



# 管理文件

中国民用航空局政策法规司

---

编 号 MD-LR-2017-01

下发日期:2017年7月13日

## 关于外航定期航班 有关违法问题的处理办法

---

# 关于外航定期航班有关违法问题的处理办法

2016年8月,民航局下发了《民航局关于全面规范运用行业监管手段的指导意见》(民航发[2016]91号),明确了行业监管手段的种类和综合运用原则与要求。为指导监察员依据该文件开展工作,今后将陆续下发对该文件的操作指导。

近期,外国航空运输企业(以下简称外航)不按照预先飞行计划中的时刻飞行、不严格执行获得的航线航班计划的违法行为(以下简称违法运行航班行为)时有发生,此类违法行为由于会同时违反《民用航空预先飞行计划管理办法》、《外国航空运输企业航线经营许可规定》、《航班正常管理规定》等多部规章,有的还直接违反《民航法》的规定,法律后果十分严重,因此,在实际处理中,需要监察员同时使用行政处罚、行政许可和行政命令的手段进行全面处理。

为指导监察员统筹考虑、综合运用多种手段进行处理,有效规范外航运行秩序,经过认真研究,提出以下处理意见,现予以下发执行:

## 一、对不按照预先飞行计划中的时刻运行航班的处理

此类违法行为将导致航班不正常或航班延误,并涉嫌滥用航班时刻、擅自更改航班计划,在实际处理中需要根据具体情形,同

时采取行政处罚、时刻处置和撤销行政许可的处理措施。

### (一) 给予行政处罚

对于外航不按照获得的航班时刻运营航班,影响航班正常的,依据《航班正常管理规定》(CCAR-300)第五十七条的规定,处3万元以下的罚款。

航班正常的认定标准见《关于印发〈民航航班正常统计办法〉的通知》(民航发〔2012〕88号)。

对于外航未经批准擅自更改航班计划的,依据《外国航空运输企业航线经营许可规定》(CCAR-287)第三十二条的规定,由民航局给予警告,并处以三万元以下罚款。

如果该行为同时违反了CCAR-300和CCAR-287,按照法条竞合原则,按照最高不超过3万元,给予一次行政处罚。

### (二) 对时刻进行处置

#### 1、取消该公司已经获得的时刻

对于外航不按照获得的航班时刻组织飞行,故意提前或者延误航班的,依据《民航航班时刻管理办法》(民航发〔2010〕51号)第三十六条的规定,立即取消其航班时刻使用权。

“故意”是指外航申请飞行计划时间与所获得航班时刻时间不一致的,向社会公众售票时间与所获得航班时刻时间不一致的等情形。

对于外航不按照获得的航班时刻运营航班,影响航班正常的,依据《航班正常管理规定》第五十七条的规定,取消其航班时刻。

根据《民航航班时刻管理办法》第三十五条的规定,外航获得航班时刻后,连续4周末使用的,应当将其航季剩余时间的航班时刻收回放入时刻池,并对该情形进行记录;外航获得航班时刻后,连续4周使用率平均低于50%的,应当将其后续4周航班时刻总量的50%收回放入时刻池,并对该情形进行记录;外航获得协调机场的航班时刻后,在运行中1周内未使用的,应当立即取消其航班时刻使用权,放回时刻池,并对该情形进行记录。

## 2、限制该公司后续时刻申请

对已经明确界定为有意或反复滥用航班时刻行为的外航,在取消其航班时刻使用权后,地区管理局还应当依据《民航局关于进一步开展滥用航班时刻专项整治推动民航业诚信建设的通知》(局发明电[2016]2082号),不得确认为下一同航季的历史航班时刻。情节严重的,民航局选择适用以下措施:暂停受理本航季全国机场航班时刻申请、暂停受理2个航季全国机场航班时刻申请、列入民航业严重失信黑名单。

### (三)撤销预先飞行计划许可

根据《民用航空预先飞行计划管理办法》第七条的规定,航班时刻是外航申请获得预先飞行计划的条件之一,时刻被取消后,该外航不再满足所获得的预先飞行计划的许可条件,该预先飞行计划许可自然失效。做出取消时刻决定的行政机关应当在三个工作日内将有关情况通报民航局运行监控中心,由其对预先飞行计划许可予以撤销。

