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AIR NAVIGATION ACT (CHAPTER 6)

AIR NAVIGATION (REGULATED AIR CARGO AGENTS) REGULATIONS 2017

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

PART 1

PRELIMINARY

Citation and commencement

1. These Regulations are the Air Navigation (Regulated Air Cargo Agents) Regulations 2017 and come into operation on 15 May 2017.

Application

2.—(1) Subject to paragraph (2), these Regulations apply to and in relation to the carriage of any cargo in any aircraft departing from any airport in Singapore.

(2) Unless the context otherwise requires, these Regulations do not apply to or in relation to the carriage of any cargo in military aircraft departing from any airport in Singapore.

Definitions

3. In these Regulations, unless the context otherwise requires —

“air cargo agent” means any person who carries on a business that includes —

- (a) handling cargo to be passed to an aircraft operator or its representative for carriage in any aircraft from any airport in Singapore to a destination outside Singapore; or
- (b) delivering, or causing to be delivered, such cargo (directly or through an intermediary) to an aircraft operator or its representative for carriage in any aircraft;

“aircraft operator” means the person who or which, at the relevant time, is engaged in or offering to engage in the operation of any one or more aircraft to which these Regulations apply;

“cargo” means any property carried in an aircraft other than stores and accompanied or mishandled baggage;

“NCASA” means the National Civil Aviation Security Authority;

“RACASP” means the Regulated Air Cargo Agent Security Programme mentioned in regulation 14;

“registration” means registration under these Regulations as a RACA;

“regulated air cargo agent” or “RACA” means an air cargo agent registered under regulation 6;

“screening” means the application of technical or other means intended to identify or detect weapons, explosives or other dangerous devices or any articles or substances that may be used to commit an act of unlawful interference, and includes any similar measure specified by the NCASA under section 17D of the Act;

“stores” means any goods intended for sale or use in an aircraft, including spare parts and other articles of equipment, whether or not for immediate fitting;

“third-party service provider” means an agent 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.

PART 2

REGISTRATION OF AIR CARGO AGENTS

Application for registration

4. An application by an air cargo agent to be registered as a RACA must be made to the NCASA in such form and manner as the NCASA may determine.

Content of application for registration

5. An application by an air cargo agent to be registered as a RACA must state the following, where applicable:

- (a) if the air cargo agent is a company —
 - (i) the name of the company;
 - (ii) the unique entity number of the company;
 - (iii) the full name of each director; and
 - (iv) if the company trades under another name, that trading name;
- (b) if the air cargo agent is a partnership —
 - (i) the name of the partnership;
 - (ii) the full name of each partner; and
 - (iii) if the partnership trades under another name, that trading name;

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- (c) if the air cargo agent is an unincorporated association —
 - (i) the name of the unincorporated association;
 - (ii) the full name of each member of the association; and
 - (iii) if the association trades under another name, that trading name;
 - (d) in any other case —
 - (i) the name of the applicant; and
 - (ii) if the applicant trades under another name, that trading name;
 - (e) the name of that air cargo agent's chief executive officer or manager;
 - (f) the postal address, telephone number (including an after-hours telephone number), fax number (if any) and email address (if any) of the applicant's principal office in Singapore and each of the applicant's sites in Singapore that will be covered by the applicant's RACASP;
 - (g) any other information that the NCASA requires in any particular case.

Registration with or without conditions

6.—(1) After considering an application under regulation 4, the NCASA may —

- (a) register the applicant as a RACA, 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; or
- (b) refuse to register the applicant as a RACA.

(2) The NCASA must issue a certificate of registration to every RACA upon registration, or renewal of a RACA's registration.

(3) Where the NCASA refuses an applicant's registration, the applicant may, within 21 days after receiving notice of the NCASA's decision, appeal in writing to the Minister against that decision, and the Minister's decision on appeal is final.

Validity and renewal of registration

7.—(1) Every registration under regulation 6, or renewed under this regulation, continues in force for such period as may be specified in the certificate of registration (but not exceeding 3 years), unless the registration is earlier cancelled or suspended under regulation 9.

