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AIR NAVIGATION ACT (CHAPTER 6)

AIR NAVIGATION (REGULATED AIR CARGO AGENTS) (AMENDMENT) REGULATIONS 2020

In exercise of the powers conferred by section 17F of the Air Navigation Act, the Minister for Transport makes the following Regulations:

Citation and commencement

1. These Regulations are the Air Navigation (Regulated Air Cargo Agents) (Amendment) Regulations 2020 and come into operation on 4 December 2020.

Amendment of regulation 1

2. Regulation 1 of the Air Navigation (Regulated Air Cargo Agents) Regulations 2017 (G.N. No. S 166/2017) (called in these Regulations the principal Regulations) is amended by deleting the words “(Regulated Air Cargo Agents)” and substituting the words “(Regulated Air Cargo Agents and Known Consignors)”.

Amendment of regulation 3

3. Regulation 3 of the principal Regulations is amended —

(a) by inserting, immediately after the definition of “cargo”, the following definitions:

““consignor” means a person who in the course of business provides cargo to an air cargo agent for export in an aircraft, and any person named as the consignor or shipper of cargo in any transport documents relating to the cargo is

prima facie treated as a consignor for the purposes of these Regulations;

“KCSP” means the Known Consignor Security Programme mentioned in regulation 19A;

“known consignor” or “KC” means a consignor who is registered under regulation 6;”;

(b) by inserting, immediately after “RACA” in the definition of “registration”, the words “or a KC, as the case may be”;

(c) by inserting, immediately after the definition of “regulated air cargo agent” or “RACA”, the following definition:

““regulated aviation industry participant” or “RAIP” means —

(a) a known consignor; or

(b) a regulated air cargo agent;”;

(d) by deleting the definition of “third-party service provider” and substituting the following definitions:

““third-party service provider” means —

(a) in relation to a RACA, an agent of or a person that has a contract with a RACA to provide a service for the movement or handling of any cargo handed over to the RACA or the making of arrangements for the movement or handling of such cargo, and includes any security service provider engaged to provide security services to the RACA in the movement or handling of cargo; and

(b) in relation to a KC, an agent of or a person that has a contract with a KC to provide a service for the manufacture, packing, storage and transport of cargo for export in an aircraft, and includes any security

service provider engaged to provide security services to the KC in the manufacture, packing, storage and transport of cargo;

“unknown cargo” means any cargo that is —

- (a) manufactured, packed, stored or transported by a consignor that is not a known consignor;
- (b) identified as unknown cargo by a known consignor; or
- (c) handled or delivered by an air cargo agent that is not a RACA.”.

Amendment of heading to Part 2

4. Part 2 of the principal Regulations is amended by inserting, immediately after the words “AIR CARGO AGENTS” in the Part heading, the words “AND CONSIGNORS”.

Deletion and substitution of regulation 4

5. Regulation 4 of the principal Regulations is deleted and the following regulation substituted therefor:

“Application for registration

4. An application by —

- (a) an air cargo agent to be registered as a RACA; or
- (b) a consignor to be registered as a KC,

must be made to the NCASA in such form and manner as the NCASA may determine.”.

Amendment of regulation 5

6. Regulation 5 of the principal Regulations is amended —

- (a) by inserting, immediately after “RACA”, the words “or a consignor to be registered as a KC (as the case may be)”;

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- (b) by inserting, immediately after the words “air cargo agent” in paragraphs (a), (b) and (c), the words “or consignor”;
 - (c) by deleting the words “that air cargo agent’s” in paragraph (e) and substituting the words “the applicant’s”; and
 - (d) by inserting, immediately after “RACASP” in paragraph (f), the words “or KCSP, as the case may be”.

Amendment of regulation 6

7. Regulation 6 of the principal Regulations is amended —

- (a) by inserting, immediately after “RACA” in paragraph (1)(a), the words “or KC (as the case may be)”;
- (b) by inserting, immediately after “RACA” in paragraph (1)(b), the words “or KC, as the case may be”; and
- (c) by deleting paragraph (2) and substituting the following paragraph:

“(2) The NCASA must issue a certificate of registration to every RAIP upon registration, or renewal of an RAIP’s registration.”.

Amendment of regulation 7

8. Regulation 7 of the principal Regulations is amended —

- (a) by deleting the words “(but not exceeding 3 years)” in paragraph (1); and
- (b) by deleting the words “a RACA to renew the RACA’s registration” in paragraph (2) and substituting the words “an RAIP to renew the RAIP’s registration”.

