

For Discussion
on 24 June 2002

Legislative Council Panel on Economic Services

Proposed Airport Authority (Permitted Airport-Related Activities) Order

Introduction

This paper seeks Members' views on a revised draft order proposed to be made by the Chief Executive under section 5(3) of the Airport Authority (AA) Ordinance (Cap. 483) to permit AA to undertake certain airport-related activities.

Background

2. Members were consulted on 29 October 2001 and 20 March 2002 on AA's proposal for the Chief Executive, in consultation with AA, to make an order under section 5(3) of the AA Ordinance (Cap. 483) to permit AA to undertake certain airport-related activities outside Chek Lap Kok. Section 5 Annex 1 of the AA Ordinance is at Annex 1. These activities are aimed to enhance the competitive advantages of the Hong Kong International Airport as well as to maintain and further develop its status as an international passenger and cargo hub in the region. At the meeting on 20 March 2002, Members expressed

concerns about the broad scope of activities permitted in the previous draft order and requested the Administration and AA to review the draft.

Revised Draft Order

Annex 2 3. A revised draft order is at Annex 2. To address Members' concerns, a number of changes have been made.

Addition of General Conditions (Section 4)

- (a) AA can only engage in activities which it can lawfully undertake in Hong Kong and are expedient for or conducive to the promotion or maintenance of Hong Kong's status as a centre of international and regional aviation, or the competitiveness of the airport.
- (b) AA can only operate carriage and logistics services only if it is not practicable for any other person to provide the service and that it is requisite or expedient for AA to provide the service.

Approval by the Financial Secretary (Section 5)

- (c) AA is required to seek the prior approval of the Financial Secretary for investment in permitted airport-related activities in an airport outside Hong Kong involving an amount of

consideration which exceeds 2.5% of AA's issued share capital of \$36,648 million i.e. \$916.2 million.

More Defined Scope of Activities (Schedule)

- (d) Acquisition of shares, loans or other stocks, debenture etc is restricted to airports in any other part of the People's Republic of China only (Items 2 and 3).

- (e) AA's other activities regarding alliance, partnership, joint venture and consultancy and management services are restricted to the development, maintenance or operation of an airport outside Hong Kong (Items 1 and 4).

Views Sought

- 4. Members are invited to support the revised draft order (Annex 2).

Economic Services Bureau
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雙語法例資料系統
Bilingual Laws Information System

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Chapter :	483	Title :	AIRPORT AUTHORITY ORDINANCE	Gazette Number : 36 of 1999
Section :	5	Heading :	Purposes of Authority	Version Date : 01/07/1997

Remarks:

Adaptation amendments retroactively made - see 36 of 1999 s. 3

(1) (a) The Authority shall, in accordance with this Ordinance and also in accordance with the objective of maintaining Hong Kong's status as a centre of international and regional aviation, provide, operate (in accordance with any law in that regard which is for the time being in force), develop and maintain, at and in the vicinity of Chek Lap Kok, an airport for civil aviation.

(b) The Authority may provide, at, as regards or in relation to the Airport (or any part thereof), such facilities, amenities or services as are, in its opinion, requisite or expedient.

(2) In addition to performing the functions assigned by subsection (1), the Authority may engage in or carry on any airport-related activity in trade, commerce or industry at or from any 1 or more places in the Leased Area.

(3) (a) In addition to the activities which it may engage in or carry on under subsection (2), the Authority may also engage in or carry on such airport-related activities as the Chief Executive may, after consultation with the Authority, permit or assign to it by order published in the Gazette. (Amended 36 of 1999 s. 3)

(b) An order under this subsection may-

(i) provide that all or any 1 or more of the activities specified in the order may be engaged in or carried on by the Authority either at or from any place whatever or at or from any place specified in the order;

(ii) contain conditions restricting or otherwise regulating, or otherwise relating to, an activity to which the order relates.

(Enacted 1995)

AIRPORT AUTHORITY (PERMITTED AIRPORT-RELATED ACTIVITIES) ORDER

(Made under section 5(3) of the Airport Authority Ordinance (Cap. 483) after consultation with the Airport Authority and the Executive Council)

1. Commencement

This Order shall come into operation on a day to be appointed by the Secretary for Economic Services by notice published in the Gazette.

2. Interpretation

In this Order, unless the context otherwise requires –

“airport governing body” (機場管治機構) includes any body, whether corporate or unincorporate, that has the function of developing, operating or maintaining an airport for civil aviation at a place outside Hong Kong in accordance with the law of that place;

“carriage service” (載運服務) means a service that is provided for the carriage (excluding carriage by air) of persons or goods between the Airport and other places ;

“logistics service” (物流服務) means a service that provides for the planning and control of the flow and storage of goods that are carried -

- (a) to or from the Airport; or
- (b) to or from an airport outside Hong Kong.

“permitted airport-related activities” (關於機場的獲准活動) means the activities specified in the Schedule.

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3. Permitted airport-related activities

(1) Subject to section 4 and section 5(1), the Authority may engage in or carry on all or any one or more of the permitted airport-related activities at or from a place either in Hong Kong or outside Hong Kong.

(2) For the avoidance of doubt, it is declared that this Order does not prejudice the operation of any other law applicable to the permitted airport-related activities.

4. Conditions relating to permitted airport-related activities

(1) The Authority shall not engage in or carry on a permitted airport-related activity at or from a place outside Hong Kong -

- (a) if the Authority might not lawfully engage in or carry on the activity at or from a place in Hong Kong; and
- (b) unless such activity is expedient for or conducive to the promotion or maintenance of Hong Kong's status as a centre of international and regional aviation or the competitiveness of the Airport.

(2) The Authority shall not provide a carriage service or a logistics service unless, for the time being, in all the circumstances of the case -

- (a) it is not practicable, whether for economic or other reasons, for any other person to provide the service; and
- (b) it is requisite or expedient for the Authority to provide the service.

5. Approval of Financial Secretary

(1) The Authority shall obtain the approval of the Financial Secretary before making an investment if –

- (a) the investment is in respect of a permitted airport-related activity

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specified under section 1, 2 or 3 of the Schedule; and

- (b) the amount of consideration for the investment exceeds 2.5% of the issued share capital of the Authority.

(2) The Authority shall, as soon as practicable, notify the Legislative Council after making an investment which is subject to approval under subsection (1).

SCHEDULE PERMITTED AIRPORT-RELATED ACTIVITIES

1. To enter into an alliance, cooperative, joint venture, partnership, or similar arrangement, with another airport governing body in relation to the development, maintenance or operation of an airport outside Hong Kong.
2. To acquire, hold or dispose of any share, loan or other stock, debenture, bond or note issued by an airport governing body for an airport in any other part of the People's Republic of China, or any right, option or interest in or in respect of the foregoing.
3. To acquire, hold or dispose of any right or interest in or in respect of an airport in any other part of the People's Republic of China, including a right or interest in any facilities, amenities or services in connection with or incidental to the operation of the airport.
4. To provide advisory, consultancy, management or other related services to any person in relation to the development, maintenance or operation of an airport outside Hong Kong.
5.
 - (a) To provide facilities for or in relation to a carriage service or a logistics service.
 - (b) To provide a carriage service.
 - (c) To provide a logistics service.

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Explanatory Note

This Order permits the Airport Authority to engage in or carry on the permitted airport-related activities specified in the Schedule in order to enhance the status of Hong Kong as a centre of international and regional aviation.

Economic Services Bureau

June 2002