(2) The NCASA may, on the application of a RACA to renew the RACA's registration —

- (a) renew the registration with or without adding to, deleting from or varying conditions of the registration; or
- (b) refuse to renew the registration.

(3) An application to renew a registration must be made no later than one month before the date of expiry of the registration, unless otherwise allowed by the NCASA in any particular case.

(4) Regulations 4, 5 and 6 apply, with the necessary modifications, to every application to renew a registration as if the application is for registration.

Modification of conditions of registration

8.—(1) The NCASA may modify the conditions of a registration without compensating the RACA concerned.

(2) Before modifying any conditions of a RACA's registration, the NCASA must give written notice to the RACA 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 RACA) within which the RACA may make written representations to the NCASA with respect to the proposed modification.

(3) Upon receiving any written representation mentioned in paragraph (2), the NCASA must consider that representation and may —

- (a) reject the representation;

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- (b) amend the proposed modification in such manner as the NCASA thinks fit having regard to the representation; or
 - (c) withdraw the proposed modification.

(4) Where —

- (a) the NCASA rejects any written representation under paragraph (3)(a);
- (b) the NCASA amends any proposed modification to the conditions of the registration under paragraph (3)(b); or
- (c) no written representation is received by the NCASA within the time specified in paragraph (2)(b), or any written representation made under that paragraph is subsequently withdrawn, and the RACA concerned has not given immediate effect to the modification,

the NCASA must issue a direction in writing to the RACA in question requiring the RACA, within the time specified by the NCASA, to give effect to the modification to the conditions of registration as specified in the notice under paragraph (2) or as amended by the NCASA, as the case may be.

(5) Where the RACA is aggrieved by the direction of the NCASA under paragraph (4), the RACA may, within 21 days after receiving the NCASA's direction, appeal in writing to the Minister against that direction, and the Minister's decision on appeal is final.

Cancellation or suspension, etc., of registration

9.—(1) If the NCASA is satisfied that —

- (a) a RACA is contravening or has contravened, or is not complying or has failed to comply with —
 - (i) any condition of its registration; or
 - (ii) any provision of the Act applicable to the RACA, whether or not the RACA has been convicted of an offence for the contravention or non-compliance;

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- (b) the RACA is in or is likely to go into compulsory or voluntary liquidation other than for the purpose of amalgamation or reconstruction, or the RACA is declared bankrupt;
 - (c) the RACA has ceased to carry on the business of an air cargo agent in Singapore;
 - (d) the registration had been obtained by fraud or misrepresentation; or
 - (e) the public interest or national security of Singapore requires,

the NCASA may take any regulatory action described in paragraph (2) without compensating the RACA concerned.

(2) The regulatory actions that the NCASA may take against a RACA are —

- (a) to cancel the RACA's registration; or
- (b) in lieu of cancelling registration, to suspend (for not more than 6 months) the RACA's registration.

(3) Despite paragraph (1), before exercising any powers under this regulation, the NCASA must give written notice to the RACA concerned —

- (a) stating that the NCASA intends to take regulatory action against the RACA under this regulation;
- (b) specifying the type of action the NCASA proposes to take, and each instance of non-compliance that is the subject of the action; and
- (c) specifying the time (being not less than 21 days after the date of service of notice on the RACA) within which the RACA may make written representations to the NCASA with respect to the proposed regulatory action.

(4) The NCASA may —

- (a) after considering any written representation made in accordance with paragraph (3); or

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- (b) after the time delimited under paragraph (3)(c) lapses if no representation is so made,

decide to take the appropriate regulatory action against the RACA as specified in paragraph (2).

(5) The NCASA must serve on the RACA concerned a written notice of the NCASA's decision under paragraph (4).

(6) A decision to take any regulatory action in paragraph (2) that is specified in the notice given under paragraph (5), takes effect —

- (a) from that date in that notice, being at least 21 days after the notice is served on the RACA concerned; or
- (b) if an appeal is made under paragraph (9) against the decision in the notice, from the day the appeal is dismissed or earlier withdrawn.

(7) The cancellation or suspension of any registration under this regulation does not prejudice the enforcement —

- (a) by any person of any right or claim against the RACA or former RACA; or
- (b) by the RACA or former RACA of any right or claim against any person.

