

LEGISLATIVE COUNCIL BRIEF

Civil Aviation (Aircraft Noise) Ordinance
(Chapter 312)

CIVIL AVIATION (AIRCRAFT NOISE) ORDINANCE (AMENDMENT OF SCHEDULE) NOTICE 2002

INTRODUCTION

At the meeting of the Executive Council on 30 April 2002, the Council ADVISED and the Chief Executive ORDERED that the Civil Aviation (Aircraft Noise) Ordinance (Amendment of Schedule) Notice 2002, at Annex A, should be made under section 3(3) of the Civil Aviation (Aircraft Noise) Ordinance so that the noise standards specified in Chapter 3 in Part II, Volume I of Annex 16 to the Convention on International Civil Aviation apply to all subsonic jet aircraft landing or taking off in Hong Kong with effect from 1 July 2002.

Annex A

BACKGROUND AND ARGUMENT

International developments in the control of aircraft noise

2. The International Civil Aviation Organisation (ICAO)⁽¹⁾ has adopted noise standards for aircraft and these are set out in Chapters 2 and 3 in Part II, Volume I of Annex 16 to the Convention on International Civil Aviation (the Chicago Convention)⁽²⁾. The noise standards set out in Chapter 2 apply to subsonic jet aircraft certificated before 6 October 1977 and are less stringent than the noise standards set out in Chapter 3 which applies to aircraft certificated on or after 6 October 1977. Aircraft that meet the Chapter 2 and Chapter 3 noise standards are referred to as Chapter 2 aircraft and Chapter 3 aircraft respectively.

Note (1) A specialised agency of the United Nations created in 1944 to promote the safe and orderly development of civil aviation worldwide. The ICAO presently has 187 Member States.

Note (2) The noise of aircraft, when subject to flight tests, is measured at a number of defined reference noise measurement points near the flight path (including the lateral, flyover and approach points). Chapter 2 and Chapter 3 in Part II, Volume I of Annex 16 to the Chicago Convention specify, inter alia, noise standards for these noise reference measurement points.

Annex B

Examples of wide-bodied aircraft meeting the two sets of standards are at Annex B.

3. The ICAO has adopted a resolution in October 1990 on the phasing out of Chapter 2 aircraft in a progressive manner. Noting the concern of some contracting states about the economic burden on airlines that may not have the financial resources to re-equip their fleets, ICAO also urged contracting states to introduce restrictions in such a way that Chapter 2 aircraft may be withdrawn from service gradually over a period of not less than seven years starting from 1 April 1995, i.e. not before 1 April 2002.

4. We understand that the aeronautical authorities of a number of economies (most of them with major aviation hubs) have banned or intend to ban shortly the operation of wide-bodied Chapter 2 aircraft. These include Australia, Bangladesh, Canada, Denmark, Fiji, Finland, Germany, Italy, Japan, Luxembourg, Mainland China, New Zealand, Norway, Philippines, Singapore, the United Kingdom and the United States.

Control of aircraft noise in Hong Kong

5. Section 3 of the Civil Aviation (Aircraft Noise) Ordinance prohibits aircraft which do not comply with the noise standards specified in the Schedule from landing or taking-off in Hong Kong. In specifying the noise standards, the Government has followed closely ICAO's resolution to progressively prohibit various classes of subsonic jet aircraft from operating to or from Hong Kong. Currently, all narrow-bodied subsonic jet aircraft operating to or from Hong Kong have to meet Chapter 3 noise standards whereas wide-bodied aircraft only need to meet Chapter 2 standards. A wide-bodied aircraft is defined in Section 2 of the Ordinance as an aircraft which has an authorized maximum total weight greater than 100,000 kg and a maximum cabin width greater than 4.5 metres. In line with ICAO's resolution on the phasing out of Chapter 2 aircraft, we need to amend the standards of aircraft noise specified in the Schedule to require wide-bodied subsonic jet aircraft to meet Chapter 3 standards. Besides, it would be desirable for Hong Kong to be seen to uphold noise standards which are comparable to major aviation hubs (see paragraph 4 above).

6. As provided for in the Civil Aviation (Aircraft Noise) (Certification) Regulations, Cap.312A, all aircraft operating to or from

Hong Kong are required to carry on the aircraft noise certificates issued by the Director-General of Civil Aviation or contracting states of ICAO, or other documentary proof that show compliance with the relevant noise standards. If an aircraft does not carry the documentary proof, its owner and operator each commits an offence and is liable to a fine of \$50,000. If the commander of the aircraft fails to provide the documentary proof within a reasonable time after having been requested to do so by the Director-General of Civil Aviation, the commander commits an offence and is liable to a fine of \$10,000. The owner and operator of the aircraft also each commits an offence and is liable to a fine of \$50,000.