## 二、对预先飞行计划被撤销后继续运行航班的处理

预先飞行计划许可被撤销后,继续执行航班运行的,属于未取得许可从事飞行活动的行为,在实际处理中,要依据相关规定,根据实际情形采取罚款或罚款并吊销外航航线经营许可的行政处罚。

### 1、给予罚款

外航未取得预先飞行计划许可从事航班飞行活动的,依据《中华人民共和国民用航空法》第二百零七条的规定,处以1万元以上10万元以下的罚款;对该民用航空器的机长给予警告或者吊扣执照1个月至6个月的处罚,情节严重的,可以给予吊销执照的处罚。

对民用航空器的机长给予警告的,按照行政处罚程序实施;属于对民用航空器的机长给予吊扣执照1个月至6个月或吊销执照的处罚情形的,应当报民航局飞标司,民航局飞标司配合国际司向该民用航空器机长所持执照的颁发当局通报相关情况,并提出处理建议。

### 2、吊销航线经营许可

根据《中华人民共和国民用航空法》第二百一十一条的规定,外航未取得预先飞行计划许可从事航班飞行活动,情节严重的,除根据第二百零七条处罚外,可以吊销其航线经营许可证。

属于吊销其航线经营许可证情形的,除情况紧急而必须立即执行的,应当报民航局国际司,由民航局国际司向对方民航当局通

报相关情况并提出处理建议；确需立即执行的，按照行政处罚程序实施，并应当将外航相关违法情况及处罚的决定、执行情况报民航局国际司，由民航局国际司向对方民航当局通报。

### **三、对航线航班经营许可被吊销后运行航班的处理**

航线航班经营许可被吊销后运行航班的，属于无照经营性质的违法行为，根据《无照经营查处取缔办法》（国务院令 第 370 号）第十七条的规定，外航未取得航线经营许可运行航班的，行政机关应当责令其停止违法行为，予以改正，没收违法所得，并处 2 万元以下的罚款；无照经营行为规模较大、社会危害严重的，并处 2 万元以上 20 万元以下的罚款。

### **四、注意事项**

鉴于上述处理措施对外航权利影响较大，应当严格规范执法，并注意做好权利救济工作。

1、取消航班时刻，可参照分配航班时刻的做法以行政命令的形式作出。由于取消航班时刻将对外航的权益产生重大影响，正式作出决定前，应当充分听取其陈述和申辩，对当事人提出的事实、理由和证据应当进行复核，必要时可以组织听证会。正式作出决定后，应当督促当事人做好旅客解释、安置等善后工作。

2、处理外航违法运行航班行为，应当在相关法律文书中明确告知其依法享有申请行政复议或提起行政诉讼的权利。

本文件所述情节严重或者情节较重的认定，相关法律、规章和规范性文件没有做出具体规定的，参照《民航局关于全面规范运

用行业监管手段的指导意见》关于“应当从重处罚”的情形和《民航行政机关行政处罚裁量权规范办法》(AP-14R1-LR-2016-01)第十四条、第十五条所列情形确定。

3、本规定适用于港澳台地区航空运输企业定期航班有关违法问题的处理,但有关规章和规范性文件另有规定的除外。

本文件自下发之日起施行,有效期两年。

## 附录

### 相关规定

本处理意见所涉相关规定如下：

#### 一、《中华人民共和国行政诉讼法》

第四十六条第一款 公民、法人或者其他组织直接向人民法院提起诉讼的，应当自知道或者应当知道作出行政行为之日起六个月内提出。法律另有规定的除外。

#### 二、《中华人民共和国行政复议法》

第九条第一款 公民、法人或者其他组织认为具体行政行为侵犯其合法权益的，可以自知道该具体行政行为之日起六十日内提出行政复议申请；但是法律规定的申请期限超过六十日的除外。

#### 三、《中华人民共和国民用航空法》

第二百零七条 违反本法第七十四条的规定，民用航空器未经空中交通管制单位许可进行飞行活动的，由国务院民用航空主管部门责令停止飞行，对该民用航空器所有人或者承租人处以一万元以上十万元以下的罚款；对该民用航空器的机长给予警告或者吊扣执照一个月至六个月的处罚，情节较重的，可以给予吊销执照的处罚。

