SUBSIDIARY LEGISLATION 499.44

AIR NAVIGATION (DANGEROUS GOODS) REGULATIONS

1st October, 2010

LEGAL NOTICE 233 of 2006, as amended by Act XL of 2023.

Citation.

1. The title of these regulations is the Air Navigation (Dangerous Goods) Regulations.

Interpretation. *Amended by: Act XL of 2023.*

2. (1) In these regulations -

"acceptance check list" means a document used to assist in carrying out a check on the external appearance of packages of dangerous goods and their associated documents to determine that all appropriate requirements have been met;

"cargo aircraft" means any aircraft which is carrying goods or property but not passengers and for the purposes of these regulations the following are not considered to be passengers;

(*a*) a crew member;

(*b*) an operator's employee permitted to be carried by, and carried in accordance with, the instructions contained in the Operations Manual;

(*c*) an authorised representative of a competent national aviation authority;

(*d*) a person with duties in respect of a particular shipment on board;

"dangerous goods" means any article or substance which is identified as such in the Technical Instructions;

"dangerous goods accident" means an occurrence associated with and related to the carriage of dangerous goods by air which results in fatal or serious injury to a person or major property damage;

"dangerous goods incident" means an occurrence, other than a dangerous goods accident, which:

(*a*) is associated with and related to the carriage of dangerous goods by air, not necessarily occurring on board an aircraft, which results in injury to a person, property damage, fire, breakage, spillage, leakage of fluid or radiation or other evidence that the integrity of the packaging has not been maintained; or

(*b*) relates to the carriage of dangerous goods and which seriously jeopardises the aircraft or its occupants;

"dangerous goods transport document" means a document which is specified by the Technical Instructions and contains information about those dangerous goods;

"the Director" has the same meaning as defined in the Air Navigation Act; Cap. 641

"freight container" means an article of transport equipment for radioactive materials, designed to facilitate the carriage of such materials, either packaged or unpackaged, by one or more modes of transport, but does not include a unit load device;

"handling agent" means an agent who performs on behalf of the operator some or all of the functions of the latter including receiving, loading, unloading, transferring or other processing of passengers or cargo;

"ID number" means an identification number specified in the Technical Instructions for an item of dangerous goods which has not been assigned a UN number;

"Maltese operator" means an aircraft operator who holds an air operator's certificate issued by the Director;

"non-Maltese operator" means an aircraft operator who holds an air operator's certificate issued otherwise than by the Director;

"overpack" means an enclosure used by a single shipper to contain one or more packages and to form one handling unit for convenience of handling and stowage, but does not include a unit load device;

"package" means the complete product of the packing operation consisting of the packaging and its contents prepared for carriage;

"packaging" means the receptacles and any other components or materials necessary for the receptacle to perform its containment function;

"proper shipping name" means the name to be used to describe a particular article or substance in all shipping documents and notifications and, where appropriate, on packagings;

"serious injury" means an injury which is sustained by a person in an accident and which:

(*a*) requires hospitalisation for more than forty-eight hours, commencing within seven days from the date the injury was received; or

(*b*) results in a fracture of any bone, other than simple fractures of fingers, toes or nose; or

(*c*) involves lacerations which cause severe haemorrhage, nerve, muscle or tendon damage; or

(*d*) involves injury to any internal organ; or

(*e*) involves second or third degree burns, or any burns affecting more than 5% of the body surface; or

(*f*) involves verified exposure to infectious substances or injurious radiation;

"Technical Instructions" means the 2005-2006 English language edition of the Technical Instructions for the Safe Transport of Dangerous Goods by Air, approved and published by decision of the Council of the International Civil Aviation Organisation;

"UN number" means the four-digit number assigned by the United Nations Committee of Experts on the Transport of

Dangerous Goods to identify a substance or a particular group of substances;

"unit load device" means any type of container or pallet designed for loading onto an aircraft but does not include a freight container for radioactive materials or an overpack.

