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JAPANESE AIR NAVIGATION REGULATIONS*

NAOMICHI KATAOKA†

INTRODUCTION.

A History of the Regulations for Air Navigation in Japan:

The regulation concerning the promotion of aviation which was put into effect on December 24, 1920, was the first regulation to be drafted on civil aviation in Japan. However, the birth of Japan's Air Navigation Law did not take place until its promulgation on April 8, 1921. The rapid development of air traffic in Europe and America stimulated the growth of aviation in Japan, and particularly from 1918 onward there has been a noticeable progress. In December, 1919, a Special Aeronautical Committee was set up as an advisory organ at the Ministry of War in order to study the ways and means of directing, promoting and regulating all the aviation enterprises except the one belonging to the military organization, and also to investigate the programs of the Convention Relating to the Regulation of Aerial Navigation dated 13th October, 1919, of which Japan has become a signatory. Indeed, it was this Special Aeronautical Committee which drafted Japan's Air Navigation Law of April, 1921.

The Development of Civil Navigation in Japan:

However, as civil aviation in Japan was still in a state of infancy, and the immediate execution of the Air Navigation Law of April, 1921 was deemed to hinder the natural development of civil aviation in this country, its execution was postponed and it was temporarily substituted with several regulations of comparatively simple nature, such as the Air Navigation Regulation Rules of March 25, 1921, and Rules on the Inspection of Aircraft of April 2, 1921. Five years later, with the gradual development of civil aviation, the Air Navigation Law was put into effect on June 1, 1927. At the same time, Regulations relating to the Execution of the Air Navigation Law, and Rules for the Inspection

445 *Relative to the Air Navigation Law of Japan, see 6 JOURNAL OF AIR LAW (1935).

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of Aircraft, for the Examination on Competency of Members of Operating Crew, for the Medical Examination of Members of Operating Crew, for the Examination of 3rd Class Pilot were enacted and were promulgated by the Ministry of Communications, while, on the other hand, Air Navigation Regulations of March 25, 1921, and Rules on the Inspection of Aircraft of April 2, 1921, were canceled. Besides those already mentioned above, the present air navigation regulations of Japan are comprised of a few others; such as regulations for the promotion of air navigation, the education of members of operating crew, etc. The main body of domestic regulations for navigation in Japan, however, are the Air Navigation Law and the Regulations relating to the Execution of the Air Navigation Law. I shall here explain briefly an outline of the regulation of air navigation in Japan.

SUMMARY OF THE REGULATIONS RELATING TO THE EXECUTION OF THE AIR NAVIGATION LAW.

Inspection of Aircraft:

The first chapter of the Regulations Relating to the Execution of the Air Navigation Law of Japan consists of five articles of general rules. For convenience, I shall explain each separately with other relative articles.

The second chapter deals with the fundamental rules on the system of the inspection of aircraft in view of prevention of accidents. The inspection of aircraft is divided into four cases; namely, construction inspection, special inspection, periodical inspection and temporary inspection¹

(1) *Construction Inspection*—The construction of an aircraft must have an inspection executed in the name of the Minister of Communications, on its design, materials, parts, art and the aircraft thus constructed.²

(2) *Special Inspection*—Aircraft of which inspection was impossible in a period of construction, such as those purchased from foreign countries, are also subject to an inspection executed in the name of the Minister of Communications. A similar step is taken toward aircraft disposed by the government to private persons.³

An aircraft which has thus passed the above mentioned inspec-

1. Regulations—Art. VI.

2. Law—Art. V., Parag. I; Regulations—Art. VII, XI and XII.

3. Law—Art. V, Parag. II; Regulations—Art. VIII, XI, XIII.

tion is given an airworthiness certificate.⁴ However, under such conditions when (1) an aircraft is constructed for the purpose of other than flying in Japan, (2) or when an aircraft is imported for the purpose of other than flying in Japan, (3) or in case there is a valid reason, a constructor or owner of aircraft may apply for exemption of inspection on his aircraft in submitting to the Minister of Communications a statement confirming the fact.⁵

An aircraft which flies, for the purpose of examinations of aircraft, over the aerodrome or a certain place selected by an official order can be exempted from inspection.⁶

(3) *Periodical Inspection*—This inspection is executed when an owner of aircraft applies for an extension of the period of validity of its airworthiness certificate.⁷