第二百一十一条 公共航空运输企业？通用航空企业违反本法规定，情节较重的，除依照本法规定处罚外，国务院民用航空主



管部门可以吊销其经营许可证？对被吊销经营许可证的，工商行政管理部门应吊销其营业执照。

#### 四、《无照经营查处取缔办法》(国务院令 第 370 号)

第四条第一款第(五)项 超出核准登记的经营范围、擅自从事应当取得许可证或者其他批准文件方可从事的经营活动的违法经营行为。

第十四条第一款 对于无照经营行为，由工商行政管理部门依法予以取缔，没收违法所得；触犯刑律的，依照刑法关于非法经营罪、重大责任事故罪、重大劳动安全事故罪、危险物品肇事罪或者其他罪的规定，依法追究刑事责任；尚不够刑事处罚的，并处 2 万元以下的罚款；无照经营行为规模较大、社会危害严重的，并处 2 万元以上 20 万元以下的罚款；无照经营行为危害人体健康、存在重大安全隐患、威胁公共安全、破坏环境资源的，没收专门用于从事无照经营的工具、设备、原材料、产品(商品)等财物，并处 5 万元以上 50 万元以下的罚款。

第十七条 许可审批部门查处本办法第四条第一款第(一)项、第(五)项规定的违法行为，应当依照相关法律、法规的规定处罚；相关法律、法规对违法行为的处罚没有规定的，许可审批部门应当依照本办法第十四条、第十五条、第十六条的规定处罚。

#### 五、《民用航空预先飞行计划管理办法》(CCAR-73)

第七条 航空营运人提交预先飞行计划申请，应当具备下列条件：

.....

(二)中国境内机场起飞或者降落的预先飞行计划,应当按照航班时刻管理的有关规定协调机场的起降时刻;

.....

#### 六、《外国航空运输企业航线经营许可规定》(CCAR-287)

第二十六条 外航应当按照民航局批准的航班计划经营外国地点和中华人民共和国地点间的规定航线。外航因商业原因计划停止执行全部或部分规定航线的,应当书面通知民航局并说明理由。外航擅自停航的,民航局对其提出的新航季航班计划不予批准。

第三十二条 违反本规定第二十四条规定,外航未经批准擅自更改航班计划的,民航局依法给予警告,并处以三万元以下罚款;情节严重的,暂停或者吊销其经营许可。

#### 七、《航班正常管理规定》(CCAR-300)

第五十七条 承运人违反本规定第六条,影响航班正常的,由民航行政机关取消其时刻,并处3万元以下的罚款。

#### 八、《民航行政机关行政处罚裁量权规范办法》(AP-14R1-LR-2016-01)

第十五条 违法行为有下列情形之一的,应当从重处罚:

(一)明知故犯,或胁迫、教唆他人实施违法行为的;

(二)造成严重人身伤害、经济损失的;

(三)在发生自然灾害、事故灾难、公共卫生或者社会安全等

突发事件时实施违法行为的；

(四)拒绝、阻碍、不配合行政执法或者以暴力威胁行政执法人员的；

(五)2年内发生2次(含)以上同类违法行为的；

(六)违法行为持续时间较长,或无正当理由,责令改正期限满后仍不改正的；

(七)违法行为发生后有隐报瞒报虚报违法案件、隐匿、销毁违法行为证据的、拒绝采取补救措施、报复举报人、证人等行为的；

(八)造成其他恶劣社会影响的；

(九)法律、行政法规和民航规章规定应当从重处罚的其他情形。

从重处罚是指在法定处罚种类和幅度内对行为人适用较重种类或者较高幅度的处罚。

第二十二条 具有下列情形之一的,行政处罚实施机关不得对当事人同一违法行为给予两次以上相同种类的处罚:

(一)同一违法行为违反同一行政处罚实施机关执行的同一或不同法律、行政法规和民航规章规定的；

.....

第二十三条 同一个违法行为违反不同法律、行政法规或者部门规章规定的,在适用具体规定时,一般应当遵循下列原则:

.....

(二)不同的法律规范规定的处罚种类不同,属对不同社会关

系进行调整的,分别适用这些法律规范;

.....