(2) Other words and phrases used in these regulations shall have the same respective meanings as in the Air Navigation Act. Cap. 641

(3) For the avoidance of doubt any reference in the Technical Instructions or these regulations to the taking on board, loading onto or carriage of dangerous goods in or on an aircraft, shall for the purpose of these regulations be interpreted as applying also to the placing, suspending or carriage of such goods beneath an aircraft unless the context makes it otherwise apparent.

Approval of operation.

3. (1) An aircraft shall not carry or have loaded onto it any dangerous goods unless:

(*a*) the operator is approved under this regulation; and

(*b*) such goods are carried or loaded in accordance with:

(i) any conditions to which such approval may be subject; and

(ii) the Technical Instructions.

(2) An approval under this regulation -

(*a*) shall be granted in writing by the Director if he is satisfied that the operator is competent to carry dangerous goods safely; and

(*b*) may be subject to such conditions as the Director may deem appropriate.

Prohibition of carriage of dangerous goods. *Amended by: Act XL of 2023.*

4. (1) Subject to subregulations (2) and (3), a person shall not -

(*a*) deliver or cause to be delivered for carriage in, or

(*b*) take or cause to be taken on board,

an aircraft any dangerous goods, which he knows or ought to know or suspect to be goods capable of posing a risk to health, safety, property or the environment when carried by air, unless the Technical Instructions have been complied with and the package of those goods is in a fit condition for carriage by air.

(2) Subject to subregulation (3), these regulations shall not apply to those dangerous goods specified in the Technical Instructions as being:

(*a*) for the proper navigation or safety of flight;

(*b*) to provide, during flight, medical aid to a patient;

(*c*) to provide, during flight, veterinary aid or a humane killer for an animal;

(*d*) to provide, during flight, aid in connection with search and rescue operations;

(*e*) permitted for carriage by passengers or crew members;

or

(*f*) intended for use or sale during the flight in question.

(3) (*a*) The goods specified in subregulation (2) shall only be carried provided they comply with the following paragraphs and Part 8 and the applicable provisions in paragraphs 1.1.3 and 2.2 of Part 1 of the Technical Instructions.

(*b*) The goods specified in subregulation (2)(*a*) shall only be carried if:

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(i) they are required to be carried on an aircraft by or under the Air Navigation Act, or are otherwise intended for use on an aircraft for the purpose of the good order of the flight in accordance with the normal practice, whether or not, in either case, such goods are required to be carried or intended to be used on that particular flight;

(ii) they are intended as replacements or have been removed for replacement, they comply with paragraph 2.2.2 of Part 1 of the Technical Instructions.

(*c*) The goods specified in subregulation (2)(*b*) and (2)(*c*) shall only be carried if:

(i) they are or may be required for use during the flight;

(ii) they are or may be required for use during a subsequent flight by the same aircraft and it will not be practicable to load the goods onto the aircraft in the intervening period before the commencement of that subsequent flight; or

(iii) they were used or might have been required for use during a previous flight by the same aircraft and it has not been practicable to unload them from the aircraft since that flight.

(*d*) The goods specified in subregulation (2)(*e*) shall only be carried by passengers or crew members if they comply with the provisions in Part 8 of the Technical Instructions.

(*e*) The goods specified in subregulation (2)(*f*) shall only be carried if the Technical Instructions identify them as being items which can be carried on an aircraft for sale or use during a flight or, when they are intended as replacements for such items or have been removed for replacement, they are carried in accordance with paragraph 2.2.3 of Part 1 of the Technical Instructions.

Provision of information.

5.(1) (*a*) The operator of an aircraft flying for the purposes of public transport shall ensure that all appropriate manuals, including the Operations Manual, contain information about dangerous goods so that ground staff and crew members can carry out their responsibilities in regard to the carriage of dangerous

goods, including the actions to be taken in the event of emergencies involving dangerous goods.

(*b*) Where applicable, the operator shall ensure such information is also provided to his handling agent.

(2) The operator of an aircraft in which dangerous goods are to be carried as cargo shall ensure that, before the flight begins, the commander of the aircraft is provided with:

(*a*) written information about the dangerous goods as specified in paragraph 4.1 of Part 7 of the Technical Instructions; and

(*b*) information for use in responding to an in-flight emergency as specified in paragraph 4.8 of Part 7 of the Technical Instructions.