The period of validity of the airworthiness certificate shall be fixed by the competent administration for a period of not more than 6 months, beginning from the day it might pass either the construction inspection or special inspection. And the extension of the period of validity will be allowed, in accordance with the result of periodical or temporary inspection, for a period of not more than 6 months.⁸

(4) *Temporary Inspection*—This inspection will take place when an aircraft with an airworthiness certificate has a modification on the principal parts of its own structure or its engine or engines, or in certain important cases or when the Minister of Communications deems it necessary.⁹

The Competent Administration may limit, suspend or prohibit the employment of an aircraft owing to the result of a periodical or temporary inspection of the aircraft or when it seems necessary owing to its actual condition.

The Competent Administration will inscribe on the airworthiness certificate the matters of the above limitation, if this is decided, and will retain the airworthiness certificate during the above suspension, if this is decided.¹⁰

The above mentioned inspections of aircraft are exercised in accordance with the detailed terms fixed in the Rules Relating to the Inspection of Aircraft.¹¹

In case any change occurs in the condition described in the

4. Law—Art. V, Parag. III.
5. Regulations—Art. XVII.
6. Law—Art. I & II.
7. Regulations—Art. IX.
8. Law—Art. VI & XI.
9. Regulations—Art. X.
10. Law—Art. XIV.
11. Regulations—Art. XVI.

airworthiness certificate of an aircraft, the owner of the aircraft should immediately apply to the Minister of Communications for a revision of the airworthiness certificate, and if he has a new airworthiness certificate, he must return the old one without delay.¹² The airworthiness certificate loses its effect in the following cases: after expiration of the period of validity mentioned in the airworthiness certificate or when the above mentioned prohibition of employment of the aircraft in question is decided.

There are penalties relative to the inspection of aircraft. Persons who have undergone construction, special, periodical or temporary inspection under false pretenses are liable to imprisonment of not more than two years or a fine of 2,000 yen.¹³ Persons who used an aircraft which failed to pass one of these inspections are liable to imprisonment of not more than three years or a fine of not more than 3,000 yen.¹⁴ Other violations of law will be dealt with accordingly.

Registration of Aircraft:

The Third Chapter deals with the registration of aircraft. The system of registration has two purposes; *i. e.*, to make clear the nationality of aircraft, and to get convenience to the control and other administration by particular marks to be borne by aircraft. The registration of aircraft is divided into three kinds: (1) registration, (2) modification of registration and (3) cancellation of registration.¹⁵

(1) *Registration*—An owner of an aircraft which has passed the construction or special inspection may apply for the registration of the same aircraft to the Competent Administration.¹⁶

(2) *Modification of Registration*—In case any change is made in the matters inscribed in the registers about an aircraft, the owner of the aircraft in question must apply for modification of registration to the competent administration within 14 days.¹⁷

(3) *Cancellation of Registration*—In case a registered aircraft is lost or destroyed or dismantled or has lost the Japanese nationality the owner of the aircraft in question must apply for cancellation of registration.¹⁸

On acceptance of a written application for registration, the

12. Regulations—Art. XXVI.

13. Law—Art. LIII.

14. Law—Art. LV, Parag. I.

15. Regulations—Art. XXXI.

16. Law—Art. VII, Sec. I; Regulations—Art. XXXII.

17. Law—Art. VII, Parag. III; Regulations—Art. XXXIII.

18. Law—Art. VIII, Sec. III; Regulations—Art. XXXIV.

Minister of Communications will inscribe on the register of aircraft the following: (1) Category of aircraft; (2) registration number; (3) date of registration; (4) nationality mark and registration mark; (5) airworthiness certificate number; (6) name of the constructor of the structure of aircraft, number and type of the aircraft; (7) for mechanically driven aircraft, the name of the maker of engines, each engine number, its type, horse-power and number of engines installed; (8) usual station of the aircraft; (9) name and address of the owner (company, association, private owner, etc.) of the aircraft.¹⁹ And when the Minister of Communications will have inscribed the matters in question in the register of aircraft on demand of registration or modification of registration, an applicant shall receive a certificate of registration in a certain form.²⁰

In regard to the penalties, those who attempt to get registration under false pretenses will be punished with imprisonment of not more than two years or a fine of 2,000 yen.²¹ Also, negligence in the registration procedure will entail punishment.

