

File Ref : ESB CR 1/15/951/49 (05)

## **LEGISLATIVE COUNCIL BRIEF**

Civil Aviation Ordinance  
(Cap 448)

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

### **AIR NAVIGATION (HONG KONG) ORDER 1995 (AMENDMENT OF SCHEDULE 16) ORDER 2006**

### **DANGEROUS GOODS (CONSIGNMENT BY AIR) (SAFETY)(AMENDMENT) REGULATION 2006**

## **INTRODUCTION**

At the meeting of the Executive Council on 25 April 2006, the Council ADVISED and the Chief Executive ORDERED that the Air Navigation (Hong Kong) Order 1995 (Amendment of Schedule 16) Order 2006 and the Dangerous Goods (Consignment by Air) (Safety) (Amendment) Regulation 2006 at Annexes A & B should be introduced into the Legislative Council.

Annexes A&B

## **JUSTIFICATIONS**

*International Civil Aviation Organisation (ICAO) Standards*

2. To ensure aviation safety, ICAO promulgates, under the Convention on International Civil Aviation (“Chicago Convention”),

requirements regarding the carriage of dangerous goods (DG)<sup>1</sup> 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 air cargo personnel. Under the Chicago Convention, such requirements are set out in the Technical Instructions for the Safe Transport of Dangerous Goods by Air (“TIs”). The TIs are normally updated and published by ICAO biennially.

### *Implementing Legislation in Hong Kong*

3. The Chicago Convention is applied 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 (“CE in Council”), viz -

(a) Air Navigation (Dangerous Goods) Regulations, as Schedule 16 to the Air Navigation (Hong Kong) Order 1995 (Cap 448C, “AN(DG)R”), at Annex C; and

Annex C

(b) Dangerous Goods (Consignment by Air)(Safety) Regulations (Cap 384A, “DG(CAS)R”), at Annex D.

Annex D

4. The AN(DG)R regulates the carriage of DG by airlines, through making direct references to the relevant TIs requirements.

5. The DG(CAS)R regulates the checking and preparation of DG by shippers and freight forwarders. It also makes direct references to the specific TIs provisions governing shippers and freight forwarders but such references are listed in its Schedule. The power to amend the Schedule to DG(CAS)R is vested with the Director-General of Civil Aviation (“DGCA”) under regulation 9 of DG(CAS)R.

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<sup>1</sup> DG include explosives, gases, flammable liquids and solids, oxidizing substances, toxic and infectious substances, radioactive material and corrosives, etc.

### *New Edition of the TIs*

6. The 2005-2006 edition of the TIs (“new TIs”) came into effect on 1 January 2005. It will remain valid until 31 December 2006 or such time as and when it is replaced by another new edition. When compared with the 2003-2004 edition, the new TIs introduce over 200 technical and textual changes. The more significant changes aim to -

- (a) introduce a definition for “freight forwarders”. Such persons are defined as persons who offer the service of arranging the carriage of cargo by air;
- (b) amend the classification of infectious substances to reflect the standards adopted by the World Health Organisation;
- (c) require airport operators to display notices, at prominent places of the airport, to inform passengers about the types of DG forbidden from carrying on board aircraft;
- (d) align the labelling requirement for radioactive material with the latest standards of the International Atomic Energy Agency; and
- (e) impose a new requirement that all staff of freight forwarders, regardless of whether they are involved in the processing of DG, should receive proper DG handling or awareness training commensurate with their functions upon employment. The requirement covers personnel not dealing directly with DG, so as to tackle the problem of DG hidden inside general cargo consignments.

### *Application of the New TIs to Hong Kong*

7. Since the Chicago Convention is applied to Hong Kong, we have the obligation to implement the new TIs requirements by amending the AN(DG)R and the DG(CAS)R. The amendment exercise will bring our

regulatory framework in line with the latest international standards.

8. When preparing the new TIs, ICAO fully consulted the aviation industry and relevant experts. We do not envisage any major difficulty for airlines, shippers and freight forwarders to comply with the new TIs. We therefore propose to bring the amendments into immediate effect after completion of the negative vetting procedure. To allow sufficient time for the local freight forwarding industry to provide training for around 20,000 staff who process general cargo, the specific provision regarding this training requirement would be implemented at a later stage through a separate commencement notice made by DGCA.

