

**立法會**  
**Legislative Council**

LC Paper No. CB(4)1262/16-17(02)

Ref : CB4/SS/15/16

**Subcommittee on the Hong Kong Civil Aviation (Investigation of Accidents)  
(Amendment) Regulation 2017 and  
the Air Navigation (Hong Kong) Order 1995 (Amendment) Order 2017**

**Background brief**

**Purpose**

This paper provides background information on the legislative amendments made under the Hong Kong Civil Aviation (Investigation of Accidents) (Amendment) Regulation 2017 (L.N. 115) and the Air Navigation (Hong Kong) Order 1995 (Amendment) Order 2017 (L.N. 116), and summarizes the views and concerns expressed by members of the Panel on Economic Development ("the Panel") on related issues.

**Background**

2. In Hong Kong, civil aviation accident investigation is conducted in accordance with the Hong Kong Civil Aviation (Investigation of Accidents) Regulations (Cap. 448B) with reference to the requirements of the International Civil Aviation Organization ("ICAO"). At present, the Director-General of Civil Aviation ("DGCA"), who is appointed by the Chief Executive as the Chief Inspector ("CI"), is responsible for investigating civil aviation accident in accordance with Cap. 448B and Annex 13 to the Convention on International Civil Aviation ("Annex 13") which contains ICAO's Standards and Recommended Practices on civil aviation accident investigation.

3. In February 2016, ICAO, to which China is a Contracting State, amended Annex 13 to, among others, require Contracting States to establish an independent air accident investigation authority ("independent investigation authority"). The new requirement has become applicable since November 2016 and ICAO recommended Contracting States to implement this new

requirement by the end of October 2018. According to the Administration, Hong Kong, being part of China, has an obligation to comply with ICAO's latest standards on the investigation of civil aviation accidents.

### **The legislative amendments**

4. L.N. 115 amends Cap. 448B to implement the latest requirements of ICAO on aircraft accident and incident investigation. The main amendments include:

- (a) transferring the functions and powers of DGCA to an independent aviation accident investigation authority comprising CI (who is directly accountable to the Secretary for Transport and Housing ("STH")) and Inspectors; and
- (b) with reference to Annex 13, amending definitions relevant to civil aviation accident investigation (including "accident" and "incident") and adding a new definition of "serious incident".

L.N. 115 also provides for transitional arrangements to cater for the situation where an investigation was commenced by DGCA but not completed before the commencement of L.N. 115.

5. L.N. 116 amends Cap. 448C to revise certain cross-references relating to Cap. 448B as a result of the amendments made by L.N. 115 to Cap. 448B.

6. L.N. 115 and L.N. 116 will come into operation on a day to be appointed by STH by notice published in the Gazette.

### **Major views and concerns expressed by members**

7. The Panel was briefed on the proposed establishment of an independent investigation authority and the related legislative amendments at its meeting on 27 March 2017. Members generally supported the establishment of an independent investigation authority to ensure impartiality of the investigations. However, some members expressed concern about the staffing establishment of the new authority. In response to members' enquiries, the Administration has provided further information in this regard which was circulated to members vide LC Paper No. CB(4)927/16-17(01) on 26 April 2017.

8. Regarding members' question on whether the independent investigation authority warranted having seven full-time staff under CI, and whether an *ad hoc* set-up (i.e. one to be convened as and when required) could also serve the purpose, the Administration explained that the independent investigation authority had to ensure its readiness for investigation and fulfilment of requirements of Cap.448B at all times, similar to other emergency services, as and when an accident or serious incident occurred. Thus, a permanent set-up was essential. Besides, it was expected that the authority would be fully engaged in handling the outstanding investigations to be passed on from the Civil Aviation Department for follow-up, while handling other key tasks e.g. the on-going review of Cap. 448B to comply with the latest standards in Annex 13. The set-up, including the staffing provision, would be reviewed before the expiry of the three-year period on 31 March 2020 in the light of actual experience.

9. The related staffing proposal was discussed and endorsed at the meeting of the Establishment Subcommittee on 14 June 2017.

### **Latest development**

10. At the House Committee meeting on 16 June 2017, Members agreed to form a Subcommittee to study L.N. 115 and L.N. 116.

### **Relevant papers**

11. A list of relevant papers which are available on the LegCo Website (<http://www.legco.gov.hk>) is in the **Appendix**.

Council Business Division 4  
Legislative Council Secretariat  
23 June 2017

**List of relevant papers**

<b>Issued by</b>	<b>Meeting date/ Issue date</b>	<b>Paper</b>
Panel on Economic Development	27 March 2017 (Item IV)	<a href="#">Administration's paper</a> <a href="#">Administration's follow-up paper</a> <a href="#">Minutes</a>
Council Meeting	14 June 2017	<a href="#">Legislative Council Brief</a>
Establishment Subcommittee	14 June 2017	<a href="#">Administration's staffing proposal</a>
House Committee	16 June 2017	<a href="#">Legal Service Division report</a>