#### 九、《民航航班时刻管理办法》(民航发[2010]51号)

第三十五条 航空公司获得航班时刻后,连续4周末使用的,民航地区管理局应当将航季剩余时间的航班时刻收回放入时刻池,并对该情形进行记录。

航空公司获得航班时刻后,连续4周使用率平均低于50%的,民航地区管理局应当将其后续4周航班时刻总量的50%收回,放入时刻池,并对该情形进行记录。

航空公司获得协调机场的航班时刻后,在运行中1周内未使用的,民航地区管理局应当立即取消其使用权,放回时刻池,并对该情形进行记录。

第三十六条 航空公司不按照获得的航班时刻组织飞行,故意提前或者延误航班,民航地区管理局应当立即取消其使用权。

第三十七条 航空公司不能达到全航季80%使用率的航班时刻,由民航地区管理局取消其历史航班时刻优先权。

#### 十、《关于印发〈民航航班正常统计办法〉的通知》(民航发[2012]88号)

1.正常航班:符合下列条件之一的航班即判定为正常航班。

(1)在计划离港时间后规定的机场地面滑行时间之内起飞,且不发生返航、备降等不正常情况;

(2)不晚于计划到港时间后10分钟落地。

2.不正常航班:凡有下列情况之一,则该航班判定为不正常航班。

(1)不符合正常航班全部条件的航班;

(2)当日取消的航班;

(3)未经批准,航空公司自行变更航班计划的航班。

备注:当航班备降时,如备降机场与计划目的地机场属同一城市,且实际起飞(或落地)时间较计划离港(或到港)时间在规定范围内,为正常航班。

十一、《民航局关于全面规范运用行业监管手段的指导意见》  
(民航发[2016]91号)

从重处罚,是指在法定处罚种类和幅度内对行为人适用较重种类或者较高幅度的处罚。行政相对人有下列情形之一的,应当从重处罚:1、明知故犯,或胁迫、教唆他人实施违法行为的;2、人为原因造成事故征候以上(含)不安全事件或造成严重人身伤害或经济损失的;3、在发生自然灾害、事故灾难、公共卫生或者社会安全等突发事件时实施违法行为的;4、造成恶劣社会影响的;5、违法行为造成了较高安全风险的;6、2年内发生2次及以上同类违法行为的;7、违法行为持续时间长,或责令改正期限满后仍不改正且无正当理由的;8、违法行为发生后有隐报瞒报虚报违法行为、隐匿或者销毁违法行为证据、拒绝采取补救措施、报复举报人或者证人等恶性行为的;9、拒绝、阻碍或者以暴力威胁行政执法人员依法执行职务的;10、法律、法规和规章规定应当从重处罚的其他情形。

十二、《民航局关于进一步开展滥用航班时刻专项整治推动民航业诚信建设的通知》(局发明电〔2016〕2082号)

对已经明确界定为有意或反复滥用航班时刻行为的,地区管理局应当立即召回本航季的航班时刻,不得确认为下一同航季的历史航班时刻。



# **Management Document**

**Department of Policy, Law and Regulation,  
Civil Aviation Administration of China**

---

No. : MD-LR-2017-01  
Date of Issue : July 13, 2017

## **Measures for the Handling of Law Violations in Scheduled Flights by Foreign Airlines ( English Translation Version Only For Reference )**

---

# **Measures for the Handling of Law Violations in Scheduled Flights by Foreign Airlines**

In August 2016, Civil Aviation Administration of China (CAAC) issued the *Guiding Opinions of CAAC on Comprehensively Standardizing the Application of Industry Regulation Means* (MHF No.91 [2016] of CAAC), which specified the categories of industry regulation means and the principle and requirements for the comprehensive application of those means. In order to guide inspectors to carry out work in line with the aforementioned document, an array of operational guidance for the document will be issued.

Recent days have witnessed frequent illegal acts by foreign air transport enterprises (hereinafter referred to as foreign airlines) of failing to operate flight in line with slots in pre-flight plans and of failing to strictly execute approved route and scheduled flight plans (hereinafter referred to as illegal flight operation acts). Illegal acts of this kind would cause severe legal consequences, as they simultaneously break multiple regulations such as the *Measures for the Administration of Civil Aviation Pre-Flight Plans*, *Regulation on Application for Route Operating Permit by Foreign Air Transport Enterprises*, and *Provisions on the Management of Flight Regularity* among others, or even worse directly, the articles in the *Civil Aviation Law of the People's Republic of China*. Therefore, inspectors are required to apply methods of administrative penalty, administrative licensing and administrative order at the same time to handle comprehensively the violations in practice.

To guide inspectors to take the whole situation in a balanced way and handle violations with multiple approaches and to effectively regulate operation order of foreign airlines, after careful deliberation, the following handling opinions were developed and are issued herein for implementation:

## **I. Handling of Flights Failing to Operate According to Slots in the Pre-flight Plans**

Violating acts of this kind will cause flight irregularity or flight delay, and may constitute abuse of slots or changes to flight plans without permission, which in practice shall be subject to handling measures of administrative penalty, slot handling and canceling administrative licenses on a case-by-case basis.

