

Singapore

Rajaram Ramiah and Amos Tan

Quahe Woo & Palmer LLC

General

1 Which bodies regulate aviation in your country, under what basic laws?

The main body responsible for the regulation of aviation is the Civil Aviation Authority of Singapore (CAAS) which is within the purview of the Ministry of Transport. The CAAS was established in 1984 as a statutory board.

The primary legislation laying down the functions and powers of the CAAS is the Civil Aviation Authority of Singapore Act (Cap 41) (CAAS Act), which sets out the constitution, functions and powers of the CAAS.

Regulation of aviation operations

2 How is air transport regulated in terms of safety?

The principal body responsible for regulating aviation safety is the CAAS.

The principal legislation regulating aviation safety is the Air Navigation Act (Cap. 41) (ANA) and the subsidiary legislations therein include the Air Navigation Order (ANO). These legislations set out a regulatory framework for aviation safety, and procedures for accident and incident reporting.

The ANO sets out general requirements for the registration and marking of aircraft, airworthiness, operations, air traffic control, and aerodromes. In particular, Part V of the ANO sets out safety requirements, obligations and responsibilities in respect of public transport aircraft registered in Singapore, while Part VA of the ANO applies to non-public transport aircraft.

The CAAS will also, from time to time, issue advisory circulars setting out standards, practices and procedures acceptable to the CAAS.

In respect of the investigation of air accidents and serious incidents, the body responsible is the Air Accident Investigation Bureau of Singapore (AAIB), established pursuant to section 13B of the ANA. The AAIB is an independent investigation authority made up of qualified Inspectors of Accidents (with the required qualifications as set out in the ANO), which conducts its investigations in accordance with the Air Navigation (Investigation of Accidents and Incidents) Order 2003.

3 What safety regulation is provided for air operations that do not constitute public or commercial transport, and how is the distinction made?

Air operations that do not constitute public transport are subject to the Singapore General Aviation Requirements (SGAR), which apply to general aviation operations, and contain the requirements which shall be complied with by the owner, operator or pilot-in-command of a Singapore aircraft used in any general aviation operations in addition to any other obligations imposed by the ANO.

Under the ANO, 'general aviation operations' is defined as the operation of an aircraft for any purpose other than for public transport or aerial work.

Two separate SGARs have been issued, one for aeroplanes and one for helicopters. The SGARs provide for, among others, rules and regulations pertaining to:

- reporting of accidents, incidents and occurrences;
- flight operations (ie, flight preparation, in-flight procedures and cabin baggage);
- operating performance limitations;

- instruments, equipment and flight documents (ie, lights, transponders and transmitters);
- maintenance;
- flight crew and their qualifications; and
- security.

4 Is access to the market for the provision of air transport services regulated, and if so how?

Yes. Section 87 and 87A of the ANO regulates the provision of air transport services for Singapore air operators and foreign air operators respectively.

Under the ANO, no person whose principal place of business is in Singapore shall operate an aircraft for the purpose of public transport otherwise than under and in accordance with the terms of an air operator certificate (AOC) granted to the operator of the aircraft.

AOCs are granted or renewed by the Chief Executive of the CAAS (the Chief Executive). In determining whether to grant or renew an AOC, the Chief Executive will normally need to be satisfied that the applicant or operator is competent having regard, in particular, to the applicant's or operator's previous conduct and experience, his equipment, organisation, staffing, maintenance and other arrangements, to secure the safe operation of aircraft of the type specified in the certificate on flights of the description and for the purposes so specified. Holders of AOCs need to comply with all the requirements set out in the Air Operator Certificate Requirements.

Foreign air operators who have been granted air operator certificates by other countries may only operate aircraft into or out of Singapore for the purpose of public transport with an Operations Permit (OP). The granting or renewal of an OP is also under the purview of the Chief Executive, who must be satisfied that the foreign air operator is capable of ensuring the safe operation of the foreign air operator's aircraft. The Chief Executive may also impose any conditions on an OP which the OP holder must operate the aircraft in compliance with.

5 What requirements apply in the areas of financial fitness and nationality of ownership regarding control of air carriers?

There appear to be no clear requirements for financial fitness or nationality of ownership for applicants of an AOC. However, the CAAS, when assessing applications for AOCs, will require details of the nationality of the owners along with the organisational structure of the company applying for the AOC, its financial data, and business plan.

In the case of foreign air operators, the CAAS may request for information on the financial fitness in assessing an application for an OP.