New regulations 7A and 7B

9. The principal Regulations are amended by inserting, immediately after regulation 7, the following regulations:

“Provisional registration pending registration as a KC

7A.—(1) The NCASA may, pending the determination of an application for registration as a KC, grant to the applicant a provisional registration which remains in force until —

- (a) the application is approved or refused; or
- (b) the provisional registration is cancelled.

(2) The NCASA may grant the provisional registration with or without such conditions as the NCASA considers requisite or expedient having regard to the purposes of these Regulations and Part IIB of the Act.

(3) Regulation 8 applies, with the necessary modifications, to a provisional registration.

(4) The NCASA must issue a provisional certificate of registration upon every provisional registration.

Cancellation of provisional registration

7B.—(1) The NCASA may cancel the provisional registration if —

- (a) the provisionally registered person fails to comply with any of the conditions of the provisional registration; or
- (b) the NCASA becomes aware of any fact which establishes to its satisfaction that the provisionally registered person is not a fit and proper person to hold provisional registration.

(2) Upon the cancellation of the provisional registration, the application for registration is deemed to be refused under regulation 6(1)(b), and regulation 6(3) applies, with the necessary modifications, to the refusal.

(3) The cancellation of the provisional registration takes immediate effect regardless of any appeal to the Minister under regulation 6(3).

(4) If the appeal under regulation 6(3) is allowed, the provisional registration is to be reinstated from the date the appeal is allowed, and the NCASA must without delay restore to the List of Known Consignors the name of the provisionally registered person concerned and return to the provisionally registered person any provisional certificate of registration surrendered under regulation 11A.”.

Amendment of regulation 8

10. Regulation 8 of the principal Regulations is amended —

- (a) by deleting “RACA” wherever it appears in paragraphs (1), (4) and (5) and substituting in each case “RAIP”; and
- (b) by deleting paragraph (2) and substituting the following paragraph:

“(2) Before modifying any conditions of an RAIP’s registration, the NCASA must give written notice to the RAIP concerned —

- (a) stating that the NCASA proposes to make the modification in the manner as specified in the notice; and
- (b) specifying the time (being not less than 14 days after the date of service of the notice on the RAIP) within which the RAIP may make written representations to the NCASA with respect to the proposed modification.”.

Amendment of regulation 9

11. Regulation 9 of the principal Regulations is amended —

- (a) by deleting the words “a RACA” in paragraphs (1)(a) and (2) and substituting in each case the words “an RAIP”;
- (b) by deleting the words “the RACA” wherever they appear in paragraph (1) and substituting in each case the words “the RAIP”;

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- (c) by deleting the words “RACA’s registration” in paragraph (2)(a) and (b) and substituting in each case the words “RAIP’s registration”;
- (d) by inserting, immediately after the words “the NCASA must” in paragraph (3), the words “, except in the circumstances described in paragraph (3A),”;
- (e) by deleting “RACA” wherever it appears in paragraphs (3), (4), (5), (6)(a) and (7)(a) and (b), and substituting in each case “RAIP”;
- (f) by inserting, immediately after paragraph (3), the following paragraph:
- “(3A) Where the ground for taking regulatory action against an RAIP is paragraph (1)(e), the NCASA may, without giving written notice under paragraph (3), cancel the registration of the RAIP by written notice, with immediate effect regardless of any appeal to the Minister under paragraph (9).”; and
- (g) by deleting paragraphs (8) and (9) and substituting the following paragraphs:
- “(8) In any proceedings under this regulation in relation to the conviction of an RAIP for a criminal offence, the NCASA may accept the RAIP’s conviction as final and conclusive.
- (9) Where the NCASA takes any regulatory action under this regulation against an RAIP, the RAIP or former RAIP, if aggrieved by the decision may appeal to the Minister in writing against that decision, within 21 days after receiving the NCASA’s notice under paragraph (3A) or (5) (as the case may be), or such longer period as the Minister may allow in any particular case.
- (10) The Minister’s decision on an appeal under paragraph (9) is final.”.

Deletion and substitution of regulation 10

12. Regulation 10 of the principal Regulations is deleted and the following regulation substituted therefor:

“RACA and KC lists

10.—(1) The NCASA must keep and maintain the following lists:

- (a) a list of all RACA whose registrations are in force, called the List of Regulated Air Cargo Agents;
- (b) a list of all KC whose registrations are in force, and all persons who are provisionally registered under regulation 7A, called the List of Known Consignors,

and publish the lists in such manner as the NCASA considers appropriate.

(2) Where the registration of a RACA or KC (as the case may be) is cancelled or suspended under regulation 9, the NCASA must without delay —

- (a) remove the name of that RACA or former RACA from the List of Regulated Air Cargo Agents; and
- (b) remove the name of that KC or former KC from the List of Known Consignors.

