

1957

Some Aspects of the New Civil Aeronautics Law of Japan

Ichiro Narahashi

Follow this and additional works at: <https://scholar.smu.edu/jalc>

Recommended Citation

Ichiro Narahashi, *Some Aspects of the New Civil Aeronautics Law of Japan*, 24 J. Air L. & Com. 47 (1957)
<https://scholar.smu.edu/jalc/vol24/iss1/4>

This Article is brought to you for free and open access by the Law Journals at SMU Scholar. It has been accepted for inclusion in Journal of Air Law and Commerce by an authorized administrator of SMU Scholar. For more information, please visit <http://digitalrepository.smu.edu>.

SOME ASPECTS OF THE NEW CIVIL AERONAUTICS LAW OF JAPAN

BY DR. ICHIRO NARAHASHI

Representative of Japan on the ICAO Council

UPON termination of the War, all aeronautical activities in Japan were banned by the directives and memoranda of the Supreme Commander for the Allied Powers (SCAP). Later, in accordance with the SCAP memorandum issued June 1950, only "traffic and sales" activities in domestic air transportation were approved.

In September 1951 the Japanese Peace Treaty was signed at San Francisco, in which no restriction on any kind of aeronautical activities was prescribed. Much was, therefore, expected in the way of rapid development of Japanese civil aviation when this Treaty came into effect.

At that time, however, the former Japanese Civil Aeronautics Law and Regulation, which were enacted in 1921,¹ had already been abolished, and three post-war Cabinet Orders had put the following into operation on a temporary basis:

1. "Cabinet Order Concerning Domestic Air Transportation" stipulated that the operation of aircraft on the one hand and "traffic and sales" activities on the other in domestic air transportation should be performed by a foreign airline and a Japanese company, respectively.

2. "Cabinet Order Concerning Foreign International Air Transportation" laid down procedures for application by foreign airlines for permission to engage in international air transportation to and from Japan.

3. "Cabinet Order Concerning the Entry, Exit, etc., of Aircraft" laid down procedures relating to the admission to and departure from Japan of aircraft other than those engaged in scheduled international air transportation.

It was obvious that these temporary Orders were neither sufficient nor satisfactory as civil aeronautics law and regulation for all civil aviation activities in the peace-restored period, and had to be amended or replaced by new and permanent rules drawn up to cover existing circumstances.

Furthermore, Article 13, Paragraph C, of the Peace Treaty, states that Japan shall put into effect the principles and provisions of the Convention on International Civil Aviation, signed at Chicago on December 7, 1944, as well as the international standards, recommended

¹ The Law on Air Navigation of 8 April 1921 (64 articles) dealt with Registration, Licensing of personnel, Aerodromes, Air navigation and transport, Penalties. A French translation of the text appeared in the *Revue juridique de la locomotion aérienne*, Vol. 9 (1925), pp. 238-250.

practices and procedures adopted as Annexes to the said Convention. Japan was consequently obliged to enact a new air law and regulations consistent with the provisions of the Chicago Convention, even prior to participating in the said Convention. (Japan adhered to the Chicago Convention in October 1953.)

A committee was appointed in 1951 in the Civil Aviation Bureau, Ministry of Transportation, for the purpose of drafting a new law and regulations, which became effective in July 1952.

In drafting the new law and regulations there appeared to exist two distinct opinions on the part of the Committee. One viewpoint was that the new air law should be a completely new compilation, regardless of the form and contents of the old one, be as simple as possible, but with the power of the Director of Civil Aviation increased. The other group on the Committee was not so radical, but contended that the new air law should follow the form of the former one, and only in its content should there be a change in order to reflect the Chicago Convention and the Annexes thereto. The opinion of the first group was based on the thought that after the new law had been drafted in full detail and approved by the Diet, it would be too cumbersome for the Government to have to present continuously to the Diet for approval amendments necessary to meet the changing requirements of the rapidly progressing international civil aviation.

After due consultation with the Legislative Bureau of the Prime Minister's Office, the Committee decided to adopt the opinion of the second group for the reason that all matters affecting the rights and obligations of the people should be fully provided for in the law, and any extreme means, which would be alien to the form or system of Japanese laws, should not be considered at that time.

Under these circumstances the current Japanese Civil Aeronautics Law and Regulations were drawn up and enacted in July 1952;² and, as will be seen, great emphasis was placed on establishing standards for aircraft airworthiness, qualifications of pilots and other airmen, standards for the construction, installation and maintenance of airports and air navigation facilities, and standards for the operation of aircraft in addition to provisions assuring the orderly development of both domestic and international air transportation, all in conformity with the provisions of the Chicago Convention.³

² The Civil Aeronautics Law (No. 231) of 15 July 1952, as amended by laws no. 278 of 1952, no. 66 and 151 of 1953, no. 60 of 1954, is divided in ten Chapters (162 articles) as follows: I. General provisions; II. Registration of aircraft; III. Safety of aircraft (airworthiness, etc.); IV. Airman (licensing); V. Airway, Aerodrome and Air Navigation; VI. Operation of Aircraft; VII. Air Transportation, etc.; VIII. Foreign aircraft; IX. Miscellaneous (Investigation of accidents, fees, etc.); X. Penal provisions. The law has been completed by a Civil Aeronautics Regulation, effective the same date as the law and amended thereafter from time to time.

³ Article 1 of the law defines its purpose as follows: "Article 1. The purpose of this law is to promote the development of civil aviation by providing for methods of securing the safety of navigation of aircraft in conformity with the provisions of the Convention on International Civil Aviation and with the standards, practices and procedures adopted as annexes thereto, and by establishing order of enterprises carried on by operating aircraft."