

立法會
Legislative Council

LC Paper No. CB(4)1572/16-17
(These minutes have been seen
by the Administration)

Ref : CB4/SS/15/16

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

**Minutes of first meeting
held on Monday, 26 June 2017, at 8:30 am
in Conference Room 2A of the Legislative Council Complex**

Members present : Hon Jeremy TAM Man-ho (Chairman)
Hon Frankie YICK Chi-ming, JP
Hon WU Chi-wai, MH
Hon YIU Si-wing, BBS
Hon CHAN Han-pan, JP
Hon Kenneth LEUNG
Hon Tanya CHAN

Member absent : Hon Alvin YEUNG

**Public Officers
attending** : Agenda item II

Transport and Housing Bureau

Mr Wallace LAU
Deputy Secretary for Transport and Housing
(Transport)

Miss CHENG Sze-ling
Acting Principal Assistant Secretary for Transport
and Housing (Transport)

Civil Aviation Department

Mr Alan SHUM
Assistant Director-General of Civil Aviation
(Air Services and Safety Management)

Ms Yamani CHAN
Chief Operations Officer
(Technical Administration)

Department of Justice

Miss Elaine NG
Senior Government Counsel

Mr Vincent FUNG
Government Counsel

Clerk in attendance : Mr Daniel SIN
Chief Council Secretary (4)3

Staff in attendance : Miss Joyce CHAN
Assistant Legal Adviser 1

Mr Ambrose LEUNG
Senior Council Secretary (4)3

Ms Peggy CHUNG
Council Secretary (4)3

Ms Mandy LAM
Legislative Assistant (4)3

Ms Yvonna HO
Clerical Assistant (4)3

Action

I. Election of Chairman

Mr Jeremy TAM Man-ho was elected Chairman of the Subcommittee.

II. Meeting with the Administration

- (L.N. 115 of 2017 -- The Hong Kong Civil Aviation (Investigation of Accidents) (Amendment) Regulation 2017
- L.N. 116 of 2017 -- The Air Navigation (Hong Kong) Order 1995 (Amendment) Order 2017
- Ref: THB(T)CR 1/17/951/08 -- Legislative Council Brief on Hong Kong Civil Aviation (Investigation of Accidents) Regulations (Chapter 448 sub. leg. B) and Air Navigation (Hong Kong) Order 1995 (Chapter 448 sub. leg. C) – legislative amendments for Hong Kong Civil Aviation (Investigation of Accidents) (Amendment) Regulation 2017 and Air Navigation (Hong Kong) Order 1995 (Amendment) Order 2017 issued by the Transport and Housing Bureau on 7 June 2017
- LC Paper No. CB(4)1262/16-17(01) -- Marked-up copy of Hong Kong Civil Aviation (Investigation of Accidents) (Amendment) Regulation 2017 and Air Navigation (Hong Kong) Order 1995 (Amendment) Order 2017 prepared by the Legal Service Division (Restricted to members)
- LC Paper No. CB(4)1262/16-17(02) -- Background brief prepared by the Legislative Council Secretariat)

2. The Subcommittee deliberated (index of proceedings in the **Annex**).

Follow-up actions to be taken by the Administration

3. The Administration was requested to provide written responses on the following matters:

- (a) with by reference to the proposed new clause 3(2)(b)(i) of the Hong Kong Civil Aviation (Investigation of Accidents) (Amendment) Regulation 2017 (L.N. 115), Article 130 of the Basic Law and Annex 13 to the Convention on International Civil Aviation, regarding the interpretation of the phrase "in or over Hong Kong" and "flight information region", whether the proposed Independent Air Accident Investigation Authority would be in charge of an investigation into an accident occurred in or over Hong Kong but at the same time within the flight information region of another jurisdiction;
- (b) alternatively, whether the proposed Independent Air Accident Investigation Authority would be in charge of an investigation into an accident occurred within the flight information region of HKSAR, but in or over another jurisdiction; and
- (c) whether the proposed Independent Air Accident Investigation Authority would be in charge of an investigation into an accident involving a civil aircraft and a military aircraft (which calls on Hong Kong through normal procedure and which has received all necessary authorization).

4. The Administration was also requested to explain whether, in the above circumstances, the provisions in the Hong Kong Civil Aviation (Investigation of Accidents) Regulation (Cap. 448B) as amended, and the Air Navigation (Hong Kong) Order 1995 (Cap. 448C) as amended, would apply.

(Post-meeting note: The Administration's response to issue in paragraphs 3 and 4 was circulated to members vide LC Paper No. CB(4)1325/16-17(03) on 30 June 2017)

Legislative timetable

5. As the Subcommittee had not completed scrutiny of the Hong Kong Civil Aviation (Investigation of Accidents) (Amendment) Regulation 2017 (L.N. 115) and the Air Navigation (Hong Kong) Order 1995 (Amendment) Order 2017 (L.N. 116), and to allow sufficient time for members' deliberation

and preparation of the report to the House Committee, the Chairman would seek the Council's approval at the meeting of 5 July 2017 to extend the scrutiny period to the first meeting of next session.

