area is limited to the airspace above the area north of the Penny's Bay Power Station as shown in the plan numbered AN(FP)1, dated and signed by the Director of Civil Aviation and deposited at the Headquarters of the Civil Aviation Department.

(3) Without prejudice to subsection (2), the Chief Executive may, having regard to the frequency and nature of flight by individual aircraft and the safety and regularity of air traffic, give instructions to exempt the aircraft from subsection (1) subject to such conditions, if any, as he thinks fit.

4. Penalty

(1) Where an aircraft flies in contravention of section 3(1), the operator and the commander of the aircraft each commits an offence and is liable on summary conviction to a fine at level 2.

(2) It shall be a defence for a person charged with an offence under subsection (1) to prove that the contravention occurred without his consent or connivance and that he exercised reasonable due diligence to prevent the contravention.

CHENG Mei-sze, Maisie
Clerk to the Executive Council

COUNCIL CHAMBER
9 May 2000

Explanatory Note

This Order prohibits aircraft from flying below an altitude of 4 000 feet above mean sea level over the proposed Hong Kong Disneyland and its immediate vicinity (see section 3(1) as read with the definition of “Prohibition Area” in section 2(1)). The prohibition, however, does not apply to certain categories of aircraft (see section 3(2) and (3)).