

LEGISLATIVE COUNCIL BRIEF

Airport Authority Ordinance
(Chapter 483)

**AIRPORT AUTHORITY
(PERMITTED AIRPORT-RELATED ACTIVITIES) ORDER**

INTRODUCTION

On the advice of the Executive Council, the Chief Executive has ORDERED that the Airport Authority (Permitted Airport-Related Activities) Order, at Annex A, should be made under section 5(3) of the Airport Authority Ordinance (the AA Ordinance) first to extend the geographical limit to enable the Airport Authority (AA) to undertake airport-related activities beyond the Hong Kong International Airport (HKIA) or its vicinity and secondly to specify the type of permitted airport-related activities for the AA.

Annex A

BACKGROUND AND ARGUMENT

2. The AA Ordinance specifies the purposes, functions and activities of the AA in section 5. Section 5(1) provides that the purposes of the AA are to provide, operate, develop and maintain the HKIA for civil aviation in accordance with the objective of maintaining Hong Kong's status as a centre of international and regional aviation. It may provide facilities, amenities or services at or in relation to the HKIA that are considered requisite or expedient. Under section 5(2), the AA may undertake any airport-related activity in trade, commerce or industry at or from the land leased to the AA under the Airport Land Grant, i.e. about 1,250 hectares of land at or in the vicinity of Chek Lap Kok.

3. In addition to the above-mentioned airport-related activities at or in the vicinity of the HKIA, section 5(3) of the AA Ordinance

Annex B

provides for the Chief Executive, in consultation with the AA, to specify in an order any other airport-related activities which the AA may engage in. A copy of section 5 of the Ordinance is at Annex B for Members' reference.

4. In order to strengthen Hong Kong's position as a leading international and regional aviation hub, the AA has formulated measures to retain and enhance the competitiveness of the HKIA. Apart from planning the expansion of facilities at the HKIA to meet forecast increased demands in passenger and cargo traffic (e.g. expansion of the passenger terminal building and provision of additional cargo handling facilities), the AA is also developing initiatives to extend its passenger and cargo catchment area to the Pearl River Delta (PRD). These include improving the HKIA's multi-modal connections with the PRD and possible cooperation with other airports in the PRD.

5. AA's initiatives to extend the HKIA's passenger and cargo catchment area will entail activities undertaken outside the geographical limitation set by Section 5(1) and (2) of the AA Ordinance i.e. the HKIA or its vicinity. These airport-related activities include :

- (a) entering into a strategic alliance, co-operation, joint venture or partnership with other airports;
- (b) investing in other airports in the Mainland;
- (c) providing consultancy or management services to other airports;
- (d) developing inter-modal transport services between the HKIA and other places; and
- (e) developing logistics services outside the HKIA.

In order to enable the AA to undertake the above activities, it is necessary for the Chief Executive to make an order under Section 5(3) of the AA Ordinance to extend the geographical limit of the AA's airport-related activities and to specify the type of permitted activities.

THE ORDER

6. The Order will enable AA to undertake specified permitted

airport-related activities outside the existing geographical limit.

(A) Conditions for Activities

7. The Order also sets out certain conditions under which the airport-related activities specified in the schedule may be undertaken -

- (a) the AA shall not undertake activities outside Hong Kong which it cannot lawfully carry on in Hong Kong (**section 4(1)(a)**);
- (b) the activities must be 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 HKIA (**section 4(1)(b)**);
- (c) the AA shall not provide a carriage service or a logistics service unless it is not practicable, whether for economic or other reasons, for any other person to provide the service, and that it is requisite or expedient for the Authority to provide the service (**section 4(2)**); and
- (d) the AA shall obtain the prior approval of the Financial Secretary for the activities specified in (a) to (c) of paragraph 8 below, if the aggregate amount of consideration payable by the AA for such activities in respect of an airport exceeds 2.5% (i.e. \$916.2 million) of the AA's issued share capital (i.e. \$36,648 million at present) (**section 5(1)**).

These conditions have been included having regard to the views of Legislative Council Members who are concerned that the AA may compete with the private business sector. The condition in (d) above is meant to add a safeguard to the AA's investment plan given that the Government is the AA's shareholder.

