

# Hong Kong Civil Aviation (Investigation of Accidents) (Amendment) Regulation 2024 to be gazetted Friday

The Hong Kong Civil Aviation (Investigation of Accidents) (Amendment) Regulation 2024 (Amendment Regulation) will be gazetted on Friday (November 15) to amend the Hong Kong Civil Aviation (Investigation of Accidents) Regulations (Cap. 448B) to incorporate in the local legislation the latest requirements of the International Civil Aviation Organization (ICAO) for the investigation of civil aviation accidents and incidents.

The major proposed amendments include:

- (1) to provide for the entitlements and obligations of non-local representatives investigations and public inquiries conducted in Hong Kong;
- (2) to provide for the entitlements and obligations of Hong Kong representatives in non-Hong Kong investigations;
- (3) to provide for the operation of the voluntary incident reporting system;
- (4) to extend the period during which a person may make a representation to the Air Accident Investigation Authority (AAIA) in respect of a draft investigation report from 28 days to 30 days from being served with a notice;
- (5) to impose a penalty for the contravention of the requirement to provide information as required by the Chief Inspector of the AAIA, for the obstruction or impediment of the exercise of certain powers or the discharge of certain duties under Cap. 448B, or for failing to comply with certain summons or requisitions;
- (6) to provide for extraterritorial effect for certain offences under Cap. 448B to facilitate enforcement; and
- (7) to amend the definitions of certain terms and expressions in Cap. 448B to better align with the definitions and interpretations contained in Annex 13 to the Convention on International Civil Aviation.

A spokesman for the Transport and Logistics Bureau said, "Annex 13 contains the international standards and recommended practices for aircraft accidents and incident investigations, some of which are required by the ICAO to be implemented by Contracting States to the Convention on International Civil Aviation by means of legislation. The aim is to enhance aviation safety by facilitating thorough investigations, determining the causes of accidents or incidents, and making recommendations to prevent similar occurrences in the future. To incorporate the relevant standards promulgated in Annex 13 into the local legislation as far as practicable with reference to the local

circumstances and to enhance the effectiveness of the AAIA's investigation protocol, we propose making amendments to Cap. 448B.

"The proposed legislative amendments have made reference to the ICAO documents and legislation in various jurisdictions, including Mainland China, Australia, Canada, Singapore and the United Kingdom," the spokesperson added.

The Amendment Regulation will be tabled at the Legislative Council (LegCo) on November 20 for negative vetting. Subject to scrutiny by the LegCo, the Amendment Regulation will come into effect on a day to be appointed by the Secretary for Transport and Logistics by notice published in the Gazette, with an implementation target in the first half of 2025.

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## [Inspection of aquatic products imported from Japan](#)

In response to the Japanese Government's plan to discharge nuclear-contaminated water at the Fukushima Nuclear Power Station, the Director of Food and Environmental Hygiene issued a Food Safety Order which prohibits all aquatic products, sea salt and seaweeds originating from the 10 metropolis/prefectures, namely Tokyo, Fukushima, Ibaraki, Miyagi, Chiba, Gunma, Tochigi, Niigata, Nagano and Saitama, from being imported into and supplied in Hong Kong.

For other Japanese aquatic products, sea salt and seaweeds that are not prohibited from being imported into Hong Kong, the Centre for Food Safety (CFS) of the Food and Environmental Hygiene Department will conduct comprehensive radiological tests to verify that the radiation levels of these products do not exceed the guideline levels before they are allowed to be supplied in the market.

As the discharge of nuclear-contaminated water is unprecedented and will continue for 30 years or more, the Government will closely monitor and step up the testing arrangements. Should anomalies be detected, the Government does not preclude further tightening the scope of the import ban.