Marks:

The registered aircraft must bear the nationality, registration marks, the name and address of the owner.²² No aircraft may be used without these marks, without airworthiness certificate or registration certificate.²³

The Japanese nationality mark is J,²⁴ and the registration mark is constituted by a group of four capital letters including vowels and consonants. The letters of the nationality and registration marks must be painted at a fixed place on the aircraft, in Roman characters of fixed size.²⁵

As to the papers which the Japanese aircraft and its crew must have or must be provided with, when they fly from Japan to a foreign country which is a contracting State of the Convention Relating to the Regulation of Aerial Navigation, or vice versa, the Regulations Relating to the Execution of the Air Navigation Law of Japan are applicable besides the above Convention.²⁶

19. Law—Art. VII, Parag. II.
 20. Law—Art. VII, Parag. IV; Regulations—Art. XLI.
 21. Law—Art. LIII.
 22. Law—Art. IX.
 23. Law—Art. X.
 24. Regulations—Art. LXI.
 25. Regulations—Articles LII to LVIII.
 26. Regulations—Art. II.

Crews:

Except those who fly for the purpose of training over an aerodrome or a certain place so designated by order, or with a certificated crew on board,²⁷ no one but members of crews may handle an aircraft in flight.²⁸ According to the flying distance, the cases of flight and the classes of aeroplanes, the categories and numbers of members of operating crew are respectively fixed.²⁹ That is to say, as to the aeroplane, categories of flight are divided into three cases, by the flying distance: (1) less than 160 kilometers, (2) less than 500 kilometers and (3) more than 500 kilometers. And each of the above cases is subdivided into three categories: (a) day-time flight over land, (b) day-time flight over sea, and (c) night flight. The aeroplanes are divided into three classes: (1) public transport machines for goods, (2) public transport machines for passengers capable of carrying less than 10 persons including the crew, and (3) public transport machines for passengers capable of carrying more than 10 persons including the crew. The numbers of members of operating crew to be on board are accordingly fixed in the table on the members of operating crew of aeroplanes. For instance, when a public transport machine for goods flies a distance of not more than 160 kilometers over land in day-time a first class licensed pilot of aeroplane must be on board. As to airships, numbers of members of operating crew to be on board are also fixed in such table according to cases. Each member of operating crew must have a certificate of competency and an air navigation license.³⁰ And he is requested to be provided with these two documents while he is in service of operating.³¹

There are nine kinds of certificates of competency:³²

- (1) 1st class pilot of aeroplane;
- (2) 2nd class pilot of aeroplane;
- (3) 1st class pilot of airship;
- (4) 2nd class pilot of airship;
- (5) 3rd class pilot of airship;
- (6) Pilot of free balloon;
- (7) 1st class navigator;
- (8) 2nd class navigator;
- (9) Engineer of aircraft.

27. Law—Art. XIX.

28. Regulations—Art. XV, Parag. I.

29. Regulations—Art. LXI.

30. Law—Art. XV, Parag. II.

31. Law—Art. XVII.

32. Regulations—Art. LXII.

In order to obtain a certificate of competency, the candidate must successfully pass an examination which the Minister of Communications exercises.³³ The examination is divided into two parts: theoretical examinations and practical tests. The examination is exercised in accordance with the rules on examinations for members of operating crew of aircraft.³⁴

A holder of a certificate of competency may apply for a license for air navigation.³⁵

The Minister of Communications, on receipt of this written application, requires the candidate to undergo the medical examination and issues a corresponding license for air navigation to the candidates who has successfully passed this examination.³⁶ The medical examination is exercised in accordance with the rules on the medical examination for members of operating crew of aircraft.³⁷

In case the Minister of Communications considers that it is necessary to examine the candidate's competency, practical tests and theoretical examinations shall be exercised in addition to the medical examination.³⁸

There are nine kinds of air navigation licenses, as well as the certificates of competency.³⁹ And the scope of validity of these nine licenses is respectively fixed; for instance, the 1st class pilot of aeroplane may handle aeroplanes mentioned in his license for any use, the 2nd class pilot of aeroplane, however, may not handle the public transport machines.⁴⁰

