

立法會參考資料摘要

《民航條例》

(第 448 章)

〈1995 年飛航(香港)令〉2003 年(修訂附表 16)令

問題

在二零零三年十月七日的會議上，行政會議建議，行政長官指令應根據《民航條例(第 448 章)》第 2A 條制定《〈1995 年飛航(香港)令〉2003 年(修訂附表 16)令》附件 A (簡稱《2003 年令》)，該命令載於**附件 A**。

背景和論據

2. 國際民用航空組織(國際民航組織)¹ 就空運危險品² 所作的規定(包括危險品的分類、包裝、標記、標籤和裝載等事宜)，在香港是透過《1995 年飛航(香港)令》(第 448 章附屬法例 C)附表 16 賦予法律效力(引稱為《飛航(危險品)規例》(簡稱該規例))。該規例直接提述由國際民航組織每兩年更新及公布的一套《技術指令》內的規定。而二零零三至零四年度的《技術指令》已在二零零三年一月一日生效。

3. 與二零零一至零二年度的《技術指令》比較，新版本的改動全屬技術上的輕微修訂。這些改動載述於下文。

¹ 國際民航組織根據《國際民航公約》而成立，是全球最重要的民航組織，現時共有包括中國在內 188 個締約國。該組織的宗旨是推動國際間以安全和有秩序的方式發展國際民航服務，同時確保國際航空運輸業務在機會均等的基礎上，穩健及合乎經濟原則地經營。

² 危險品包括爆炸品、易燃液體和易燃固體、氧化物質、有毒和有傳染性的物質、放射性物料和腐蝕性物質等。

空運危險品的新定義

4. 新《技術指令》修訂了空運危險品的定義。除了舊定義所包括的危害人身健康、安全及對財物造成損害的物品或物質外，新定義還包括可能損害環境的物品或物質。新定義亦同時更改“可觀危險”這類不大清晰的語句為“一種危險”。

豁免病人攜帶醫療用品上機

5. 空運某些與緊急用途有關的危險品，包括醫療用危險品，可豁免受《技術指令》的條文規限。新《技術指令》訂明，在獲得航空經營人的同意後，方可把醫療用危險品裝載到航機上而不受《技術指令》的限制。新《技術指令》亦澄清了這項豁免只適用於病人攜帶之醫療用品，而不包括其他乘客所攜帶的醫療用品。

向機長提供危險品資料的規定

6. 新《技術指令》訂明，危險品的資料必須於航機起飛前備妥。資料必須以書寫或印刷的形式向機長提供，並可在航程中輕易供機長取閱以及在出發地和目的地的機場查閱。

7. 為使本港規管空運危險品的制度與新的國際標準保持一致，我們須修訂該規例。

《 2003 年令 》

8. 《 2003 年令 》的主要條文如下：

- (a) 第 1(a)及(b)(i)條更新“危險品”和“技術指令”的定義；
- (b) 第 1(b)(ii)條落實新《技術指令》中有關病人在航機上攜帶醫療用品可免受規限的有關部分；以及
- (c) 第 1(c)條落實新《技術指令》中有關須向機長提供危險品資料的規定的條文。

附件 B

建議修訂條文的現行文本載於**附件 B**。

9. 《2003 年令》將於刊登憲報之日生效，使香港能盡快採用有關空運危險品的最新國際規定。

立法程序時間表

10. 立法程序時間表將會如下 -

刊登憲報	二零零三年十月十日
提交立法會省覽	二零零三年十月十五日

建議的影響

11. 建議符合《基本法》，包括有關人權的條文。建議不會影響該規例現行的約束力。建議對財政和人手、經濟、生產力、環境和可持續發展均沒有影響。

公眾諮詢

12. 我們已就上述建議於二零零三年六月十六日諮詢成員包括付運人、航空公司和發運人的航空諮詢委員會。該委員會對建議表示支持。此外，我們亦於二零零三年六月二十三日就該建議向立法會經濟事務委員會作簡介。委員會對建議不持異議。

宣傳安排

13. 我們會在二零零三年十月八日發出新聞稿。

詢問

14. 關於本摘要的詢問，請致電 2182 1233 與民航處高級航空安全事務主任秦傑先生聯絡。

經濟發展及勞工局
二零零三年十月
(EDB CR 15/951/49)

《〈1995 年飛航(香港)令〉2003 年(修訂附表 16)令》

(由行政長官會同行政會議根據《民航條例》
(第 448 章)第 2A 條作出)

**1. The Air Navigation (Dangerous Goods)
Regulations**

《1995 年飛航(香港)令》(第 448 章，附屬法例 C)附表 16 現予修
訂 —

(a) 在第 2(1)條中 —

(i) 廢除 “dangerous goods” 的定義而代以 —

“ “ dangerous goods ” means any
article or substance which —

(a) is capable of posing
a risk to health,
safety, property or
the environment; and