(3) The operator of an aircraft which is involved in an aircraft accident or an aircraft incident in Malta shall notify the Director without delay of any dangerous goods carried as cargo on the aircraft.

Acceptance of dangerous goods by the operator.

6. (1) The operator of an aircraft in which dangerous goods are to be carried shall ensure that no package, overpack or freight container which contains dangerous goods is accepted for carriage in an aircraft until such package, overpack or freight container has been inspected to determine that:

(*a*) insofar as it is reasonable to ascertain, the goods are not forbidden for carriage by air in any circumstances by the provisions of the Technical Instructions;

(*b*) insofar as it is reasonable to ascertain, the goods are classified as required by the Technical Instructions;

(*c*) insofar as it is reasonable to ascertain, the goods are packed as required by the Technical Instructions;

(*d*) the package, overpack or freight container is marked and labelled in accordance with the provisions of Chapters 2 and 3 of Part 5 of the Technical Instructions;

(*e*) the package, overpack or freight container is not leaking or damaged so that any of its contents may escape.

(2) The operator of an aircraft in which dangerous goods are to be carried shall ensure that no package, overpack or freight container which contains dangerous goods is accepted for carriage in that aircraft unless it is accompanied by a dangerous goods transport document, except where the Technical Instructions indicate that such a document is not required, and shall inspect such a document to determine that it complies with the provisions of the Technical Instructions.

(3) (*a*) For the purpose of each of the inspections required by subregulations (1) and (2) an acceptance check list shall be used and the results of the inspection shall be recorded thereon.

(*b*) The acceptance check list shall be in such form and shall provide for the entry of such details as will enable the relevant inspection to be fully and accurately made by reference to the completion of that list.

Method of loading of dangerous goods.

7. (1) The operator of an aircraft in which dangerous goods are to be carried as cargo shall ensure that dangerous goods are not carried in any compartment occupied by passengers or on the flight deck, except in circumstances permitted by the provisions in paragraph 2.1 of Part 7 of the Technical Instructions.

(2) The operator of an aircraft in which dangerous goods are to be carried shall ensure that any package, overpack or freight container which contains dangerous goods is loaded, segregated, stowed and secured on an aircraft in accordance with the provisions in Chapter 2 of Part 7 of the Technical Instructions.

(3) The operator of an aircraft in which dangerous goods are to be carried shall ensure that packages, overpacks or freight containers bearing an indication that they can only be carried on a cargo aircraft are loaded and stowed in accordance with the provisions in paragraph 2.4.1 of Part 7 of the Technical Instructions and are not loaded on an aircraft carrying passengers.

Inspections for damage, leaking or contamination.

8. (1) The operator of an aircraft in which dangerous goods are to be carried shall ensure packages, overpacks or freight containers which contain dangerous goods are inspected for evidence of damage or leakage before being loaded on an aircraft or placed in a unit load device.

(2) The operator of an aircraft in which dangerous goods are to be carried shall ensure a unit load device containing dangerous goods is not loaded unless it has been inspected and found free from any evidence of leakage from or damage to the packages, overpacks or freight containers contained in it.

(3) The operator of an aircraft in which dangerous goods are to be carried shall ensure that any package, overpack or freight container which contains dangerous goods which appears to be leaking or damaged is not loaded on an aircraft.

(4) The operator of an aircraft in which dangerous goods are to be carried shall ensure that any package, overpack or freight container which contains dangerous goods which is found to be leaking or damaged on an aircraft is removed and that other cargo or baggage loaded on that aircraft is in a fit state for carriage by air and has not been contaminated.

(5) The operator of an aircraft in which dangerous goods have been carried shall ensure after unloading that all packages, overpacks or freight containers which contain dangerous goods are inspected for signs of damage or leakage and if there is such evidence shall ensure that any part of the aircraft where the package, overpack or freight container was stowed, or any sling or other apparatus which has been used to suspend goods beneath the aircraft is inspected for damage or contamination.

Removal of contamination.

