

COELUM. ●

New Amendments to the Civil Aviation Law Regulation.
by José Manuel Muñoz



JULY NEWS on Mexican Aviation

COELUM: Pronunciation: 'che-l&m, is Latin for airspace or sky. The Romans began questioning the rights they had in the space above the land they owned and to how high above did that right extended to. Ad coelum et ad inferos, they discussed, meaning that their right of property would extend as high up to the heavens and down to hell.

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New Amendments to the Civil Aviation Law Regulation.

by José Manuel Muñoz.

On June 29, 2020, a new amendment to the Civil Aviation Law Regulation was published on the Federal Official Gazette, these modifications, in this sense, bring some changes which aim to reinforce some criteria already declared on the Civil Aviation Law, and by the same regulation. Hence, the present article will briefly analyze the aforementioned amendments in order to have a complete spectrum on how this regulation may or may not affect the operations of foreign air carriers while operating in Mexico.

“...any passenger could ask for the refund of their ticket only if it is requested over the next 24 hours after the purchase was conducted; this is of great relevance, since no time frame of a day is imposed...”

a) Applicability

Article 1 of the Civil Aviation Law Regulation establishes the scope of applicability that this instrument has; and among the amendments to the regulation this article was reformed, by adding one paragraph which states that International Air Transportation in Mexico will be reliant to the international treaties that were subscribed by Mexico in this matter. In the case that some regulatory aspect is not stated in such treaties, Civil Aviation Law and its regulation should provide the regulation for such matters. Consequently, this would give more certainty to the applicability of international treaties though this is not something that produces any substantial changes, since it has

been established in Mexico that international treaties are above-the-law regulations.

The added paragraph is the following:

“Article 1. [...]

International Air Transportation will be subject to the provisions established within the international treaties to which the United Mexican States are part of, and in those cases in which there is no international regulation, to the provisions of the Law and this Regulation”¹.

b) Contract of Carriage

Articles 36 and 37, which states the rules of interpretation and content requirements of the Contract of Carriage, respectively, were modified to specify that tickets could be issued by air carriers in both electronic or physical means; furthermore, it was included that Contract of Carriage should be subject of interpretation according to the provisions as stated on the Civil Aviation Law, the Regulation to the Civil Aviation Law, the Federal Consumer Protection Law, or any other regulation issued by the Mexican Ministry of Communications and Transportations.

In addition, it should be mentioned that amongst these amendments it is required that under the Contract of Carriage it should be incorporated the passenger’s compensation policies, and the operational safety guides to the transportation of passengers with disabilities.

1.- http://www.dof.gob.mx/nota_detalle.php?codigo=5595749&fecha=29/06/2020

c) Passengers Rights and Obligations.

Article 38 of the Civil Aviation Law Regulation declares the list of passengers' rights. Amongst this list it, the provision of Article 47 Bis of the Civil Aviation Law was included in which it is stated that any passenger could ask for the refund of their ticket only if it is requested over the next 24 hours after the purchase was conducted; this is of great relevance, since no time frame of a day is imposed, so according to the authorities' criteria, air carriers must give the purchase refund at any passenger that request so with the only limitation for passengers that the flight must not be initiated for the refund be applicable.

Further, Article 38 Bis was modified in the sense that it obliges passengers to provide their personal contact information (name, address, and email) so that airlines are able to contact the individual in the case any flight schedule modification is presented. In sum, Airlines must be notify the passengers if anything happens with their aircraft or their flight.

“...airlines can freely set or modify the tariffs for providing their services, but it should be guaranteed by airlines that none of such tariffs are established on a discriminatory basis for any passenger at all.”

d) Non-Discrimination.

By the inclusion of Article 49 of the Civil Aviation Law Regulation, it is recognized that airlines can freely set or modify the tariffs for providing their services, but it should be guaranteed by airlines

that none of such tariffs are established on a discriminatory basis for any passenger at all.

e) Animal transportation.

Finally, and the subject with more amendments in the reform was the animal transportation services.

These amendments start with Article 2 of the regulation in which terms are defined. Among these amendments, the following definitions were included:

Domestic Animals – The animal that has

i) been reproduced and raised under human control, which requires humans for their subsistence, and which do not fall under the classification of wild animals.

Service Animals – Those who, after

ii) evidencing proper training, can carry out activities to support people with disabilities, obey instructions or be conditioned to achieve such specific purposes.

Emotional Support Animals – Those who,

iii) as part of a medical treatment plan, provide companionship, alleviate loneliness and help with depression, anxiety, and certain phobias, but have no special training to carry out tasks that help people with disabilities.