7. If it appears to the Director-General of Civil Aviation that an aircraft is intended or likely to be flown into or out of Hong Kong in contravention of Section 3 of the Ordinance, the Director-General of Civil Aviation may direct the operator or the commander of the aircraft not to make the flight. The operator or commander who fails to comply with the direction commits an offence and is liable to a fine of \$50,000 and imprisonment for six months.

THE NOTICE

8. Noise standards for aircraft operating to or from Hong Kong are specified in the Schedule to the Civil Aviation (Aircraft Noise) Ordinance. The Schedule currently specifies Chapter 2 standards for wide-bodied subsonic jet aircraft and Chapter 3 for narrow-bodied subsonic jet aircraft. Section 3(3) of the Ordinance provides that the Chief Executive may by notice published in the Gazette amend the Schedule. The Chief Executive has now made the Notice at Annex A which specifies Chapter 3 noise standards for all subsonic jet aircraft (including wide-bodied subsonic jet aircraft) operating to or from Hong Kong.

PUBLIC CONSULTATION

9. We have consulted all airlines operating scheduled services to and from Hong Kong, the Airport Authority and aircraft maintenance companies on the proposed prohibition. They have not indicated any problem with the proposal. We consulted the Aviation Advisory Board on 15 October 2001 and members supported the proposal. We also consulted the Legislative Council Panel on Economic Services on 28 January 2002. Members raised no objection to the proposal.

BASIC LAW IMPLICATIONS

10. The Department of Justice advised that the Notice is consistent with the Basic Law.

HUMAN RIGHTS IMPLICATIONS

11. The Department of Justice advised that the Notice has no human rights implications.

BINDING EFFECT OF THE NOTICE

12. The Notice will not affect the current binding effect of the Ordinance.

FINANCIAL AND STAFFING IMPLICATIONS

13. There are no additional financial or staffing implications for Government arising from the Notice.

ECONOMIC IMPLICATIONS

14. In passing its 1990 resolution regarding phased withdrawal of Chapter 2 aircraft, the ICAO had taken into account the concern of some contracting states about the possible economic burden on airlines that may not have the financial resources to re-equip their fleets. The long phase-out period has given the more progressive members of the aviation industry ample time to prepare for the prohibition of operation by Chapter 2 wide-bodied aircraft.

15. In terms of flight movement at HKIA, the ban should have no adverse impact because the number of flight movements depends mainly on the overall economic situation, and the underlying trends in passenger travel and demands from the cargo industry. The current summer schedule shows that no airline operating at the HKIA deploys Chapter 2 aircraft. Besides, the three local airlines do not have any wide-bodied Chapter 2 aircraft in their fleets.

16. In fact, adopting different noise standards per se will not have an impact on flight movements. This is borne out by the fact that this year's summer schedule registers a 2.2% increase in flight movements as compared to that in 2001. At the same time, whilst some airlines still used Chapter 2 aircraft last year, the increased number of flight movements this year will all be made by Chapter 3 aircraft.

17. In view of the above, the Notice should not have adverse impact on flight movements, and hence no constraint on air passenger and air cargo traffic. There will be no adverse economic implications for Hong Kong.

SUSTAINABILITY IMPLICATIONS

18. The Notice does not have significant sustainability implications. In fact, it should contribute to reducing aircraft noise.

ENVIRONMENTAL IMPLICATIONS

19. The legislative amendments will bring about an improvement to the environment as aircraft landing and taking-off in Hong Kong will be subject to more stringent noise standards. In addition, the amendments will prevent airlines from deploying to Hong Kong wide-bodied Chapter 2 jet aircraft which cannot land at places where the ICAO's resolution applies.

LEGISLATIVE TIMETABLE

20. The legislative timetable will be -

Publication in the Gazette	3 May 2002	Tabling at
the Legislative Council	8 May 2002	

PUBLICITY

21. A press release will be issued.

ENQUIRIES

22. For enquiries on the brief, please contact Mr. Stephen Kwok, Assistant Director-General of Civil Aviation (Air Services), at 2867 4211.

Economic Services Bureau
2 May 2002

[Ref. : L:\NA\LegCo\13mar02\brief.doc]

Annex A

The Notice

**Examples of wide-bodied aircraft meeting the
International Civil Aviation Organisation
Chapter 2 and Chapter 3 noise standards**

Listed according to noise standards

<u>Noise Standards</u>	<u>Wide-Bodied Aircraft</u>
Chapter 2	DC10 (certain engines) Boeing 747-100 (certain engines) Boeing 747-200 (certain engines)
Chapter 3	Boeing 747-200/300 (certain engines) Boeing 747-400 Boeing 767 Boeing 777 McDonnell-Douglas MD11 Lockheed L1011 (certain models) Airbus A300/310 Airbus A330 Airbus A340