From noon on November 12 to noon today (November 13), the CFS conducted tests on the radiological levels of 266 food samples imported from Japan, which were of the "aquatic and related products, seaweeds and sea salt" category. No sample was found to have exceeded the safety limit. Details can be found on the CFS's thematic website titled "Control Measures on Foods Imported from Japan" ([www.cfs.gov.hk/english/programme/programme\\_rafs/programme\\_rafs\\_fc\\_01\\_30\\_Nuclear\\_Event\\_and\\_Food\\_Safety.html](http://www.cfs.gov.hk/english/programme/programme_rafs/programme_rafs_fc_01_30_Nuclear_Event_and_Food_Safety.html)).

In parallel, the Agriculture, Fisheries and Conservation Department (AFCD) has also tested 50 samples of local catch for radiological levels. All the samples passed the tests. Details can be found on the AFCD's website ([www.afcd.gov.hk/english/fisheries/Radiological\\_testing/Radiological\\_Test.html](http://www.afcd.gov.hk/english/fisheries/Radiological_testing/Radiological_Test.html)).

The Hong Kong Observatory (HKO) has also enhanced the environmental monitoring of the local waters. No anomaly has been detected so far. For details, please refer to the HKO's website ([www.hko.gov.hk/en/radiation/monitoring/seawater.html](http://www.hko.gov.hk/en/radiation/monitoring/seawater.html)).

From August 24, 2023, to noon today, the CFS and the AFCD have conducted tests on the radiological levels of 100 010 samples of food imported from Japan (including 63 999 samples of aquatic and related products, seaweeds and sea salt) and 22 262 samples of local catch respectively. All the samples passed the tests.

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## **LCQ7: Labour protection for non-skilled workers under government service contracts**

Following is a question by the Hon Lam Chun-sing and a written reply by the Secretary for Financial Services and the Treasury, Mr Christopher Hui, in the Legislative Council today (November 13):

Question:

To enhance the labour protection for non-skilled workers employed by contractors of government outsourced service contracts (Contracts), the authorities have implemented various new improvement measures since May last year. In this connection, will the Government inform this Council:

(1) of the respective numbers and total values of the Contracts of the four major procuring departments of the Government (i.e. the Leisure and Cultural Services Department (LCSD), Housing Department (HD), Food and Environmental Hygiene Department (FEHD) and Government Property Agency (GPA)), the respective numbers of non-skilled workers involved, the respective numbers of Contracts awarded to the lowest bidders and their percentages in the total number of Contracts in each of the past three years and this year to date, with a tabulated breakdown by type of outsourced service (i.e. (i) cleansing service, (ii) security service and (iii) other services);

(2) of the respective numbers of Contract non-skilled workers at (a) LCSD, (b) HD, (c) FEHD and (d) GPA as at the end of October this year, and set out

in Table 1 a breakdown by range of hourly wage as committed in the Contracts and type of service (i.e. (i) cleansing service, (ii) security service and (iii) other services); the (A) average daily number of working hours and (B) maximum number of working hours a day for non-skilled workers under the aforesaid Contracts (set out in Table 2);

Table 1

Range of hourly wage	(i)					(ii)					(iii)					All types				
	(a)	.....	(d)	Sub total	%	(a)	.....	(d)	Sub total	%	(a)	.....	(d)	Sub total	%	(a)	.....	(d)	Sub total	%
\$40.0																				
\$40.1 to \$41.9																				
.....																				
\$64 to \$65.9																				
\$66.0 or above																				
Total																				

Table 2

Working hours	(i)				(ii)				(iii)			
	(a)	(b)	(c)	(d)	(a)	(b)	(c)	(d)	(a)	(b)	(c)	(d)
(A)												
(B)												

(3) whether there were heat stroke-related work injury and fatal cases involving Contract non-skilled workers recorded in each of the past five years and this year to date; if so, of the details, including the date and venue of the incident, as well as the names of the contractors of Contracts and procuring government departments involved in the cases;

(4) whether the aforesaid four government departments had respectively received complaints in each of the past five years and this year to date concerning alleged breaches of the provisions of Standard Employment Contracts (SECs) or the Employment Ordinance (Cap. 57) by contractors of Contracts; if so, of the details, including the number of complaints (set out by nature of the cases);