## **THE AMENDMENT LEGISLATION**

9. The main provisions of the proposed amendment legislation are as follows –

(a) Amendment Order to amend the AN(DG)R

- **Clause 2** updates the relevant references to the new TIs. It also implements the new TIs requirement for the airport operator to provide passengers of aircraft with information as to which type of DG are prohibited from carrying on board aircraft;

(b) Amendment Regulations to amend the DG(CAS)R

- **Clause 2** amends the definition of “freight forwarder” to bring it in line with the new definition of the term in the new TIs; and
- **Clauses 6 and 7** give effect to the new TIs requirement that staff of freight forwarders should receive DG training commensurate with the functions they perform.

10. The Schedule to the DG(CAS)R would also need to be amended to reflect the revised references to the new TIs. As explained in paragraph 5 above, the power to amend the Schedule is vested with DGCA. The DGCA has therefore made the order at Annex E, in tandem with the amendment legislation made by CE in Council, to amend the Schedule.

### **LEGISLATIVE TIMETABLE**

11. The legislative timetable will be –

Publication in the Gazette	4 May 2006
Tabling at the Legislative Council	10 May 2006

### **IMPLICATIONS OF THE PROPOSAL**

12. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It will not affect the current binding effect of the existing subsidiary legislation. It has no financial, civil service, productivity, competition, environmental or sustainability implications.

#### **Economic Implications**

13. The proposal would bring our regulatory framework regarding the carriage of DG by air in line with the latest international standards. This is conducive to maintaining Hong Kong's status as an international aviation hub. The additional training cost incurred by the industry is justified by enhanced safety to their employees and the general public. This is beneficial to the long-term business development of the industry.

## **PUBLIC CONSULTATION**

14. The Legislative Council Panel on Economic Services, the Technical Sub-committee of the Aviation Development Advisory Committee, the Airport Authority, and the trade associations of airlines, shippers and freight forwarders have been consulted. They are generally supportive of the proposed amendments.

## **PUBLICITY**

15. We will issue a press release and arrange a spokesman to respond to public enquiries.

## **ENQUIRIES**

16. For enquiries on the brief, please contact Mr Darryl CHAN, Principal Assistant Secretary for Economic Development and Labour (Economic Development), at 2810 2687.

Economic Development and Labour Bureau  
3 May 2006

**AIR NAVIGATION (HONG KONG) ORDER 1995  
(AMENDMENT OF SCHEDULE 16) ORDER 2006**

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

**1. Commencement**

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

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

(1) Regulation 2(1) of Schedule 16 to the Air Navigation (Hong Kong) Order 1995 (Cap. 448 sub. leg. C) is amended, in the definition of “Technical Instructions”, by repealing “2003–2004” and substituting “2005–2006”.

(2) Regulation 6(1)(a) of Schedule 16 is amended by repealing “1.6, 1.7, 1.8,” and substituting “1.5, 1.6, 1.7,”.

(3) Regulation 8(2) of Schedule 16 is repealed and the following substituted –

“(2) The operator of an aerodrome and the operator of an aircraft in which passengers are to be carried shall ensure that passengers of the aircraft are provided with information, in accordance with paragraph (2A), as to which categories of dangerous goods may not be taken on board the aircraft (whether as checked baggage or baggage accompanying passengers).

(2A) The information shall –

(a) be provided, sufficient in prominence for the purposes of paragraph (2), in or with the tickets issued to passengers of the aircraft; and

- (b) be provided in notices, sufficient in number and prominence for the purposes of paragraph (2), displayed at –
  - (i) each of the places at the airport where –
    - (A) tickets are issued;
    - (B) passengers are checked in; or
    - (C) passengers assemble to board the aircraft; and
  - (ii) any other location where passengers are checked in.”.

Clerk to the Executive Council

COUNCIL CHAMBER

25 April 2006

### **Explanatory Note**

This Order amends Schedule 16 to the Air Navigation (Hong Kong) Order 1995 (Cap. 448 sub. leg. C) to give effect to certain new requirements introduced by the 2005-2006 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. The new requirements relate to



the marking and labelling of and the packaging and documentation for certain dangerous goods, and the obligations of aerodrome operators to provide passengers of aircraft with information as to which categories of dangerous goods may not be taken on board aircraft.