(8) In any proceedings under this regulation in relation to the conviction of a RACA for a criminal offence, the NCASA may accept the RACA's conviction as final and conclusive.

(9) Where the NCASA takes any regulatory action under this regulation against a RACA, the RACA or former RACA (as the case may be) if aggrieved by the decision may, within 21 days after receiving the NCASA's notice under paragraph (5) (or such longer period as the Minister may allow in any particular case), appeal in writing to the Minister against that decision, and the Minister's decision on appeal is final.

List of Regulated Air Cargo Agents

10.—(1) The NCASA must keep and maintain a list of all RACA whose registrations are in force, called the List of Regulated Air Cargo Agents, and publish that list in such manner as the NCASA considers appropriate.

(2) Where the registration of a RACA is cancelled or suspended under regulation 9, the NCASA must without delay remove the name of that RACA or former RACA from the List of Regulated Air Cargo Agents.

(3) Where the registration of a RACA is suspended under regulation 9, the NCASA must, at the end of the suspension period or when the suspension is lifted under regulation 12, 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.

Surrender of cancelled or suspended certificate of registration

11.—(1) Where the registration of a RACA is cancelled or suspended under regulation 9, that RACA or former RACA must surrender the certificate of registration to the NCASA within 14 days after the cancellation or suspension takes effect.

(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.

Lifting of suspension

12.—(1) Where the registration of a RACA is suspended under regulation 9, the NCASA may, before the end of the suspension period, lift the suspension at any time, with or without modifying the conditions of the RACA's registration.

(2) Regulation 8(2) to (5) does not apply to modifying the conditions of a RACA's registration in the circumstances in paragraph (1).

Disqualification from registration

13.—(1) Where a registration is cancelled under regulation 9, the person who was formerly registered is also disqualified, for a period of one year after the cancellation takes effect, from being registered as a RACA.

(2) To avoid doubt, any registration as a RACA obtained by a person while disqualified by paragraph (1) is of no effect.

PART 3**REGULATED AIR CARGO AGENT SECURITY PROGRAMME****RACA must have RACA security programme**

14.—(1) For the purposes of section 17E of the Act, every RACA must have a security programme (called a RACA security programme or RACASP) that —

- (a) sets out the measures and procedures to be used to examine, handle, store and transport cargo in a secure manner, and make arrangements for the secure movement of cargo; and
- (b) contains —
 - (i) details of all sites covered by the RACASP and operated by or on behalf of the RACA;
 - (ii) details of all facilities covered by the RACASP and operated by or on behalf of the RACA;
 - (iii) the name of each such site or facility and its location; and
 - (iv) details of security procedures at each such site or facility outside its normal hours of operation.

(2) The measures and procedures in paragraph (1) must be applied —

- (a) to all cargo in the RACA's possession or under the RACA's control; and
- (b) at each site or facility covered by the RACASP.

(3) Without prejudice to the generality of paragraph (1), every RACASP must —

- (a) set out the methods, techniques and equipment to be used for the examination of cargo;
- (b) set out the measures and procedures to ensure the security of cargo at all times, including —
 - (i) the methods to be used to prevent unauthorised persons from having access to cargo from the time the RACA takes possession or control of the cargo until the time the RACA passes possession or control of the cargo to another aviation industry participant;
 - (ii) measures to prevent unauthorised disclosure of information regarding security measures to be applied to cargo;
 - (iii) measures to prevent aircraft operator and flight information from being revealed, before possession or control of the cargo passes to the RACA, to those without a need to know; and
 - (iv) details of persons who may be given such information (such as every third-party service provider) and how the information is to be given to such persons;
- (c) set out the measures and procedures to handle and treat suspect cargo;
- (d) set out, in relation to the unauthorised carriage, as cargo, of explosives that could facilitate an act of unlawful interference with aviation, the measures, equipment and procedures to deter and detect such unauthorised carriage, including procedures that will have effect during such equipment failure or unserviceability;
- (e) set out the procedures for managing security at each of the RACA's facilities, including —
 - (i) organisational structures and security management arrangements;