(b) is —

(i) classified as
dangerous
goods
according
to Part 2 of
the
Technical
Instructions;
or

(ii) shown in
the list of

dangerous
goods in
Part 3 of
the
Technical
Instructions
;” ;

(ii) 在“Technical Instructions”的定義中，廢除
“2001-2002”而代以“2003-2004”；

(b) 在第 3 條中 —

(i) 在第(2)款中，廢除“goods capable of posing
significant risk to health, safety or property
when carried by air”而代以“dangerous
goods”；

(ii) 廢除第(3)(d)款而代以 —

“(d) placed on board with the
approval of the operator of an
aircraft to provide during the
flight medical aid to a
patient;” ;

(c) 在第 8 條中 —

(i) 廢除第(1)款而代以 —

“(1) The operator of an
aircraft in which dangerous goods are
to be carried shall —

(a) as early as
practicable before
departure of the
aircraft, provide the

commander of the aircraft with accurate and legible written or printed information in respect of the dangerous goods in accordance with the provisions of Chapters 4.1.1, 4.1.2, 4.1.4, 4.1.7 and 4.1.8 of Part 7 of the Technical Instructions;

- (b) ensure that the information is readily available to the commander during the flight; and
- (c) preserve a copy of the information for not less than six months.

(1A) The commander shall indicate on a copy of the information provided to him under paragraph (1)(a), or in some other way, that he has received the information.

(1B) The operator shall ensure that —

(a) a legible copy of the information which has an indication on it, or with it, that the commander has received the information is retained on the ground; and

(b) the copy, or the information contained in it, is readily accessible to the aerodromes of last departure and next scheduled arrival point until after the flight to which the information refers.” ;

(ii) 在第(2)款中，廢除 “baggage or maintains areas to assemble passengers to board the aircraft” 而代以 “passengers or maintains areas to assemble passengers to board the aircraft, and at any other location where passengers are checked in” ；

(d) 在第 9(d)條中，在 “written” 之後加入 “or printed” 。

行政會議秘書

行政會議廳

2003 年 月 日

註釋

本命令修訂《1995年飛航(香港)令》(第448章，附屬法例C)附表16，以實施按照國際民航組織理事會所作的決定而批准和發布的2003-2004年版《危險品安全空運技術指令》。

Chapter:	448C	AIR NAVIGATION (HONG KONG) ORDER 1995	Gazette Number	Version Date
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Schedule:	16	THE AIR NAVIGATION (DANGEROUS GOODS) REGULATIONS	L.N. 234 of 2001	09/11/2001
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Remarks:

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

Article 44

1. Citation

These Regulations may be cited as the Air Navigation (Dangerous Goods) Regulations.

2. Interpretation

(1) In these Regulations:-

"appropriate authority" means any authority designated, or otherwise recognized by a State concerned to perform specific functions related to provisions contained in the Technical Instructions; (L.N. 179 of 1999)

"consignment" means one or more packages of dangerous goods accepted by an operator from one shipper at one time and at one address receipted for in one lot and moving to one consignee at one destination address;

"dangerous goods" means any article or substance which is capable of posing significant risk to health, safety or property when carried by air and which is classified in Part 2 or 3 of the Technical Instructions; (L.N. 234 of 2001)

"dangerous goods transport document" means a document, not being an air waybill, which is required by Regulation 4 of these Regulations to accompany a consignment of dangerous goods;

"package" means the packaging and the articles and substances contained therein including one or more packages which have been consolidated by one shipper into one container or enclosure for convenience in handling;

"packing" means the art and operation whereby articles and substances are wrapped up, enclosed in containers or otherwise secured, and "packed" shall be construed accordingly;

"States concerned" has the same meaning as it has in Chapter 1.1.2 of Part 1 of the Technical Instructions; (L.N. 179 of 1999; L.N. 234 of 2001)

"Technical Instructions" means the 2001-2002 English language edition of the Technical Instructions for the Safe Transport of Dangerous Goods by Air approved and published by decision of the Council of the International Civil Aviation Organization; (L.N. 150 of 1997; L.N. 179 of 1999; L.N. 234 of 2001)

"unit load device" means any type of freight container including any container designed for loading on an aircraft.

(2) For the avoidance of doubt, any instructions or limitations contained in the Technical Instructions for the carriage of dangerous goods on passenger or cargo aircraft, as therein defined, shall for the purpose of these Regulations be interpreted as applying also to the carriage of such goods beneath passenger or cargo aircraft respectively.

