

立法會

Legislative Council

LC Paper No. CB(1)463/13-14(03)

Ref: CB1/SS/4/13

**Subcommittee on Air Navigation (Hong Kong) Order 1995
(Amendment of Schedule 16) Order 2013 and
Dangerous Goods (Consignment by Air) (Safety) Regulations
(Amendment of Schedule) Order 2013**

Background brief

Purpose

This paper provides background information on the carriage of dangerous goods (DG) by air and summarizes views expressed by Members during previous meetings of the Panel on Economic Development (the Panel) on the proposed amendments to the Air Navigation (Dangerous Goods) Regulations and the Dangerous Goods (Consignment by Air) (Safety) Regulations.

Background

International Civil Aviation Organization Standards

2. To ensure aviation safety, the International Civil Aviation Organization (ICAO)¹ promulgates, under the Convention on International Civil Aviation (generally referred to as the "Chicago Convention"), a set of requirements

¹ ICAO was established by the Convention on International Civil Aviation and is the world's most important organization in the field of civil aviation. At present, it has 190 Contracting States and China is one of them. Its objectives are to promote the development of international civil aviation in a safe and orderly manner, and to ensure that international air transport services may be established on the basis of equality of opportunity and operated soundly and economically.

regarding the carriage of DG² by air. These requirements regulate matters such as the classification, packing, marking, labelling and loading of DG consignments on board aircraft as well as training requirements for airlines, air cargo and security personnel. Under the Chicago Convention, such requirements are set out in the Technical Instructions for the Safe Transport of Dangerous Goods by Air (TIs). This document is normally updated and published by ICAO biennially.

3. China is a Contracting State of ICAO and Hong Kong participates at ICAO as member of China's delegation. Hong Kong is obliged to comply with the requirements of ICAO. The International Air Transport Association (IATA), which represented the aviation industry, was involved in ICAO's updating of the TIs and had provided a number of comments. ICAO had incorporated the views of IATA as appropriate. Overseas airline operators intending to transport DG by air to Hong Kong must seek the prior approval of the Administration. Approval would only be granted if the company concerned demonstrated compliance with the safety requirements set out in the TIs published by ICAO.

Local legislation

4. The Chicago Convention applies to Hong Kong. The TIs made under the Convention are given effect through two pieces of local subsidiary legislation made by the Chief Executive in Council, viz –

- (a) Air Navigation (Dangerous Goods) Regulations, as Schedule 16 to the Air Navigation (Hong Kong) Order 1995 (Cap. 448C); and
- (b) Dangerous Goods (Consignment by Air) (Safety) Regulations (Cap. 384A).

The Air Navigation (Dangerous Goods) Regulations generally regulate the DG operations of airlines and airport authorities whereas the Dangerous Goods (Consignment by Air) (Safety) Regulations regulate the shippers and freight forwarders in the proper handling of DG before taking them for air transport.

² According to the Technical Instructions issued by ICAO, DG in the context of air transport include explosives, compressed gas, flammable liquids, flammable solids, oxidizing substances, toxic substances, infectious substances, radioactive material and corrosives, etc.

Latest editions of the Technical Instructions for the Safe Transport of Dangerous Goods by Air

5. The new edition of the TIs (i.e. the 2013-2014 edition) was issued in December 2012 by ICAO. Most of the changes in the new edition are technical and textual in nature. Major features are highlighted below –

- (a) To further enhance the flow of DG information to rescues response team in case of emergencies, aircraft operators are required to provide:
 - (i) the pilot-in-command with information concerning DG that are to be carried as cargo "in no case later than when the aircraft moves under its own power" instead of just "as early as practicable before departure of the aircraft" as stipulated in the previous edition of the TIs; and
 - (ii) flight operations officer, flight dispatcher, or any person who is designated by the aircraft operators to work on ground with the responsibilities to control and supervise flight operation, for the purpose of supporting, briefing or assisting the pilot-in-command in the safe conduct of the flight concerned, with the same DG information as provided to the pilot-in-command, and make such information readily accessible to the said personnel until after the arrival of the flight, with effect from 1 January 2014;
- (b) To help civil aviation authorities enhance their oversight responsibilities on transport of DG by air and highlight potential areas for intensive training of air cargo industry personnel, aircraft operators are required to retain a copy of the documentation as well as the acceptance checklist of the rejected DG shipments for not less than six months;
- (c) To enhance the safety of carriage of DG by helicopters, helicopter operators are required to take into consideration the following as deemed appropriate when DG is for open external carriage or as suspended load:
 - (i) the type of packaging used and the protection of the packaging from adverse weather; and

- (ii) the dangers of static discharge upon landing or release of the loads.

