

## **LEGISLATIVE COUNCIL BRIEF**

Civil Aviation Ordinance  
(Chapter 448)

Dangerous Goods (Consignment by Air) (Safety) Ordinance  
(Chapter 384)

**Air Navigation (Hong Kong) Order 1995  
(Amendment of Schedule 16) Order 2013**

**Dangerous Goods (Consignment by Air) (Safety)  
Regulations (Amendment of Schedule) Order 2013**

### **INTRODUCTION**

A At the meeting of the Executive Council on 5 November 2013, the Council ADVISED and the Chief Executive ORDERED that the Air Navigation (Hong Kong) Order 1995 (Amendment of Schedule 16) Order 2013 (“the AN(DG)R Amendment Order”) at **Annex A** should be made to implement the appropriate latest requirements of the International Civil Aviation Organization (“ICAO”)<sup>1</sup> for the safe transport of dangerous goods (“DG”)<sup>2</sup> by air.

2. On the same day, the Director-General of Civil Aviation (“DGCA”) made the Dangerous Goods (Consignment by Air) (Safety)

---

<sup>1</sup> The ICAO was established by the Convention on International Civil Aviation. At present, it has 191 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.

<sup>2</sup> According to the ICAO’s Technical Instructions for the Safe Transport of Dangerous Goods by Air, dangerous goods 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.

B Regulations (Amendment of Schedule) Order 2013 (“the DG(CAS)R Amendment Order”) at **Annex B** to update the references made to the provisions of the ICAO’s Technical Instructions for the Safe Transport of Dangerous Goods by Air (“TIs”) in the Dangerous Goods (Consignment by Air) (Safety) Regulations.

## **JUSTIFICATIONS**

### ***ICAO’s Latest Requirements***

3. The TIs set out the ICAO’s requirements. The new edition of TIs (i.e. the 2013-2014 edition) was published in December 2012 by ICAO. Most of the changes covered by the new TIs are technical and textual in nature. The more significant changes aim to –

- (a) further enhance the flow of DG information to rescue response teams in case of emergencies, and therefore aircraft operators are required to provide –
  - (i) the commander of the aircraft 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) with effect from 1 January 2014, any person designated by the aircraft operators to work on ground for the control and supervision of flight operations, for the purpose of supporting, briefing or assisting the commander of the aircraft in the safe conduct of the flight concerned, with the same DG information as provided to the commander, and make such information readily accessible to the said personnel until after the arrival of the flight;
- (b) 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, and for this purpose, if any DG are not accepted,

the aircraft operators are required to preserve for not less than three months a copy of the DG transport document and the other document as well as the acceptance checklist;

- (c) enhance the safety of carriage of DG by helicopters, helicopter operators are required to take into consideration the following as deemed appropriate when the DG are for open external carriage or is carried as suspended load –
  - (i) the type of packaging used and the protection of the packaging from adverse weather; and
  - (ii) the danger of static discharge upon landing or release of the loads.

## **THE AN(DG)R AMENDMENT ORDER AND THE DG(CAS)R AMENDMENT ORDER**

4. The main provisions of the AN(DG)R Amendment Order are set out below –

- (a) section 1 provides that the AN(DG)R Amendment Order comes into operation on a day to be appointed by the DGCA by notice published in the Gazette; and
- (b) section 3 amends Schedule 16 to the Air Navigation (Hong Kong) Order 1995 (Cap. 448 sub. leg. C) to provide that –
  - (i) the operator of an aircraft is required to preserve a copy of the DG transport document and other documents, and a copy of the acceptance checklist for not less than six months if any DG are not accepted for carriage by the operator<sup>3</sup>;

---

<sup>3</sup> At present, Regulation 4(4) of the Air Navigation (Dangerous Goods) Regulations (the Regulations) provides that the operator of an aircraft is required to preserve for not less than six months any DG transport document or other document in respect of DG which have been furnished to him in accordance with the Regulations. In order to be consistent with Regulation 4(4) of the Regulations, the AN(DG)R Amendment Order stipulates that the operator of an aircraft is required to preserve a copy of the relevant documents for not less than six months if any DG are not accepted for carriage, as opposed to the requirement of “not less than three months” stipulated in the new edition of the TIs (paragraph 3(b) above refers).

- (ii) the operator of a helicopter is required to ensure that consideration is to be given when any DG are carried or loaded for carriage or suspended from a helicopter;
- (iii) the operator of an aircraft is required to provide the commander of the aircraft with the required information in respect of DG to be carried by the aircraft by a specified time; and
- (iv) the operator of an aircraft is required to provide the ground personnel for flight operations responsible for the operational control of the aircraft with a copy of the information given to the commander of the aircraft in respect of the DG to be carried by the aircraft, and to ensure a copy of the information (with an indication that it has been received by the commander) is readily accessible to the ground personnel for flight operations until after the landing of the aircraft at the aerodrome of intended destination.

