

**[JAMAICA GAZETTE]**  
**WEDNESDAY DECEMBER 1, 2004**

**THE CIVIL AVIATION (PECUNIARY PENALTY) (PRESCRIBED PROVISIONS)  
ORDER, 2004**

In exercise of the power conferred upon the Minister by Section 20A of the Act, the following Order is hereby made:-

1. This Order may be cited as the Civil Aviation (Pecuniary Penalty) (Prescribed Provisions) Order, 2004.

2. (1) Part I of the Schedule to this Order sets out the offences under the provisions of the Civil Aviation Regulations, 2004, in respect of which liability to conviction may be discharged by payment of a pecuniary penalty.

(2) The pecuniary penalty applicable to offences specified in Table A of Part I is such amount not exceeding two hundred thousand dollars as may be determined by the Authority.

(3) The pecuniary penalty applicable to offences specified in Table B of Part I is such amount not exceeding four hundred thousand dollars as may be determined by the Authority.

3. The notice required to be given to a person whom the Authority believes has contravened any provisions of regulations set out in Part I of the Schedule to this Order, and desires to give the opportunity of the discharge from liability by the payment of a pecuniary penalty shall be in the form set out in Part II of the Schedule hereto and shall be distributed to the person and others as indicated in that Part.

**SCHEDULE**

**(Paragraph 2)**

**PART 1**

**TABLE A**

**Pecuniary penalty not exceeding two hundred thousand dollars**

<u>Provision</u>	<u>Nature of Offences</u>
Reg. 16	Denial of authorized entry to flight deck.
Reg. 23	Records and Reports:
Reg. 31	
Reg. 34	(a) failure to make entry in aircraft log;(b) failure to make entry in worksheets;(c) failure to sign off work or inspection performed;(d) failure to complete and sign a Certificate of Release to Service.

Reg. 30 Failure to perform maintenance according to the applicable maintenance manual or other approved instruction.

Reg. 30 Failure to revise aircraft data after repair.

Reg. 30 (2) Schedule 6 Failure to provide adequately for proper servicing, maintenance repairs, and inspection.(a) failure to satisfy housing a facility requirements;(b) failure to have enough qualified personnel to complete the volume of work contracted for;(c) failure to provide an adequate number of personnel to supervise and inspect the work for which the organization is rated;(d) failure to maintain records of supervisory and inspection personnel;(e) failure to maintain performance records and reports;(f) failure to ensure correct calibration of all inspection and test equipment is accomplished at prescribed intervals;(g) failure to set forth adequate description of work performed;(h) inspection of work performed or approval for return to service by a person not qualified or approved;(i) failure to make log entries, records, or reports;(j) failure to maintain a quality assurance system as approved;(k) maintaining or altering an article for which it is rated, without using required technical data, equipment, or facilities.(l) failure to properly perform maintenance, repairs, alterations, and required inspections;(m) maintaining or altering an airframe, power plant, propeller, instrument, radio, or accessory for which it is not rated.

Reg. 30(5) Schedule 5 Failure to revise aircraft data after major repairs or alterations.

Reg. 30(5) Schedule 5 Failure to perform, or improper performance of, maintenance.

Reg. 30(5) Schedule 5 Failure to properly accomplish an inspection.

Reg. 30(5) Schedule 5 Failure of mechanic to record inspection

Reg. 31 Records and Reports:(a) failure to make accurate mechanical interruption summary report;(b) failure to make available reports of major alterations or repairs;(c) failure to make accurate mechanical reliability reports.(d) failure to keep maintenance records;(e) failure to make required entry in aircraft log;(f) failure to make available pilot records;(g) failure to make available load manifests.

Reg. 31 (2) Reg. 55 Schedule 10 Failure to report defects or unairworthy conditions to the Authority in a timely manner.

Reg. 31(3)

Reg. 32 (1) Failure to make a maintenance record entry.

Reg. 33Schedule 6 Failure to provide adequately for proper servicing, maintenance, repair, and spection of facilities and equipment.

Reg. 33(5)Schedule 6 Change of location, or facilities without advance written approval.