(3) Where the registration of a RACA or KC (as the case may be) is suspended under regulation 9, the NCASA must without delay, at the end of the suspension period or when the suspension is lifted under regulation 12 —

- (a) restore to the List of Regulated Air Cargo Agents the name of the RACA concerned and return to the RACA any certificate of registration surrendered under regulation 11; and
- (b) restore to the List of Known Consignors the name of the KC concerned and return to the KC any certificate of registration surrendered under regulation 11.

(4) Where the provisional registration under regulation 7A is no longer in force, the NCASA must without delay remove the

name of that provisionally registered person from the List of Known Consignors.”.

Amendment of regulation 11

13. Regulation 11(1) of the principal Regulations is amended —

- (a) by deleting the words “a RACA” and substituting the words “an RAIP”; and
- (b) by deleting the words “that RACA or former RACA” and substituting the words “that RAIP or former RAIP”.

New regulation 11A

14. The principal Regulations are amended by inserting, immediately after regulation 11, the following regulation:

“Surrender of cancelled provisional certificate of registration

11A.—(1) A provisionally registered person must surrender the provisional certificate of registration to the NCASA —

- (a) where the provisional certificate of registration is cancelled under regulation 7B, within 14 days after the cancellation takes effect;
- (b) where the application for registration is approved under regulation 6(1)(a) —
 - (i) if an individual, on behalf of the provisionally registered person, collects the certificate of registration mentioned in regulation 6(2) in person, upon receiving the certificate of registration; or
 - (ii) in any other case, within 14 days after receiving the certificate of registration mentioned in regulation 6(2); or
- (c) where the application for registration is refused under regulation 6(1)(b), within 14 days after receiving notice of the refusal.

(2) A person who contravenes paragraph (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 30 months or to both.”.

Amendment of regulation 12

15. Regulation 12 of the principal Regulations is amended —

- (a) by deleting the words “a RACA” in paragraph (1) and substituting the words “an RAIP”;
- (b) by deleting the words “RACA’s registration” in paragraph (1) and substituting the words “RAIP’s registration”; and
- (c) by deleting the words “a RACA’s registration” in paragraph (2) and substituting the words “an RAIP’s registration”.

Amendment of regulation 13

16. Regulation 13 of the principal Regulations is amended —

- (a) by deleting paragraph (1) and substituting the following paragraph:

“(1) A person is disqualified from being registered as an RAIP —

- (a) for a period of one year starting on the date the cancellation takes effect, where a registration is cancelled under regulation 9;
- (b) for a period of one year starting on the date the cancellation takes effect, where a provisional registration is cancelled under regulation 7B;
- (c) for a period of one year starting on the date of the notice of the refusal, where the application for registration is refused under regulation 6(1)(b); or

(d) for a period of one year starting on the date of the notice of the refusal, where the application for renewal is refused under regulation 7(2)(b).”; and

(b) by deleting the words “a RACA” in paragraph (2) and substituting the words “an RAIP”.

Amendment of regulation 19

17. Regulation 19(3) of the principal Regulations is amended by deleting the words “an RACA’s application” and substituting the words “a RACA’s application”.

New Parts 4A and 4B

18. The principal Regulations are amended by inserting, immediately after regulation 19, the following Parts:

“PART 4A

KNOWN CONSIGNOR SECURITY PROGRAMME

KC must have KC security programme

19A.—(1) For the purposes of section 17E of the Act, every KC (except the KC mentioned in paragraph (4)) must have a security programme (called a known consignor security programme or KCSP) that —

(a) sets out the measures and procedures to be used to manufacture, pack, store and transport cargo for export in an aircraft in a secure manner; and

(b) contains —

(i) details of all sites covered by the KCSP and operated by or on behalf of the KC in connection with cargo intended for export by aircraft;

(ii) details of all facilities covered by the KCSP and operated by or on behalf of the KC in connection with cargo intended for export by aircraft;

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- (iii) the name of each such site or facility and its location; and
 - (iv) details of security procedures at each site or facility outside its normal hours of operation.
 - (2) The measures and procedures in paragraph (1) must be applied —
 - (a) to all cargo for export in an aircraft that are in the KC's possession or under the KC's control; and
 - (b) at each site or facility covered by the KCSP.
 - (3) Without limiting paragraph (1), every KCSP must —
 - (a) set out the measures and procedures to ensure the security of cargo for export in an aircraft at all times, including —
 - (i) the measures and procedures to detect tampering and other discrepancies with cargo when the cargo is in the KC's possession or under the KC's control;
 - (ii) the methods to be used to prevent unauthorised persons from having access to cargo from the time the cargo is in the KC's possession or under the KC's control, until the time the KC passes possession or control of the cargo to another aviation industry participant;
 - (iii) the measures and procedures to inspect unknown cargo for items that could facilitate an act of unlawful interference with aviation, in a case where the KC has indicated to the NCASA that it intends to do so; and
 - (iv) the measures and procedures to keep unknown cargo separate from other cargo in the KC's possession or under the KC's control, and to identify such unknown cargo to another aviation industry participant;

