RULES AND PROCEDURES CONCERNING FLIGHT SCHEDULES AND CHANGES IN FLIGHT SCHEDULES OF DOMESTIC AIR CARRIERS

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WHEREAS, the Civil Aeronautics Board has been receiving complaints about delays and abrupt cancellations of domestic scheduled flights, causing inconvenience and prejudice to passengers;

WHEREAS, Section 11, paragraph 6 of Chapter IV (Certificate of Public Convenience and Necessity) and Section 42 (k) of Chapter VII (Violations and Penalties) of R.A. 776, otherwise known as “The Civil Aeronautics Act of the Philippines”, provide as follows:

"Section 11 (6) The permit shall, among others, specify the terminal and intermediate points, if any, between which the air carrier is authorized to operate; the service to be rendered; the time of arrival and departure at each point, and the frequency of flights: Provided, That no change in routes, rates, schedules, or frequency nor supplemental or additional flights to those covered by an Air Commerce Permit or franchise shall be effected without prior approval of the Civil Aeronautics Board. xxx"

"Section 42 (K) Any person who without previous approval and authorization of the Board, shall adopt, establish, maintain, change, revise, abandon, alter, amend, defer, reject, discontinue, suspend, or restore, any classification, rule or regulation, or practice affecting routes, itineraries, schedules, classifications, increase or decrease of frequency of flights, in any manner whatsoever, shall be punished by a fine of five thousand pesos. The repetition of such offense shall be sufficient cause for revocation of the permit."

WHEREAS, Section 1.0 (1.3) of Rule III (Domestic Air Transportation) of the Implementing Rules and Regulations of Executive Orders Nos. 219 and 32, provide as follows:

"1.3 Under ordinary circumstances, domestic carriers operating the domestic routes shall file with the Board any application for change(s) in frequencies, times of operation, routing and type of service, aircraft type and other similar changes in operational matters, at least fifteen (15) calendar days prior to the intended effectivity date of such change(s). The Board reserves the right to deny or modify any change(s) applied for by the carrier if public interest so requires. Changes in schedules shall be published by the air carrier concerned in a newspaper of general circulation for at least two (2) times and posted in airport(s) affected by such changes.

"Application for change(s) in operational matters due to fortuitous events or force majeure, such as technical problems and other similar operational exigencies, may be filed within a shorter period commensurate with the nature of exigency."

WHEREAS, it is necessary to set clear guidelines, rules and procedures on the above matters to guide the domestic air carriers, as well as to serve the interest of the riding public;

NOW, THEREFORE, premises considered, the Board RESOLVED, as it hereby RESOLVES, to adopt the following rules and procedures concerning flight schedules and changes in flight schedules of domestic air carriers:

1. Under ordinary circumstances, domestic air carriers are required to file with the Board their application for

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approval of their flight schedules or for any change in their previously approved flight schedules not later than fifteen (15) calendar days prior to the intended effectivity date of their flight schedules or prior to the intended effectivity date of the change/s in their flight schedules. Upon approval by the Board of such flight schedules or any changes thereof, the same shall be published by the air carrier concerned in a newspaper of general circulation for at least two (2) times prior to the effectivity date of such flight schedules or any changes thereof, and posted in airport(s) affected by such flight schedules or any changes thereof.

2. Applications for flight schedules, or for any change/s in the approved flight schedule filed under ordinary circumstances as provided in Section 1, above, shall be acted upon by the Board not later than five (5) days before the intended effectivity date. Failure of the Board to act on the said application on the fifth (5th) day prior to the intended effectivity date shall be deemed an approval thereof, without prejudice, however, to a subsequent action by the Board, motu propio or through a petition filed by any interested party/ies, provided that the Board shall render its decision only after due notice and hearing. Should the Board needs additional time to study the application and/or to give additional time for other interested parties to file their objections or comments thereto, the Board may grant a temporary or provisional authority or approval, if the circumstances so warrant, such as when the public interest so requires and/or the objection/s thereto do/es not, on its face, appear to be meritorious.

3. Under extraordinary circumstances, prior approval or authorization of the Board shall immediately be secured by the domestic air carrier concerned at the earliest instance that the air carrier becomes cognizant that such flight schedule deviation, delay, change or cancellation is inevitable, provided that such an application be filed not later than one (1) hour before the scheduled flight. The Board may grant a temporary or provisional approval or authority when the circumstances so warrant. However, if the Board will be unable to deliberate on the application due to time constraints, the Board may authorize only the mounting of the delayed/changed flight schedule or cancellation of the scheduled flight, as the case may be, without making any pronouncement or judgment as to the merit of the application. The Board shall subsequently determine, after due notice and hearing, whether such deviation, delay, change or cancellation of the scheduled flight, is really justified or not. The Board, if the circumstances so warrant, may also require the appropriate responsible officer of the air carrier concerned to submit a Sworn Statement indicating the cause/s or reason/s for such deviation, delay, change or cancellation of the approved flight schedule. If the Board finds that such deviation, delay, change or cancellation of the approved flight schedule is unjustified, the air carrier concerned shall be meted out the appropriate penalty.