When a member of operating crew is out of service or does not operate his machine consecutively for more than six months, or when he declines, interferes or evades the periodical or temporary medical examination or practical tests or theoretical examinations which may be exercised temporarily, or when he is responsible for deaths or injuries to persons, or for damage of things, or for other serious accidents, caused in flight, or when he is deemed liable to menace the public safety by his act, or when he contravenes the regulations relating to the execution of the air navigation law or an order which may be issued in accordance with these regulations, the Minister of Communications, may limit, suspend, or prohibit his duty. In such cases, the holder of a license thus

33. Law—Art. XVI; Regulations—Art. LXIV.

34. Regulations—Art. LXXVII, Parag. I.

35. Law—Art. XVI; Regulations—Art. LXVI.

36. Regulations—Art. LXVIII, Parag. I.

37. Regulations—Art. LXXVII, Parag. II.

38. Regulations—Art. LXVIII, Parag. II.

39. Regulations—Art. LXIII.

40. Regulations—Art. LXIX.

punished must submit without delay his license to the Minister of Communications. The Minister of Communications inscribes the matters of limitation on the license or retains the license during the period of suspension. In the case of prohibition of duty, the holder of a license must restore his license to the Competent Administration within 14 days.⁴¹

The member of an operating crew of aircraft must have an official pocket-book in which he must note down fixed matters.⁴²

Out of the members of operating crew, there is a 3rd class pilot of aeroplane who has obtained the license issued by the Minister of Communications after having successfully passed the medical examination, practical tests and theoretical examinations, fixed by rules. However, the holder of this license is subject to many restrictions on flight. For instance, he is not allowed to handle a public transport machine, nor to accompany a person on board, save in the case where he has the service of a pilot of aeroplane or where an engineer of aircraft will be on board for manoeuvring.

He is not admitted in flight out of certain areas, i. e., over an aerodrome and a surrounding area at a distance of not more than 50 kilometers from the aerodrome. (If the aerodrome is open to public use, he must have permission of the Minister of Communications for flying over there.) Also he may fly over a place, where the flight is authorized by the Prefect in accordance with the rules of Article 29 proviso of the Air Navigation Law and Article 102 of the regulations on the above law, and a surrounding area at a distance of not more than 50 kilometers from this place.⁴³

Aerodrome:

(1) *The Establishment and Abolishment of an Aerodrome*—Those who intend to establish an aerodrome are obliged to have the authorization of the Minister of Communications for doing so, in submitting a written application with papers on which the following matters should be mentioned: (1) purpose of establishment of aerodrome; (2) name and address of the manager (person or society); (3) name and address of the owner (person or society) of the land to be used for the airport; (4) name and position of the aerodrome; (5) distinction of land or sea aero-

41. Law—Art. XX; Regulations—Art. LXXVIII.

42. Regulations—Art. CXXVII.

43. Rules on the Admission of 3rd Class Pilot of Aeroplane—Art. XV.

drome or of land and sea aerodrome; (6) dimension and shape of the aerodrome; (7) a survey-map; etc.⁴⁴

When the manager of an aerodrome opened to public use intends to abolish it he must submit a written application for authorization a month in advance to the Minister of Communications. When the manager of an aerodrome opened to public use intends to shut it to public use or when the manager of a private aerodrome intends to open it to public use, also such procedure should be taken.⁴⁵

(2) *Arrangement and Management of Aerodrome*—On the aerodrome open to public use certain aeronautical ground marks should be placed.⁴⁶ And there should be certain facilities such as a wind sleeve and a signaling mast.⁴⁷

No manager of an aerodrome open to public use has a right to refuse, without permission of the local authorities, landing or taking-off of an airship or an aeroplane to or from the same aerodrome.⁴⁸

When the manager of an aerodrome open to public use intends to charge for using the same aerodrome, he must fix the rate of charges and must have permission for doing so from the local authorities.⁴⁹ The proprietor of an aerodrome not opened to public use is not entitled to allow landing or taking-off to or from the same aerodrome to an aeroplane without permission of the local authorities.⁵⁰

The local authorities may order the marking of obstacles against flight existing at areas at a distance of not more than 500 meters from the boundary line of an aerodrome. In order to mark obstacles or maintain these marks, the manager of an aerodrome has a right to enter on the ground of others, to remove the obstacles or to make use of objects or the land of others, under certain conditions and with indemnity.⁵¹

In addition, the Air Navigation Law includes the stipulations for the expropriation or the use of land or the right to use water surface which is necessary to place an aeronautical ground mark or to establish an aerodrome open to public use as well as the exemption of land-tax upon the land applied to an aerodrome open to public use.