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- (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;
 - (f) set out, as appropriate to the operations at each of the RACA's sites, security measures and procedures to be used within the site, including measures and procedures, so as to control access to sites and maintain the integrity of access control systems and to deter and detect unauthorised access into the airside area by people, aircraft, vehicles or things;
 - (g) set out the measures and procedures for the keeping of accurate records of cargo in the RACA's possession or under the RACA's control and the security measures adopted in relation to such cargo;
 - (h) set out the measures to ensure that the RACASP and other security information are protected against unauthorised access, amendment and disclosure;
 - (i) set out quality control procedures, including details of how audits are scheduled, the procedures for carrying out an audit, the procedures for reviewing the RACASP and a description of the circumstances that will require a review of the RACASP;
 - (j) for the purpose of coordinating security-related activities, set out a mechanism for consultation within the RACA's organisation and within each site covered by the RACASP, between the RACA and relevant third-party service providers, and between the RACA and the operator of any airport at which the RACA has a facility covered under the RACASP; and
 - (k) be accompanied by a document that sets out additional security measures and procedures available in the event of a heightened security alert, including —
 - (i) procedures for responding to and investigating aviation security incidents, including threats and breaches of security;

- (ii) procedures for responding to any security directions given by the NCASA under the Act; and
- (iii) procedures for evacuation and emergency management in case of a serious aviation security incident, security threat or breach of security (such as a bomb threat).

Review and alteration of RACASP

15.—(1) The NCASA may, from time to time, require a RACA to —

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

and the RACA must comply with that requirement.

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

PART 4

DUTIES OF REGULATED AIR CARGO AGENTS

Notification of change of particulars

16.—(1) A RACA 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 RACA in the RACA'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 RACA 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.

RACA must comply with RACASP

17. A RACA must accept, process, store and transport cargo in accordance with the security measures and procedures described in the RACASP.

Tendering of cargo for screening

18.—(1) A RACA must tender or cause to be tendered all cargo in the RACA's possession or control for screening at an air freight terminal.

(2) However, a RACA may screen any cargo at any site or facility operated by or on behalf of the RACA if the RACA has obtained the prior approval of the NCASA to do so under regulation 19.

Application by RACA for site or facility to be approved for screening

19.—(1) A RACA may apply to the NCASA, in such form and manner as the NCASA may determine, for any site or facility operated by or on behalf of the RACA to be used for the screening of cargo in the possession or control of the RACA for delivery.

(2) After considering an application under paragraph (1), the NCASA may —

(a) approve the RACA's application, with or without conditions, including requiring the RACA to implement such security measures and procedures at the site or facility as the NCASA may specify; or

(b) reject the RACA's application.

(3) Where the NCASA rejects an RACA's application, the RACA may, within 21 days after receiving notice of the NCASA's decision, appeal in writing to the Minister against that decision, and the Minister's decision on appeal is final.

(4) Any RACA who fails to comply with any requirement under paragraph (2)(a) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 5 years or to both.

PART 5
MISCELLANEOUS

Preservation of secrecy

20.—(1) No person may disclose any information which has been obtained by that person in the performance of that person's duties or the exercise of that person's functions in relation to the operations of a RACA (including the RACA's RACASP) unless the disclosure is —

- (a) required for the purpose of performing that person's duties or exercising that person's functions under these Regulations or Part IIB of the Act;
- (b) required by any court;
- (c) required by the NCASA; or
- (d) required under the provisions of any written law.

(2) Any 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.

Revocation and saving

21.—(1) The Air Navigation (Regulated Air Cargo Agents) Order (O 8) is revoked (called in this regulation the revoked Order).

(2) Any certificate issued, and any direction or notice given, by the Commissioner of Police under the revoked Order and that is in force immediately before 15 May 2017 continues as if issued or given by the NCASA under the corresponding provision in these Regulations.

(3) Any application for registration or a renewal of registration as a RACA made to the Commissioner of Police under the revoked Order and which is pending immediately before 15 May 2017 is deemed to be an application under regulation 4 or 7, as the case may be.

Made on 12 April 2017.

PANG KIN KEONG
*Permanent Secretary,
Ministry of Transport,
Singapore.*

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