9. (1) The operator of an aircraft in which dangerous goods are to be carried shall ensure that any contamination found as a result of leaking or damaged packages, overpacks or freight containers is removed without delay.

(2) The operator of an aircraft shall ensure that an aircraft is not permitted to fly for the purpose of carrying passengers or cargo if it is known or suspected that radioactive materials have leaked in or contaminated the aircraft, unless the radiation level resulting from the fixed contamination at any accessible surface and the non-fixed contamination are not more than the values specified in paragraph 3.2 of Part 7 of the Technical Instructions.

Shipper's responsibilities.

10. Before consigning any dangerous goods for carriage by air the shipper shall ensure that:

(*a*) the goods are not forbidden for carriage by air in any circumstances under the provisions in paragraph 2.1 of Part 1 of the Technical Instructions;

(*b*) if the goods are forbidden for carriage by air without approval, all such approvals have been obtained where the Technical Instructions indicate it is the responsibility of the shipper to so obtain them;

(*c*) the goods are classified according to the classification criteria contained in Part 2 of the Technical Instructions;

(*d*) the goods are packed according to paragraphs 2.2 and 2.4 of Part 1, Part 2, chapters 2 and 3 and paragraphs 4.2, 4.3 and 4.4 of Part 3 and Part 4 of the Technical Instructions and the packaging used are in accordance with such provisions of those paragraphs, chapters and Parts and Part 6 of the Technical Instructions as apply to those goods;

(*e*) the package is marked and labelled in English in addition to any other language required by the State of Origin as specified for those goods in paragraph 2.4 of Part 1, chapters 2 and 3 and paragraph 4.5 of Part 3, chapters 2 and 3 of Part 5 and chapter 2 of Part 6 of the Technical Instructions;

(*f*) the package is in a fit condition for carriage by air;

(*g*) when one or more packages are placed in an overpack, the overpack only contains packages of goods permitted to be carried by paragraph 1.1 of Part 5 of the technical Instructions and the overpack is marked and labelled as required by paragraphs 2.4 and 3.2 of Part 5 of the Technical Instructions;

(*h*) a dangerous goods transport document:

(i) has been completed in English in addition to any other language required by the State of Origin as required by paragraph 4.1 of Part 5 of the Technical Instructions; and

(ii) contains a declaration signed by or on behalf of

the shipper stating that the Technical Instructions have been complied with in that the dangerous goods:

(*aa*) are fully and accurately described;

(*bb*) are correctly classified, packed, marked and labelled; and

(*cc*) are in a proper condition for carriage by air;

(*i*) the operator of the aircraft has been furnished with the dangerous goods transport document required by paragraph (*h*) and such other documents in respect of dangerous goods as are required by Part 4 and paragraphs 4.3 and 4.4 of Part 5 of the Technical Instructions.

Commander's duty to inform air traffic services.

11. The commander of an aircraft carrying dangerous goods as cargo shall, in the event of an in-flight emergency and as soon as the situation permits, inform the appropriate air traffic services unit of those dangerous goods in detail or as a summary or by reference to the location from where the detailed information can be obtained immediately.

Training of persons.

12. (1) The shipper, and any agent thereof, shall ensure that before a consignment of dangerous goods is offered by him for carriage by air all persons involved in its preparation have received training as specified in Chapter 4 of Part 1 and paragraph 1.5 of Part 5 of the Technical Instructions, to enable them to carry out their responsibilities with regard to the carriage of dangerous goods by air.

(2) (*a*) A Maltese operator, and any agent thereof, shall ensure that all relevant staff involved with the carriage of passengers or cargo by air have received training which complies with paragraphs (*c*) and (*d*).

(*b*) The operator of an aircraft shall ensure that the staff of his handling agents have received that training.

(*c*) The training shall be as specified in Chapter 4 of Part 1 and paragraph 4.9 of Part 7 of the Technical Instructions.

(*d*) The training has been granted a training approval under subregulation (8).

(3) (*a*) The agent for a non-Maltese operator shall ensure that all relevant staff involved with the carriage of passengers or cargo by air have received training which complies with paragraphs (*b*) and (*c*).