3. Carriage of dangerous goods

(1) An aircraft shall not carry or have loaded therein or suspended thereunder any

dangerous goods, unless such goods are carried, loaded or suspended;

- (a) with the written permission of the Chief Executive and in accordance with any conditions to which such permission may be subject; and (36 of 1999 s. 3)
 - (b) in accordance with the Technical Instructions and any conditions specified therein.
- (2) A person shall not-
- (a) take or cause to be taken on board,
 - (b) suspend or cause to be suspended beneath, or
 - (c) deliver or cause to be delivered for loading on or suspension beneath (L.N. 179 of 1999)

an aircraft any goods which he knows or ought to know or suspect to be goods capable of posing significant risk to health, safety or property when carried by air, unless the provisions of these Regulations are complied with.

(3) These Regulations shall not apply to dangerous goods of a type specified in Chapter 1.1.3(a), 1.1.3(b), 1.1.3(d), 1.1.3(e), 1.1.3(f) or 2.2 of Part 1 or Chapter 1.1.2 of Part 8 of the Technical Instructions which are carried, loaded or suspended in accordance with the provisions of such Chapters, and which are- (L.N. 179 of 1999; L.N. 234 of 2001)

- (a) articles and equipment which are required to be carried on an aircraft by or under the Order or are otherwise intended for use on an aircraft for the purpose of the good order of the flight in accordance with normal practice whether or not, in either case, such articles and equipment are required to be carried or intended to be used on that particular flight;
- (b) solely intended for the use of passengers or crew members or for sale to the passengers or crew members of the aircraft during the flight in question;
- (c) to provide during the flight veterinary aid or a humane killer for an animal; (L.N. 179 of 1999)
- (d) to provide during the flight medical aid to a person; (L.N. 179 of 1999)
- (e) to provide, during flight, aid in connection with search and rescue operations; (L.N. 179 of 1999; L.N. 234 of 2001)
- (ea) required for the airworthiness, safe operation or propulsion of the aircraft or the operation of its specialized equipment during flight; or (L.N. 234 of 2001)
- (f) vehicles which are carried in aircraft designed or modified for vehicle ferry operations: (L.N. 179 of 1999)

Provided that goods specified in sub-paragraph (c), (d), (e) or (ea) shall only be carried if- (L.N. 179 of 1999; L.N. 234 of 2001)

- (i) they are or may be required for use during the flight;
- (ii) they are or may be required for use during a subsequent flight by the same aircraft and it will not be practicable to load the goods on the aircraft in the intervening period before the commencement of that subsequent flight; or
- (iii) they were used or might have been required for use during a previous flight by the same aircraft and it has not been practicable to unload them from the aircraft since that flight: (L.N. 179 of 1999)

Provided that goods specified in sub-paragraph (f) shall only be carried if all the following requirements are met-

- (i) authorizations have been given by the appropriate authorities of the States concerned, and the appropriate authorities of the States concerned have prescribed specific terms and conditions for the particular operator's operation;
- (ii) vehicles are secured in an upright position;
- (iii) fuel tanks are so filled as to prevent spillage of fuel during loading, unloading and transit; and
- (iv) adequate ventilation rates are maintained in the aircraft compartment in which the vehicle is carried. (L.N. 234 of 2001)

(4) Save for Regulations 3(1)(a), 7(1) but only to the extent that it refers to the provisions in Chapter 2.1 of Part 7 of the Technical Instructions and 7(2) and 8(3) of these Regulations, these Regulations shall not apply to dangerous goods of the classifications specified in Chapter 2.4 of

Part 1 of the Technical Instructions provided that: (L.N. 234 of 2001)

- (a) the dangerous goods do not exceed the appropriate quantity limitations specified therein; and
- (b) such other conditions as are specified therein are complied with.

4. Documentation

(1) An aircraft shall not carry dangerous goods as cargo unless the shipper of the goods has furnished the operator of the aircraft with a dangerous goods transport document, except that such a document shall not be required in respect of such categories of dangerous goods as may be specified in the Technical Instructions as being goods in respect of which a dangerous goods transport document is not required.

(2)-(3) (Repealed L.N. 234 of 2001)

(4) The operator of an aircraft shall preserve for not less than six months any dangerous goods transport document or other document in respect of dangerous goods which has been furnished to him in accordance with this Regulation.

5. (Repealed L.N. 234 of 2001)

6. Operator's responsibilities

(1) The operator of an aircraft in which any package or unit load device containing dangerous goods is to be carried shall satisfy himself by making an inspection:

- (a) that the package is marked and labelled in accordance with the provisions of these Regulations, such provisions of Part 4 and Chapters 2 and 4 of Part 3 as relate to marking and labelling, and Chapters 1.6, 1.7, 1.8, 2 and 3 of Part 5 of the Technical Instructions before accepting the package; (L.N. 150 of 1997; L.N. 234 of 2001)
- (b) that the package is not leaking or damaged so that the contents may escape-
 - (i) before accepting the package;
 - (ii) before loading or causing the package to be loaded on board the aircraft or before suspending or causing the package to be suspended beneath the aircraft, as the case may be;
 - (iii) upon loading the package from or from beneath the aircraft;
- (c) that the unit load device is free from any evidence of leakage from or damage to any dangerous goods contained therein before loading or causing the unit load device to be loaded on board the aircraft or before suspending or causing the unit load device to be suspended beneath the aircraft, as the case may be.