44. Law—Art. XXI; Regulations—Art. LXXXVI.

45. Regulations—Art. LXXXIX.

46. Regulations—Art. CI.

47. Regulations—Art. C.

48. Law—Art. XXVII, Parag. I; Regulations—Art. XCIX.

49. Regulations—Art. XCI.

50. Law—Art. XXVIII; Regulations—Art. XCIX.

51. Law—Art. XXIV.

Air Navigation:

(1) *Conditions of Aircraft*—No aircraft other than Japanese aircraft should be admitted in flying unless the permission be given by the Minister of Communications.⁵² However, since the aircraft of the contracting States of the Convention relating to the Regulation of Aerial Navigation are accorded freedom of innocent passage above the Japanese territory, this rule is applicable only for the aircraft of the noncontracting States of the above Convention. And when it is intended to fly by the latter aircraft, a written application for permission stating the nationality and marks of the aircraft, the purpose of flight and other fixed matters should be submitted to the Minister of Communications.⁵³

(2) *Restriction on the Place for Landing and Taking-off*—On land, aeroplanes and airships may land and take-off only to and from an aerodrome. On water, they may alight to and take-off from any place where it is not prohibited to do so by order. However, in the case of inevitability or prior permission obtained from the Prefect, aircraft may land on or take-off from other places.⁵⁴

In case of forced landing outside of an aerodrome or other recognized places, the pilot or accompanied person must soon inform the nearest police.⁵⁵

(3) *Restriction on Flying*—In regard to the restriction on flying, we must mention at first that there are such restrictions over the Imperial Palace and similar places. That is to say, no aircraft may without valid reason fly over the Imperial Palace, Imperial Gardens, Imperial Villas, the place of sojourn of the Emperor or the "Ise-Daijingu Shrine" or over the Imperial Tombs at a height below 1000 meters.⁵⁶

No aircraft may without valid reason fly over: (1) Place of sojourn of the following personalities: Dowager Grand Empress, Dowager Empress, Empress, Imperial Crown Prince and his Princess, First Grandson of the Emperor and his Princess or Imperial Regent. (2) Corteges of the following personalities: The Emperor, Dowager Grand Empress, Dowager Empress, Empress, Imperial Crown Prince and his Princess, First Grandson of the Emperor and his Princess or Imperial Regent.⁵⁷

In addition, the Imperial Palaces, Imperial Gardens, Imperial Villas, "Ise-Daijingu Shrine" and Imperial Tombs may not be

52. Air Navigation Law—Art. XXXII.

53. Regulations—Art. CXV.

54. Law—Art. XXIX; Regulations—Art. CII.

55. Regulations—Art. CXIII.

56. Law—Art. XXX.

57. Regulations—Art. CIII.

photographed from the air. Without the permission of the local authorities, the places of sojourn of the Emperor, and the cortege of the Dowager Grand Empress, the Dowager, Empress, the Imperial Crown Prince and his Princess, the First Grandson of the Emperor and his Princess or the Imperial Regent may not be photographed from the air.⁵⁸ It is prohibited to fly over the fortified zones.⁵⁹ In order to assure public safety, it is prescribed that an aircraft may fly over a town only at a height sufficient to enable it to land without difficulty outside the town in case it is compelled to land owing to a breakdown or to seek a refuge or for any other unavoidable circumstance. Exception is, however, made for taking-off, landing or alighting at an aerodrome, an area of water not prohibited by ordinance under Article 29 of the Air Navigation Law, or at a place authorized by the Prefect.⁶⁰

Aircraft may not make acrobatic flights over a town or populous area unless authorized for doing so by the Prefect.⁶¹

Test flight⁶² and training flight⁶³ may be done over a private aerodrome or a place authorized for doing so by the Prefect and over their surrounding areas at a distance of not more than 10 kilometers.⁶⁴ The Prefect may decide upon the restriction or prohibition on flight over an area of which he shall fix the limit when he considers it necessary for the public safety.⁶⁵ In time of war or of extraordinary circumstances, the Competent Administration has a power, if it is necessary, to prohibit the flight of aircraft.⁶⁶

No aircraft is allowed to carry explosives save in the case specified by rules for carrying them.⁶⁷ The dropping of dangerous objects and of ballast other than fine sand or water from aircraft is prohibited.⁶⁸

The above Air Navigation Law includes penal rules for contraventions against the Laws; for instance, those who fly over the Imperial Palace or the Imperial Gardens without valid reasons will be punished with an imprisonment of not more than 7 years.

