

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 2007**

**Dangerous Goods (Consignment by Air)
(Safety) (Amendment) Regulation 2007**

**Dangerous Goods (Consignment by Air)
(Safety) (Amendment) Regulation 2006
(Amendment) Regulation 2007**

**Dangerous Goods (Consignment by Air)
(Safety) Regulations (Amendment of Schedule) Order 2006
(Amendment) Order 2007**

INTRODUCTION

At the meeting of the Executive Council on 16 October 2007, the Council ADVISED and the Chief Executive ORDERED that the Air Navigation (Hong Kong) Order 1995 (Amendment of Schedule 16) Order 2007, the Dangerous Goods (Consignment by Air) (Safety) (Amendment) Regulation 2007 and the Dangerous Goods (Consignment by Air) (Safety) (Amendment) Regulation 2006 (Amendment) Regulation 2007, at **Annexes A, B and C** respectively, should be made to implement the latest requirements of the International Civil Aviation Organisation (ICAO)¹ for

A – C

¹ The 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.

the safe transport of dangerous goods² by air.

D

2. On the same day, the Director-General of Civil Aviation (“DGCA”) made the Dangerous Goods (Consignment by Air) (Safety) Regulations (Amendment of Schedule) Order 2006 (Amendment) Order 2007, at **Annex D**, to provide for related changes.

JUSTIFICATIONS

ICAO’s Latest Requirements

3. The ICAO’s Technical Instructions for the Safe Transport of Dangerous Goods by Air (“TIs”) set out the ICAO’s requirements. A new edition (i.e. the 2007-08 edition) of the TIs was published in late 2006. Most of the changes in this edition are technical and textual in nature, but the edition emphasises the need to strengthen the prevention of hidden dangerous goods (deliberately or inadvertently not declared) and the improper carriage of dangerous goods by passengers.

4. The relevant changes are –

Dangerous Goods Training

(a) to add new definitions of “mail” and “stores”³ (with the corresponding addition of the definition of “cargo” in the air transport context) and require the staff of the freight forwarders and airlines who are responsible for processing and handling “mail” and “stores” as well as security screeners who deal with them to undergo dangerous goods training (further to the requirements introduced in the 2005-06 edition of the TIs where freight forwarders’ staff involved in the processing, handling, storage or loading of air cargo must receive dangerous goods training);

(b) to introduce a qualification requirement for instructors of

² 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.

³ “Mail” refers to letters and other articles delivered by postal services, whereas “stores” refers to goods for consumption on board an aircraft or necessary for the operation and maintenance of aircraft, or goods for sale to the passengers and the crew on board an aircraft.

dangerous goods training courses, for the purpose of ensuring consistent standards of different dangerous goods training courses organized worldwide;

Provision of Dangerous Goods Information

- (c) to make it clear that apart from airlines and airport authorities, airlines' handling agents⁴ are also required to provide information for passengers about the types of dangerous goods that are not allowed to be carried during air travel; and
- (d) to require check-in staff to seek confirmation from air passengers that they have not carried dangerous goods that are not allowed to be carried during air travel.

THE ORDERS AND REGULATIONS

5. The main provisions of the Air Navigation (Hong Kong) Order 1995 (Amendment of Schedule 16) Order 2007 ("the AN Amendment Order"), the Dangerous Goods (Consignment by Air) (Safety) (Amendment) Regulation 2007 ("the First Amendment Regulation"), the Dangerous Goods (Consignment by Air) (Safety) (Amendment) Regulation 2006 (Amendment) Regulation 2007 ("the Second Amendment Regulation") and the Dangerous Goods (Consignment by Air) (Safety) Regulations (Amendment of Schedule) Order 2006 (Amendment) Order 2007 ("the DG Amendment Order") are set out below –

