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AIR NAVIGATION ACT
(CHAPTER 6)

AIR NAVIGATION
(99 — BREATH TESTING FOR ALCOHOL)
REGULATIONS 2019

ARRANGEMENT OF REGULATIONS

PART 1

PRELIMINARY

Regulation

1. Citation and commencement
2. Definitions

PART 2

BREATH TESTS

3. Pilot may be required to undergo breath test
4. Obligations of pilot
5. Procedure for breath test
6. Unfit foreign pilot cannot perform functions or duties of pilot
7. Tampering with results of breath test prohibited
8. Approved testers

PART 3

AIRLINE ALCOHOL MANAGEMENT PROGRAMME

9. Airline alcohol management programme
 10. Financial penalties
The Schedule — Breath analysing devices
The Schedule
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In exercise of the powers conferred by section 3A of the Air Navigation Act, the Civil Aviation Authority of Singapore, with the approval of the Minister for Transport, makes the following Regulations:

PART 1
PRELIMINARY

Citation and commencement

1. These Regulations are the Air Navigation (99 — Breath Testing for Alcohol) Regulations 2019 and come into operation on 31 March 2019.

Definitions

2. In these Regulations, unless the context otherwise requires —
- “alcohol” includes any liquid containing any form of ethanol;
 - “AOC holder” means a holder of an air operator certificate granted under the Air Navigation (119 — Air Operator Certification) Regulations 2018 (G.N. No. S 443/2018);
 - “applicable flight” means a flight involving a relevant aircraft that —
 - (a) begins from Singapore; and
 - (b) is carried out by a relevant operator;
 - “approved tester” means a person appointed as an approved tester under regulation 8;
 - “breath analysing device” means an instrument or apparatus that is used to ascertain, by analysis of an individual’s breath, the presence, or presence and concentration, of ethanol in the individual’s breath;
 - “breath test” means the tests mentioned in regulation 5(1);
 - “notice of unfitness” means a written notice given by an approved tester under regulation 5(5) to a pilot, containing the matters in regulation 5(6);

“problematic consumption of alcohol”, in relation to a pilot, means consumption of alcohol to excess, such that —

- (a) as a result, the pilot’s judgment is impaired;
- (b) as a result, the pilot is incapable at times of managing himself or herself or his or her affairs; or
- (c) the pilot shows prodromes of becoming so impaired or incapable;

“relevant aircraft” means —

- (a) any aircraft operated by a Singapore operator;
- (b) any Singapore registered aircraft operated by a person other than a Singapore operator; or
- (c) any foreign registered aircraft in Singapore that is operated by a person other than a Singapore operator;

“relevant operator” means —

- (a) an AOC holder; or
- (b) any other person who is operating —
 - (i) a Singapore registered aircraft, whether in or outside Singapore; or
 - (ii) a foreign registered aircraft in Singapore.

PART 2

BREATH TESTS

Pilot may be required to undergo breath test

3.—(1) An approved tester may require a pilot to undergo a breath test at a time and place specified by the approved tester, where the approved tester has reasonable cause to believe that the pilot is operating, or is about to operate, a relevant aircraft for an applicable flight.

(2) For the purposes of paragraph (1), the approved tester must serve a written notice on the pilot.

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- (3) A pilot who is given a notice under paragraph (2) —
- (a) must comply with the notice to undergo a breath test; and
 - (b) must not perform, or purport to be available to perform, any function or duty in the capacity of a pilot of a relevant aircraft, unless the pilot —
 - (i) has completed the breath test; and
 - (ii) is not given a notice of unfitness as a result.
- (4) A pilot who contravenes paragraph (3) shall be guilty of an offence and shall be liable on conviction —
- (a) for a first offence, to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both; and
 - (b) for a second or subsequent offence, to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 5 years or to both.

Obligations of pilot

- 4.—(1) A pilot who is given a notice under regulation 3(2) by an approved tester must —
- (a) comply with the instructions of the approved tester in relation to the conduct of the breath test, including providing such specimens of the pilot's breath as the approved tester may require in accordance with these Regulations; and
 - (b) remain in the presence of the approved tester for such period as is reasonable in the circumstances to enable the breath test to be completed.
- (2) A pilot who contravenes paragraph (1) shall be guilty of an offence and shall be liable on conviction —
- (a) for a first offence, to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both; and

(b) for a second or subsequent offence arising from another breath test, to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 5 years or to both.

(3) However, it is not an offence under paragraph (2) for a pilot to refuse to comply with any request, demand or order made or given by an approved tester who fails to declare his or her office and refuses to produce his or her identification card on demand being made by that pilot.

Procedure for breath test

5.—(1) A breath test under these Regulations consists of —

- (a) a preliminary breath test, using a breath analysing device in Part 1 of the Schedule, to assess whether ethanol is present in a pilot's breath; and
- (b) if paragraph (3) applies, a final breath test, using a breath analysing device in Part 2 of the Schedule, to assess —
 - (i) whether ethanol is present in the pilot's breath; and
 - (ii) if ethanol is present, the concentration of ethanol in the pilot's breath.

(2) When the approved tester intends to administer a breath test to a pilot, the approved tester may require the pilot to provide a specimen of the pilot's breath for a preliminary breath test.

(3) Where the result of the preliminary breath test relating to the pilot is that ethanol is present in the pilot's breath, the pilot must, as soon as is practicable but not earlier than 15 minutes after the preliminary breath test, provide a further specimen of his or her breath to the approved tester for a final breath test.

(4) The final breath test must be conducted by the approved tester in the presence of a witness, who must be present at all times until the final breath test is completed.