### **1. Administrative Penalty**

Foreign airlines failing to operate flights as per the acquired slots, and as a result affecting flight regularity, shall be subject to a fine of less than 30,000 yuan in accordance with Article 57 of the *Provisions on the Management of Flight Regularity* (CCAR-300).



Standards for finding flight regularity can be referred to in the *Notice on Issuing Measures for Civil Aviation Flight Regularity Statistics* (MHF No.88 [2012] of CAAC)

Foreign airlines changing flight plans without permission shall be subject to warning by CAAC and a fine of less than 30,000 yuan in accordance with the *Regulation on Application for Route Operating Permit by Foreign Air Transport Enterprises* (CCAR-287TR).

If an act simultaneously violates CCAR-300 and CCAR-187TR, in accordance with the principle of concurrence of legal relations, it should be subject to one administrative punishment and a fine of not more than 30,000 yuan.

## **2. Slot Related Penalty**

### **a. Canceling slots already acquired by the airlines concerned**

Foreign airlines failing to organize flights according to acquired slots or intentionally operating flights ahead of or behind schedule shall be subject to immediate cancellation of its slot utilization right in accordance with Article 36 of the *Measures for the Administration of Civil Aviation Flight Slots* (MHF No.51 [2010] of CAAC).

“Intentionally” refers to the circumstances where foreign airlines sell to the general public ticket times that are not consistent with their acquired flight slots when the slots they acquired are not the same as they applied for.

Foreign airlines who fail to operate flights according to acquired slots, and as a result affected flight regularity, shall be subject to slot cancellation in accordance with Article 57 of the *Provisions on the Management of Flight Regularity*.

In accordance with Article 35 of the *Measures for the Administration of Civil Aviation Flight Slots*, slots failed to be utilized for 4 consecutive weeks after being allocated to foreign airlines, shall be put back into slot pool for the rest of the season and be recorded accordingly; for slots with an average utilization rate lower than 50% for 4 consecutive weeks after being allocated to foreign airlines, 50% of the slots for the next 4 weeks shall be put back into slot pool, and be recorded accordingly; slots at coordinated airports failing to be utilized in 1 week after being allocated to foreign airlines, shall be cancelled immediately, put back into slot pool and be recorded accordingly.

### **b. Restricting follow-up application for slots by the airlines concerned**

Slots of foreign airlines who have been deemed as with acts of intentionally or repeatedly abusing flight slots, in addition to being cancelled, shall not be determined by CAAC regional administrations as historic flight slot, in accordance with the *Notice of CAAC on Further Conducting Special Rectification Campaign on Slot Abuse and Promoting the Building of Credit in Civil Aviation Industry* (JFMD No.2082 [2016] of CAAC). For foreign airlines with severe violation circumstances, the following measures are applicable for CAAC: suspending acceptance of application for slots at domestic airports for the season, suspending acceptance of application for slots at domestic airports for two

seasons and listing the foreign airlines concerned in the blacklist for credit of the civil aviation industry.

### **c. Canceling approval for pre-flight plans**

In accordance with Article 7 of the *Measures for the Administration of Civil Aviation Pre-flight Plans*, flight slots represent one of the prerequisites for foreign airlines to apply for and acquire pre-flight plans, thus foreign airlines, after their slots being cancelled, no longer meet the licensing conditions for their approved pre-flight plans, and the approval would lose efficacy automatically. The administrative department who made the decision to cancel the slot shall report relevant information to CAAC Operating and Monitoring Center within 3 working days, who will in turn cancel the approval for the pre-flight plan concerned.

## **II. Handling of Flights Continuing Operation after Cancellation of Pre-flight Plans**

Continued flight operations after cancellation of pre-flight plans are acts of operating flight activities without permission, which in practice, according to relative provisions, shall be subject to a fine or a fine and the administrative penalty of canceling the route operating license of the foreign airlines concerned based on actual circumstances.

### **a. Fine**

Where foreign airlines conduct flight activities without permit for pre-flight plans, in accordance with Article 207 of the *Civil Aviation Law of the People's Republic of China*, shall be subject to a fine of not less than 10,000 yuan but not more than 100,000 yuan; and the pilot-in-command of the civil aircraft concerned shall be warned or his license shall be withdrawn for a period of one to six months, or under aggravating circumstances, be punished by cancellation of his license.