## **DANGEROUS GOODS (CONSIGNMENT BY AIR) (SAFETY)(AMENDMENT) REGULATION 2006**

(Made by the Chief Executive in Council under section 3 of the Dangerous Goods (Consignment by Air) (Safety) Ordinance (Cap. 384))

### **1. Commencement**

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

### **2. Interpretation**

(1) Regulation 2 of the Dangerous Goods (Consignment by Air) (Safety) Regulations (Cap. 384 sub. leg. A) is amended, in the definition of “freight forwarder” –

- (a) by repealing “發運” and substituting “貨運代理”;
- (b) by repealing “a service to the public to arrange” and substituting “the service of arranging”.

(2) Regulation 2 is amended, in the Chinese text, in the definition of “付運人”, by repealing “發運” and substituting “貨運代理”.

(3) Regulation 2 is amended by adding –

““declared dangerous goods” (已申報危險品) means dangerous goods accompanied by the documents required by regulation 6(1);”.

### **3. Meaning of consign, etc.**

Regulation 3 is amended, in the Chinese text, by repealing “發運” wherever it appears and substituting “貨運代理”.

### **4. Dangerous goods to comply with Technical Instructions**

Regulation 4(1)(g) is repealed and the following substituted –

“(g) the goods are declared dangerous goods.”.

**5. Person signing transport document to be trained**

Regulation 7(1) is amended, in the Chinese text, by repealing “與其職能相符” and substituting “的對其職能屬適當”.

**6. Regulation added**

The following is added –

**“7A. Training requirements for staff members of freight forwarders processing air cargo containing declared dangerous goods**

(1) A member of the staff of a freight forwarder shall not perform the function of processing air cargo containing declared dangerous goods unless he has completed the training appropriate to that function as described in the provisions of the Technical Instructions specified for the purposes of this paragraph in Part II of the Schedule.

(2) Where paragraph (1) is contravened the freight forwarder and the staff member each commits an offence and is liable to a fine of \$20,000 and to imprisonment for 6 months.”.

**7. Regulation added**

The following is added –

**“7B. Other training requirements for staff members of freight forwarders**

(1) A freight forwarder shall ensure that each member of his staff who performs the function of –

- (a) processing air cargo without declared dangerous goods; or
- (b) handling, loading or storing air cargo,

has completed the training appropriate to that function as described in the provisions of the Technical Instructions specified for the purposes of this paragraph in Part II of the Schedule.

(2) A freight forwarder who fails to comply with paragraph (1) commits an offence and is liable to a fine of \$20,000 and to imprisonment for 6 months.”.

Clerk to the Executive Council

COUNCIL CHAMBER

25 April 2006

### **Explanatory Note**

This Regulation amends the Dangerous Goods (Consignment by Air) (Safety) Regulations (Cap. 384 sub. leg. A) to implement certain new requirements introduced by the 2005-2006 edition of the Technical Instructions for the Safe Transport of Dangerous Goods by Air (“TIs”). The TIs are approved and published by decision of the Council of the International Civil Aviation Organization.

2. Under the new requirements, staff members of freight forwarders who perform the functions of processing air cargo containing declared dangerous goods, processing air cargo without declared dangerous goods or handling, loading or storing air cargo must complete the appropriate training described in

the TIs before performing those functions (see new regulations 7A and 7B added by sections 6 and 7).

3. The Regulation also amends the definition of “freight forwarder” to bring it in line with the definition of the term under the TIs (see section 2).

Chapter: 448C Title: AIR NAVIGATION Gazette L.N. 214 of  
(HONG KONG) ORDER Number: 2003  
1995  
Schedule: 16 Heading: THE AIR NAVIGATION Version Date: 10/10/2003  
(DANGEROUS GOODS)  
REGULATIONS

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-

(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; (L.N. 214 of 2003)

"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 2003-2004 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; L.N. 214 of 2003)

"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 dangerous goods, unless the provisions of these Regulations are complied with. (L.N. 214 of 2003)

(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) placed on board with the approval of the operator of an aircraft to provide during the flight medical aid to a patient; (L.N. 214 of 2003)

(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-

(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. (L.N. 214 of 2003)

(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.

