

Taiwan Regulation Governing Air Freight Forwarder

As amended and promulgated by Order Jiao-Hang-Fa-Tzu No. 093B000049 and Order Jiao-Hang-Fa-Tzu No. 0940085003 of the Ministry of Transportation and Communications on June 18, 2004 and January 18, 2005, respectively.

Chapter I General

Article 1

This regulation is enacted in accordance with the terms in the first paragraph of Article 70-1 of Civil Aviation Act.

Article 2

The air freight forwarder means one using its own name for the account of others, in performing a service for reward by getting a civil air transport enterprise to ship air freight and international trade and commercial documents of non-communicative nature. Air freight forwarder shall be governed by the provisions of this Regulation, aside from those prescribed in other laws.

Article 3

A company of air freight forwarder shall not use names, both Chinese and English, identical with those of civil air transport enterprise or other air freight forwarders.

Chapter II Permission of Establishment & registration

Article 4

To become an air freight forwarder, one must enclose the following papers in applying to the Civil Aeronautics Administration, Ministry of Transportation and Communications (hereinafter referred to as "CAA") for MOTC permission:

- 1.application form;
- 2.draft of company bylaw;
- 3.prospectus: including utilization of capital fund, projected volume of freight; forecast of revenue and expenditure, personnel organization and other related matters;

4. photocopies of household identification of the entire body of shareholders or sponsors;
5. photocopy of application for advance search of company name for purposes of company establishment and registration.

A company already established wishing to expand air freight forwarder service shall enclose the following papers in applying to CAA for MOTO permission:

1. application form;
2. photocopies of company registration;
3. photocopy of shareholders meeting minutes or shareholders' letter of consent;
4. draft of revised company bylaw;
5. prospectus: inclusive of capital utilization, projected freight volume, forecast of revenue and expenditure, general status of personnel makeup and other related matters;
6. roster of the entire body of shareholders;
7. photocopy of application for advance search for purposes of change of company name or registration of operated business.

Article 5

Notwithstanding compliance to the provisions of this Regulation, the screening of application to found air freight forwarder shall also take into consideration the follows:

1. that it meets market demand;
2. that it coordinates government policy.

Article 6

The equity capital of an air freight forwarder shall not be less than NT\$5 million.

Article 7

After receiving permission to set up business, the prospective air freight forwarder shall within the six-month preparatory period register with competent agency according to law, and enclose the following papers in applying to CAA for MOTC approval. CAA will then issue a permit enabling the applicant to start operation as an air freight forwarder:

1. photocopies of company registration;

2. photocopy of company bylaw;
3. namelist of shareholders and roster of board of directors and supervisors;
4. photocopy of membership card issued by local association of air freight forwarders;
5. sample of sub-air waybill issued by air freight forwarder.

Failure of the air freight forwarder to start operation over six months after the issuance of permit, or the air freight forwarder's suspension for more than six months after starting operation, shall result in its permit being withdrawn by CAA after requesting and gaining approval from MOTC. Concerned authorities will be notified to cancel such air freight forwarder's registration in whole or in part. Nevertheless, if there is a good reason to justify such failure or suspension, the air freight forwarder in question may apply at most six months after such failure or suspension through designated procedure for an extension, provided that such extension shall not exceed six months and shall be limited to once only.

Article 8

An air freight forwarder in applying for a permit to run air freight forwarding services shall pay a fee for the permit in the amount of NT\$36,000.

An air freight forwarder in applying for renewal or replacement shall pay a fee for the permit in the amount of NT\$2,100.

Article 9

An air freight forwarder shall report to CAA for prior approval for any change of its English name.

Within 15 days from completion of registration, the air freight forwarder shall report to CAA for record its Chinese title, organization, responsible person, directors, supervisors, managers, amount of capital, change of address or establishment of branch company.

With such changes described in the preceding two paragraphs as company title, organization, responsible person, amount of capital and address, a new air freight forwarder permit must be applied for at the normal charge for a replacement permit.

Article 10

In the event an air freight forwarder permit is lost, perished or destroyed, a new permit or replacement permit must be applied for.

Article 11

An air freight forwarder shall, upon its close of business, report to MOTC for record through CAA, and shall return its originally received permit of an air freight forwarder within thirty days of its close of business; failure to return such license within the time limit shall entitle CAA to cancel the same directly by publication.

Article 11-1

MOTC may delegate such matters as the approval of preparation for establishment and the approval and abolition of a permit of an air freight forwarder to the local navigation authority in case of any business operating ocean freight forwarder and air freight forwarder concurrently.

CAA may entrust such matters as the issuance, renewal, replacement and cancellation of a permit of an air freight forwarder to the local navigation authority in case of any business operating ocean freight forwarder and air freight forwarder concurrently.

The delegated and entrusted matters referred to in the preceding two paragraphs shall be announced, as well as published in the relevant government gazettes and websites, by MOTC and CAA pursuant to applicable regulations.

Article 11-2

Any business operating ocean freight forwarder and air freight forwarder concurrently may apply to the local navigation authority for the approval of preparation for establishment and the issuance of a permit in accordance with the applicable provisions of the Regulation Governing Ocean Freight Forwarder.