The AN Amendment Order

- (a) **Clause 2(1)** amends regulation 2(1) of Schedule 16 to the Air Navigation (Hong Kong) Order 1995 (Cap 448 sub leg C) ("the Schedule") to refer to the 2007-08 edition of the TIs;
- (b) **Clauses 2(2) and 2(7)** amend regulation 3(3) and regulation 10 of the Schedule to clarify the types of dangerous goods that may be carried on an aircraft and the conditions on which they may be so carried;
- (c) **Clauses 2(3) to 2(5)** clarify the obligations of the aerodrome operators, aircraft operators and their handling agents with respect to the obtaining of information from passengers and the

⁴ Companies which provide passenger handling services, such as check-in handling, departure gate management and arrival handling, on behalf of airlines.

provision of information to passengers and staff of aircraft operators;

- (d) **Clause 2(6)** amends regulation 8(3) of the Schedule to give effect to the new TIs requirement that the training programmes should be delivered by qualified instructors;

The First Amendment Regulation

- (e) **Clause 2** adds new definitions of “cargo”, “mail” and “stores” to the Dangerous Goods (Consignment by Air) (Safety) Regulations (Cap 384 sub leg A) (“the Safety Regulations”) to ensure that the meanings of these terms are in line with the TIs;
- (f) **Clauses 3 and 4** amend regulations 7 and 7A of the Safety Regulations to require that the relevant training programmes have to be approved by the DGCA and delivered by qualified instructors;
- (g) **Clause 5** amends the Schedule to the Safety Regulations to reflect the revised references to the 2007-08 edition of the TIs;

The Second Amendment Regulation

- (h) **Clause 2** amends section 7 of the Dangerous Goods (Consignment by Air) (Safety) (Amendment) Regulation 2006 (LN 75 of 2006)⁵ (“the 2006 Amendment Regulation”) to require that staff members of freight forwarders who perform the function of (a) processing mail or stores without declared dangerous goods; or (b) handling, loading or storing mail or stores, be also required to complete training programmes approved by the DGCA and delivered by qualified instructors; and

The DG Amendment Order

- (i) **Clause 2** amends section 2 of the Dangerous Goods (Consignment by Air) (Safety) Regulations (Amendment of

⁵ Section 7 of the 2006 Amendment Regulation, which is planned to come into operation in mid 2008, adds a new regulation 7B requiring staff members of freight forwarders who perform the function of (a) processing air cargo without declared dangerous goods; or (b) handling, loading or storing air cargo, to complete the appropriate training before performing that function.

Schedule) Order 2006 (LN 76 of 2006) to make related changes to the Schedule to the Safety Regulations⁶.

E

6. The relevant existing provisions being amended by the AN Amendment Order, First Amendment Regulation, Second Amendment Regulation and DG Amendment Order are at **Annex E**. The target commencement date of the AN Amendment Order, First Amendment Regulation and Second Amendment Regulation is 1 January 2008 while that of the DG Amendment Order will be a day to be appointed by the DGCA.

LEGISLATIVE TIMETABLE

7. The AN Amendment Order, First Amendment Regulation, Second Amendment Regulation and DG Amendment Order will be gazetted on 26 October 2007 and tabled in the Legislative Council on 31 October 2007.

IMPLICATIONS OF THE PROPOSAL

8. The proposal has no financial, civil service, productivity, sustainability and environmental implications. The ICAO's latest requirements are unlikely to bring significant additional compliance burden on the stakeholders such as the airlines and the air passengers. While passenger waiting time at check-in clearance may be extended slightly, this should be more than offset by the overall economic benefits of enhanced air safety, as well as enhanced image of Hong Kong as a safe air services hub. The latter benefits are however difficult to quantify.

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 Technical Sub-Committee of the Aviation Development Advisory Committee and the local air cargo stakeholders including the Hongkong Association of Freight Forwarding and Logistics Limited, the Hong Kong Shippers' Council, the Board of Airline Representatives, the Airport Authority, dangerous goods

⁶ The related changes are the references made to the provisions of the TIs specified for the purposes of the new regulation 7B (to be added by section 7 of the 2006 Amendment Regulation) in the Schedule to the Safety Regulations.

training institutes and the Aviation Security Company Limited on the new edition of the TIs. They generally support the legislative proposals.