(L.N. 214 of 2003)

(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. (L.N. 214 of 2003)

(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 passengers or maintains areas to assemble passengers to board the aircraft, and at any other location where passengers are checked in. (L.N. 214 of 2003)

(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 or printed information provided to the commander of the aircraft in respect of any dangerous goods, referred to in Regulation 8(1) of these Regulations. (L.N. 214 of 2003)

#### **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.

核對表及指引  
Check List and Instructions

附件 D

危險品(航空托運)(安全)規例  
(第 384 章, 附屬法例 A)  
DANGEROUS GOODS (CONSIGNMENT BY AIR)(SAFETY) REGULATIONS  
(CAP. 384 sub. leg. A)

如欲確定此乃本成文法則的最新核對表及指引, 請參閱第 1 冊內的總核對表及指引第 II 部所載本成文法則的核對表及指引的刊印期數, 該刊印期數應與此頁右下角所示的刊印期數相同。

To verify that this is the latest Check List and Instructions for this enactment, please refer to the issue number of Check List and Instructions for this enactment shown in Part II of the Master Check List and Instructions in Volume I. Such issue number should be the same as the issue number shown at the lower right hand corner of this page.

如欲知悉本成文法則文本切合何時的法律情況, 請參閱第 1 冊內的總核對表及指引第 I 部。

To determine how up to date the text of this enactment is, please see Part I of the Master Check List and Instructions in Volume I.

移去頁數 Withdraw pages	加插頁數 Insert pages	目前應有頁數 You should now have pages	刊印期數 Issue number
.....	.....	A1 - A4 .....	18
A5 .....	A5 .....	A5 .....	29

制定史

本為 1985 年第 239 號法律公告 — 1986 年第 36 號法律公告, 1986 年第 297 號法律公告, 1987 年編  
正版, 1988 年第 355 號法律公告, 1990 年第 444 號法律公告, 1992 年第 389 號法律公告, 1994  
年第 678 號法律公告, 1996 年第(C)50 號法律公告(中文真確本), 1996 年第 542 號法律公告,  
1999 年第 60 號法律公告, 1999 年第 36 號, 2001 年第 235 號法律公告, 2003 年第 217 號法律  
公告

Enactment History

Originally L.N. 239 of 1985 — L.N. 36 of 1986, L.N. 297 of 1986, R. Ed. 1987, L.N. 355 of  
1988, L.N. 444 of 1990, L.N. 389 of 1992, L.N. 678 of 1994, L.N. (C) 50 of 1996  
(Chinese authentic version), L.N. 542 of 1996, L.N. 60 of 1999, 36 of 1999, L.N. 235  
of 2001, L.N. 217 of 2003

尚未實施 —  
無

The following are not yet in operation —  
Nil

[附屬法例]

[Subsidiary]

## 危險品 (航空托運) (安全) 規例

DANGEROUS GOODS (CONSIGNMENT BY AIR)  
(SAFETY) REGULATIONS

(第 384 章第 3 條)

(Cap. 384, section 3)

[第 7 條以外的規例] 1985 年 9 月 9 日

[Other than regulation 7 } 9 September 1985

第 7 條 } 1986 年 9 月 9 日 1985 年第 268 號法律公告]

Regulation 7 } 9 September 1986 L.N. 268 of 1985]

## 1. 引稱

本規例可引稱為《危險品 (航空托運) (安全) 規例》。

## 1. Citation

These regulations may be cited as the Dangerous Goods (Consignment by Air) (Safety) Regulations.

## 2. 釋義

在本規例中，除文意另有所指外——

- “付運人” (shipper) 指提供危險品以予空運的人，但發運人除外；  
 “托運人” (consignor) 指以空運方式托運危險品的人；  
 “技術指令” (Technical Instructions) 指附表第 I 部所指明的技術指令版本；  
 “發運人” (freight forwarder) 指向公眾提供安排貨品空運服務的人；  
 “經營人” (operator) 指飛機的經營人。

## 2. Interpretation

In these regulations, unless the context otherwise requires—  
 “consignor” (托運人) means a person who consigns dangerous goods for carriage by air;  
 “freight forwarder” (發運人) means a person who offers a service to the public to arrange the carriage of goods by air;  
 “operator” (經營人) means the operator of an aircraft;  
 “shipper” (付運人) means a person, other than a freight forwarder, who offers dangerous goods for carriage by air;  
 “Technical Instructions” (技術指令) means the edition of the Technical Instructions specified in Part I of the Schedule.

