

Canadian Chapter 2 Phase-out

Transition to Chapter 3 Aeroplanes Order

AERONAUTICS ACT

Transition to Chapter 3 Aeroplanes Order

- * Short Title
- * Interpretation
- * Application
- * Final Compliance Requirement
- * Importation of Chapter 2 Aeroplanes
- * Base Level
- * Election to Operate as a New Entrant
- * Transfers of Chapter 2 Aeroplanes and Base Level
- * Report of Changes to Base Level
- * Compliance Schedule
- * Credits
- * Temporary Exemption from Final Compliance
- * Northern Operations Exemption
- * Annual Progress Report
- * SCHEDULE I
- * SCHEDULE II
- * Established by

AERONAUTICS ACT

Transition to Chapter 3 Aeroplanes Order

ORDER RESPECTING THE TRANSITION TO CHAPTER 3 AEROPLANES

(Air Navigation Order, Series V, No. 35)

Short Title

1. This Order may be cited as the Transition to Chapter 3 Aeroplanes Order.

Interpretation

2. In this Order,

"base level" means the original base level of an operator and any subsequent changes to it made pursuant to subsection 6(3) or section 8; (niveau de base)

"Canadian" in respect of an operator, means Canadian within the meaning of subsection 67(1) of the National Transportation Act, 1987, as amended from time to time; (canadien)

"Canadian aeroplane" means an aeroplane registered in Canada; (avion canadien)

"Chapter 2 aeroplane" means an aeroplane that does not conform to the noise emission standards set out in Chapter 3 of ICAO Annex 16, Volume I, second edition, 1988, or the Stage 3 noise limits set out in section C36.5(a)(3) of Appendix C of Part 36 of the Federal Aviation Regulations, published by the Government of the United States, in effect on August 18, 1990; (avion-chapitre 2)

"Chapter 3 aeroplane" means an aeroplane that conforms to the noise emission standards set out in Chapter 3 of ICAO Annex 16, Volume I, second edition, 1988, or the Stage 3 noise limits set out in section C36.5(a)(3) of Appendix C of Part 36 of the Federal Aviation Regulations, published by the Government of the United States, in effect on August 18, 1990; (avion-chapitre 3)

"fleet" means the Chapter 2 and Chapter 3 aeroplanes owned, leased or leased out by an operator that are intended for operation in Canada; (flotte)

"maximum certificated take-off weight" means the weight of an aircraft so identified in the aircraft type approval; (masse maximale homologuée au décollage)

"new entrant" means an operator that has not begun conducting operations to

or from an aerodrome in Canada as of the day on which this Order comes into force, and includes a Canadian operator that has elected to operate in Canada as a new entrant pursuant to section 7; (nouvel entrant)

"northern operation" means the take-off or landing of an aeroplane at an aerodrome within the designated area, as that term is defined in subsection 67(1) of the National Transportation Act, 1987; (opération dans le Nord)

"operator" means the person that has legal custody and control of an aeroplane as owner, lessee, hirer or otherwise; (utilisateur)

"original base level" means the base level of an operator established pursuant to subsection 6(2); (niveau de base initial)

"subsonic turbo-jet aeroplane" means an aeroplane that is incapable of sustaining level flight at a speed exceeding Mach number 1 and that is powered by engines of the turbo-jet or turbo-fan type; (avion subsonique à turboréacteur)

"wide-body aeroplane" means an aeroplane that, in the passenger configuration, has more than one aisle. (gros porteur)

Application

3. (1) Subject to subsection (2), this Order applies to operators that operate, in Canada, subsonic turbo-jet aeroplanes with a maximum certificated take-off weight of 34 000 kg (74,956 lb.) or greater.

(2) This Order does not apply in respect of aeroplanes that use no aerodrome in Canada other than Gander International Airport.

(3) Any reference in this Order to Chapter 3 of ICAO Annex 16, Volume I, second edition, 1988, or to Part 36 or Part 91 of the Federal Aviation Regulations is a reference only to that Chapter or Part, and any documents that are referred to in that Chapter or Part are for informational purposes only.