5. The main provisions of the DG(CAS)R Amendment Order are set out below –

- (a) section 1 provides that the DG(CAS)R Amendment Order comes into operation on a day to be appointed by the Director-General of Civil Aviation by notice published in the Gazette; and
- (b) section 3 amends the Schedule to the Dangerous Goods (Consignment by Air) (Safety) Regulations (Cap. 384 sub. leg. A) by giving effect to certain amendments introduced by the new edition of the TIs, and updating the list of provisions of the TIs that are specified in the Schedule.

6. The target commencement date of the two Amendment Orders is 1 January 2014.

## **LEGISLATIVE TIMETABLE**

7. The AN(DG)R Amendment Order and the DG(CAS)R Amendment Order will be gazetted on 15 November 2013 and tabled in the Legislative Council on 20 November 2013.

## **IMPLICATIONS OF THE PROPOSAL**

8. The proposal has no financial, economic, civil service, productivity, sustainability, environmental and family implications.

9. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It does not affect the binding effect of the existing legislation.

## **PUBLIC CONSULTATION**

10. The Civil Aviation Department has consulted the stakeholders including the Board of Airline Representatives in Hong Kong, the two Hong Kong helicopter operators, Government Flying Service and the Technical Sub-Committee of the Aviation Development Advisory Committee on the new edition of the TIs. They generally support the proposed amendments. On 24 June 2013, we consulted the Legislative Council Panel on Economic Development. The Panel generally supported the proposed amendments.

## **PUBLICITY**

11. A press release will be issued on 13 November 2013. A spokesperson will be available to handle enquiries.

## **BACKGROUND**

12. To ensure aviation safety, the ICAO promulgates, under the Convention on International Civil Aviation (generally referred to as the “Chicago Convention”), a set of requirements regarding the carriage of DG by air. These requirements regulate matters such as the classification, packing, marking, labelling and loading of DG 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 TIs. This document is normally updated and published by ICAO biennially.

13. The Chicago Convention applies to Hong Kong. The relevant TIs requirements made under the Convention are given legal

effect in Hong Kong through two pieces of local subsidiary legislation, i.e. –

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

The former generally regulates the DG operations of airlines and airport authorities whereas the latter regulates the shippers and freight forwarders in the proper handling of DG before offering them for air transport.

## **ENQUIRIES**

14. Any enquiry on this brief should be directed to Miss Monica Chen, Principal Assistant Secretary (Transport) (telephone number: 3509 8195).

**Transport and Housing Bureau**  
**13 November 2013**

## Air Navigation (Hong Kong) Order 1995 (Amendment of Schedule 16) Order 2013

(Made by the Chief Executive in Council under section 2A of the Civil Aviation Ordinance (Cap. 448))

1. **Commencement**  
This Order comes into operation on a day to be appointed by the Director-General of Civil Aviation by notice published in the Gazette.
2. **Air Navigation (Hong Kong) Order 1995 amended**  
The Air Navigation (Hong Kong) Order 1995 (Cap. 448 sub. leg. C) is amended as set out in section 3.
3. **Schedule 16 amended (the Air Navigation (Dangerous Goods) Regulations)**
  - (1) Schedule 16, Regulation 2(1), definition of *States concerned*—  
**Repeal**  
“1.1.3”  
**Substitute**  
“1.1”.
  - (2) Schedule 16, Regulation 2(1), definition of *Technical Instructions*—  
**Repeal**  
“2011–2012”  
**Substitute**  
“2013–2014”.

- (3) Schedule 16, Regulation 2(1)—  
**Add in alphabetical order**  
“*ground personnel for flight operations*, in relation to an aircraft, means a person who has the responsibilities for the operational control of the aircraft as described in Chapter 4.1.1(b) of Part 7 of the Technical Instructions;”.
- (4) Schedule 16, Regulation 3(3)(c)—  
**Repeal**  
“1.1.4”  
**Substitute**  
“1.1.5”.
- (5) Schedule 16, Regulation 3(3)(j)—  
**Repeal**  
“Chapter 1.1.2”  
**Substitute**  
“Table 8–1”.
- (6) Schedule 16, after Regulation 4(4)—  
**Add**  
“(5) If any dangerous goods are not accepted by the operator of an aircraft under Regulation 6(1A), the operator is required to preserve for not less than six months a copy of—  
  - (a) the document which would have been the dangerous goods transport document in respect of the dangerous goods if those goods were accepted under Regulation 6(1A) and any other document referred to in Regulation 4(4), in respect of those goods; and”

(b) any acceptance check list completed under Regulation 6(1A), for any package or unit load device containing the dangerous goods.”.

(7) Schedule 16, after Regulation 7(2)—

**Add**

“(3) In addition to complying with paragraph (1), the operator of a helicopter must, when any dangerous goods are carried or loaded for carriage by, or suspended from, the helicopter, ensure that the matters set out in Chapters 7.1.2 and 7.1.3 of Part 7 of the Technical Instructions are taken into consideration in relation to the helicopter and the goods.”.

(8) Schedule 16, Regulation 8(1)(a), after “departure of the aircraft,”—

**Add**

“but not later than when the aircraft moves under its own power,”.

