

立法會
Legislative Council

LC Paper No. LS29/19-20

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 6 December 2019**

Tabling in LegCo : Council meeting of 11 December 2019

Amendment to be made by : Council meeting of 8 January 2020 (or that of 12 February 2020 if extended by resolution)

Air Navigation (Hong Kong) Order 1995 (Amendment of Schedule 16) Order 2019 (L.N. 177)

Dangerous Goods (Consignment by Air) (Safety) Regulations (Amendment of Schedule) Order 2019 (L.N. 178)

L.N. 177

L.N. 177 is made by the Chief Executive in Council under section 2A of the Civil Aviation Ordinance (Cap. 448) to amend Schedule 16 to the Air Navigation (Hong Kong) Order 1995 (Cap. 448C) so as to give effect to certain amendments introduced by the 2019-2020 edition of the Technical Instructions for the Safe Transport of Dangerous Goods by Air ("TIs") approved and published by decision of the Council of the International Civil Aviation Organization ("ICAO"). The amendments include updating the definition of dangerous goods in Schedule 16 to Cap. 448C¹ to align with the latest definition of dangerous goods under the 2019-2020 edition of TIs, and updating the references to Part 8 of the 2019-2020 edition of TIs in Schedule 16 to provide for the types of dangerous goods that may be carried on an aircraft.

¹ After the amendment, "dangerous goods" is defined under section 2(1) of Schedule 16 to Cap. 448C to mean any article or substance which is capable of posing a hazard to health, safety, property or the environment, and which is classified as dangerous goods according to Part 2 of TIs or shown in the list of dangerous goods in Part 3 of TIs.

L.N. 178

2. L.N. 178 is made by the Director-General of Civil Aviation under regulation 9 of the Dangerous Goods (Consignment by Air) (Safety) Regulations (Cap. 384A) to amend Part 1 of its Schedule so as to apply the 2019-2020 edition of TIs to the consignment by air of dangerous goods.

Enquiries with the Administration

3. The Legal Service Division ("LSD") has made enquiries with the Administration on certain matters relating to L.N. 177 and L.N. 178. LSD's enquiries and the Administration's response are summarized below.

Availability of the 2019-2020 edition of TIs for public access

4. LSD has asked whether the 2019-2020 edition of TIs is available on the internet for public access, and if not, whether and how the public would be able to know its content. The Administration has responded that the 2019-2020 edition of TIs is available at the Civil Aviation Department ("CAD") Headquarters Library for public inspection for free. The public may also purchase a copy of the 2019-2020 edition of TIs through the ICAO website. In order to make it easier for air passengers and the air transport industry to comprehend the content of the 2019-2020 edition of TIs, CAD has published "Packing Tips for Air Passenger" and "Major Changes in the 2019-2020 Edition of the ICAO TIs" on its website, and has briefed the air transport industry on the key changes.

The Chinese text for Cap. 448C

5. LSD has noted that the Subcommittee formed in 2013 to study the Air Navigation (Hong Kong) Order 1995 (Amendment of Schedule 16) Order 2013 and the Dangerous Goods (Consignment by Air) (Safety) Regulations (Amendment of Schedule) Order 2013 had enquired why there was no Chinese text for Cap. 448C which had only been enacted in the English language.² The Administration had explained at that time that the relevant bureau and department had already started the preparatory work for introducing the Chinese text for Cap. 448C. Upon LSD's enquiry on the latest progress, the Administration has responded that Cap. 448C is a major piece of civil aviation legislation in Hong Kong for regulating aviation safety and air navigation matters. It is comprehensive and involves numerous technical terms. Its scope is broad and liaison with different stakeholders is required. CAD is now

² See paragraph 14 of the Subcommittee's report (LC Paper No. CB(1)599/13-14).

conducting preparatory work to amend Cap. 448C with a view to including the latest ICAO requirements / international practices into it and facilitating the development of the aviation industry in Hong Kong. The Chinese text of Cap. 448C will be handled in that legislative exercise in one-go.

Consultation

6. According to paragraph 12 of the Legislative Council Brief (File Ref: THB(T)CR 1/15/951/49) issued by the Transport and Housing Bureau on 4 December 2019, CAD has written to stakeholders to provide details of the legislative amendments and briefed the air cargo industry accordingly. The Administration also consulted the Aviation Development and Three-runway System Advisory Committee ("Committee") on the legislative proposal on 21 May 2019. The stakeholders and the Committee generally supported the legislative amendments.

7. As advised by the Clerk to the Panel on Economic Development, the Panel was consulted on the legislative amendments to implement the latest requirements of ICAO for the safe transport of dangerous goods by air on 27 May 2019. Members were generally supportive of the legislative proposal and urged the Administration to well inform all affected parties of the new requirements to ensure compliance.

Commencement

8. L.N. 177 and L.N. 178 come into operation on 31 January 2020.

Concluding observations

9. Subject to Members' views on the matters set out in paragraphs 4 to 5 above, no difficulties have been identified in the legal and drafting aspects of the above items of subsidiary legislation.

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17 December 2019