(5) of the respective numbers of on-site inspections, spot checks, regular meetings or interviews with non-skilled workers by the aforesaid four government departments to ensure that contractors of Contracts would comply

with the terms of Contracts with non-skilled workers in each of the past five years and this year to date, as well as the respective numbers of work meetings or interviews with contractors of Contracts, and whether there were cases of alleged breaches of the provisions of SECs or Cap. 57 by contractors of Contracts from the aforesaid inspections, checks, meetings or interviews; if so, of the details, including the number of cases (set out by nature);

(6) whether there were cases in each of the past five years and this year to date in which punishment had been imposed on the contractors of Contracts for their failure to fulfil the specified contractual obligations (including failure to pay contractual gratuities to non-skilled workers and supervisory staff whose employment contracts were terminated after commencement for less than one year under certain applicable conditions, and failure to act in accordance with the Heat Stroke Prevention Work Plan, etc.); if so, of the following information of such cases: (i) the names of the contractors of Contracts concerned, (ii) the date of contravention, (iii) details of the contravention, and (iv) the form of punishment (including the number of verbal warnings, written warnings and default notices issued, the total amount of service fees deducted, the number of instances where demerit points were given, and whether the Contracts with the contractors of Contracts concerned had been terminated, etc.), together with a tabulated breakdown;

(7) given that under the "demerit point system" of the Government's procurement system, three demerit points accrued by contractors of Contracts over a rolling period of 36 months would debar them from bidding non-skilled worker Contracts for a period of five years, whether, in each of the past five years and this year to date, there were contractors of Contracts who were barred from bidding so on the ground that their accumulated demerit points had exceeded the limit; if so, of the details, including the number and names of the contractors;

(8) whether the authorities have reviewed the effectiveness of the improvement measures implemented since May last year; if so, of the details; if not, the reasons for that; and

(9) whether it will look into boosting the chances of success in tendering in respect of contractors who are willing to enhance the welfare packages of Contract non-skilled workers (including the commitment to making voluntary Mandatory Provident Fund contributions for Contract non-skilled workers aged 65 or above or providing flexible working arrangements, etc.) so as to improve the well-being of non-skilled workers?

Reply:

President,

In consultation with four major procuring departments (i.e. the Leisure and Cultural Services Department (LCSD), the Housing Department (HD), the Food and Environmental Hygiene Department (FEHD) and the Government Property Agency (GPA)), our consolidated reply is as follows:

(1) As regards the service contracts involving non-skilled workers awarded by the four major procuring departments through tendering from 2021-22 to 2024-25 financial year, the number and total value of contracts, the numbers of non-skilled workers involved and contracts awarded to the lowest-priced bidders and other information are set out at Annex 1.

(2) Committed hourly wages of existing service contracts awarded by the four major procuring departments through tendering are set out at Annex 2. The information on average maximum number of working hours in a day is set out at Annex 3. The four major procuring departments do not maintain figures of the average daily working hours of the staff concerned.

(3) From 2019-20 financial year to October 1, 2024, FEHD recorded one heat stroke-related work injury case involving a non-skilled worker reported by contractor. The case was referred to the Labour Department for follow-up actions. The four major procuring departments did not record any heat stroke-related fatal case involving non-skilled workers.

(4) Complaints received by the four major procuring departments about the alleged breaches of the provisions of Standard Employment Contracts or the Employment Ordinance by contractors from 2019-20 to 2024-25 financial year are set out at Annex 4.

(5) Monitoring measures taken by the four major procuring departments on outsourced non-skilled worker service contracts from 2019-20 to 2024-25 financial year are set out at Annex 5.

(6) Cases where contractors of the four major procuring departments were punished for their failure to fulfill the specified contractual obligations from 2019-20 to 2024-25 financial year are set out at Annex 6.