(B) Schedule of Activities

8. The Order specifies in a schedule the permitted airport-related activities that can be undertaken by the AA. These include -

- (a) entering into alliance, cooperative, joint venture or partnership arrangements with other airport governing bodies (**section 1 of the Schedule**);

- (b) acquiring, holding or disposing of any share or security issued by airport governing bodies in other parts of the People's Republic of China (**section 2 of the Schedule**);
- (c) acquiring, holding or disposing of any right or interest in or in respect of airports in other parts of the People's Republic of China including any facilities, amenities or services in connection with or incidental to the operation of such airports (**section 3 of the Schedule**);
- (d) providing advisory, consultancy, management or other related services to any person in relation to the development, maintenance or operation of an airport outside Hong Kong (**section 4 of the Schedule**); and
- (e) providing facilities or operating a logistics service for the flow of goods to or from the HKIA or an airport outside Hong Kong; and providing facilities or operating a service for the carriage of persons or goods, but excluding carriage by air, between the HKIA and other places (**section 5 of the Schedule**).

(C) Effective Date

9. The effective date shall be appointed by the Secretary for Economic Development and Labour by notice published in the Gazette (**section 1**).

PUBLIC CONSULTATION

10. The AA has briefed a number of associations in trade, commerce, industry, shipping, tourism and aviation on its plans including the additional airport-related activities in paragraph 8 above to further develop the HKIA. They were generally supportive of the AA's long-term development plans and proposed new initiatives, which are necessary to enhance Hong Kong's status as a centre of international and regional aviation. They noted that to attract more passenger and cargo traffic to the HKIA, the AA would need to reach out to the PRD market. This could be achieved by strengthening the HKIA's connectivity with the PRD through inter-modal links and cooperation with nearby airports. Some also noted that the AA's initiatives could create more choices for

the consumers and shippers, more investment opportunities and employment. These would benefit Hong Kong's economy.

11. We consulted the Legislative Council Panel on Economic Services on 29 October 2001, 20 March and 24 June 2002. Members believed that the additional airport-related activities should be restrictive in scope and very specifically spelt out in the Order and the Financial Secretary's approval should be required for investment above a certain threshold. These views have been taken into account when we finalized the Order at Annex A. When we consulted the Legislative Council Panel on Economic Services again on the Order on 24 June 2002, Members present generally supported the proposal.

BASIC LAW IMPLICATIONS

12. The Department of Justice advises that the Order is consistent with the Basic Law.

HUMAN RIGHTS IMPLICATIONS

13. The Department of Justice advises that the Order has no human rights implications.

BINDING EFFECT OF THE ORDER

14. The Order will not affect the current binding effect of the AA Ordinance.

FINANCIAL AND STAFFING IMPLICATIONS

15. There are no direct financial or staffing implications for the Government. The additional airport-related activities should maintain and enhance the value of the AA to the Government as its shareholder.

ECONOMIC IMPLICATIONS

16. Extending the geographical limit of the airport-related activities undertaken by the AA in the way as proposed will enable the AA to extend the HKIA's passenger and cargo catchment area, enhance its competitiveness and contribute towards its development as a leading international and regional aviation hub.

SUSTAINABILITY IMPLICATIONS

17. The proposal will help to enhance the competitiveness of the HKIA and bring long-term positive impact especially on our airport development. Major individual projects under the proposal would bring about some environmental and traffic related issues, the impacts of which have to be defined and assessed at the project formulation stage.

LEGISLATIVE TIMETABLE

18. The legislative timetable will be -

Publication in the Gazette	9 July 2002
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Tabling at the Legislative Council	10 July 2002
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PUBLICITY

19. The Order will be published in the Gazette on 9 July 2002 and a press release will be issued on the same day. A spokesman will be made available for answering media enquiries.

ENQUIRIES

20. For any enquiries on this brief, please contact Mr Danny Lau, Principal Assistant Secretary for Economic Development and Labour (Economic Development) at 2810 2674.

Economic Development and Labour Bureau
9 July 2002

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 Development and Labour 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 provides 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.

3. Permitted airport-related activities

(1) Subject to sections 4 and 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 any place in 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 engaging in a permitted airport-related activity specified in section 1, 2 or 3 of the Schedule in respect of an airport if -

- (a) the amount of consideration payable by the Authority for or pursuant to engaging in the activity exceeds 2.5% of the issued share capital of the Authority; or
- (b) where the Authority proposes to engage in more than one such activity in respect of the airport, the aggregate amount of consideration payable by the Authority for or pursuant to engaging in the activities exceeds 2.5% of the issued share capital of the Authority.

(2) After engaging in the activity referred to in subsection (1), the Authority shall ensure that a report of the activity is laid, as soon as practicable, on the table of the Legislative Council.

SCHEDULE

[ss. 2 & 5]

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, operation or maintenance 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, operation or maintenance 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.

Chief Executive

2002

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.

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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)

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