4. In cases where the cause/s or reason/s for a deviation, delay, change or cancellation of the approved flight schedule occur/s less than one (1) hour before a scheduled flight, the application must be filed at the earliest instance that the air carrier concerned becomes cognizant of the same, but in no case later than the scheduled time of departure. In addition, the appropriate responsible officer of the air carrier concerned shall submit, within twenty-four (24) hours after the submission of the said application, a Sworn Statement indicating the cause/s or reason/s for such deviation, delay, change or cancellation of the approved flight schedule. In such an event, and provided that the said application has already been filed, the air carrier concerned may already proceed to implement such change/s in flight schedule or cancellation of scheduled flight, as the case may be, even without the Board's authority or approval therefor, subject however to the Board's subsequent determination, after due notice and hearing, as to whether or not such change in flight schedule or cancellation of scheduled flight was justified or not. If the Board finds that such deviation, delay, change or cancellation of the approved flight schedule is unjustified, the air carrier concerned shall be meted out the appropriate penalty.

5. In the situations contemplated in Sections 3 and 4, above, such application may be provisionally filed with the Board electronically, e.g., through facsimile transmission (fax), electronic mail (e-mail), etc., in accordance with the provisions of Rep. Act No. 8792, otherwise known as the "Electronic Commerce Act", and the Board's action

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thereon may likewise be communicated electronically to the air carrier concerned. However, pending full implementation of electronic transactions with the Board pursuant to Rep. Act No. 8792, such provisional electronic filing shall be immediately confirmed or validated by physical filing of the original copy or hard copy of the application with the Board within twenty-four (24) hours from the electronic filing of the application.

6. If the application is disapproved, the air carrier concerned is duty bound to comply with its previously approved flight schedule.

7. A deviation, delay, change or cancellation of the approved flight schedule shall be deemed justified only when the same is due to fortuitous events or force majeure, such as technical problems and other similar operational exigencies not attributable to the willful act or negligence or operational deficiencies of the domestic air carrier concerned. An example of a willful act attributable to the air carrier is when the air carrier deliberately delays or cancels its scheduled flight because of an insufficient number of passengers or for the purpose of consolidating or combining the passengers from the delayed or cancelled flight with the passengers in the next scheduled flight.

8. Any unjustified deviation, delay, change or cancellation of the approved flight schedule shall subject the domestic air carrier concerned to a penalty in the amount of Five Thousand Pesos (P5,000.00) for the first offense. For subsequent similar offenses, the penalty shall be in such amount as would serve as effective deterrent to the repeated commission of the said offense. In cases of repeated willful violations, the imposable penalty shall be suspension or revocation of the domestic air carrier's Certificate of Public Convenience and Necessity (CPCN) or Temporary Operating Certificate (TOC), as the case may be, as provided for in Section 42 (K) of Chapter VII (Violations and Penalties) of R.A. 776.

9. In order to effectively monitor compliance with their approved flight schedules, domestic air carriers are required to submit to the Board within ten (10) days from the end of every month, a report, in the form prescribed by the Board, on all the flights actually operated by them, as well as all those scheduled flights cancelled, if any, during the immediately preceding month, including the flight number, approved route, type of aircraft, the scheduled time of departure and arrival, the actual time of departure and arrival, the actual route taken, a brief narration of the facts constituting the reason(s) for any deviation, delay, change or cancellation of the flight schedule, if such be the case, as well as such other basic and pertinent data that bear on the operation of such scheduled flights.

10. The Board shall also conduct random physical monitoring of the operations of domestic air carriers to ensure that they are in compliance with their approved flight schedules.

11. The Board shall, motu propio, or upon petition by any affected person, review the track record of an air carrier for purposes of ascertaining whether it is remiss in faithfully complying with its approved flight schedules. If found by the Board, after due notice and hearing, to have pursued unwarranted and unjustified flight schedule changes and cancellations, the air carrier concerned shall be meted out the appropriate penalty.

All other resolutions, economic regulations and other issuances by the Board which are inconsistent with the herein provisions are hereby accordingly amended, modified or repealed.

These rules shall take effect fifteen (15) days after its publication in a newspaper of general circulation. Three (3) certified copies of these rules shall be deposited with the University of the

Philippines Law Center in compliance with the provisions of the Administrative Code of 1987.

Adopted: 20 Sept. 2001

(SGD.) SEC. PANTALEON D. ALVAREZ

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