(*b*) The training shall be as specified in Chapter 4 of Part 1 and paragraph 4.9 of Part 7 of the Technical Instructions.

(*c*) The training has been granted a training approval under subregulation (8).

(4) The content of training programmes shall be as specified in Chapter 4 of Part 1 of the Technical Instructions.

(5) Initial and recurrent training programmes shall be established and maintained by or on behalf of the shipper and any agent thereof, the operator of an aircraft if it is a Maltese operator and the agent of the operator whether the operator is a Maltese operator or a non-Maltese operator in accordance with paragraph 4.1 of Part 1 of the Technical Instructions and recurrent training shall take place not less than every two years.

(6) Records of training shall be maintained as specified in paragraph 4.2 of Part 1 of the Technical Instructions.

(7) No person shall offer or provide training required by this part of these Regulations unless:

(*a*) (i) he has been granted a training instructor approval under subregulation (9); and

(ii) the training has been approved under subregulation (8); or

(*b*) he is employed by a shipper or an agent thereof and the training is offered or provided to other employees of that shipper or agent; or

(*c*) (i) he is employed by a Maltese operator or by an agent of a Maltese operator;

(ii) the training has been approved under subregulation (8); and

(iii) the training is offered or provided to other employees of that Maltese aircraft operator or agent.

(8) A training approval under this regulation shall be:

(*a*) granted in writing by the Director if he is satisfied that the form and content of the training is adequate for its purpose; and

(*b*) subject to such conditions as the Director thinks fit, and may in particular include a condition requiring that the training be provided by a person who holds a training instructor approval granted by the Director under subregulation (9).

(9) A training instructor approval under this regulation shall be:

(*a*) granted in writing by the Director if it is satisfied that the person is competent to carry out the training specified in the approval granted under subregulation (8); and

(*b*) subject to such conditions as the Director thinks fit.

Provision of information to passengers.

13. (1) An airport operator and the operator of an aircraft flying for the purpose of public transport or his agent shall ensure that persons who are or may become passengers on an aircraft flying for the purpose of public transport are warned as to the types of dangerous goods which they are forbidden from carrying on an aircraft as checked baggage or with them by displaying notices sufficient in number and prominence for this purpose:

(*a*) at each of the places at an airport where tickets are issued;

(*b*) at each of the areas at an airport maintained to assemble passengers to board an aircraft; and

(*c*) at any location where a passenger may be checked in.

(2) The operator of an aircraft flying for the purpose of the public transport of passengers or his agent shall ensure that passengers are warned as to the type of dangerous goods which they are forbidden from carrying on an aircraft as checked baggage or with them either by providing information with each passenger ticket, sufficient in prominence for this purpose, or by some other appropriate means such that passengers receive a warning in addition to that required by subregulation (1).

Provision of information in respect of cargo.

14. The operator of an aircraft in which cargo is to be carried and any agent thereof shall ensure that notices giving information about the carriage of dangerous goods are displayed in sufficient number and prominence for this purpose at those places where cargo is accepted for carriage.

Documents and records.

15. (1) The operator of an aircraft carrying dangerous goods as cargo shall ensure that a copy of the dangerous goods transport document required by regulation 6(2) and the written information to the commander required by regulation 5(2)(*a*) are retained at a readily accessible location until after the full period of the flight on which the goods were carried.

(2) The operator of an aircraft in which dangerous goods are carried shall preserve for not less than three months:

(*a*) any dangerous goods transport document or other document in respect of dangerous goods which has been furnished to him by the shipper in accordance with regulation 6(2);

(*b*) the record of any acceptance check list completed in accordance with regulation 6(3); and

(*c*) the written information to the commander as required by regulation 5(2)(*a*).

(3) The record referred to in subregulation (2)(*b*) may be in a legible or a non-legible form so long as the recording is capable of being reproduced in a legible form.

Production of documents and records.