## 3. 托運等的涵義

為施行本規例，任何人如——

- (a) 身為付運人而向經營人或發運人提供危險品以予空運；或  
 (b) 身為發運人而向經營人或另一發運人提供危險品以予空運，  
 即為以空運方式托運危險品。

## 3. Meaning of consign, etc.

For the purposes of these regulations a person consigns dangerous goods for carriage by air if—  
 (a) being a shipper, he offers the goods to an operator or freight forwarder; or  
 (b) being a freight forwarder, he offers the goods to an operator or to another freight forwarder,  
 for carriage by air.

## 4. 危險品須符合技術指令的規定

(1) 除第 (2) 款另有規定外，不得以空運方式托運任何危險品，除非——

4. Dangerous goods to comply with  
Technical Instructions

(1) Subject to paragraph (2), no dangerous goods shall be consigned for carriage by air unless—

## [附屬法例]

- (a) 該危險品所屬的類別，並不是附表第 II 部內為施行本段而指明的技術指令條文禁止空運的類別；
- (b) 該危險品是按照附表第 II 部內為施行本段而指明的技術指令條文分類和包裝的；
- (c) 所使用的包裝用品，符合附表第 II 部內為施行本段而指明的技術指令條文中適用於該危險品的條文的規定；
- (d) 載有該危險品的包裹，是按照附表第 II 部內為施行本段而指明的技術指令條文加上標記及標籤的；
- (e) 就任何危險品、包裹或包裝用品而言，附表第 II 部內為施行本段而指明的技術指令條文的規定已獲遵從；
- (f) 載有危險品的包裹的狀況適宜空運；及
- (g) 該危險品附有第 6 條所指明的文件，而該文件亦已按照該條規定的方式填妥。
- (2) 第 (1) 款不適用於以下危險品——
- (a) 在屬於政府或用以專為政府服務的飛機上空運方式的危險品，或在任何國家的任何海陸空軍飛機上空運方式的危險品；或
- (b) 屬於附表第 II 部內為施行本段而指明的技術指令條文所述種類的危險品，但以該等條文所述的範圍及情況為限。
- (3) 除第 (4) 款另有規定外，凡違反第 (1) 款——
- (a) 則危險品的托運人；及
- (b) 而該項違反是與另一人為托運人或代托運人而作出的任何作為或執行的任何職能有關的，則該另一人，
- 即屬犯罪，而——
- (i) 一經循公訴程序定罪，可處罰款 \$250,000 及監禁 2 年；或
- (ii) 一經循簡易程序定罪，可處罰款 \$50,000 及監禁 1 年。
- (4) 任何人如使法庭或裁判官信納以下事項，則不得根據第 (3) 款被定罪——

## [Subsidiary]

- (a) the goods are of a category which is not prohibited to be carried by air by the provisions of the Technical Instructions specified for the purposes of this sub-paragraph in Part II of the Schedule;
- (b) the goods are classified and packed in accordance with the provisions of the Technical Instructions specified for the purposes of this sub-paragraph in Part II of the Schedule;
- (c) the packagings used are in accordance with such of the provisions of the Technical Instructions specified for the purposes of this sub-paragraph in Part II of the Schedule as apply to the goods;
- (d) any package containing the dangerous goods is marked and labelled in accordance with the provisions of the Technical Instructions specified for the purposes of this sub-paragraph in Part II of the Schedule;
- (e) the provisions of the Technical Instructions specified for the purposes of this sub-paragraph in Part II of the Schedule are complied with in respect of any dangerous goods, package or packaging;
- (f) any package containing the dangerous goods is in a fit condition for carriage by air; and
- (g) the dangerous goods are accompanied by the documents specified in regulation 6 completed in the manner required by that regulation.
- (2) Paragraph (1) shall not apply to dangerous goods—
- (a) consigned for carriage by air on any aircraft belonging to or exclusively employed in the service of the Government or on the naval, military or air force aircraft of any country; or
- (b) of a type described in the provisions of the Technical Instructions specified for the purposes of this sub-paragraph in Part II of the Schedule, to the extent and in the circumstances described in those provisions.
- (3) Subject to paragraph (4), where paragraph (1) is contravened—
- (a) any consignor of the goods; and
- (b) if the contravention relates to any act or function performed by another person for or on behalf of any consignor, that person, commits an offence and is liable—
- (i) on conviction on indictment to a fine of \$250,000 and to imprisonment for 2 years; or
- (ii) on summary conviction to a fine of \$50,000 and to imprisonment for 1 year.
- (4) A person shall not be convicted of an offence under paragraph (3) if he satisfies the court or magistrate that—