(2) (a) For the purpose of each of the inspections required by paragraph (1)(a) and (1)(b)(i) of this Regulation, an acceptance check list shall be used and the results of that inspection shall be recorded in accordance with the form thereof.

(b) The acceptance check list shall be in such form and shall provide for the entry of such details as will enable the relevant inspection to be fully and accurately made by reference to and completion of that list.

(c) The operator of an aircraft shall preserve for not less than six months a record of any acceptance check list completed in accordance with this Regulation. The record shall be in a legible or a non-legible form so long as the recording is capable of being reproduced in legible form.

(3) The operator shall not load or cause to be loaded on an aircraft or suspend or cause to be suspended beneath an aircraft any package or unit load device containing dangerous goods which on inspection is found to be leaking or damaged so that the contents or the dangerous goods therein may escape or be damaged.

(4) The operator shall unload or cause to be unloaded any package containing dangerous goods which appears to be leaking or damaged on board or beneath an aircraft and shall ensure other cargo or baggage loaded or suspended beneath that aircraft is in a fit state for carriage by air and has not been contaminated.

(5) The operator shall after unloading inspect for signs of damage or contamination in any part of the aircraft, or any sling or other apparatus which has been used to suspend goods beneath the aircraft, in which:

(a) a unit load device containing dangerous goods was stowed, or

(b) any damaged or leaking package containing dangerous goods was loaded,

and the operator shall remove or repair any contamination or damage.

(6) The operator of an aircraft shall not permit it to fly for the purpose of carrying passengers or cargo if he knows or suspects radioactive materials to have leaked in or contaminated the aircraft or any sling or other apparatus attached to the aircraft unless the radiation level resulting from the fixed contamination at any accessible surface and the non-fixed contamination are not more than the values specified in Chapter 3.2 of Part 7 of the Technical Instructions. (L.N. 234 of 2001)

7. Method of loading by operator

(1) The operator shall ensure that any package containing dangerous goods is loaded, stowed and unloaded from or from beneath an aircraft in accordance with the provisions in Chapter 2 of Part 7 of the Technical Instructions which apply to that category of dangerous goods.

(2) An aircraft shall not carry any dangerous goods either in any compartment occupied by passengers or in the flight crew compartment, except in circumstances permitted by the provisions of Chapter 2.1 of Part 7 of the Technical Instructions.

(L.N. 234 of 2001)

8. Provisions of information and training programmes by operators

(1) The operator of an aircraft in which dangerous goods are to be carried shall, before the flight begins, provide the commander of the aircraft with written information specifying the matters required by the provisions of Chapter 4.1 of Part 7 of the Technical Instructions and shall preserve a copy thereof for not less than six months. (L.N. 234 of 2001)

(2) The operator of an aircraft in which passengers are to be carried or his agent shall notify them of the categories of dangerous goods which may not be taken on board an aircraft either as checked baggage or accompanying a passenger by the provision of information with each passenger ticket which shall be sufficient in prominence for this purpose and by displaying notices, sufficient in number and prominence for this purpose, at each of the places at an airport where the operator or his agent issues tickets, checks in baggage or maintains areas to assemble passengers to board the aircraft.

(3) The operator of an aircraft and his agent shall inform any of their respective employees whose duties include a function connected with the carriage of passengers or cargo by air of the provisions of the Technical Instructions and for this purpose shall establish and undertake training programmes, as required by Chapter 4 of Part 1 of the Technical Instructions, which shall be submitted to the Chief Executive for approval on such occasions as the Chief Executive may require and which shall be amended as the Chief Executive may require. (36 of 1999 s. 3; L.N. 234 of 2001)

9. Production of documents and records

The operator of an aircraft shall, within a reasonable time after being requested so to do by an authorized person, cause to be produced to that person such of the following documents as may have been requested by that person-

(a) the written permission referred to in Regulation 3(1) of these Regulations;

(b) the dangerous goods transport document or other document in respect of any dangerous goods referred to in Regulation 4 of these Regulations;

(c) the completed acceptance check list in a legible form in respect of any dangerous goods, referred to in Regulation 6(2) of these Regulations;

(d) a copy of the written information provided to the commander of the aircraft in respect of any dangerous goods, referred to in Regulation 8(1) of these Regulations.

10. Dropping articles for agricultural, horticultural, forestry or pollution control purposes

Subject to the provisions of Regulation 3(1)(a) of these Regulations, nothing in these Regulations shall apply to any aircraft flying in order to drop articles for the purpose of agriculture, horticulture, forestry or pollution control.