Reg. 39 Operation without required instruments and/or equipment.

Reg.46 (1) Operation without pilot and medical certificate in personal possession.

Reg. 55 Schedule 10 Failure to close and lock cockpit door.

Reg. 55 Schedule 10 Admission of unauthorized personnel to the flight deck.

Reg. 56 Serving alcoholic beverages to, or accepting on board, a person who appears to be intoxicated.

Reg. 57 Schedule 10 Pre-Flight:(a) failure to use pre-flight cockpit checklist;(b) failure to check aircraft logs, flight manifests, weather, etc.

Reg. 57 Reg. 58 Reg. 59 Weather Conditions: (a) failure to comply with visibility minimums in controlled airspace;(b) failure to comply with visibility minimums outside controlled airspace;(c) failure to comply with distance from clouds requirements in controlled airspace;(d) failure to comply with distance from clouds requirements outside of controlled airspace;(e) failure to comply with IFR landing minimums;(f) failure to comply with instrument approach procedures.

Reg. 59 Enroute:(a) deviation from clearance or instruction;(b) operating VFR within clouds;(c) leaving the flight deck for reasons other than duty or physiological;(d) operation of un-airworthy aircraft;(e) operating within restricted or prohibited area, or within positive control area without clearance;(f) operating without required equipment;(g) fuel mismanagement/exhaustion.

Reg. 59 During Taxi:(a) failure to adhere to taxi clearance or instruction;(b) Collision while taxiing;(c) taxiing with passenger standing;(d) causing damage due to Jet blast

Reg. 61 Failure to comply with the terms of an aerial applicator certificate and its operations specifications.

Reg. 62 Using an aircraft for towing, picking up, or raising, articles or persons without first obtaining the required authorization.

Reg.63 Dropping persons or objects from an aircraft without the required authorization.

Reg. 72-Schedule 12 Maintenance Manual: (a) failure to maintain a current manual;(b) failure to provide adequate instructions and procedures in a manual(c) failure to distribute manual to appropriate personnel.

Reg. 74 Schedule 14 Training Program: 1(a) failure to have or maintain an effective training program;(b) failure to train specific personnel adequately.

Reg. 75 Failure to comply with the maximum duty and flight times, or the minimum rest period requirements applicable to personnel in commercial air transport.

Reg. 75 Schedule 15 Exceeding flight and duty time limitations.

Reg. 80 Schedule 19 Failure to cooperate with an accident or incident investigation.

Sch 5 Failure to set forth an adequate description of work performed. Failure to close flight plan or file arrival notice. Failure to comply with special conditions of medical certificate.

## TABLE B

### *Pecuniary penalty not exceeding four hundred thousand dollars*

<u>Provision</u>	<u>Nature of Offences</u>
Reg. 27	Type Certificate:(a) technical non-conformity to type certificate, but no likely effect (potential or actual) on safe operation;(b) non-conformity which may have an adverse effect on safety of operation;(c) non-conformity which has an adverse effect (actual or potential) on safe operation.
Reg. 29	Failure to comply with an Airworthiness Directive.
Reg. 30	Operation of an unairworthy aircraft(a) operating an aircraft with defect outside the limits specified by the approved MEL;(b) operating an aircraft when an inspection has not been accomplished and certified as per the approved maintenance program;(c) operating an aircraft with an invalid or expired Certificate of Airworthiness.
Reg. 30	Failure to carry out a required inspection, or Duplicate Inspection, prior to releasing an aircraft to service.
Reg. 45Reg. 46	Operation without the required Licence or Rating:(a) functioning as a crew member without holding the required Licence or rating;(b) operating with an expired Medical Certificate;(c) operating without a valid proficiency check;(d) failure to have a current certificate or license in possession.
Reg. 50	Wheels up landing
Reg. 50	Short or long landing
Reg. 50	Taxiing collision
Reg. 57Schedule 10 415	Fuel mismanagement/exhaustion
Reg. 59	Takeoff:(a) takeoff against instruction or clearance;(b) takeoff below weather minima;(c) takeoff with aircraft weight higher than MCTOW.
Reg. 59	Approach to Landing:(a) deviation from clearance or instruction in terminal area;(b) approach below weather minimums;(c) exceeding speed limitation in airport traffic areas.
Reg. 59	Landing:(a) landing at wrong airport;(b) landing on the wrong runway;(c) deviation from instrument approach procedure;(d) overweight landing in other than an

emergency;(e) inadvertent wheels up landing;(f) short or long landing resulting in the aircraft touching the ground beyond the runway threshold.