(7) From 2019-20 financial year to October 1, 2024, government departments issued a total of 44 demerit points to 18 contractors under the Demerit Point System. Amongst them, four contractors have accrued three demerit points over a rolling period of 36 months and were debarred from bidding for non-skilled worker contracts for five years.

(8) The Government has implemented a series of improvement measures since May 2023, including requiring tenderers to submit a "Heat Stroke Prevention Work Plan" when bidding for relevant contracts to safeguard occupational safety and health of workers, enhancing eligibility criteria for gratuities to improve staff welfare and introducing a standardised monitoring framework for government departments to strengthen the monitoring of non-skilled worker contracts. All of the above measures have been adopted by the four major procuring departments in their tendering of 217 non-skilled worker service contracts.

(9) The Government has enhanced the technical assessment related to "environmental protection, social responsibility and governance" in May 2023 so that contractors with outstanding performance in this regard will stand a higher chance of winning bids. This is conducive to encouraging contractors

to provide better staff welfare for their non-skilled workers beyond contract requirements.

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## Tender of 2-Year Exchange Fund Notes to be held on November 22

The following is issued on behalf of the Hong Kong Monetary Authority:

The Hong Kong Monetary Authority (HKMA) announces that a tender of 2-year Exchange Fund Notes will be held on November 22, 2024 (Friday) for settlement on 25 November 2024 (Monday), as set out in the published tentative issuance schedule. This is to roll over an issue of 2-year Exchange Fund Notes maturing on the same day.

A total of HK\$1,200 million 2-year Notes will be on offer, of which HK\$5 million will be made available for offer to members of the public who wish to submit non-competitive tender bids through Hong Kong Securities Clearing Company Limited (HKSCC). If the Notes reserved for non-competitive tender are under-subscribed, the non-subscribed amount will be added to the portion of notes for competitive tender (initially set at HK\$1,195 million). The Notes will mature on November 25, 2026, and will carry interest at the rate of 3.19% per annum payable semi-annually in arrears.

Members of the public who wish to submit non-competitive tender applications for Notes that are open to HKSCC may do so through Stock Exchange Participants/Brokers, or for those who hold Investor Accounts of the Central Clearing and Settlement System (CCASS) at the HKSCC, directly through HKSCC, for submission to the HKMA for processing. Competitive tender applications for the Notes must be submitted through any of the Eligible Market Makers appointed by the HKMA, with the current published list available on the HKMA's website at [www.hkma.gov.hk](http://www.hkma.gov.hk). Each tender must be for an amount of HK\$50,000 or integral multiples thereof for both competitive and non-competitive tender.

The tender results will be published on the HKMA's website, the Refinitiv screen (HKMA00E), and Bloomberg. Applicants who submitted non-competitive tender bids through HKSCC may also obtain the tender results from Stock Exchange Participants/Brokers, or for applicants who hold Investor Accounts at HKSCC's CCASS from the CCASS terminal for CCASS Broker/Custodian/Participants and CCASS Phone System.

HKMA Exchange Fund Note Programme Tender Information

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Tender information of 2-Year Exchange Fund Notes:

Issue Number : 02Y2611  
 Stock code : 4101 (EFN 3.19 2611)  
 Tender date and time : Friday, November 22, 2024  
 9.30am to 10.30.m  
 Issue and Settlement Date : Monday, November 25, 2024  
 Amount on offer : HK\$1,200 million  
 (up to HK\$5 million for non-competitive tender)  
 Commencement of/  
 Deadline for submission of non-competitive tender bids by retail investors through HKSCC : Please refer to requirements as set down by HKSCC  
 Maturity : Two years  
 Maturity Date : Wednesday, November 25, 2026  
 Interest Rate : 3.19% p.a.  
 Interest Payment Dates : May 26, 2025  
 November 25, 2025  
 May 26, 2026  
 November 25, 2026  
 Tender amount : Each tender must be for an amount of HK\$50,000 or integral multiples thereof for both competitive and non-competitive tender. Members of the public who wish to apply for the Notes through non-competitive tenders that are open to HKSCC may do so through Stock Exchange Participants/ Brokers, or for those who hold Investors Accounts at HKSCC's CCASS, directly through HKSCC. Members of the public who wish to apply for the Notes through competitive tender may only do so through any of the Eligible Market Makers on the current published list.  
 Other details : Please see Information Memorandum published or approach Eligible Market Makers, HKSCC, or brokers who are Exchange Participants of the Stock Exchange of Hong Kong.  
 Expected commencement date of dealing on the Stock Exchange of Hong Kong : Tuesday, November 26, 2024