## [附屬法例]

- (a) 構成該項違反的作為或不作為，是在他不知情或不同意的情況下發生的；及
- (b) 他即使作出合理監管和合理努力，亦不能防止該作為或不作為發生。

## 5. 包裝用品須符合技術指令的規定

(1) 除非包裝用品是按照附表第 II 部內為施行本款而指明的技術指令條文製造、加上標記或標籤、保存、檢修或修理的，否則任何人不得將任何包裝用品作為符合技術指令規定的包裝用品而加上標籤或標記或予以核證或提供。

(2) 任何人違反第 (1) 款，即屬犯罪，而——

- (a) 一經循公訴程序定罪，可處罰款 \$250,000 及監禁 2 年；或
- (b) 一經循簡易程序定罪，可處罰款 \$50,000 及監禁 1 年。

## 6. 所需文件

(1) 為施行本規例，須就危險品而填妥的文件為——

- (a) 空運路單；及
- (b) 危險品運輸文件，但如某類別的危險品是技術指令內指明為無需危險品運輸文件的貨品者，則無需該文件。

(2) 第(1)(a)款規定的空運路單——

- (a) 須提述就危險品而填妥的危險品運輸文件；及
- (b) 如適用者，須指明危險品的類別或數量是技術指令中規定為只可以貨運飛機裝載和運送的。

(3) 第(1)(b)款規定的危險品運輸文件，須由付運人填妥，並須——

- (a) 按照附表第 II 部內為施行本段而指明的技術指令條文的規定，將危險品分類和述明；及

## [Subsidiary]

- (a) the act or omission constituting the contravention occurred without his knowledge or consent; and
- (b) he could not, by the exercise of reasonable supervision and reasonable diligence, have prevented the occurrence of that act or omission.

## 5. Packaging to comply with Technical Instructions

(1) No person shall label, mark, certify or offer any packaging as meeting the requirements of the Technical Instructions unless the packaging is made, marked, labelled, maintained, reconditioned or repaired in accordance with the provisions of the Technical Instructions specified for the purposes of this paragraph in Part II of the Schedule.

(2) Any person who contravenes paragraph (1) commits an offence and is liable—

- (a) on conviction on indictment to a fine of \$250,000 and to imprisonment for 2 years; or
- (b) on summary conviction to a fine of \$50,000 and to imprisonment for 1 year.

## 6. Documents required

(1) For the purposes of these regulations the documents to be completed in respect of dangerous goods are—

- (a) an air waybill; and
- (b) 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) An air waybill required by paragraph (1)(a) shall—

- (a) refer to the particular dangerous goods transport document completed in respect of the dangerous goods; and
- (b) specify where appropriate that the dangerous goods are of a category or in a quantity required by the Technical Instructions to be loaded in and carried in a cargo aircraft only.

(3) A dangerous goods transport document required by paragraph (1)(b) shall be completed by the shipper and shall—

- (a) classify and describe the dangerous goods in accordance with the requirements of the provisions of the Technical Instructions specified for the purposes of this sub-paragraph in Part II of the Schedule; and



[附屬法例]

[Subsidiary]

(b) 載有一份聲明，由付運人或他人代付運人按照附表第 II 部內為施行本段而指明的技術指令條文中所列條款而加以簽署。

(4) 就任何危險品而言，空運路單及危險品運輸文件各一份，須由該危險品的托運人保留，如托運人多於一名，則須由每名托運人保留，為期不少於 6 個月，自該危險品首次托運日期起計。

(5) 托運人無合理辯解而違反第 (4) 款，即屬犯罪，可處罰款 \$20,000 及監禁 6 個月。

(b) contain a declaration signed by or on behalf of the shipper in the terms set out in the provisions of the Technical Instructions specified for the purposes of this sub-paragraph in Part II of the Schedule.