11. On 25 June 2007, we consulted the Legislative Council Panel on Economic Services. The Panel had no objection to the legislative proposals.

PUBLICITY

12. A press release will be issued on 24 October 2007. A spokesman will be available to handle enquiries.

BACKGROUND

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

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

- (a) Air Navigation (Dangerous goods) Regulations, as the Schedule;
and
- (b) the Safety Regulations.

The Schedule generally regulates the dangerous goods operations of airlines and airport authorities whereas the Safety Regulations regulate the shippers and freight forwarders in the proper handling of dangerous goods before taking them for air transport.

ENQUIRIES

15. Any enquiry on this brief should be directed to Mr Francis Cheng, Principal Assistant Secretary (Transport) (telephone number: 2810 2687).

Transport and Housing Bureau
24 October 2007

**AIR NAVIGATION (HONG KONG) ORDER 1995
(AMENDMENT OF SCHEDULE 16) ORDER 2007**

(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 1 January 2008.

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 “2005–2006” and substituting “2007–2008”.

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

“(3) These Regulations shall not apply to dangerous goods carried on an aircraft where the dangerous goods are –

- (a) articles and equipment which are –
 - (i) required to be carried on the aircraft by or under this Order; or
 - (ii) otherwise intended for use on the aircraft for the purpose of the good order of the flight in accordance with normal practice, whether or not 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, or for sale to, the passengers, flight crew members or

cabin crew members of the aircraft during the flight;

- (c) subject to paragraphs (3A), (3B), (3C) and (3D), placed on board with the approval of the operator of the aircraft to provide medical aid to a patient during the flight;
- (d) subject to paragraphs (3A), (3C) and (3D), to provide veterinary aid or a humane killer for an animal during the flight;
- (e) subject to paragraphs (3A), (3C) and (3D), for dropping in connection with agricultural, horticultural, forestry or pollution control activities;
- (f) subject to paragraphs (3A), (3C) and (3D), to provide aid in connection with search and rescue operations during the flight;
- (g) subject to paragraphs (3A) and (3E), vehicles carried in an aircraft designed or modified for vehicle ferry operations;
- (h) subject to paragraph (3A), required for the operation of the specialized equipment of the aircraft during the flight;
- (i) of a type specified in Chapter 2.2.1 of Part 1 of the Technical Instructions;
- (j) of a type specified in Chapter 1.1.2 of Part 8 of the Technical Instructions.

(3A) Dangerous goods specified in paragraph (3)(c), (d), (e), (f), (g) and (h) shall only be carried if they are under the control of trained personnel when they are in use on the aircraft.

(3B) Dangerous goods specified in paragraph (3)(c) –

- (a) which is in the form of gas contained in a gas cylinder shall only be carried if the gas cylinder has been manufactured specifically for the purpose of containing and transporting that particular gas; or
- (b) which is an electrolyte in a wet cell battery contained in any equipment shall only be carried if the equipment is kept and, when necessary, secured in an upright position to prevent spillage of the electrolyte.

(3C) Dangerous goods specified in paragraph (3)(c), (d), (e) and (f) shall only be carried if measures have been taken to stow and secure those goods –

- (a) during take-off and landing; and
- (b) at all times when deemed necessary by the pilot in command of the aircraft.

(3D) Dangerous goods specified in paragraph (3)(c), (d), (e) and (f) may be carried on an aircraft during a flight made by the same aircraft before or after the flight in which they are carried for the purposes identified in paragraph (3)(c), (d), (e) and (f) (“the second mentioned flight”) if –

- (a) it is impracticable to load or unload the dangerous goods immediately before or after (as the case may be) the second mentioned flight; and