Warning to pilot-in-command of a civil aircraft shall be executed in line with administrative penalty procedures; withholding license of pilot-in-command of a civil aircraft for one to six months or canceling his license shall be reported to the Department of Flight Standard of CAAC, who will work with the Department of International Affairs to notify relevant information to the authority of issuance of the license held by the pilot-in-command of the civil aircraft, and to propose handling suggestions.

### **b. Canceling route operating license**

In accordance with Article 211 of the *Civil Aviation Law of the People's Republic of China*, where foreign airlines conduct flight activities without permit for pre-flight plans, in circumstances of serious nature, in addition to the penalty prescribed by Article 207 of this Law, may be subject to cancellation of its route operating license.

Cancellation of route operating license, except urgent situations that necessitate immediate execution, shall be reported to the Department of International Affairs of CAAC, who will notify the civil aviation authority concerned of relevant information and propose handling suggestions; cancellation of route operating license that does require

immediate execution shall be executed in line with administrative penalty procedures, with information regarding violation acts of foreign airlines, punishment decisions and execution situations being reported to the Department of International Affairs of CAAC, who will notify accordingly to the civil aviation authority concerned.

### **III. Handling of Flights Continuing Operations after Cancellation of Route Operating Licenses**

Flight operations after cancellation of route operating license are illegal acts of unlicensed business operations. In accordance with Article 17 of the *Measures for Investigating, Punishing and Banning Unlicensed Business Operations* (Order No. 370 of the State Council), where foreign airlines operate flights without attaining route operating license, administrative departments shall order immediate cessation and rectification of the illegal act, confiscate the illegal proceeds and impose a fine of not more than 20,000 yuan; if the unlicensed business operation is on a larger scale and causes serious dangers to the society, the administrative departments shall also impose a fine of not less than 20,000 yuan but not more than 200,000 yuan.

### **IV. Notice**

Since the handling measures hereinbefore have relatively large impact on the rights of foreign airlines, enforcement should be strict and standardized with attention on right relief.

- a. Slot cancellation may refer to the practice of slot allocation, as the decision is made in the form of administrative order. Since slot cancellation may impose a severe impact on the rights and interests of foreign airlines, before any official decision is made, statement and defense of foreign airlines concerned shall be fully heard, facts, reasons and evidence submitted by the party concerned shall be reviewed, and hearings shall be organized when necessary. After an official decision is made, the party concerned shall be urged to deal with the aftermath through explanations to or settlement of passengers under supervision.
- b. When handling illegal flight operation acts of foreign airlines, it should be clearly stated in relevant legal papers that the foreign airlines concerned have the right to apply for administrative reconsideration or file administrative litigation in accordance with law.

Determination of serious or aggravating circumstances, for which there are no detailed specifications in relevant laws, regulations or normative documents, shall be made in line with the circumstances that should be subject to heavier punishment specified in the *Guiding Opinions of CAAC on Comprehensively Standardizing the Application of Industry Regulation Means*, and Article 14 and Article 15 of the *Measures for the Standardization of Administrative Discretion of Civil Aviation Administrative Departments*.

- c. The measures are applicable to relevant law violations of scheduled flights of air

transport enterprises of Hong Kong, Macao and Taiwan, except otherwise provided in relevant regulations and normative documents.

This document shall come into force as of the date of issuance and shall be effective for two years.

## Appendix:

### Relevant Provisions

Relevant provisions involved in this Handling Opinions are as follows:

#### ***I. Administrative Litigation Law of the People's Republic of China***

**Paragraph 1 of Article 46** To directly file a complaint with a people's court, a citizen, a legal person, or any other organization shall file the complaint within six months from the day when the citizen, legal person, or other organization knew or should have known that the administrative action was taken, except as otherwise provided for by any law.

#### ***II. Administrative Reconsideration Law of the People's Republic of China***

**Paragraph 1 of Article 9** Any citizen, legal person or any other organization, who considers that a specific administrative act has infringed upon his or its lawful rights and interests, may file an application for administrative reconsideration within 60 days from the day when he or it knows the specific administrative act, except that the time limit prescribed in laws exceeds 60 days.

#### ***III. Civil Aviation Law of the People's Republic of China***

**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 license for a period of one to six months, or under aggravating circumstances, punish him by cancelling his license.