Reg. 67 Failure to comply with the authorizations or limitations prescribed by the Authority for commercial air transport.

Reg. 69 Operations Specifications:(a) failure to comply with inspection and overhaul time limitations;(b) operations contrary to operations

Reg. 71 Failure to comply with the security requirements for commercial air transport.

Reg. 72 Failure to ensure that a maintenance release is completed and signed.

Reg. 72 Installing an unapproved part on an aircraft.

Reg. 72 Failure to insure that a Certificate of Release

Reg. 76Schedule 10.355 to Service is completed and signed.

Reg. 72Reg. 76 Improperly releasing an aircraft to service:(a) failure to inspect maintenance performed;(b) installing an unapproved part; (c) installing an unserviceable part;(d) installing a part that does not conform to the aircraft's type certificate.

Reg. 725.160 Failure to perform, or improper performance of, a maintenance task.

Reg. 73Schedule 13 Failure to comply with the minimum passenger-carrying requirements for commercial air transport.

Reg. 74Schedule 14 Failure to comply with the minimum and recurrent qualifications for persons involved in commercial air transport.

Reg. 76Schedule 77.015(a)- (e) Releasing an aircraft to service without the required equipment being installed and functional.

Reg. 76Schedule 1616.050 Improperly returning an aircraft to service: (a) release of aircraft without required equipment;(b) release of an aircraft where required work has not been completed.

Reg. 76Schedule 16 Failure to comply with the flight release requirements for commercial air transport.

Reg. 77Schedule 17 Failure to comply with the weight and balance requirements and performance requirements for commercial air transport.

Reg. 7710.493 Exceeding operating limitations for Mass and Balance or Performance.

Reg. 80Schedule 19 Failure to make an accident or incident report.

Reg. 15610.605-10.655 Rules of the Air and ATC Violations: (a) taxiing, takeoff, or landing without a clearance where ATC tower is in open;(b) failure to comply with ATC instruction;(c) failure to maintain radio communications in airport traffic area;(d) failure to comply with airport traffic pattern;(e) operation in terminal control area without or contrary to a clearance;(f) failure to maintain altitude in airport traffic area;(g) exceeding speed limitations in traffic area;(h) operation within prohibited or restricted area, or within positive control area;(i) failure to comply with VFR cruising altitudes;(j) failure to adhere to right of way rules;(k) failure to maintain radio watch while under IFR;(l) failure to display position lights;(m) failure to maintain proper altimeter settings;(n) failure to report compulsory reporting points;(o) deviation from ATC instruction or clearance;(p) failure to maintain required minimum altitudes over structures, persons, vehicles, or a congested area.

Reg. 166 (5) Security Violations:(a) failure to properly screen baggage(checked or carry-on), cargo, mail, flight catering stores and supplies, company mail, company material or each passenger;(b) unauthorized access to airport operations area and terminal restricted areas;(c) failure to comply with air carrier security program, including failure to detect weapons, incendiary and other dangerous devices;(d) management personnel coerce, condone, or encourage falsification of records/reports;(e) deliberate failure to maintain employee records;(f) failure to challenge;(g) failure to test screeners or test equipment;(h) failure to properly train;(i) unintentional failure to maintain screener test records;(j) failure to display identification;(k) failure to manage/control restricted area pass systems;(l) failure to conduct employee background check or job history verification;(m) failure to detect test objects;(n) failure to comply with approved or current security programme.