(5) If the final breath test relating to the pilot produces a finding that —

- (a) ethanol is present in the pilot's breath; and

- (b) the concentration of ethanol in the pilot's breath exceeds the permitted level,

the approved tester must immediately give to the pilot a notice of unfitness.

(6) A notice of unfitness given by an approved tester to a pilot must contain the following information:

- (a) the pilot's name, date of birth, gender, residential address and telephone number;
- (b) the date and time on, and the place at, which the pilot underwent a breath test under these Regulations;
- (c) a statement that the pilot is unfit to perform any function or duty in the capacity of a pilot of any relevant aircraft for any applicable flight;
- (d) the name and particulars of —
- (i) the approved tester who conducted the pilot's breath test; and
 - (ii) the witness in paragraph (4);
- (e) a certification by the approved tester in sub-paragraph (d)(i) that the pilot's breath test was carried out in accordance with these Regulations;
- (f) the serial number of the breath analysing device used for the final breath test relating to the pilot;
- (g) the date on which the notice of unfitness is given to the pilot.

(7) In paragraph (5)(b), "permitted level" means 0.02 grams of ethanol in 210 litres of breath.

Unfit foreign pilot cannot perform functions or duties of pilot

6.—(1) This regulation applies to a pilot who —

- (a) holds a licence granted under the law of a country other than Singapore authorising him or her to act as a pilot; and
- (b) is given a notice of unfitness.

(2) A pilot in paragraph (1) must not perform, or purport to be available to perform, any function or duty of a pilot of a relevant aircraft for any applicable flight, unless the pilot produces a report that —

- (a) is issued by the authority that granted the licence held by the pilot when he or she was given the notice of unfitness; and
- (b) states that the authority in sub-paragraph (a) is satisfied that the pilot, having undergone an evaluation of his or her medical fitness, is not engaging in the problematic consumption of alcohol.

(3) A pilot who contravenes paragraph (2) shall be guilty of an offence and shall be liable on conviction —

- (a) for a first offence, to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both; and
- (b) for a second or subsequent offence, to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 5 years or to both.

Tampering with results of breath test prohibited

7.—(1) A person must not knowingly interfere with or alter the result of any breath test.

(2) A person who contravenes paragraph (1) shall be guilty of an offence and shall be liable on conviction —

- (a) for a first offence, to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both; and
- (b) for a second or subsequent offence, to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 5 years or to both.

Approved testers

8.—(1) The Authority may appoint as an approved tester a person —

- (a) who is an auxiliary police officer of or above the rank of sergeant;
- (b) who is an employee of the Authority; or
- (c) who, in the Authority's opinion, has the training, qualifications and experience to conduct breath tests in accordance with these Regulations.

(2) The Authority must issue to each approved tester an identification card, which must be carried at all times by the approved tester when carrying out any breath test under these Regulations.

PART 3**AIRLINE ALCOHOL MANAGEMENT PROGRAMME****Airline alcohol management programme**

9.—(1) An AOC holder must —

- (a) develop an airline alcohol management programme (called in this Part an AAMP) for the pilots it employs; and
- (b) integrate the AAMP approved by the Director-General of Civil Aviation into the AOC holder's safety management system and its Operations Manual.

(2) An AAMP must include the following:

- (a) processes for the AOC holder to be informed of any pilot it employs (called in this paragraph an affected pilot) who is believed to be engaging in the problematic consumption of alcohol;
- (b) a risk-based testing programme for the pilots employed by the AOC holder;
- (c) a medical intervention and rehabilitation programme for any affected pilot;

- (d) a peer support programme for any affected pilot;
- (e) a programme for educating all pilots the AOC holder employs on the risks associated with the problematic consumption of alcohol.

Financial penalties

10.—(1) Subject to paragraphs (2) and (3), where the Authority is of the opinion that an AOC holder is contravening, has contravened or has failed to comply with any provision in regulation 9, the Authority may impose on the AOC holder a financial penalty not exceeding the higher of the following:

- (a) \$500,000;
- (b) 5% of the AOC holder's annual revenue derived from the regulated activity.

(2) Before exercising any power under paragraph (1), the Authority must give written notice to the AOC holder concerned —

- (a) stating that the Authority intends to impose on the AOC holder a financial penalty under this regulation;
- (b) specifying each instance of non-compliance that is the subject of the financial penalty; and
- (c) specifying the time (being not less than 14 days after the service of the notice on the AOC holder) within which the AOC holder may make written representations to the Authority with respect to the non-compliance that is the subject of the financial penalty.

(3) The Authority may, after considering any written representations under paragraph (2)(c), impose such financial penalty under paragraph (1) as the Authority considers appropriate.

(4) Where the Authority has made any decision under paragraph (3) against an AOC holder, the Authority must serve on the AOC holder a notice of its decision.

(5) To avoid doubt, this regulation does not affect the operation of section 4C, 4D or 4E of the Act.

(6) In this regulation —

“annual revenue” means the amount of money received by an AOC holder in the calendar year during which the AOC holder contravened or failed to comply with regulation 9;

“regulated activity” means all commercial air transport operations carried out by the AOC holder under its air operator certificate.

THE SCHEDULE

Regulation 5(1)

BREATH ANALYSING DEVICES

PART 1

1. Alcolizer LE5

PART 2

1. Drager Alcotest 9510

Made on 28 March 2019.

EDMUND CHENG WAI WING
Chairman,
Civil Aviation Authority of
Singapore.

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(To be presented to Parliament under section 3A(8) of the Air Navigation Act).