**Article 211** Where a public air transport enterprise or a general aviation enterprise violates the provision 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 license. If the operating license of such enterprise is cancelled, the administrative department for industry and commerce shall cancel its business license.

#### ***IV. Measures for Investigating, Punishing and Banning Unlicensed Business Operations (Order No. 370 of State Council)***

**Subparagraph 5 of Paragraph 1 of Article 4**, Engaging in illegal business operations beyond the approved and registered business scope where a license or any other approval document shall be obtained.

**Paragraph 1 of Article 14** An administrative department for industry and commerce shall ban any unlicensed business operation and confiscate the illegal proceeds according

to law; if the unlicensed business operation violates the *Criminal Law*, the criminal liability shall be investigated according to the provisions of the *Criminal Law* on the crime of illegal business operation, crime of negligently causing a serious accident, crime of causing a major work safety accident, crime of causing an accident with dangerous articles or any other crime; if the unlicensed business operation is not serious enough to be subject to criminal punishment, the administrative department for industry and commerce shall also impose a fine of not more than 20,000 yuan; if the unlicensed business operation is on a larger scale and causes serious dangers to the society, the administrative department for industry and commerce shall also impose a fine of not less than 20,000 yuan but not more than 200,000 yuan; if the unlicensed business operation endangers the human health, has any major potential safety problem, threatens the public safety or destroys the environmental resources, the administrative department for industry and commerce shall confiscate the instruments, equipment, raw materials, products (commodities) and other property which are exclusively used for the unlicensed business operation and also impose a fine of not less than 50,000 yuan but not more than 50,000 yuan.

**Article 17** In the investigation and punishment of the illegal acts as set out in subparagraphs 1 and 5 of paragraph 1 of Article 4 of these Measures, a licensing or examination and approval department shall impose a punishment according to the relevant laws and administrative regulations; if the relevant laws and administrative regulations have no provisions on the punishment of the illegal acts, a licensing or examination and approval department shall impose a punishment according to the provisions of Articles 14, 15 and 16 of these Measures.

#### ***V. Measures for the Administration of Civil Aviation Pre-flight Plans (CCAR-73)***

**Article 7** Aviation operators eligible to submit application for pre-flight plans, should meet the following conditions:

...

b. for pre-flight plans taking off or landing at domestic airports in China, taking off or landing slots at the airports should be coordinated according to relevant provisions on flight slot management;

...

#### ***VI. Regulation on Application for Route Operating Permit by Foreign Air Transport Enterprises (CCAR-287)***

**Article 26** Foreign airlines shall operate the specified route between point in the foreign country and point in the People's Republic of China as per the flight schedules approved by CAAC. If foreign airlines plan to suspend the operation of all or part of the specified routes due to commercial reasons, a written notice with rationale shall be submitted to CAAC. If foreign airlines suspend the operation without any prior notification, flight schedules for a new season submitted by the foreign airlines shall not be approved by

CAAC.

**Article 32** CAAC will, according to law, give a warning and impose a fine of less than 30,000 yuan if foreign airlines, in violation of the provisions of Article 24 of this Regulation, arbitrarily change flight schedules without obtaining approval. CAAC will suspend or cancel the operating license under aggravating circumstances.

#### **VII. Provisions on the Management of Flight Regularity (CCAR-300)**

**Article 57** Where a carrier, in violation of Article 6 of this Provisions, affects flight regularity, a civil aviation administrative department shall cancel its slots and impose a fine of less than 30,000 yuan.

#### **VIII. Measures for the Standardization of Administrative Discretion of Civil Aviation Administrative Departments (AP-14R1-LR-2016-01)**

**Article 15** Illegal acts falling under any of the following circumstances shall be subject to heavier punishment:

- a) committing a crime on purpose or coercing and instigating others to commit illegal acts;
- b) causing serious physical injury and economic losses;
- c) committing illegal acts during emergencies such as natural disasters, accidental disasters, public health or social safety incidents;
- d) rejecting, impeding or refusing to cooperate in administrative law enforcement, or threatening administrative law enforcement personnel by violence;
- e) illegal acts of the same kind happening for over 2 times (inclusive) within 2 years;
- f) illegal acts lasting for a relatively long time, or failing to be rectified after the ordered rectification period without justifiable reasons;
- g) illegal acts along with acts of withholding required information or submitting false reports, concealing or destroying evidence of illegal acts, refusing to take remedial measures, or retaliating informants or witnesses;
- h) causing other adverse social influence; or
- i) other circumstances subject to heavier punishment prescribed by law, administrative regulations or civil aviation regulations.

