



Information Article

Special Administrative Region of **Hong Kong**

Subject / Relevance:

Provision of Family Assistance following an Aircraft Accident

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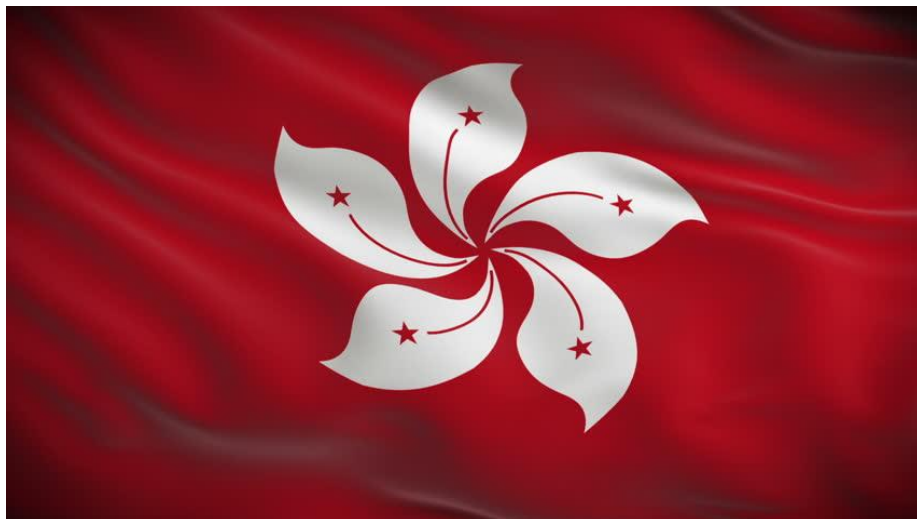
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HONG KONG

Provision of Family Assistance following an Aircraft Accident





Source 1

Article (dated Feb 2017) taken from HFW website (<http://www.hfw.com>)

Revisions to HKCAD (AOC) 360

Provide for Compliance with Family Assistance Requirements following an Aircraft Accident

There are very few countries in the world which have formal regulations setting out aircraft accident related requirements for emergency response and family assistance - together with associated roles and responsibilities for governments, air operators, airport operators and other parties

Some of such countries which do have such regulation include Brazil, Italy, Spain, the UAE and the United States

In 2006, mainland China implemented the **Regulation on Emergency Response and Family Assistance Related to Civil Aircraft Accidents** (CCAR-399)

The Hong Kong Civil Aviation Department (CAD) has recently issued a revised amendment to CAD 360 which obliges Air Operator Certificate holders to include a Family Assistance Plan (for aircraft accident victims and their families) in their Emergency Response Plans

In guidance to operators, the revision expressly refers to the requirements of **ICAO Doc 9973** and **Doc 9998** in respect to “assistance to aircraft accident victims and their families” but stops short of stating whether operators have to comply with all the provisions in these documents. (Note: ICAO introduced an associated **standard** in 2022 - which effectively **made it mandatory** for **countries / states** to introduce / maintain plans for “assistance to aircraft accident victims and their families” - and also introduced a best practice **recommendation** - to the effect that said countries / states should recommend to their associated [commercial] **airlines** and **airports** that they do likewise)

This is regulation through the back door. While the HKCAD is empowered to do this, the public at large have not been consulted or been made aware of it. One consequence of this is that a disconnect might arise between the (Family Assistance Plan) requirements and the availability of providers of family assistance services that air carriers rely upon. That’s a potential loss of business for Hong Kong

The revision is unlikely to have a significant impact on (Hong Kong based) air carriers who already operate on intercontinental routes. However, it is already causing concern among the smaller AOC operators - including business jet and rotary-wing operators

We say that the HKCAD needs to consider the practicalities and expense of some of the above obligations

The air operators impacted will also want to ensure that their insurance arrangements protect them from some of the potential exposures.

<http://www.hfw.com/NOTAM-Hong-Kong-aviation-legal-developments-in-focus-January-2017>





Source 2

LAW REVIEWS

The Aviation Law Review - Edition 5 (September 2017)

Hong Kong

SECTION VIII – Establishing Liability and Settlement

iii - The Provision of Family Assistance following an Aircraft Accident

Hong Kong Civil Aviation Department (CAD) has published CAD 360 (Air Operator's Certificates Requirements Document) to explain the administrative procedures for the issue and variation of air operators' certificates (AOCs) and to indicate requirements to be met by applicants and certificate holders in respect of equipment, organisation, staffing, training and other matters affecting the operation of aircraft

In December 2016, CAD revised and amended CAD 360 to oblige AOC holders to include an emergency response plan (ERP) as part of its safety management system (SMS) requirements. Such ERP shall include the provision of family assistance (ranging e.g. from associated services to information etc.) to aircraft accident victims and their (associated) families

