

**For discussion  
on 21 July 2017**

## **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") for the safe transport of dangerous goods ("DG") by air in Hong Kong.

#### **Background**

##### *International Standards*

2. According to the Technical Instructions for the Safe Transport of Dangerous Goods by Air ("TIs") issued by ICAO, DG in the context of air transport include explosives, compressed gas, flammable liquids, flammable solids, oxidising substances, toxic substances, infectious substances, radioactive materials and corrosives, etc. 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 ("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 for related aviation personnel. The detailed specifications are set out in the TIs which are updated and published by ICAO biennially. Annex 18 to the Chicago Convention stipulates that the Contracting States shall take necessary actions to comply with the provisions in the TIs.

##### *Local Legislation*

3. ICAO is a specialised agency of the United Nations established under the Chicago Convention in 1944. At present, it has 191 Contracting States and China is one of them. China recognises the international rights and obligations arising from the Chicago Convention and its associated

regulations, and these rights and obligations are also applicable to Hong Kong. The requirements of the TIs are given legal effect through two pieces of local subsidiary legislation, viz -

- (a) Air Navigation (Dangerous Goods) Regulations, as Schedule 16 to the Air Navigation (Hong Kong) Order 1995 (Chapter 448 sub. leg. C); and
- (b) Dangerous Goods (Consignment by Air) (Safety) Regulations (Chapter 384 sub. leg. A).

4. Air Navigation (Dangerous Goods) Regulations regulate aircraft and airport operators in relation to the transport of DG, whereas Dangerous Goods (Consignment by Air) (Safety) Regulations regulate shippers and freight forwarders in respect of the proper handling of DG before offering them for air transport.

5. Whenever an updated edition of the TIs is published by ICAO, the Civil Aviation Department (“CAD”) will review the new requirements promulgated therein, and pursue 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 December 2014, and the amended subsidiary legislation came into effect from November 2016 to reflect the latest requirements at the time.

### **The Latest Edition of the TIs**

6. The latest edition of the TIs (i.e. the 2017-2018 edition) was issued by ICAO in December 2016. Major changes that require legislative amendments are summarised in paragraphs 7 to 8 below.

#### **(a) Acceptance check of DG to be carried by air as cargo**

7. At present, aircraft operators are required by law to conduct a DG acceptance check by using a checklist<sup>1</sup> before a consignment containing DG is accepted for air carriage. In addition to the performance of the acceptance

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<sup>1</sup> Airline operators may develop their own checklist or adopt checklist templates of other entities (e.g. The International Air Transport Association) for conducting DG acceptance check, provided that the acceptance check is conducted in accordance with the requirements of the TIs in respect of documentation, quantity, marking, labelling, shipping names, special handling instructions, packaging, etc.

check, the TIs now also require aircraft operators to identify the person performing the check such that this important piece of information will be available in the event of an accident or incident to facilitate the conduct of an investigation.

(b) DG information conveyed to passengers

8. Technological advancement has changed and diversified the procedures of checking in and boarding pass issuance. In this connection, the latest edition of the TIs reinforces the current practice to ensure that aircraft operators would inform their passengers of the DG that passengers are forbidden to transport aboard an aircraft no matter how the passengers purchase their tickets and/or check in their flights. This practice would form part of the operating procedures as stipulated in the aircraft operator's operations manual and/or other appropriate manuals. For instance, aircraft operators are now required by the TIs to :

- (1) inform passengers of the DG which passengers are forbidden to transport aboard an aircraft :
  - (i) at the point of ticket purchase or, if that is not practical, make the information available in another manner to passengers prior to boarding pass issuance; and
  - (ii) at boarding pass issuance or, when no boarding pass is issued, such information should be conveyed to passengers before they board the aircraft; and
- (2) ensure that information on the types of DG which passengers are forbidden to transport aboard an aircraft is communicated effectively to them. Such information must be presented at each of the places at an airport where tickets and boarding passes are issued, passenger baggage is dropped off and aircraft boarding areas are maintained, and at any other location where passengers are issued boarding passes and/or checked baggage is accepted.

9. In addition to paragraphs 7 and 8 above, the latest edition of the TIs has also incorporated some changes to the technical requirements for the safe transport of DG by air, including the classification, packing, marking and labelling of certain kinds of DG (such as engines powered by different types of

fuels).

### **Amendments to Local Legislation**

10. To give legal effect to the latest requirements of the TIs in the local context, Air Navigation (Dangerous Goods) Regulations and Dangerous Goods (Consignment by Air) (Safety) Regulations will need to be amended. The legislative amendments are targeted to take effect immediately upon the completion of the legislative process by the first quarter of 2018.

### **Consultation**

11. In the meantime, the international air transport industry is already operating in accordance with the latest requirements of the TIs in handling the transport of DG by air and in disseminating the relevant information to passengers. The International Air Transport Association (“IATA”) has updated its Dangerous Goods Regulations (“DGR”) with effect from 1 January 2017 to implement the latest amendments to the TIs. The IATA DGR is the globally recognised reference for transporting DG by air. It is an established industry practice that in handling DG, airlines, freight forwarders and shippers will adhere to the IATA DGR. Airlines would not accept non-compliant DG for air carriage due to safety consideration of aircraft operations.

12. Locally, CAD already published ICAO’s amendments on its website in January this year and has also written to stakeholders to provide details of the amendments. Furthermore, CAD has briefed the air cargo industry accordingly, and put into practice the latest requirements administratively. The stakeholders have raised no objection to the ICAO amendments which, as explained above, have already been incorporated into the IATA DGR. The legislative proposals put forward by CAD as set out in paragraphs 7 to 8 above are to formalise and localise the requirements of the TIs.

### **Advice Sought**

13. Members are invited to support the proposed legislative amendments to implement the latest edition of the TIs.

**Transport and Housing Bureau  
Civil Aviation Department  
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