16. (1) The operator of an aircraft on which dangerous goods are to be or have been carried and any agent thereof shall, within a reasonable time after being requested so to do by the Director, cause to be produced to him such of the following documents as may have been requested by him:

(*a*) the written approval referred to in regulation 3(2);

(*b*) the dangerous goods transport document or other document in respect of any dangerous goods, referred to in regulation 6(2);

(*c*) the completed acceptance check list in a legible form in respect of any dangerous goods, referred to in

regulation 6(3); and

(*d*) a copy of the written information provided to the commander of the aircraft in respect of any dangerous goods, referred to in regulation 5(2)(*a*).

(2) The aircraft operator, shipper and any agent of either of them shall, within a reasonable time after being requested so to do by the Director, cause to be produced to him any document which relates to goods which he has reasonable grounds to suspect may be dangerous goods in respect of which the provisions of these regulations have not been complied with.

Enforcement.

17. (1) The Director may examine, take samples of and seize any goods which he has reasonable grounds to suspect may be dangerous goods in respect of which the provisions of these regulations have not been complied with.

(2) The Director may open or require to be opened any baggage or package which has reasonable grounds to suspect may contain dangerous goods in respect of which the provisions of these regulations have not been complied with.

(3) (*a*) Subject to subregulation (5), any sample taken or goods seized by the Director under this regulation shall be retained or detained respectively for so long as he considers necessary in all the circumstances and shall be disposed of in such manner as he considers appropriate in all the circumstances.

(*b*) Without prejudice to the generality of paragraph (*a*) any sample taken or goods seized under this regulation may be retained or detained respectively:

(i) for use as evidence at a trial for an offence; or

(ii) forensic examination or for investigation in connection with an offence.

(4) (*a*) The person from whom any goods have been seized by the Director under this regulation may apply to the Director for the item to be released to him.

(*b*) An application under this paragraph shall be made in writing and shall be accompanied by evidence of ownership by the applicant.

(*c*) Where the Director is satisfied that the applicant is the owner of the item concerned and that further retention of the item is not necessary for the purposes of any criminal proceedings it shall arrange for the goods concerned to be returned to the applicant.

(5) Where further retention of goods is, in the opinion of the Director no longer necessary and no application has been made under subregulation (4) or any such application has been unsuccessful the goods shall be destroyed or otherwise disposed of in accordance with the directions of the Director.

Occurrence reporting. *Amended by: Act XL of 2023.*

18. (1) A Maltese operator shall ensure that any dangerous goods accident, dangerous goods incident or the finding of undeclared or misdeclared dangerous goods in cargo or passenger's baggage, wherever it occurs, is reported to the Director.

(2) A non-Maltese operator shall ensure that any dangerous goods accident, dangerous goods incident or the finding of undeclared or misdeclared dangerous goods in cargo or passenger's baggage which occurred in Malta is reported to the Director.

(3) A report required under subregulation (1) or (2) shall contain such of the following information as is appropriate to the occurrence:

(*a*) date of the occurrence;

(*b*) location of the occurrence, flight number and flight date;

(*c*) description of the goods and the reference number of the air waybill, pouch, baggage tag and ticket;

(*d*) proper shipping name (including the technical name, if applicable);

(*e*) UN/ID number;

(*f*) class or division in accordance with the Technical Instructions and any subsidiary risk;

(*g*) type of packaging and the packaging specification marking;

(*h*) quantity of dangerous goods;

(*i*) name and address of the shipper or passenger;

(*j*) suspected cause of the occurrence;

(*k*) action taken;

(*l*) any other reporting action taken;

(*m*) name, title, address and contact number of the reporter;

(*n*) any other relevant details.

(4) (*a*) Subject to paragraph (*b*) a report containing as much of the information referred to above as is in his possession shall be despatched in writing, or in such other form as the Director may approve, and by the quickest available means to the Director within seventy-two hours of the occurrence coming to the knowledge of the person making the report.

(*b*) If at that time any of the said information is not in the possession of that person, he shall despatch the information to the Director in writing, or in such other form as the Director may approve, and by the quickest available means within seventy-two hours of the information coming into his possession.

(5) Nothing in this regulation shall require a person to report any occurrence which he has reported under article 76 of the Air Navigation Act, or which he has reason to believe has been or will

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be reported by another person to the Director in accordance with that article.