Final Compliance Requirement

4. After April 1, 2002, no person shall conduct operations with an aeroplane to or from an aerodrome in Canada unless

(a) the aeroplane is a Chapter 3 aeroplane; or

(b) the aeroplane is operated pursuant to an exemption issued under section 12 or 13.

Importation of Chapter 2 Aeroplanes

5. (1) Subject to subsection (2), no person shall operate a Chapter 2 aeroplane that was imported into Canada after the day on which this Order comes into force unless

(a) the aeroplane is operated only for the purpose of northern operations and no Canadian aeroplane that is suitable for operation on a gravel runway is available;

(b) the aeroplane is operated as a replacement for an aeroplane that was included as part of the operator's original base level and that was removed from service but was not transferred to another operator; or

(c) the aeroplane was imported from the United States and the operator meets the applicable requirements respecting the phase-in of Chapter 3 aeroplanes set out in Part 91 of the Federal Aviation Regulations.

(2) Subsection (1) does not apply in respect of a Chapter 2 aeroplane that is owned by a Canadian operator and that is leased to a foreign operator on the day on which this Order comes into force provided that the aeroplane

(a) was reported as part of the operator's original base level pursuant to subsection 6(1); and

(b) is returned to Canada not later than six months after the date of the expiration of the lease agreement or of any extensions thereof.

Base Level

6. (1) Every operator that, before the date on which this Order comes into force, conducted operations to or from any aerodrome in Canada, and that continues to do so, shall establish an original base level pursuant to

subsection (2) and report that original base level to the Minister in writing within 45 days after the day on which this Order comes into force.

(2) An operator establishes an original base level by selecting a date within the period beginning on January 1, 1990 and ending on the date on which this Order comes into force, and the number of Chapter 2 aeroplanes owned, leased or leased out by the operator on that date is equivalent to the operator's original base level.

(3) Every operator that acquires a Chapter 2 aeroplane within the period beginning on March 10, 1992 and ending on the day on which this Order comes into force shall add that aeroplane to the operator's base level.

(4) Notwithstanding subsections (2) and (3), an operator is not required to include in the operator's base level wide-body aeroplanes and aeroplanes in respect of which an exemption has been issued under section 13.

Election to Operate as a New Entrant

7. A Canadian operator that operates in the United States in accordance with Part 91 of the Federal Aviation Regulations as a new entrant, as that term is defined in that Part, may elect to operate as a new entrant in Canada provided that the operator notifies the Minister in writing of such election within 45 days after the day on which this Order comes into force.

Transfers of Chapter 2 Aeroplanes and Base Level

8. (1) An operator may transfer legal custody and control of a Chapter 2 aeroplane to another person with or without transferring the amount of base level that corresponds to that aeroplane.

(2) An operator may not transfer an amount of the operator's base level to another person unless the operator also transfers to that person legal custody and control of the number of Chapter 2 aeroplanes that corresponds to that amount of base level.

Report of Changes to Base Level

9. Every operator shall report to the Minister in writing any changes that are made to the operator's base level pursuant to subsection 6(3) or section 8 within 60 days after the day on which the change is made.

Compliance Schedule

10. (1) Subject to subsections (2) and (3), every operator shall ensure that

(a) on the compliance date set out in column I of each item of Schedule I, the number of Chapter 2 aeroplanes in the operator's fleet, expressed as a percentage of base level, is equal to or less than the percentage set out in column II of that item; or

(b) on the compliance date set out in column I of each item of Schedule II, the number of Chapter 3 aeroplanes in the operator's fleet, expressed as a percentage of the fleet, is equal to or greater than the percentage set out in column II of that item.

(2) Every new entrant shall, on the compliance date set out in column I of each item of Schedule II, ensure that the number of Chapter 3 aeroplanes in the operator's fleet, expressed as a percentage of the fleet, is equal to or greater than the percentage set out in column III of that item.

(3) An operator is not required to include wide-body aeroplanes in the operator's fleet for the purposes of this section.

(4) No operator shall include a Chapter 3 aeroplane in the operator's fleet for the purpose of complying with this Order if the aeroplane has been included in the fleet of another operator for the same purpose.

(5) Where a calculation made for the purpose of determining a percentage referred to in subsection (1) or (2) results in a number that is not a whole number, that number may, at the option of the operator, be rounded either up or down to the next whole number.