- (b) all the following conditions are met –
 - (i) the dangerous goods are capable of withstanding the normal conditions of air transport;
 - (ii) the dangerous goods have been appropriately identified;
 - (iii) the dangerous goods are carried with the approval of the operator of the aircraft;
 - (iv) the dangerous goods have been inspected for damage or leakage prior to loading;
 - (v) loading of the dangerous goods has been supervised by the operator of the aircraft;
 - (vi) the dangerous goods have been stowed and secured in the aircraft in a manner that will prevent any movement in flight which would change their orientation;
 - (vii) the pilot in command of the aircraft has been notified of the dangerous goods loaded on board the aircraft and the location where the dangerous goods have been placed after loading;
 - (viii) in the event of a crew change, the information required to be notified under sub-subparagraph

- (vii) has been passed to the next flight crew members;
- (ix) all personnel have received training that is commensurate with their responsibilities with regard to the handling of dangerous goods;
- (x) the operator of the aircraft has provided the prescribed information within the meaning of paragraph (3F) in the operations manual and other appropriate manuals as will enable his flight crew members, other employees and, where applicable, handling agents to carry out their responsibilities with regard to the transport of dangerous goods;
- (xi) the operator of the aircraft undertakes to report any accident or incident involving dangerous goods carried on board the aircraft to the appropriate authorities of the State of the operator and the State in which such accident or incident occurred in accordance with the reporting requirements of such authorities.

(3E) Dangerous goods specified in paragraph (3)(g) shall only be carried if all the following conditions are met –

- (a) authorization has been given by the appropriate authorities of the States concerned, and such authorities have prescribed specific terms and conditions for the particular operator's operation;
- (b) the vehicles have been secured in an upright position;
- (c) fuel tanks of the vehicles have been so filled as to prevent spillage of fuel during loading, unloading and transit; and
- (d) adequate ventilation rates have been maintained in the aircraft compartment in which the vehicles are carried.

(3F) For the purposes of paragraph (3D)(b)(x), “prescribed information” includes –

- (a) instructions as to the action to be taken in the event of emergencies involving dangerous goods;
- (b) details of the location and numbering system of cargo compartments;
- (c) information on the maximum quantity of dry ice permitted in each cargo compartment; and
- (d) if radioactive material is to be carried, instructions as to the loading of such dangerous goods in accordance with the provisions of Chapter 2.9 of Part 7 of the Technical Instructions.”.

(3) Regulation 8(2) of Schedule 16 is amended by adding “or his handling agent” after “to be carried”.

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

“(2A) The information shall be provided in notices, sufficient in number and prominence for the purposes of paragraph (2), displayed at –

- (a) each of the places at the airport where –
 - (i) tickets are issued;
 - (ii) passengers are checked in; or
 - (iii) passengers assemble to board the aircraft; and
- (b) any other location where passengers are checked in.”.

(5) Regulation 8 of Schedule 16 is amended by adding –

“(2B) The operator of an aircraft shall ensure that information required to be provided under paragraph (2) shall be –

- (a) provided with the passenger tickets issued to the passengers; or
- (b) made available to the passengers in another manner prior to the check-in process.

(2C) The operator of an aircraft and his handling agent shall, during the check-in process –

- (a) seek confirmation from the passengers that they are not carrying dangerous goods that may not be taken on board the aircraft; and
- (b) where there are suspicions that any item which is in the possession or control of

any such passenger may contain dangerous goods that may not be taken on board the aircraft, seek confirmation about the contents of the item from the passenger.

(2D) The operator of an aircraft and his handling agent shall ensure that –

(a) cargo acceptance staff and passenger check-in staff, as may be appropriate, are provided with information as to –

(i) which types of items in cargo or in passengers' baggage may contain dangerous goods as listed in Chapter 6.1 of Part 7 of the Technical Instructions;

(ii) the indications that suggest that there may be dangerous goods in cargo or in passengers' baggage; and

(iii) which categories of dangerous goods may be carried by passengers as listed in Chapter 1.1.2 of Part 8 of the Technical Instructions; and

(b) the information specified in subparagraph (a) is readily available to such staff.”.