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- (b) set out the procedures for managing security at each of the known consignor's facilities, including —
 - (i) organisational structures and security management arrangements;
 - (ii) the roles and responsibilities of security contact officers, security staff and contractors; and
 - (iii) the roles and responsibilities of other staff assigned security duties and responsibilities;
 - (c) set out the measures and procedures in relation to managing persons who have access to cargo for export in an aircraft that are in the KC's possession or control, and persons who are assigned security duties and responsibilities, including —
 - (i) measures and procedures on pre-employment screening of staff;
 - (ii) measures and procedures to handle resignation or termination of staff; and
 - (iii) the training of staff to respond to aviation security incidents at sites and facilities covered by the KCSP and operated by or on behalf of the KC;
 - (d) set out, as appropriate to the operations at each of the KC's sites and facilities, security measures and procedures to be used within the site or facility, including measures and procedures, so as to control access to the site or facility or parts of the site or facility and maintain the integrity of access control systems and to deter and detect unauthorised access into the site or facility or parts of the site or facility by people, vehicles or things;
 - (e) set out the measures to ensure that the KCSP and other security information are protected against unauthorised access, amendment and disclosure;

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- (f) set out the measures and procedures for the manufacturing, packing, storage and transport of cargo for export in an aircraft that falls within one of the following categories:
 - (i) arms and explosives, referring to any item regulated under the Arms and Explosives Act (Cap. 13);
 - (ii) dangerous goods, referring to any item described as a dangerous good in the Technical Instructions for the Safe Transport of Dangerous Goods by Air (Doc 9284), approved and issued in accordance with the procedure established by the Council of the International Civil Aviation Organisation, as amended from time to time;
 - (g) set out quality control procedures, including details of how audits are scheduled, the procedures for carrying out an audit, the procedures for reviewing the KCSP and a description of the circumstances that will require a review of the KCSP;
 - (h) set out the details of third-party service providers and the measures which the KC will take to ensure that the third-party service providers comply with the security measures to be undertaken under the KCSP; and
 - (i) indicate the KC's representative responsible for carrying out any security directions given by the NCASA under the Act in the event of a heightened security alert.
- (4) The following KC are not required to have a KCSP:
- (a) a KC who, immediately before registration under regulation 6, is accredited by Singapore Customs with the Secure Trade Partnership (STP) or Secure Trade Partnership Plus (STP-PLUS);

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- (b) a KC who, immediately before registration under regulation 6, holds any of the following industry-recognised security certification:
- (i) an Air Cargo Security Standards Level 1, issued by the Transported Asset Protection Association;
 - (ii) a Customs-Trade Partnership Against Terrorism Tier 2 or Tier 3 certification, issued by the United States Customs and Border Protection.

Review and alteration of KCSP

19B.—(1) The NCASA may, from time to time, require a KC to —

- (a) review and alter the KC's KCSP to incorporate such new security measures and procedures into the KCSP as the NCASA deems fit; and
- (b) implement such new security measures and procedures in the KCSP by such date as may be specified by the NCASA,

and the KC must comply with that requirement.

(2) A KC must not alter the KCSP without the prior approval of the NCASA and any alteration made to the KCSP without the approval of the NCASA is void.

PART 4B

DUTIES OF KNOWN CONSIGNORS

Notification of change of particulars

19C.—(1) A KC must, within 7 days from and including the date of any change taking place in any of the particulars in regulation 5 that were declared by the KC in the KC's application for registration or renewal of registration (as the case may be), inform the NCASA of the change in such form and manner as the NCASA may determine.

(2) Any KC who contravenes paragraph (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 30 months or to both.

KC must comply with KCSP

19D. A KC must manufacture, pack, store and transport cargo intended for export in an aircraft in accordance with the security measures and procedures described in the KCSP.”.

Amendment of regulation 20

19. Regulation 20(1) of the principal Regulations is amended by inserting, immediately after the words “(including the RACA’s RACASP)”, the words “or KC (including the KC’s KCSP) (as the case may be)”.

Made on 2 December 2020.

LOH NGAI SENG
*Permanent Secretary,
Ministry of Transport,
Singapore.*

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(To be presented to Parliament under section 17F(3) of the Air Navigation Act).