Finally, aircraft engaging in flight must be provided with a journey log.

58. Regulations—Art. CIV.

59. Law Relating to the Fortified Zone.

60. Regulations—Art. XV.

61. Regulations—Art. CVI.

62. Law—Art. XII.

63. Law—Art. XIX.

64. Regulations—Art. CXI.

65. Regulations—Art. CXII.

66. Law—Art. XXXI.

67. Regulations—Art. CVII.

68. Regulations—Art. CVIII.

Transport:

Foreign aircraft may not transport, without the Minister of Communications' authorization, persons or things for remuneration between different points in Japan.⁶⁹ Those who intend to engage in air transport service by Japanese aircraft should submit a written application for authorization according to a certain formality to the Minister of Communications:

1. Navigation route: starting point, terminus, midway landing and take-off point.
2. Whether the airplane or airplanes are intended for passengers, freight, or mail.
3. Time schedules.
4. Type of airplane to be put into service; its class, numbers, and transportation capacity.
5. Class of its crew and number.
6. Transportation fare.
7. Location of the main office, branch offices and agencies.
8. The total capital used for the transportation business, and methods of financing.
9. Budget for initial expenses.
10. An estimate of the income and expenditures for the 3rd business year.
11. Transportation rules.
12. Estimated date for beginning business.
13. Other miscellaneous items to be used for reference purpose.

When the business of commercial transportation takes the form of company or corporation, besides the set of documents stated above, a copy of the articles of incorporation or of similar regulations must be added.⁷⁰

If items recorded in Articles 1-11 are to be altered, the applicant must secure permission for such alterations from the Minister of Communications.⁷¹

Should any major accident occur, it must be reported without delay to the Minister of Communications with a statement of its causes and the steps taken.⁷²

At the end of the business year or at the end of the year, an inventory, a balance sheet, a statement of profit and loss, and a

69. Law—Art. XXXV.

70. Air Navigation Law—Art. XXXVI; Regulations—Art. CXVI.

71. Rules on the Operation of Air Traffic Law—Art. CXXI.

72. Rules on the Operation of Air Traffic Law—Art. CXX.

statement of business activities must be submitted to the Minister of Communications.⁷³

The Minister of Communications is empowered to order the suspension of service or cancel the authorization in the following cases: (1) when the air transport service would not be in operation, without valid reason, in a period of one year after the authorization; (2) when it is deemed impossible to continue the service; (3) when it is deemed the service may menace the public safety; (4) when a Rule of the Regulations relating to the Execution of the Air Navigation Law or an order issued according to these Regulations is violated.⁷⁴

ANNEXES.

Customs for Air Navigation:

In accordance with Article XXXIX of the Air Navigation Law, prescriptions in regard to ship, captain, supplies for journey, etc., relating to the Custom Duty are applicable for aircraft, commander, supplies for journey, etc.

The formalities of customs clearance to be carried out by an aircraft are prescribed by the Regulations relating to the Custom Duty in Air Navigation.

Quarantine for Air Navigation:

An aircraft arrived in Japan from a foreign country shall pass the quarantine in accordance with the Regulations relating to the Quarantine in Air Navigation.⁷⁵ And original territories of Japan, Chosen and Formosa are under separate control so that quarantine must be passed on arrival in Japan from Chosen or Formosa or vice versa.⁷⁶

The formalities to be carried out by an aircraft and conditions of quarantine are prescribed by the above Regulations.

73. Rules on the Operation of Air Traffic Law—Art. CXIX.

74. Regulations—Art. CXXIV.

75. Law—Art. XCI.

76. Law—Art. XCII; Regulations—Art. I.