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

“(3) The operator of an aircraft, his handling agent and security agent shall –

- (a) inform any of their respective employees whose duties include a function connected with the carriage of passengers, cargo, stores or baggage by air of the provisions of the Technical Instructions;
 - (b) establish and undertake training programmes required by Chapter 4 of Part 1 of the Technical Instructions which shall be –
 - (i) submitted to the Chief Executive for approval and review on such occasions as the Chief Executive may require;
 - (ii) amended as the Chief Executive may require; and
 - (iii) delivered by instructors who satisfy the requirements set out in Chapter 4.3 of Part 1 of the Technical Instructions; and
 - (c) ensure that each of their respective employees whose duties include a function specified in subparagraph (a) shall complete the training programmes specified in subparagraph (b).”
- (7) Regulation 10 of Schedule 16 is repealed.

Clerk to the Executive Council

COUNCIL CHAMBER

2007

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 2007–2008 edition of the Technical Instructions for the Safe Transport of Dangerous Goods by Air approved and published by a decision of the Council of the International Civil Aviation Organization.

2. The new requirements clarify –

- (a) the types of dangerous goods that may be carried on an aircraft;
- (b) the conditions on which such dangerous goods may be carried on an aircraft;
- (c) the obligations of the aerodrome operators, aircraft operators and handling agents of aircraft operators with respect to –
 - (i) the obtaining of information from passengers of aircraft; and
 - (ii) the provision of information to passengers of aircraft and staff of aircraft operators; and
- (d) the obligations of the aircraft operators, their handling agents and security agents with respect to the

establishment and undertaking of certain training programmes for their respective employees.

**DANGEROUS GOODS (CONSIGNMENT BY AIR)
(SAFETY)(AMENDMENT) REGULATION 2007**

(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 1 January 2008.

2. Interpretation

Regulation 2 of the Dangerous Goods (Consignment by Air) (Safety) Regulations (Cap. 384 sub. leg. A) is amended by adding –

““cargo” (貨物) means any article carried on an aircraft other than –

- (a) mail;
- (b) stores; and
- (c) accompanied or mishandled baggage;

“mail” (郵件) means letters and other articles delivered, or intended to be delivered, by postal services in accordance with the rules of the Universal Postal Union;

“stores” (供應品) means –

- (a) goods which –
 - (i) whether or not sold, are intended for consumption by the passengers and the crew on board an aircraft; or
 - (ii) are necessary for the operation and maintenance of an aircraft; or
- (b) goods for sale to the passengers and the crew on board an aircraft which are intended to be landed from the aircraft;”.

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

Regulation 7(1) is repealed and the following substituted –

“(1) No person shall sign a declaration referred to in regulation 6(3)(b) in a dangerous goods transport document unless he has completed training programmes which –

- (a) are appropriate to his functions;
- (b) are described in the provisions of the Technical Instructions specified for the purposes of this subparagraph in Part II of the Schedule;
- (c) have been approved by the Director; and
- (d) are delivered by instructors who satisfy the requirements set out in the provisions of the Technical Instructions specified for the purposes of this subparagraph in Part II of the Schedule.”.

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

(1) The heading of regulation 7A is amended by repealing “**air cargo**” and substituting “**cargo**”.

(2) Regulation 7A(1) is repealed and the following substituted –

“(1) A member of the staff of a freight forwarder shall not perform the function of processing cargo containing declared dangerous goods unless he has completed training programmes which –

- (a) are appropriate to his functions;
- (b) are described in the provisions of the Technical Instructions specified for the purposes of this subparagraph in Part II of the Schedule;

- (c) have been approved by the Director; and
- (d) are delivered by instructors who satisfy the requirements set out in the provisions of the Technical Instructions specified for the purposes of this subparagraph in Part II of the Schedule.”.

5. Schedule amended

(1) Part I of the Schedule is amended by repealing “2005–2006” and substituting “2007–2008”.

(2) Part II of the Schedule is amended, opposite the reference to regulation 4(1)(e), by repealing “4.1.5.7.3” and substituting “4.1.5.7.4”.

(3) Part II of the Schedule is amended by repealing “regulation 7(1)” and substituting “regulation 7(1)(b)”.