Brachycephalic species – “Those that have

iv) a very short snout and skull².”

Furthermore, Article 107 of the Civil Aviation Law Regulation was amended to incorporate the requirements of air carriers for the transportation of domestic animals, and these are the following:

²-http://www.dof.gob.mx/nota_detalle.php?codigo=5595749&fecha=29/06/2020

- i) Always carry out the transportation of domestic animals ensuring that such receive a humanitarian treatment.
- ii) Domestic animals must be transported in cages or containers provided by the passenger. Such cages or containers must be conditioned with impact absorbent material as well as food and water, as required for the duration of the flight.
- iii) The cages or containers must have sufficient space to ensure the normal mobility of the domestic animal.
- iv) Domestic animals will be transported in the cargo compartments only when such are pressurized and have climate control.
- v) When the aircraft does not have pressurized and climate control cargo compartments, the transport of domestic animals may be carried out in a cabin adjacent to that of the passengers, but separated from it by a bulkhead, provided that the safety guidelines for the operation of aircraft are followed.
- vi) Brachycephalic species can only be transported when the passenger grants a letter of responsibility for possible damage or death of the animal, expressly excluding carrier's liability.
- vii) Only service animals, such as guide dogs, as well as emotional support animals will be allowed to travel in the passengers' cabin.
- viii) Domestic animals that due to the nature of their species or breed are potentially dangerous and could pose a risk to the crew or passengers cannot be transported in passengers' cabin.

- ix) Service animals, such as guide dogs, will be transported at no cost.
- x) Infected animals cannot be transported.
- xi) Domestic animals cannot be sedated, under no circumstances or for any reason.

Moreover, Article 107 Bis incorporates the requirements for passengers regarding the transportation of the domestic animals, and these are the following:

Passengers will be required to present:

- i) Original or certified copy of the vaccination certificate issued by a certified veterinary which certifies that the domestic animal has been vaccinated against rabies with at least 30 days prior to the date in which the carriage will take place; and,
- ii) A responsibility letter executed by the passenger whereby he assumes all damages caused by the domestic animal during the relevant air transport service.

As it can be observed, some relevant amendments were applied to the Civil Aviation Law Regulation, and it is important to take into consideration that according to the publication of the amendments, this changes would enter in force 60 days after the date of the publication giving to air carriers until August 28th to incorporate this amendments into their operation procedures.

COVID-19: opportunity for executive aviation.

Executive aviation activity could increase as commercial airlines have reduced their capacity due to the crisis caused by the covid-19 pandemic. The need for people to air transport continues, and the various commercial airlines worldwide maintain a reduction in their operations. Even though the executive industry fell by up to 80% during April due to travel restrictions and coronavirus protocol measures, it has resumed a moderate recovery pace due to the revival of the global economy. www.a21.com.mx/aeronautica/2020/07/06/covid-19-oportunidad-para-la-aviacion-ejecutiva July 06, 2020.

ICAO forecasts loss of 3 billion passengers.

Due to the impact provoked by the Covid-19 crisis on the international air transport in 2020. The International Civil Aviation Organization (ICAO), updated its forecast on the aforementioned impact, and noted that a reduction of up to 2.947 billion passengers is expected this year alone. Also, that the operating losses for airlines would be up to \$390 billion. And finally, for the rest of the year, airlines worldwide could reduce their international seating capacity by between 55% and 67%, which in terms of passengers, translates into a drop of between 1.212 million and 1.451 million. www.a21.com.mx/aerolineas/2020/07/06/pronostica-oaci-perdida-de-3-mil-millones-de-pasajeros July 06, 2020.

Recovery to be with the usage of biofuels: IATA.

According to the International Air Transport Association (IATA), due to the crisis provoked by Covid-19, one of the key elements to promote the recovery of the aviation industry, is with the transition of the usage of biofuels. For this reason, IATA estimates that for the cost of biofuels to be at the level of today's turbosine, production needs to reach seven billion liters, or 2 per cent of total aviation fuel consumption by 2019. Therefore, governments should use this moment to stimulate fiscal and regulatory frameworks that support biofuel production. www.a21.com.mx/aerolineas/2020/07/10/recuperacion-tiene-que-ser-con-bio-combustibles-iata July 07, 2020.

French aeronautics Safran to build plant in northern Mexico.

French aeronautics Safran informed Mexico that it has begun construction of a plant in the state of Chihuahua, on the border with the United States, that will create more than 800 jobs, said the foreign minister of the country, Marcelo Ebrard. The facility, which joins two other plants located in the central state of Querétaro, will be used to manufacture the interiors of passenger planes for the Boeing company, the official detailed in his Twitter account. www.forbes.com.mx/negocios-aeronautica-francesa-safran-construira-planta-mexico/ July 11, 2020.