(4) A copy of the air waybill and dangerous goods transport document in respect of any dangerous goods shall be retained by the consignor of the goods, or by each consignor if there are more than one, for a period of not less than 6 months commencing on the date on which the goods are first consigned.

(5) A consignor who without reasonable excuse contravenes paragraph (4) commits an offence and is liable to a fine of \$20,000 and to imprisonment for 6 months.

7. 簽署運輸文件的人須經培訓

7. Person signing transport document to be trained

(1) 任何人除非已完成附表第 II 部內為施行本款而指明的技術指令條文所述與其職能相符的培訓，否則不得在危險品運輸文件上簽署第 6(3)(b) 條所提述的聲明。

(1) No person shall sign a declaration referred to in regulation 6(3)(b) in a dangerous goods transport document unless he has completed the training appropriate to his functions as described in the provisions of the Technical Instructions specified for the purposes of this paragraph in Part II of the Schedule.

(2) 凡第 (1) 款遭違反，則填寫文件的付運人及代其簽署聲明的人均屬犯罪，可各處罰款 \$20,000 及監禁 6 個月。

(2) Where paragraph (1) is contravened the shipper completing the document and any person signing the declaration on behalf of the shipper each commits an offence and is liable to a fine of \$20,000 and to imprisonment for 6 months.

8. 豁免

8. Exemptions

(1) 行政長官可藉在憲報刊登的命令，在不附帶條件下或在附帶命令所指明的條件下，豁免任何人、危險品或包裝用品或任何種類或類別的人、危險品或包裝用品，使其不在本規例或其任何部分的適用範圍內。(1999 年第 36 號第 3 條)

(1) The Chief Executive may, by order published in the Gazette, exempt any person, dangerous goods or packaging, or any class or category of persons, dangerous goods or packaging from the application of these regulations or any part thereof and either absolutely or upon such conditions as are specified in the order. (36 of 1999 s. 3)

(2) 如處長覺得為公眾利益而有需要或屬適宜，並信納在有關情況下已經或將會採取足夠的其他安全措施，則處長可在不附帶條件下或在附帶他所指明的條件下，以書面豁免任何人、危險品或包裝用品，使其不在本規例或其任何部分的適用範圍內。

(2) The Director may, in any case where it appears to him to be necessary or desirable in the public interest to do so, and if he is satisfied that adequate alternative safety measures have been or will be taken in the circumstances, in writing exempt any person, dangerous goods or packaging from the application of these regulations or any part thereof and either absolutely or upon such conditions as he may specify.

9. 附表的修訂

9. Amendment of Schedule

處長可藉在憲報刊登的命令，修訂附表。

The Director may, by order published in the Gazette, amend the Schedule.

[附屬法例]	
附表	[第 2、4、5、 6 及 7 條]
第 I 部	
技術指令的指明版本	
2003–2004 年版	
第 II 部	
指明的技術指令條文	
本規例條文	為施行該條文而指明的技術指令條文
第 4(1)(a) 條	第 1 部第 2.1 章。
第 4(1)(b) 條	第 1 部第 2.4 章，以及第 2、3 及 4 部。
第 4(1)(c) 條	第 1 部第 2.4 章，第 3 部第 4 章，以及第 4 及 6 部。
第 4(1)(d) 條	第 1 部第 2.4 章，第 3 部第 2 及 4 章，以及第 5 部第 1.6、1.7、1.8、2 及 3 章。
第 4(1)(e) 條	第 1 部第 2.4.7 章，第 2 部第 7.9 章，第 4 部，以及第 5 部第 1.1((d) 至 (j) 段)、1.2、1.3、1.6、1.7、1.8、4.1.5.7.3、4.3 及 4.4 章。
第 4(2)(b) 條	第 1 部第 1.1.3 及 2.2 章，以及第 8 部第 1 章。
第 5(1) 條	第 6 部。
第 6(3)(a) 條	第 5 部第 4.1 章。
第 6(3)(b) 條	第 5 部第 4.1.6.1 及 4.1.6.2 章。
第 7(1) 條	第 1 部第 4.2 章。