(4) Part II of the Schedule is amended by adding –
“regulation 7(1)(d) Chapter 4.3 of Part 1.”.

(5) Part II of the Schedule is amended by repealing “regulation 7A(1)” and substituting “regulation 7A(1)(b)”.

(6) Part II of the Schedule is amended by adding –
“regulation 7A(1)(d) Chapter 4.3 of Part 1.”.

Clerk to the Executive Council

COUNCIL CHAMBER

2007

Explanatory Note

This Regulation amends the Dangerous Goods (Consignment by Air) (Safety) Regulations (Cap. 384 sub. leg. A) (“the principal Regulations”) to implement certain new requirements introduced by the 2007–2008 edition of the Technical Instructions for the Safe Transport of Dangerous Goods by Air (“TIs”). The TIs are approved and published by a decision of the Council of the International Civil Aviation Organization.

2. The Regulation adds new definitions of “cargo”, “mail” and “stores” to the principal Regulations to bring the meanings of these terms in line with the TIs.

3. The Regulation also amends regulations 7 and 7A of the principal Regulations to require persons signing dangerous goods transport documents and staff members of freight forwarders processing cargo containing declared dangerous goods to complete training programmes which –

(a) have been approved by the Director-General of Civil Aviation; and

(b) are delivered by instructors who satisfy the requirements set out in Chapter 4.3 of Part 1 of the TIs.

4. The Regulation further amends the Schedule to the principal Regulations to reflect –

(a) the introduction of the new edition of the TIs;

(b) the renumbering of Part 5 of the TIs; and

(c) the amendments referred to in paragraph 3.

**DANGEROUS GOODS (CONSIGNMENT BY AIR)
(SAFETY)(AMENDMENT) REGULATION 2006
(AMENDMENT) REGULATION 2007**

(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 1 January 2008.

2. Regulation added

Section 7 of the Dangerous Goods (Consignment by Air)(Safety) (Amendment) Regulation 2006 (L.N. 75 of 2006) is amended by repealing the new regulation 7B(1) to be added by that section and substituting –

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

- (a) processing cargo, mail or stores not containing declared dangerous goods; or
 - (b) handling, loading or storing cargo, mail or stores,
- has completed training programmes which –
- (c) are appropriate to his functions;
 - (d) are described in the provisions of the Technical Instructions specified for the purposes of this subparagraph in Part II of the Schedule;
 - (e) have been approved by the Director; and
 - (f) are delivered by instructors who satisfy the requirements set out in the provisions of the Technical Instructions specified for the purposes of this subparagraph in Part II of the Schedule.”.

Clerk to the Executive Council

COUNCIL CHAMBER

2007

Explanatory Note

This Regulation amends the Dangerous Goods (Consignment by Air) (Safety)(Amendment) Regulation 2006 (L.N. 75 of 2006) (“the Amendment Regulation”) to implement certain new requirements introduced by the 2007–2008 edition of the Technical Instructions for the Safe Transport of Dangerous Goods by Air (“TIs”). The TIs are approved and published by a decision of the Council of the International Civil Aviation Organization.

2. Section 7 of the Amendment Regulation adds a new regulation 7B to the Dangerous Goods (Consignment by Air)(Safety) Regulations (Cap. 384 sub. leg. A) which provides that staff members of freight forwarders who perform the function of –

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

are required to complete the appropriate training programmes before performing that function.

3. The Regulation amends section 7 of the Amendment Regulation because under the TIs, staff members of freight forwarders who perform the function of –

- (a) processing mail or stores not containing declared dangerous goods; or
- (b) handling, loading or storing mail or stores,

are also required to complete the appropriate training programmes before performing that function.

4. The Regulation also amends section 7 of the Amendment Regulation to require staff members of freight forwarders referred to in paragraph 3 to complete training programmes which –

- (a) have been approved by the Director-General of Civil Aviation; and
- (b) are delivered by instructors who satisfy the requirements set out in Chapter 4.3 of Part 1 of the TIs.

