

LEGISLATIVE COUNCIL BRIEF

Air Navigation (Hong Kong) Order (L.N. 561 of 1995)

AIR NAVIGATION (HONG KONG) (AMENDMENT OF SCHEDULE 16) ORDER 1999

INTRODUCTION

At the meeting of the Executive Council on 29 June 1999, the Council ADVISED and the Chief Executive ORDERED that the Air Navigation (Hong Kong) (Amendment of Schedule 16) Order 1999, at the Annex, should be made.

Annex

BACKGROUND AND ARGUMENT

2. The international standards for the safe carriage of dangerous goods by air are contained in the Technical Instructions for the Safe Carriage of Dangerous Goods by Air (hereafter the “Technical Instructions”) published by the International Civil Aviation Organisation (ICAO). Under Annex 18 to the Convention on International Civil Aviation, which applies to Hong Kong, we are required to take the necessary measures to achieve compliance with the detailed provisions in the Technical Instructions.

3. To give legal effect to the requirements under the Technical Instructions, Schedule 16 to the Air Navigation (Hong Kong) Order was made under Article 44 of the Order. The Schedule is cited as the Air Navigation (Dangerous Goods) Regulations (hereafter the “Regulations”). The Regulations specify requirements in the classification, labelling, packaging, marking, loading and consignment etc. of dangerous goods for their safe carriage by air having regard to the requirements laid down in the Technical Instructions. In fact, the Regulations do not directly set out the various technical details, but make references to the Technical Instructions where appropriate.

4. The Technical Instructions are updated by ICAO biannually. The 1999-2000 edition was published in January 1999. It will be valid until 31 December 2000 or until such later time as a new edition becomes valid. In order to comply with the provisions and to give legal effect to the new requirements in the 1999-2000 edition, we propose that the Regulations should be amended.

5. The key change in the 1999-2000 edition of the Technical Instructions affecting the Regulations is the introduction of two additional categories of items exempted from the application of the Technical Instructions. Furthermore, Chapter 2.7 of Part 1 of the 1997-1998 edition, which prohibited the transport of chemical oxygen generators on passenger aircraft, has been deleted. This is only an editorial change as this prohibited item is now incorporated in the list of dangerous goods under Chapter 11 of Part 2 of the 1999-2000 edition of the Technical Instructions.

THE AMENDMENT ORDER

6. The main provisions of the Amendment Order are as follows –

- (a) Clause 1(a) updates the definition of “Technical Instructions” to refer to the latest 1999-2000 edition published by ICAO. It also defines two new terms “appropriate authority” and “States concerned” by making reference to the relevant parts of the Technical Instructions;
- (b) Clause 1(b) adds references to two new provisions in Chapter 1.1.2(d) and (e) in Part 1 of the 1999-2000 edition of the Technical Instructions. They provide that these instructions do not apply to dangerous goods which are to provide aid in connection with search and rescue operations and vehicles carried in specified manners; and
- (c) Clause 1(c) is an amendment consequential to the repeal of Chapter 2.7 of Part 1 of the 1997-1998 edition of the Technical Instructions, which concerned the carriage of chemical oxygen generators.

7. The Amendment Order is to come into operation on the date when it is gazetted. This will enable Hong Kong to comply as soon as possible with the international requirements in the carriage of dangerous goods by air.

PUBLIC CONSULTATION

8. Since the changes contained in the Amendment Order are technical and have already been promulgated by ICAO to the air transport industry, public consultation is considered not necessary.

BASIC LAW IMPLICATIONS

9. The Department of Justice advises that the proposed Amendment Order does not conflict with those provisions of the Basic Law carrying no human rights implications.

HUMAN RIGHTS IMPLICATIONS

10. The Department of Justice advises that the proposed Amendment Order has no human rights implications.

BINDING EFFECT

11. The Amendment Order will not change the binding effect of the Regulations.

FINANCIAL AND STAFFING IMPLICATIONS

12. There are no financial or staffing implications arising from the Amendment Order.

ECONOMIC IMPLICATIONS

13. There are no significant economic implications arising from the Amendment Order.

LEGISLATIVE TIMETABLE

14. The Amendment Order will be gazetted on 9 July 1999 and tabled before the Legislative Council on 14 July 1999.

PUBLICITY

15. A press release will be issued.

ENQUIRIES

16. For enquiries on this brief, please contact Mr Howard LEE, Principal Assistant Secretary for Economic Services, at 2810 2517.

7 July 1999

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