

**For discussion
on 24 June 2013**

Legislative Council Panel on Economic Development

Proposed Amendments to Legislation Relating to the Carriage of Dangerous Goods by Air

Purpose

This paper seeks Members' views on the Government's proposal to amend two sets of subsidiary legislation to give effect to the latest standards promulgated by the International Civil Aviation Organization (ICAO)¹ for the safe transport of dangerous goods (DG)² by air.

Background

International Standards

2. To ensure aviation safety, ICAO has developed a set of provisions governing the transport of DG by air under Annex 18 to the Convention on International Civil Aviation (generally referred to as "the Chicago Convention"). These provisions regulate matters such as the classification, packing, marking, labelling and loading of DG on board aircraft and other matters such as training requirements. The detailed specifications are set out in the Technical Instructions for the Safe Transport of Dangerous Goods by Air ("the TIs"), which is updated and published by ICAO biennially. Annex 18 stipulates that the Contracting States shall take the necessary actions to comply with the provisions in the TIs.

¹ ICAO was established by the Convention on International Civil Aviation. At present, it has 191 Contracting States and China is one of them. Its objectives are to promote the development of international civil aviation in a safe and orderly manner, and to ensure that international air transport services may be established on the basis of equality of opportunity and operated soundly and economically.

² According to the Technical Instructions issued by ICAO, DG in the context of air transport include explosives, compressed gas, flammable liquids, flammable solids, oxidizing substances, toxic substances, infectious substances, radioactive materials and corrosives, etc.

Local Legislation

3. The Chicago Convention and its Annexes apply to Hong Kong. In Hong Kong, the TIs are given effect through two pieces of local subsidiary legislation made by the Chief Executive in Council (“the CE in Council”), i.e. –

- (a) Air Navigation (Dangerous Goods) Regulations, as Schedule 16 to the Air Navigation (Hong Kong) Order 1995 (Cap 448C) (“AN(DG)R”); and
- (b) Dangerous Goods (Consignment by Air) (Safety) Regulations (Cap 384A) (“DG(CAS)R”).

AN(DG)R regulate the DG operations of airlines and the airport whereas DG(CAS)R regulate the shippers and freight forwarders on consigning DG for air transport.

4. Whenever an updated edition of the TIs is published by ICAO, CAD will review the requirements promulgated therein, and pursue the necessary amendments to the above two pieces of subsidiary legislation in order to keep Hong Kong’s regulatory regime in line with the ICAO standards. On the last occasion, the TIs were updated in November 2010, and the amended subsidiary legislation came into effect from January 2012 to reflect the new requirements.

The New Edition of the TIs

5. The new edition of the TIs (i.e. the 2013-2014 edition) was issued in December 2012 by ICAO. Most of the changes in the new edition are technical and textual in nature. Major changes are highlighted below –

- (a) To further enhance the flow of DG information to rescues response team in case of emergencies, aircraft operators are required to provide:
 - (i) the pilot-in-command with information concerning DG that are to be carried as cargo “in no case later than when the aircraft moves under its own power” instead of just “as early as practicable before departure of the aircraft” as stipulated in the previous edition of the TIs; and

- (ii) flight operations officer, flight dispatcher, or any person who is designated by the aircraft operators to work on ground with the responsibilities to control and supervise flight operation, for the purpose of supporting, briefing or assisting the pilot-in-command in the safe conduct of the flight concerned, with the same DG information as provided to the pilot-in-command, and make such information readily accessible to the said personnel until after the arrival of the flight, with effect from 1 January 2014.
- (b) To help civil aviation authorities enhance their oversight responsibilities on transport of DG by air and highlight potential areas for intensive training of air cargo industry personnel, aircraft operators are required to retain a copy of the documentation as well as the acceptance checklist of the rejected DG shipments for not less than six months.
- (c) To enhance the safety of carriage of DG by helicopters, helicopter operators are required to take into consideration the following as deemed appropriate when the DG is for open external carriage or as suspended load:
 - (i) the type of packaging used and the protection of the packaging from adverse weather; and
 - (ii) the dangers of static discharge upon landing or release of the loads.

6. To give legal effect to the new requirements, and to align Hong Kong's standards of carriage of DG with the specifications given under the new TIs, AN(DG)R and DG(CAS)R will need to be amended.

Consultation

7. We have consulted the stakeholders including the Board of Airline Representatives, the two Hong Kong commercial helicopter operators, the Government Flying Service and the Technical Sub-Committee of the Aviation Development Advisory Committee. They generally support the proposed amendments.

Legislative Timetable

8. Subject to the approval of the CE in Council, we will submit the relevant legislative amendments to the Legislative Council for approval through the negative vetting process according to section 34 of the Interpretation and General Clauses Ordinance (Cap 1) in the fourth quarter of 2013.

Views Sought

9. Members' views are invited on the proposed legislative amendments to implement the new TIs.

**Transport and Housing Bureau
Civil Aviation Department
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