(1990 年第 444 號法律公告；1992 年第 389 號法律公告；1994 年第 678 號法律公告；1996 年第 542 號法律公告；1999 年第 60 號法律公告；2001 年第 235 號法律公告；2003 年第 217 號法律公告)

[Subsidiary]	
SCHEDULE	[regs. 2, 4, 5, 6 & 7]
PART I	
SPECIFIED EDITION OF THE TECHNICAL INSTRUCTIONS	
2003–2004 Edition	
PART II	
SPECIFIED PROVISIONS OF THE TECHNICAL INSTRUCTIONS	
Provision of the regulations	Provisions of the Technical Instructions specified for the purposes of that provision
regulation 4(1)(a)	Chapter 2.1 of Part 1.
regulation 4(1)(b)	Chapter 2.4 of Part 1, and Parts 2, 3 and 4.
regulation 4(1)(c)	Chapter 2.4 of Part 1, Chapter 4 of Part 3, and Parts 4 and 6.
regulation 4(1)(d)	Chapter 2.4 of Part 1, Chapters 2 and 4 of Part 3, and Chapters 1.6, 1.7, 1.8, 2 and 3 of Part 5.
regulation 4(1)(e)	Chapter 2.4.7 of Part 1, Chapter 7.9 of Part 2, Part 4, and Chapters 1.1 (paragraphs (d) to (j)), 1.2, 1.3, 1.6, 1.7, 1.8, 4.1.5.7.3, 4.3 and 4.4 of Part 5.
regulation 4(2)(b)	Chapters 1.1.3 and 2.2 of Part 1 and Chapter 1 of Part 8.
regulation 5(1)	Part 6.
regulation 6(3)(a)	Chapter 4.1 of Part 5.
regulation 6(3)(b)	Chapters 4.1.6.1 and 4.1.6.2 of Part 5.
regulation 7(1)	Chapter 4.2 of Part 1.

(L.N. 444 of 1990; L.N. 389 of 1992; L.N. 678 of 1994; L.N. 542 of 1996; L.N. 60 of 1999; L.N. 235 of 2001; L.N. 217 of 2003)

**DANGEROUS GOODS (CONSIGNMENT BY AIR)  
(SAFETY) REGULATIONS (AMENDMENT OF  
SCHEDULE) ORDER 2006**

(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 shall come into operation on a day to be appointed by the Director-General of Civil Aviation by notice published in the Gazette.

**2. Schedule amended**

(1) The Schedule to the Dangerous Goods (Consignment by Air)(Safety) Regulations (Cap. 384 sub. leg. A) is amended, within the square brackets at the beginning, by repealing “& 7” and substituting “,7 & 7A”.

(2) The Schedule is amended, within the square brackets at the beginning, by repealing “& 7A” and substituting “, 7A & 7B”.

(3) Part I of the Schedule is amended by repealing “2003-2004” and substituting “2005-2006”.

(4) Part II of the Schedule is amended, opposite the reference to regulation 4(1)(d), by repealing “1.6, 1.7, 1.8,” and substituting “1.5, 1.6, 1.7,”.

(5) Part II of the Schedule is amended, opposite the reference to regulation 4(1)(e), by repealing “(paragraphs (d) to (j)), 1.2, 1.3, 1.6, 1.7, 1.8, 4.1.5.7.3, 4.3 and 4.4 of Part 5.” and substituting “(paragraphs (e) to (k)), 1.2, 1.5, 1.6, 1.7, 4.1.5.7.3, 4.2 and 4.3 of Part 5.”.

(6) Part II of the Schedule is amended by adding –  
“regulation 7A(1) Chapter 4.2 of Part 1.”.

(7) Part II of the Schedule is amended by adding –  
“regulation 7B(1) Chapter 4.2 of Part 1.”.

Director-General of Civil Aviation

25 April 2006

### **Explanatory Note**

This Order amends the Schedule to the Dangerous Goods (Consignment by Air)(Safety) Regulations (Cap. 384 sub. leg. A) to give effect to certain new requirements introduced by the 2005-2006 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. The new requirements relate to the marking and labelling of and the packaging and documentation for certain dangerous goods, and the training requirements for staff of freight forwarders.