The revision expressly refers AOC holders to ICAO Doc 9998 (ICAO Policy on Assistance to Aircraft Accident Victims and their Families) and ICAO Doc 9973 (Manual on Assistance to Aircraft Accident Victims and their Families) for guidance

Hong Kong, by reason of China being one of the around 191 contracting states of the International Civil Aviation Organisation (ICAO), has an obligation to implement and comply with said associated **standards** and **recommended practices** - as set by ICAO *

* See next page





Source 3

Capital letter 'I' (as in 'eye')

Extract from ICAO Annex 9 / Chapter 8 - FACILITATION (16th edition - July 2022)

I. Assistance to Aircraft Accident Victims and their Families

8.42 **Standard.** The State of Occurrence of an **aircraft** accident (+ adjacent States as required) **shall** facilitate temporary entry into its / their territory/ies, of **family members** of **victims** of said accident

8.43 **Standard.** The State of Occurrence (+ adjacent States as required) **shall** facilitate temporary entry into its / their territories, of **authorized reps** of the accident aircraft's **operator** - and / or of any associated codeshare / alliance partner etc. - so as to enable it / them to provide assistance to **a)** accident survivors and their family members; **b)** family members of deceased victims and **c)** the relevant authorities in said States

(Note: Codeshare and Alliance etc. type agreements etc. might typically require 'partner(s)' to act as "first responder(s)" on behalf of the accident aircraft's operator, if the former can reach the accident location in a significantly quicker timescale than the latter)

8.44 **Recommended Practice.** In arranging for the entry of persons referred to in 8.42 above, the State of Occurrence and adjacent States **should not** require any travel document other than a passport - or an emergency travel document issued specifically to such persons - so as to enable them to travel to said States. However, where the State of Occurrence or an adjacent State **does** still require entrance visas etc. for persons referred to in 8.42 **and** 8.43 above, it should facilitate and expedite issuance of same

8.45 **Standard.** ICAO Contracting States **shall** make arrangements to issue emergency travel documents, as required, to any of their nationals who have survived said accident

8.46 **Standard.** ICAO Contracting States **shall** extend all necessary assistance (e.g. clearing customs, arranging transport, ensuring associated dignity etc.) in the repatriation of human remains to countries of origin etc. - if so requested by family members of the deceased and / or the accident aircraft's operator

8.47 **Standard.** ICAO Contracting States **shall** establish legislation, regulation and / or policies in support of assistance to **aircraft** accident victims and their families

(Note - Attention is drawn to ICAO Doc 9998, '**Policy** on Assistance to Aircraft Accident Victims and their Families' and ICAO Doc 9973, '**Manual** on Assistance to Aircraft Accident Victims and their Families' [Comment: note that at time of writing this extract, both aforesaid documents are now 10 years old!])

8.48 **Recommended Practice.** ICAO Contracting States **should** ensure that their associated **aircraft** and **airport** operators, as appropriate / relevant, develop appropriate plans to provide timely and effective assistance to aircraft accident victims and their families

(Note: such **Airport** operators' plans may form part of the associated **Aerodrome** Emergency Plan (AEP), as per / required by ICAO 'Annex 14 - **Aerodromes**')





(Note - Attention is drawn to ICAO Doc 9998, 'ICAO Policy on Assistance to Aircraft Accident Victims and their Families' - together with ICAO Doc 9973, 'Manual on Assistance to Aircraft Accident Victims and their Families'. Doc 9973 is effectively the implementation guide for the ICAO Doc 9998 policy)

Further Explanatory / Useful Information (i.e. not part of the above as originally produced by ICAO)

At most major, commercial airports, **non-based** (at any particular airport) **aircraft** operators (passenger airlines for purposes used here) rarely have significant numbers of their own staff serving their (own) associated flights. Instead, they contract the services of an appropriate '**ground handling agent - GHA**' so to do. **Thus the associated role of such GHA in airport (aircraft accident) emergency response ops is vital - and should thus be additionally accounted for by all concerned**, in addition to what has already been written on page 5 above





ICAO - Family Assistance Website

Around late 2018 ICAO introduced a webpage dedicated to 'Assistance to Aircraft Accident Victims and their Families'

The information found via this webpage is really good (particularly some of the 'family assistance' presentations) and well worth reading by all those having an interest here

You can find it at:

<https://www.icao.int/Security/FAL/ANNEX9/Pages/AssistancetoAircraftAccidentVictimsFamilies.aspx>

China - Family Assistance

For a little more detail on China's (Hong Kong's parent country) aviation related Family Assistance matters, follow the below link:

[https://www.icao.int/Meetings/anconf13/Documents/Presentations/family-assistance-side-meeting/Family%20Assistance Presentation 14.pdf](https://www.icao.int/Meetings/anconf13/Documents/Presentations/family-assistance-side-meeting/Family%20Assistance%20Presentation%2014.pdf)