Price/Yield Table of the new EFN at tender for reference\* only:

Yield-to-Maturity	Price	Yield-to-Maturity Price
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2.190	101.97	3.190	100.05
2.240	101.87	3.240	99.95
2.290	101.78	3.290	99.86
2.340	101.68	3.340	99.76
2.390	101.58	3.390	99.67
2.440	101.48	3.440	99.58
2.490	101.39	3.490	99.48
2.540	101.29	3.540	99.39
2.590	101.19	3.590	99.29
2.640	101.10	3.640	99.20
2.690	101.00	3.690	99.11
2.740	100.91	3.740	99.01
2.790	100.81	3.790	98.92
2.840	100.71	3.840	98.83
2.890	100.62	3.890	98.74
2.940	100.52	3.940	98.64
2.990	100.43	3.990	98.55
3.040	100.33	4.040	98.46
3.090	100.24	4.090	98.37
3.140	100.14	4.140	98.27
3.190	100.05	4.190	98.18

\* Disclaimer: The information provided here is for reference only. Although extreme care has been taken to ensure that the information provided is accurate and up-to-date, the HKMA does not warrant that all, or any part of, the information provided is accurate in all respects. You are encouraged to conduct your own enquiries to verify any particular piece of information provided on it. The HKMA shall not be liable for any loss or damage suffered as a result of any use or reliance on any of the information provided here.

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## [LCQ15: Incidents of payment defaults in public works](#)

Following is a question by the Hon Paul Tse and a written reply by the Secretary for Development, Ms Bernadette Linn, in the Legislative Council today (November 13):

Question:

It has been reported that incidents involving defaults or arrears of payment by subcontractors of public works of the Education Bureau, the

Housing Bureau and public hospitals have occurred consecutively in recent months. Specific examples include: a material supplier who undertook ceiling works for the Education Bureau and was owed \$530,000 by a subcontractor made her plea by attempting to jump off from a building with a baby in her arms; the subcontractors of aluminium window works at construction sites of the Housing Department in two districts could not get payment of more than \$11 million from the upper tier, resulting in wage defaults to more than 50 workers; and more than 30 imported workers were suspected to be subject to salary exploitation in the expansion project of United Christian Hospital. There are views pointing out that the Government, being the largest employer in public works, has the responsibility under the subcontracting system to ensure that subcontractors of various tiers receive the project payment duly and on time, so as to prevent broken capital chains of projects and the resultant misery of workers not getting paid for their hard labour. Some members of the construction industry disclose that the Government's issuance of project payment is much later than before, resulting in the late availability of funds to contractors and subcontractors of various tiers and making it difficult for them to pay workers on time. In this connection, will the Government inform this Council:

(1) of the respective numbers of complaints received and conciliated by the Labour Department in each of the past three years on wages in arrears and payment defaults that are related to government projects;

(2) whether it has sought to understand the reasons behind the series of cases of wages in arrears and payment defaults by subcontractors of government projects in recent days;

(3) given that the public coffers have failed to make ends meet for consecutive years with fiscal deficits of over a hundred billion dollars in three out of the last four years, and the Financial Secretary has even said in a radio interview that fiscal deficits are expected to continue in the future three years, whether the Government has studied if the serious fiscal deficits have caused the Government to issue project payment later than before; and

(4) given the continuous fiscal deficit, under the current subcontracting system, what policies are in place to eradicate the problem of wages in arrears and payment defaults by subcontractors of various tiers?