## PART II

### THE CIVIL AVIATION ACT

*Civil Aviation (Payment of Pecuniary Penalty) Notice  
(Pursuant to section 20A of the Civil Aviation Act)*

DATE OF NOTICE:

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PERSON TO WHOM NOTICE DIRECTED TO:

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ADDRESS:

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YOU ARE HEREBY NOTIFIED as follows:-

1. The Authority has reason to believe that you have contravened the provision specified hereunder of the Civil Aviation Regulations, 2004 (hereinafter referred to as "the Regulations").
2. You are liable to have prosecution commenced against you in respect of the alleged contravention and if convicted of the offence arising you will Be liable to a fine or term of imprisonment as specified in Regulation 9 of the Regulations.
3. Notwithstanding your liability to prosecution and conviction of the said offence, the Jamaica Civil Aviation Authority, hereby offers you the opportunity to discharge such liability by payment of a pecuniary penalty in the amount set out hereunder, before the expiration of the period ending on the Final Date for Payment set out hereunder, and if the pecuniary penalty is duly paid, then no proceedings will be taken against you in respect of the offence.
4. The failure to pay this pecuniary penalty on or before the final date specified for payment will result in prosecution being commenced against you.
5. The pecuniary penalty shall be paid to the Financial Controller of the Jamaica Civil Aviation Authority at the location set out hereunder.

REGULATION CONTRAVENED:

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PARTICULARS OF THE OFFENCE:

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THE PECUNIARY PENALTY (WORDS & FIGURES)

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FINAL DATE FOR PAYMENT (being 21 days after the date hereon):

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WHERE PAYABLE: Jamaica Civil Aviation Authority  
4 Winchester Road  
Kingston 10  
Jamaica  
Tel. No. (876) 960-4220  
Fax No. (876) 920-0194

SIGNED BY

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Director of Flight Safety  
For Director-General

## NOTES TO THE PREPARATION AND DISTRIBUTION OF NOTICE

(a) The Notice required by subsection (1) of 20A of the Act shall be prepared in quintuplicate and issued as follows:

1. one to the person paying, and thereafter to the following officers of the Authority,
2. one to the Financial Controller,
3. one to the Director-General.
4. one to the Legal Counsel, and
5. one maintained by the Flight Safety Division.

(b) The first copy of the Notice shall be retained by the person paying, and presented to the Financial Controller upon payment of the pecuniary penalty to the Authority.

(c) The Financial Controller shall match the copies to ensure the correct matter is being dealt with.

(d) The Financial Controller shall issue a receipt to the person together with one copy of the Certificate of Payment of the pecuniary penalty, and return his copy of the Notice.

(e) The other four copies of the Certificate of Payment of the pecuniary penalty shall be distributed as follows:

1. to be maintained by the Financial Controller,
2. to the Director General,
3. to the Legal Counsel {for sending to the prosecution/court}
4. to the Flight Safety Division

(f) The Financial Controller shall ensure the distribution of the copies of the Certificate within two business days of payment (but must ensure that it is before the due/court date) to the Director General and the Legal Counsel.

(g) In any specific case, the particulars stated in the Notice issued shall constitute the information required to be furnished to the prosecution together with its notification of non-payment of the pecuniary penalty, as the basis for initiating proceedings.

Service or delivery of the Notice and other relevant written communication to the alleged offender shall be in accordance with or based on the Supreme Court of Jamaica Civil Procedure Rules 2002 in respect of service of any written communication.



PROCEDURE TO BE FOLLOWED IF THERE IS NON-  
PAYMENT OF THE PECUNIARY PENALTY

1. After the date for the payment of the pecuniary penalty has passed BUT without payment having been made, the Financial Controller should on the first business day following the last date for payment, inform the Director General of the non-receipt of the said payment. This should be accomplished by a Certificate stating the fact of non-payment.
2. Within one business day, the Director General should then inform the Legal Counsel of the fact that the alleged offender has not paid the said penalty.
3. All pertinent information relating to the said offence should then be submitted to the Legal Counsel in preparation for laying the relevant Information before a Resident Magistrate.

Dated this 1<sup>st</sup> day of December 2004

ROBERT PICKERSGILL  
Minister of Transport and Works