México, the Latin American country that will lose the most jobs in the airline industry: IATA.

The Federal Government has extended the credit limit of companies for the purchase of fuel and airport services but has not implemented financial measures to avoid bankruptcy. According to figures from the International Air Transport Association (IATA), 691,000 direct and indirect jobs related to the airline industry will be lost in the air market, a figure that is higher than the rest of the countries in the region. According to IATA, airlines in Mexico will lose 57 percent of its income this year compared to the end of 2019, in other words, the decreases in their income will be of \$8.1 billion dollars. www.elfinanciero.com.mx/economia/mexico-el-pais-de-america-latina-que-mas-empleos-perdera-en-la-industria-aerea-iata July 13, 2020.

EU states agree coronavirus standards for air travel, says Germany.

European Union states have agreed on common hygiene standards such as social distancing and wearing facemasks on planes and at airports to help curb the spread of the new coronavirus, German Transport Minister Andreas Scheuer stated. Measures agreed include mouth-and-nose protection for passengers from six years old and social distancing at airports during security checks and check-in. A high fresh-air quota in planes must be guaranteed and information must be available in several languages. www.reuters.com/article/us-health-coronavirus-eu-airlines/eu-states-agree-coronavirus-standards-for-air-travel-says-germany-idUSKCN24O1JS July 23, 2020.

Airline jobs are evaporating, and the worst is yet to come.

According to Bloomberg's estimates, some 400,000 airline employees have been fired, temporarily laid off, or told they could lose their jobs due to the coronavirus. The aviation industry has suffered more than many other sector since the pandemic is destroying stockpiles and leaving companies without cash. The figure of 400,000 job losses includes airlines worldwide, covers pilots, and cabin crew, who have been on the front line of the fight against the virus when they are at work. Job losses in related industries, such as aircraft manufacturers, engine manufacturers, airports and travel agencies, could reach 25 million, according to the International Air Transport Association. www.infobae.com/america/agencias/2020/07/24/se-evaporan-los-empleos-de-aerolineas-y-lo-peor-esta-por-venir/ July 24, 2020.

Mexico loses 50% of passenger traffic.

In the first six months of the year, the ten main airports in Mexico have lost 48% of total domestic passengers and 51.9% of total international travelers, compared to the first half of 2019. In total, Mexican airports have served 26.53 million domestic passengers so far this year, against 50.99 of the previous year. Internationally, there was a drop of 55.6% in the number of passengers served, from 8.5 million in 2019 to 3.78 million so far in 2020. www.a21.com.mx/aerolineas/2020/07/24/pierde-mexico-50-de-trafico-de-pasajeros July 24, 2020.

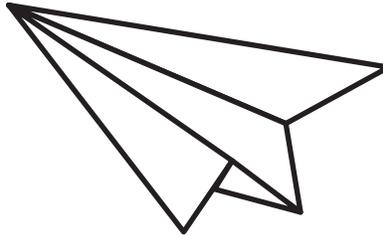
FAA warns of Boeing 737 double-engine power loss.

The Federal Aviation Administration (FAA) issued an Emergency Airworthiness Directive (EAD) for all stored Boeing 737 Classic (CL) and Boeing 737 NextGeneration (NG) aircraft. If left unchecked, the fault could potentially lead to a double-engine shutdown without the potential ability to turn on the engines again. FAA issued the emergency directive following four separate events where a single engine of the Boeing 737 shut down during a flight. The shutdowns were caused by corrosion on the engine bleed air fifth stage check valve. The agency also ordered airlines, which operated the aircraft for less than 10 flight cycles, to check for corrosion on the valve. www.aerotime.aero/rytis.beresnevicius/25507-faa-ead-737-bleed-air-valve-corrosion%20 July 24, 2020.

Airlines that move the most passengers in Mexico leave Canaero.

In the middle of the greatest aviation crisis worldwide due to the Covid-19 pandemic, the National Chamber of Air Transport (Canaero), a consultation body of the authorities for the design and execution of policies, programs and instruments for the sector, it no longer has among its ranks the three airlines that transported 70% of national passengers in Mexico and almost 50% of the country's total passengers before the Covid 19 pandemic: Interjet, Volaris and VivaAerobus. www.eleconomista.com.mx/empresas/Aerolineas-que-mas-pasajeros-mueven-en-Mexico-salen-de-la-Canaero-20200727-0010.html July 27, 2020.

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