Reply:

President,

The current financial hardship faced by the construction industry is mainly due to the shrinkage of the private construction market, resulting in a decline in construction volume. However, the Government will continue to invest in the formation of land, infrastructure works and construction of facilities that are required by the community, and strive to maintain a steady growth in the capital works expenditure which will help alleviate the financial distress faced by the construction industry. In the coming five

years, the average annual capital works expenditure of the Government will be about \$90 billion, which is more than the average annual expenditure of \$76 billion in the past five years, representing an increase of about 17 per cent. This demonstrates the Government's continued allocation of resources for capital works projects.

Having consulted the Labour Department (LD), our responses to the four parts of the question raised by the Hon Tse are as follows:

(1) In the past three years (2021 to 2023), the numbers of the construction industry related labour disputes (i.e. cases involving more than 20 employees) handled by the LD are 31, 36 and 40 respectively, in which the number of cases involving the Government and other public organisations are nine, nine and four respectively, i.e. about 30 per cent, 25 per cent and 10 per cent of the total number of cases in the respective years. It can be seen that the majority of the construction industry related labour disputes handled by the LD involve private works.

(2) As far as we understand, there are many reasons that can lead to labour disputes, e.g. financial difficulties faced by contractors/subcontractors; occurrence of divergent views or disputes in construction contracts/subcontracts which may result in contractors/subcontractors not being able to receive payments that they believe they should be entitled to in a timely manner; disputes in employment contracts between contractors/subcontractors and their employees (e.g. the way how performance-based bonus or overtime work should be calculated), etc. As far as public works are concerned, the problems generally involve subcontracts and its associated employment contracts.

(3) As one of the major clients in the construction industry, the Government has always been making contract payments in a timely manner based on the works progress and contract terms. Furthermore, we have been paying close attention to whether public works contractors have sufficient cash flow to carry out the works smoothly. In this connection, we have enhanced contractors' cash flow through a number of contract payment arrangements. For example, we provide advance payment to contractors at the onset of contracts; we adopt target contract form of the New Engineering Contract in large-scale public works contracts in which contractors are paid based on their forecast expenditure; etc. To assist the construction industry to tide over the current difficult economic situation, in addition to the above-mentioned payment arrangements, we have recently co-ordinated with all works departments to arrange more frequent payments to contractors and to further split payment milestones into smaller ones as far as possible so that the contract payments can align more closely with contractors' works progress.

(4) We have implemented various measures in public works contracts, including prohibiting contractors from subcontracting the whole of the works, limiting the maximum number of tiers of subcontracting to two, and requiring contractors to submit subcontractor management plans and implement such plans strictly. Such measures serve to strengthen the supervision and management of subcontracting situations on site. Besides, according to the Employment

Ordinance (Cap. 57), if a subcontractor of a construction contract fails to pay its employees, the relevant contractor is liable to pay such subcontractor's employees the first two months' unpaid wages. If the contractor fails to pay the outstanding wages, we can pay such subcontractor's employees on behalf of the contractor in accordance with the contract, and the amount so paid will be deducted from the contract payments that the Government needs to pay to the contractor.

The Government has been closely attentive to the healthy development of the construction industry. The proposed Construction Industry Security of Payment Bill (the Bill) is being scrutinised in the Legislative Council (LegCo). The Bill aims to improve the longstanding issue of delay contract payment among the stakeholders along the supply chain, while also seeking to reduce occurrences of wage arrears of workers. We will fully support the LegCo's scrutiny of the Bill to facilitate the early passage and implementation of the Bill. This will provide better protection for stakeholders in the construction industry to receive payments on time and in full for work done, thereby promoting the healthy and sustainable development of the construction industry. Furthermore, we have proactively introduced the Security of Payment Provisions in public works contracts on a pilot basis since October 2021, providing enhanced safeguards for contractors and subcontractors.