Heavier punishment refers to punishment of a heavier category or a heavier degree applicable to offenders within the categories and scope of punishment specified by law..

**Article 22** Under any of the following circumstances, an administrative punishment implementation unit must not impose twice or more punishment of same kind on one illegal act of the party concerned:

- a) one illegal act violating one or different laws, administrative regulations and civil

aviation regulations implemented by one administrative punishment implementation unit;

...

**Article 23** Application of specific regulations to one illegal act that violates different laws, administrative regulations or department rules shall comply with the following principles:

...

b) different laws and regulations specify punishment of different kinds, aiming to adjust different social relations, therefore shall be applied respectively;

...

**IX. Measures for the Administration of Civil Aviation Flight Slots (MHF No.51 [2010] of CAAC)**

**Article 35** Allocated slots that are not utilized by foreign airlines for 4 consecutive weeks, shall be put back into slot pool for the rest of the season and be recorded accordingly;

For slots with an average utilization rate lower than 50% for 4 consecutive weeks after being allocated to foreign airlines, 50% of the slots for the next 4 weeks shall be put back into slot pool, and be recorded accordingly;

Slots at coordinating airports failing to be utilized in 1 week after being allocated to foreign airlines, shall be cancelled, put back into slot pool and be recorded accordingly.

**Article 36** Where foreign airlines fail to organize flights according to acquired slots or intentionally operates flights ahead of or behind schedule, CAAC regional administration shall immediately cancel their slot utilization right.

**Article 37** Slots of airlines with a utilization rate under 80% for the whole season shall be subject to cancellation of the precedence as historic slots by CAAC regional administration.

**X. Notice on Issuing Measures for Civil Aviation Flight Regularity Statistics (MHF No.88 [2012] of CAAC)**

a. Regular flight: flights meeting one of the following conditions are deemed as regular flights.

a) take off within the prescribed time period for ground taxiing at the airport after the estimated time of departure, without irregular situations such as turning back and landing at alternate airports; or

b) land at a time no more 10 minutes later than the estimated time of arrival.

b. Irregular flight: flights with any one of the following situations are deemed as irregular flights.

a) flights failing to meet all the conditions for regular flights;



- b) flights canceled during the day of operation; or
- c) flights operated according to flight plans changed by airlines without approval.

Note: Flights that land at an alternate airport which is located in the same city as the planned destination airport, with the difference between actual time of taking off (or landing) and the estimated time of departure (or arrival) being within the specified range, are regular flights.

***XI. Guiding Opinions of CAAC on Comprehensively Standardizing the Application of Industry Regulation Means (MHF No.91 [2016] of CAAC)***

Heavier punishment refers to punishment of a heavier category or a heavier degree applicable to offenders within the categories and scope of punishment specified by law. Administrative counterparts shall be subject to heavier punishment in any of the following cases:

- a. committing a crime on purpose or coercing and instigating others to commit illegal acts;
- b. causing incident (inclusive) above unsafe events or causing serious physical injury or economic losses due to human errors;
- c. committing illegal acts during emergencies such as natural disasters, accidental disasters, public health or social safety incidents;
- d. causing adverse social influence;
- e. illegal acts causing a high risk to safety;
- f. illegal acts of the same kind happening for over 2 times (inclusive) within 2 years;
- g. illegal acts lasting for a relatively long time, or failing to be rectified after the ordered rectification period without justifiable reasons;
- h. illegal acts along with acts of withholding required information or submitting false reports, or serious acts such as concealing or destroying evidence of illegal acts, refusing to take remedial measures, or retaliating informants or witnesses;
- i. rejecting or impeding administrative law enforcement, or threatening administrative law enforcement personnel by violence; or
- j. other circumstances subject to heavier punishment prescribed by law, regulations or rules.

***XII. Notice of CAAC on Notice of CAAC on Further Conducting Special Rectification Campaign on Slot Abuse and Promoting the Building of Credit in Civil Aviation Industry (JFMD No.2082 [2016] of CAAC)***

For acts already deemed as intentional or repeated slot abuse, CAAC regional administration shall immediately recall slots of this season and must not determine them as historic flight slots for the next equivalent season.