Credits

11. Any operator that exceeds a requirement imposed by paragraph 10(1)(a) or (b) in respect of a compliance date set out in column I of an item of Schedule I or II is entitled to a credit equal to the amount by which the requirement is exceeded, which credit may be used by the operator to meet any further requirement imposed by that paragraph in respect of a

subsequent compliance date set out in that schedule.

Temporary Exemption from Final Compliance

12. (1) A Canadian operator of an aeroplane, or a foreign operator of an aeroplane registered in a state that issues equivalent exemptions to Canadian operators, may apply for a temporary exemption from the requirements of paragraph 4(a) in respect of that aeroplane provided that the application is submitted in writing to the Minister no later than April 1, 2001.

(2) The Minister shall approve an application made pursuant to subsection (1) if

(a) the operator demonstrates that at least 85 per cent of the aeroplanes used by the operator to conduct operations to or from an aerodrome in Canada will be Chapter 3 aeroplanes on or before October 1, 2001;

(b) the operator demonstrates that each Chapter 2 aeroplane used by the operator to conduct operations to or from an aerodrome in Canada will, as soon as practicable,

(i) be replaced by a Chapter 3 aeroplane, as demonstrated by proof of a firm order to lease or buy the Chapter 3 aeroplane, or

(ii) be converted to a Chapter 3 aeroplane, as demonstrated by proof of a signed contract for such conversion; and

(c) it is in the public interest.

(3) The duration of an exemption issued pursuant to this section shall be determined by the Minister, based on the material provided by the operator in connection with the application and on the time needed by the operator to modify the composition of the operator's fleet, but no exemption shall be issued pursuant to this section that would permit the operation of a Chapter 2 aeroplane after December 31, 2003.

Northern Operations Exemption

13. (1) A Canadian operator may apply to the Minister in writing for an exemption from the requirements of paragraph 4(a) and section 10 that would allow the operator to operate one or more Chapter 2 aeroplanes for the purpose of northern operations.

(2) The Minister shall issue an exemption referred to in subsection (1) provided that

(a) the application sets out

(i) a description of the aeroplanes in respect of which the exemption is sought,

(ii) the northern communities to be served by those aeroplanes, and

(iii) the aerodromes at which the aeroplanes will take off or land;

(b) the aeroplanes are suitable for operation on gravel runways; and

(c) it is in the public interest.

14. A Canadian operator may operate a Chapter 2 aeroplane, in respect of which an exemption has been issued pursuant to section 13 to conduct northern operations at aerodromes located in the area that is south of the designated area, as that term is defined in subsection 67(1) of the National Transportation Act, 1987, provided that

(a) the operator uses, during any one flight, no more than three aerodromes located in the area south of the designated area; or

(b) the aeroplane is being operated on a ferry flight to a maintenance facility.

Annual Progress Report

15. Every operator shall, no later than 60 days after the end of each calendar year, submit an annual report to the Minister detailing the composition of the operator's fleet and the progress the operator has made towards complying with the requirements of this Order.

SCHEDULE I

(Sections 10 and 11)

PHASE-OUT OF CHAPTER 2 AEROPLANES

Item	Column I Compliance Date	Column II Maximum Number of Chapter 2 Aeroplanes in Fleet, Expressed as a Percentage of Base Level
1.	Dec. 31, 1995	75
2.	Dec. 31, 1997	50
3.	Dec. 31, 1999	25

SCHEDULE II

(Sections 10 and 11)

PHASE-IN OF CHAPTER 3 AEROPLANES

Item	Column I Compliance Date	Column II Minimum Number of Chapter 3 Aeroplanes in Fleet, Expressed as a Percentage of Fleet	Column III Minimum Number of Chapter 3 Aeroplanes in Fleet, Expressed as a percentage of Fleet
1.	Dec. 31, 1995	55	25
2.	Dec. 31, 1997	65	50
3.	Dec. 31, 1999	75	75

Established by

SOR/95-389 1 August, 1995 pursuant to subsection 4.3(2) and paragraphs 4.9(b) and (f) of the Aeronautics Act and sections 217 and 316 of the Air Regulations.