**DANGEROUS GOODS (CONSIGNMENT BY AIR)
(SAFETY) REGULATIONS (AMENDMENT OF
SCHEDULE) ORDER 2006 (AMENDMENT)
ORDER 2007**

(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) Section 2(7) of the Dangerous Goods (Consignment by Air)(Safety) Regulations (Amendment of Schedule) Order 2006 (L.N. 76 of 2006) is amended by repealing “regulation 7B(1)” and substituting “regulation 7B(1)(d)”.

(2) Section 2 is amended by adding –

“(8) Part II of the Schedule is amended by adding –

“regulation 7B(1)(f) Chapter 4.3 of Part 1.”.”.

Director-General of Civil Aviation

2007

Explanatory Note

This Order amends the Dangerous Goods (Consignment by Air)(Safety) Regulations (Amendment of Schedule) Order 2006 (L.N. 76 of 2006) to implement certain new requirements introduced by the 2007–2008 edition of the Technical Instructions for the Safe Transport of Dangerous Goods by Air (“TIs”). The TIs are approved and published by a decision of the Council of the International Civil Aviation Organization.

2. The new requirements require staff members of freight forwarders to complete training programmes which –

- (a) have been approved by the Director-General of Civil Aviation; and
- (b) are delivered by instructors who satisfy the requirements set out in Chapter 4.3 of Part 1 of the TIs.

Annex E

Chapter:	448C	AIR NAVIGATION (HONG KONG) ORDER 1995	Gazette Number	Version Date
Schedule:	16	THE AIR NAVIGATION (DANGEROUS GOODS) REGULATIONS	L.N. 137 of 2006	01/11/2006

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 2005-2006 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; L.N. 74 of 2006)

"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 1.5, 1.6, 1.7, 2 and 3 of Part 5 of the Technical Instructions before accepting the package; (L.N. 150 of 1997; L.N. 234 of 2001; L.N. 74 of 2006)
 - (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 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). (L.N. 74 of 2006)

(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. (L.N. 74 of 2006)

(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.

Chapter:	384A	DANGEROUS GOODS (CONSIGNMENT BY AIR) (SAFETY) REGULATIONS	Gazette Number	Version Date
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Regulation:	2	Interpretation	L.N. 135 of 2006	01/11/2006
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In these regulations, unless the context otherwise requires-

"consignor" (托運人) means a person who consigns dangerous goods for carriage by air;

"declared dangerous goods" (已申報危險品) means dangerous goods accompanied by the documents required by regulation 6(1); (L.N. 75 of 2006)

"freight forwarder" (貨運代理人) means a person who offers the service of arranging the carriage of goods by air; (L.N. 75 of 2006)

"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.

(Enacted 1985)

Regulation:	7	Person signing transport document to be trained		30/06/1997
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(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) 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 \$20000 and to imprisonment for 6 months.

(Enacted 1985)

Regulation:	7A	Training requirements for staff members of freight forwarders processing air cargo containing declared dangerous goods	L.N. 135 of 2006	01/11/2006
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(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 \$20000 and to imprisonment for 6 months.

(L.N. 75 of 2006)

Regulation:	7B	Other training requirements for staff members of freight forwarders		
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Remarks:
not yet in operation

(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 \$20000 and to imprisonment for 6 months.

(L.N. 75 of 2006)

Schedule:		SCHEDULE	L.N. 136 of 2006	01/11/2006
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[regulations 2, 4, 5, 6, 7 & 7A]
(L.N. 76 of 2006)

PART I
SPECIFIED EDITION OF THE TECHNICAL INSTRUCTIONS
2005-2006 Edition

(L.N. 76 of 2006)

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 1.5, 1.6, 1.7, 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 (e) to (k)), 1.2, 1.5, 1.6, 1.7, 4.1.5.7.3, 4.2 and 4.3 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.
regulation 7A(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; L.N. 76 of 2006)

L.N. 76 of 2006**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 (as amended by subsection (1)) 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.”.

Norman LO
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.