(Post-meeting note: At the Council meeting of 5 July 2017, the Chairman moved the motion and the Council passed the resolution under section 34(4) of the Interpretation and General Clauses Ordinance that the period for amending L.N. 115 and L.N. 116 would be extended to the first sitting of the next session of the Legislative Council.)

III. Any other business

6. There being no other business, the meeting ended at 10:28 am.

Council Business Division 4
Legislative Council Secretariat
7 September 2017

**Proceedings of first meeting of the
Subcommittee on Hong Kong Civil Aviation
(Investigation of Accidents) (Amendment) Regulation 2017 and
Air Navigation (Hong Kong) Order 1995 (Amendment) Order 2017
on Monday, 26 June 2017, at 8:30 am
in Conference Room 2A of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
Agenda I — Election of Chairman			
000000 – 000730	Mr YIU Si-wing Mr CHAN Han-pan Mr Kenneth LEUNG Mr Tanya CHAN Mr Jeremy TAM Man-ho	Election of Chairman	
Agenda II — Meeting with the Administration			
000731 – 001230	Chairman Administration	Briefing by the Administration	
001231 – 001950	Chairman Mr WU Chi-wai Administration	Mr WU's enquiry about the power available to the proposed Chief Inspector ("CI") in handling investigation into incidents other than serious incidents or accidents.	
001951 – 002427	Chairman Mr YIU Si-wing Administration	Mr YIU's enquiry on whether the definition of "accident", and the powers and procedures in conducting investigation provided in L.N. 115, are different from the existing provision(s) in the Hong Kong Civil Aviation (Investigation of Accidents) Regulations (Cap. 448B).	
002428 – 003220	Chairman Mr Kenneth LEUNG Administration	Mr Kenneth LEUNG's enquiry on whether the rank of CI was comparable to those in similar civil aviation jurisdictions, and whether the remuneration package would be attractive enough to recruit personnel with the required professional qualification and experience.	
003221 – 003813	Chairman Mr YIU Si-wing Administration	Mr YIU's enquiry on whether the International Civil Aviation Organization ("ICAO") needed to be consulted on the proposed legislation to ensure compliance with the requirements under Annex 13 to the Convention on International Civil Aviation – Aircraft Accident and Incident Investigation ("Annex 13").	

Time marker	Speaker	Subject(s)	Action required
003814 – 005215	Chairman Administration	The Chairman's enquiry on whether mandatory occurrence reports ("MORs") would be submitted to CI rather than the Director-General of Civil Aviation ("DGCA") and whether CI would publish annual reports on issues identified from MORs that were of concern to the civil aviation sector.	
005216 – 005550	Chairman Mr Kenneth LEUNG Administration	Members' enquiries on whether CI would provide information gathered during investigation to law enforcement authorities for criminal investigation purposes.	
005551 – 010226	Chairman Mr Frankie YICK Chi-ming Administration Assistant Legal Adviser 1 ("ALA1")	Mr YICK's enquiry on whether the Police could apply to the court to order DGCA or CI to release documents gathered in relation to an incident or accident investigation.	
010227 – 012930	Chairman Administration ALA1	<p>The Chairman's enquiry on whether CI would be in-charge of an investigation into an incident or accident that happened within Hong Kong but falls within the Mainland's flight information region ("FIR"), and whether the proposed legislation would cover situations where an incident or accident involved military and civil aircraft.</p> <p>The Administration undertook to provide supplementary information.</p>	The Administration to follow up as per paragraphs 3 and 4 of the minutes
012931 – 013643	Chairman Administration	The Chairman's enquiry on whether an aircraft operator could refuse to provide information contained in a cockpit voice recorder in relation to an incident or accident that occurred when the aircraft was taxiing on the air field before taking off.	
013644 – 013902	Chairman Mr Kenneth LEUNG Administration	Mr LEUNG's enquiry on whether the taxiing of an aircraft to the runway could be construed to mean "the beginning of the take-off run."	

Time marker	Speaker	Subject(s)	Action required
013903 – 020128	Chairman Administration Mr Kenneth LEUNG Mr Frankie YICK Chi-ming	<u>Clause-by-clause</u> Hong Kong Civil Aviation (Investigation of Accidents) (Amendment) Regulation 2017 (L.N. 115) <u>Clauses 1 to 4</u> The Chairman's enquiry on whether incidents involving uncontrolled aircraft moving on the ground might be within the definition of "serious incident" under Clause 3(10) of L.N. 115.	
020129 – 020220	Chairman Administration	<u>Legislative time-table</u> The Chairman said that he would seek the Council's approval at the meeting of 5 July 2017 to extend the scrutiny period to the first meeting of next session.	
Agenda III — Any other business			
020221 – 020248	Chairman Administration	End of meeting	