6. To give legal effect to the new requirements, and to align Hong Kong's standards of carriage of DG with the specifications given under the new TIs, the Air Navigation (Dangerous Goods) Regulations, Cap. 448C, and the Dangerous Goods (Consignment by Air) (Safety) Regulations, Cap. 384A would need to be amended.

7. The proposed legislative amendments to these Regulations would also achieve the aim of requiring the airline to provide the pilot-in-command with relevant information regarding DG carried on board the flight before the aircraft moved under its own power. The information was vital in speeding up rescue response in case of emergency aviation situations or accident. For instance, the airport fire contingent might need to adapt the fire-fighting approach according to the type of DG being carried on board an airplane.

Panel deliberations in the past

8. The Administration briefed the Panel on the 2013-2014 edition of the TIs at on 24 June 2013. Some members were concerned that whether DG in a specific class would further be categorized by the severity of their risks, and, if so, how they would be handled on airplanes. The Administration advised that DG would be further sub-categorized in accordance with their severity of risks, and certain higher risk DG could only be carried by cargo airplanes or were even prohibited from transport by air.

9. One Panel member had expressed concern that on a large airplane carrying a large number of passengers, the total quantity of DG carried by passengers might exceed the safety threshold. However, the Administration assured members that with proper treatment, labelling and packing, DG could be carried by passenger airplanes safely, and there would be little safety concern if such items had passed the security check.

10. Enquiries had also been raised by members on reports of unidentified DG being carried by air and the corresponding prosecution statistics. The Administration indicated that there were about one to two such reports in 2012, and the situation of the carriage of DG by air passengers in Hong Kong had been improved. DG confiscated during security checks were usually perfumes and hairsprays exceeding the authorized quantity and oxygen cylinders. No prosecution against air passengers found to be carrying DG during security check had been initiated in the past.

11. While the proposed amendments would provide the pilot-in-command vital information of DG being carried on the aircraft, one member expressed concern that the pilot-in-command might not have information of DG being carried in passengers' baggage. The Administration advised that the relevant safety requirements would be satisfied if the DG concerned had already passed the security check.

12. Panel members also enquired whether cylinders of compressed gas used for certain specific purposes such as camping, might be classified as DG, and how these would be handled. The Administration responded that compressed gas cylinders were dangerous to flight operations and were prohibited, internationally, by ICAO to be carried by passengers. Certain restricted articles such as liquids, aerosols and gels could be carried by air passengers in hand baggage if they were stored in containers with a capacity not greater than 100 ml each and packed properly (e.g. placed in transparent re-sealable plastic bags).

13. On members' enquiry about the replacement of the phrase "as early as practicable before departure of the aircraft" in TIs by "in no case later than when the aircraft moves under its own power" (paragraph 5(a)(i) above), the Administration had explained that the phrase was in line with the definition of the departure of an airplane and the proposed legislative amendment in this context provided better clarity and was a more stringent requirement.

Latest developments

14. The Air Navigation (Hong Kong) Order 1995 (Amendment of Schedule 16) Order 2013 and the Dangerous Goods (Consignment by Air) (Safety) Regulations (Amendment of Schedule) Order 2013 were gazetted on 15 November 2013 and tabled in the Council on 20 November 2013. At the House Committee meeting on 22 November 2013, Members agreed that a subcommittee should be formed to examine the Orders.

References

15. The relevant papers are available at the following links:

Paper on proposed amendments to legislation relating to the carriage of dangerous goods by air issued in June 2013
<http://www.legco.gov.hk/yr12-13/english/panels/edev/papers/edev0624cb1-1317-4-e.pdf>

Paper on the carriage of dangerous goods by air prepared by the Legislative Council Secretariat (updated background brief)

<http://www.legco.gov.hk/yr12-13/english/panels/eDEV/papers/eDEV0624cb1-1317-5-e.pdf>

Minutes of Panel on Economic Development meeting on 24 June 2013

<http://www.legco.gov.hk/yr12-13/english/panels/eDEV/minutes/eDEV20130624.pdf>

Council Business Division 1
Legislative Council Secretariat
9 December 2013