Any business receiving a permit for both ocean freight forwarder and air freight forwarder pursuant to the preceding paragraph shall apply to the local navigation authority for renewal, replacement of such permit, or abolition of the approval or cancellation of such permit.

Any business already obtaining separate permits for ocean freight forwarder and air freight forwarder may apply to the local navigation authority for replacement with a permit for both ocean freight forwarder and air freight forwarder.

Chapter III Governance

Article 12

An air freight forwarder shall display its certificate and business registration at the site of business.

Article 13

To meet the needs of air freight development, insure flight safety for public interest, CAA may dispatch personnel to inspect the various equipment and operations of an air freight forwarder, who must not refuse, evade or obstruct such inspections. If there is any deficiency, the air freight forwarder shall be given a certain period of time to improve.

Any air freight forwarder fails to improve within time limit, or refuses, avoids or hinders inspections will be suspended from operation by CAA, subject to MOTC's approval. In more serious cases, permit shall be nullified.

CAA is obligated to sending its agents for the inspection of various equipment and operations of air freight forwarders. It may also commission, or work jointly with, a related association in conducting such inspection.

Article 14

Air freight forwarder shall within six months of each yearend, submit to CAA for record its statement of assets and debts, balance sheet, business income returns and statement of freightage import and export.

Article 15

Sub-air waybill made out by an air freight forwarder shall carry in print the company name in both Chinese and English, its address and the registered number of air freight forwarder permit. These bills shall be numbered consecutively and samples must be provided to CAA for record in case of any change to the Chinese or English name and change of Chinese or English address of the air freight forwarder.

Article 16

Contents in diverse original parts must be in complete unison. There shall be no occurrence of alteration, falsification or repetition of using the same serial number.

Each primary air waybill shall record one by one the serial numbers of sub-air waybills it covers.

Article 17

An air freight forwarder shall print out tags for sub-air waybills indicating company title, place of departure, destination, total pieces of freight and sub-air waybill serial numbers.

Article 18

Air freight forwarder shall not let others borrow sub-air waybills or tags.

Article 19

Air freight forwarder shall keep for a period of two years all the sub-air waybills it has made out and all original data related to accounting matters.

Article 20

Air freight forwarder shall handle hazardous articles in respect of their packaging, tagging, labeling, storing and carriage, in compliance with the provisions of the regulation for disposition of hazardous articles compiled by International Air Transport Association.

Article 21

Air freight forwarder shall send personnel to receive relevant training by CAA or by a related association commissioned by CAA.

Article 22

The express goods handled by an air freight forwarder shall:

1. comply with the provisions of "Regulations governing import and export customs clearance procedures for express consignments" promulgated by the Ministry of Finance.
2. be glued with bar codes sufficient to identify goods.

Article 23

Air freight forwarder having entered into linkage contract or contract of general agent with a foreign air freight forwarder; may engage in delivery of international trade and commercial documents. To do so, it shall apply to CAA for a new permit and complete registration for the change in company operation and new business registration. With these formalities accomplished, business can get started.

Article 24

International trade and commercial documents delivered by air freight forwarder shall be limited to those listed in the forms prescribed under this Regulation.

The above said documents shall not be tightly sealed.

Chapter IV Foreign Air freight Forwarder

Article 25

Foreign air freight forwarder wishing to set up branch company in the Republic of China, shall enclose the following paper in applying to CAA for MOTC permission:

1. application form;
2. photocopy of company bylaw;
3. photocopy of certificate by the competent authority in the country where company was registered;
4. prospectus: inclusive of capital utilization, forecast of freightage, projected business revenue and expenditure, personnel composition and other related matters.

The above said papers should have been certified by Republic of China's embassy or consulate or its representative office abroad. If they are in a foreign language, Chinese translation shall be enclosed.

Article 26

Foreign air freight forwarder having received permission to set up branch company, shall within the six-month preparatory period secure recognition from the controlling agency of the company, complete branch company registration and business registration. With photocopies of endorsement certificate, branch company registration and business registration, application shall be filed for MOTC approval via CAA. Business gets started only after the issuance of air freight forwarder permit by CAA.

Article 27

With the exception of those applying for setting up branch company, foreign air forwarder shall commission a Republic of China air freight forwarder to handle its business.

Article 28

Upon being commissioned by a foreign air freight forwarder, air freight forwarder shall enclose the following papers in applying to CAA for approval:

- 1.application form;
- 2.letter of commission;
- 3.photocopy of certificate from the competent authority in the country where company was registered;
- 4.samples of sub-air waybills of the foreign company authorizing the commission.

The sub-air waybill referred to in Subparagraph 4 of the preceding paragraph may be exempt from carrying in print the registered number of air freight forwarder permit, the company name and address in Chinese.

Article 29

Aside from those prescribed in this Chapter, the provisions of Article 3 and Articles 8 to 22 inclusive shall apply to foreign air freight forwarder.

Chapter V Supplemental provisions

Article 30 (Deleted)

Article 30-1

An applicant shall represent that any photocopies of documents required under this Regulation be consistent with the true copy thereof and shall affix the seal of the applicant to such copies. CAA may request the applicant to present the original documents for verification, if necessary.

Article 30-2

The forms and formats required under this Regulation shall be prescribed by MOTC.

Article 31

This Regulation shall become effective on the date of promulgation.