(9) Schedule 16, Regulation 8(1)(a), after “commander of the aircraft”—

**Add**

“and the ground personnel for flight operations”.

(10) Schedule 16, Regulation 8(1)(a)—

**Repeal**

“4.1.5, 4.1.8 and 4.1.9”

**Substitute**

“4.1.4, 4.1.6, 4.1.9 and 4.1.10”.

(11) Schedule 16, Regulation 8(1B)(b)—

**Repeal**

everything after “the copy”

**Substitute**

“referred to in subparagraph (a), or the information contained in it, is readily accessible to the ground personnel for flight operations until after the aircraft has landed at the aerodrome of intended destination.”.

(12) Schedule 16, Regulation 8(2D)(a)(iii)—

**Repeal**

“Chapter 1.1.2”

**Substitute**

“Table 8–1”.

(13) Schedule 16, Regulation 9(d), after “commander of the aircraft”—

**Add**

“and the ground personnel for flight operations”.

Clerk to the Executive Council

COUNCIL CHAMBER

2013



### Explanatory Note

This Order amends Schedule 16 to the Air Navigation (Hong Kong) Order 1995 (Cap. 448 sub. leg. C) to give effect to amendments introduced by the 2013–2014 edition of the Technical Instructions for the Safe Transport of Dangerous Goods by Air published by the International Civil Aviation Organization.

2. The amendments made by this Order include—
- (a) specifying the time before which the operator of an aircraft has to provide the commander of the aircraft with the required information of the dangerous goods to be carried by the aircraft;
  - (b) requiring the operator to—
    - (i) also provide the information to the ground personnel for flight operations responsible for the operational control of the aircraft; and
    - (ii) ensure that a copy of it (on or with which there is an indication that it has been received by the commander), or the information contained in the copy, is readily accessible to the ground personnel for flight operations until after the landing of the aircraft at the aerodrome of intended destination;
  - (c) requiring the operator to preserve a copy of—
    - (i) the dangerous goods transport document and any other document; and
    - (ii) any acceptance check list,  
in respect of any dangerous goods not accepted by the operator for not less than 6 months; and
  - (d) requiring the operator to ensure that when any dangerous goods are carried or loaded for carriage by,

or suspended from, a helicopter, certain matters are taken into consideration in relation to the helicopter and the goods.

Dangerous Goods (Consignment by Air) (Safety) Regulations (Amendment of  
Schedule) Order 2013

Section 1

1

**Dangerous Goods (Consignment by Air) (Safety)  
Regulations (Amendment of Schedule) Order 2013**

(Made by the Director-General of Civil Aviation under regulation 9 of the  
Dangerous Goods (Consignment by Air) (Safety) Regulations (Cap. 384  
sub. leg. A))

**1. Commencement**

This Order comes into operation on a day to be appointed by the  
Director-General of Civil Aviation by notice published in the  
Gazette.

**2. Dangerous Goods (Consignment by Air) (Safety) Regulations  
amended**

The Dangerous Goods (Consignment by Air) (Safety) Regulations  
(Cap. 384 sub. leg. A) are amended as set out in section 3.

**3. Schedule amended**

(1) The Schedule, Part 1—

**Repeal**

“2011–2012”

**Substitute**

“2013–2014”.

(2) The Schedule, Part 2, item relating to regulation 4(1)(b)—

**Repeal**

“Chapter 2.4 of Part 1, and”.

(3) The Schedule, Part 2, item relating to regulation 4(1)(c)—

**Repeal**

Dangerous Goods (Consignment by Air) (Safety) Regulations (Amendment of  
Schedule) Order 2013

Section 3

2

“Chapter 2.4 of Part 1, Chapter 4”

**Substitute**

“Chapters 4 and 5”.

(4) The Schedule, Part 2, item relating to regulation 4(1)(d)—

**Repeal**

“Chapter 2.4 of Part 1, Chapters 2 and 4”

**Substitute**

“Chapters 2, 4 and 5”.

(5) The Schedule, Part 2, item relating to regulation 4(1)(e)—

**Repeal**

“(j)), 1.2, 1.5, 1.6, 1.7, 4.1.5.6.4”

**Substitute**

“(k)), 1.2, 1.5, 1.6, 1.7, 4.1.5.7.4”.

(6) The Schedule, Part 2, item relating to regulation 4(2)(b)—

**Repeal**

“1.1.4”

**Substitute**

“1.1.5”.

Director-General of Civil Aviation

2013

---

**Explanatory Note**

This Order amends the Schedule to the Dangerous Goods (Consignment by Air) (Safety) Regulations (Cap. 384 sub. leg. A) (*the principal Regulations*) to give effect to amendments introduced by the 2013–2014 edition of the Technical Instructions for the Safe Transport of Dangerous Goods by Air (*TIs*) published by the International Civil Aviation Organization.

2. The amendments made by this Order are to update the list of provisions of the TIs that is specified in the Schedule for the purposes of regulation 4(1)(b), (c), (d) and (e) and (2)(b) of the principal Regulations.