Further, in respect of licences or rights to operate particular routes, the nationality, ownership and financial fitness of an air carrier is a factor to be considered by the CAAS in deciding whether or not to grant a licence for scheduled journeys, as contained in Regulation 2G of the Air Navigation (Licencing of Air Services) Regulations. See question 6.

6 What procedures are there to obtain licences or other rights to operate particular routes?

According to the Air Navigation (Licencing of Air Services) Regulations, to operate particular scheduled routes, airlines must either:

- be a designated carrier under a bilateral, plurilateral or multilateral Air Services Agreement with Singapore (ASA); or
- be licensed under the Air Navigation (Licencing of Air Services) Regulations to operate to Singapore.

Where an airline is not a designated carrier under an ASA, the grant and maintenance of a licence under the Air Navigation (Licencing of Air Services) Regulations for scheduled journeys will be subject to the Air Traffic Rights Committee's consideration of a number of factors in Regulation 2G of the Air Navigation (Licencing of Air Services) Regulations, which include, among others:

- the nationality, ownership and financial fitness of the applicant;
- whether there are available air traffic rights relating to the network of air services to be provided by the applicant;
- the provision of air services by other airlines along the routes in respect of which the application is made;
- the demand for air services along the routes in respect of which the application is made; and
- the applicant's proposals for providing air services (including the cities to be served and the routes on which the air services are to be provided).

7 What procedures are there for hearing or deciding contested applications for licences or other rights to operate particular routes?

Anyone aggrieved by a decision of the Air Traffic Rights Committee in respect of the refusal to grant or renew a licence may appeal to the Minister within 14 days of the decision being made. This appeal has to be in writing, stating the decision of the Committee in respect of which the appeal is sought, and specifying the grounds on which the appeal is made. In making a determination, the applicant may be required to provide any documentation or information as the Minister thinks fit. Any decision made by the Minister is final and no further appeals may be brought.

8 Is there a declared policy on airline access or competition, and if so what is it?

See the CAAS's Airport Competition Code, discussed at question 28 below.

9 What requirements must a foreign air carrier satisfy in order to operate to or from your country?

As set out in question 4, a foreign air carrier must already be a holder of an air operator's certificate in its country of origin or incorporation or otherwise, and may only operate aircraft into or out of Singapore for the purpose of providing public transport under an OP.

Further, as set out in question 6, for an air carrier to operate scheduled routes to or from Singapore, it must either be a designated carrier under a bilateral, plurilateral or multilateral Air Services Agreement with Singapore or be licensed under the Air Navigation (Licencing of Air Services) Regulations to operate to Singapore.

For non-scheduled routes to or from Singapore, a foreign air operator must first obtain approval from the CAAS, as set out in question 11.

10 Are there specific rules in place to ensure aviation services are offered to remote destinations when vital for the local economy?

Not applicable. Given its size, there are no domestic revenue flights undertaken in Singapore.

11 Are charter services specially regulated?

Yes. Under the Air Navigation (Licencing of Air Services) Regulations, all charter flights (also known as non-scheduled air services for hire or reward) are subject to prior approval by the CAAS.

Approval is required under Part III of the Air Navigation (Licencing of Air Services) Regulations, which provides that no person shall provide air services on any non-scheduled journey except under and in accordance with a permit granted by the Chief Executive.

According to the CAAS website, charter flights should generally serve routes for which existing scheduled services are unable to meet market needs, and it is likely that this is a consideration taken into account when the CAAS determines whether or not to grant approval.

12 Are airfares regulated, and if so, how?

Airfares are not regulated in Singapore.

However, anti-competition laws would nevertheless apply to air transport services and airfares. The scope of anti-competition laws in Singapore is discussed below at questions 31 and 32.

Aircraft

13 Who is entitled to be mentioned in the aircraft register? Do requirements or limitations apply to the ownership of an aircraft listed on your country's register?

Part II of the ANO sets out the registration requirements for aircraft.

Only qualified owners, or unqualified owners with the approval of the Chief Executive, may be mentioned in the aircraft register. Paragraph 4(3) states that the following persons and no other shall be qualified to be the owner of a legal or beneficial interest in an aircraft registered in Singapore or a share therein:

- the government;
- citizens of Singapore;
- citizens of any Commonwealth country; and
- bodies incorporated in Singapore or in some part of the Commonwealth and having their principal place of business in some part of the Commonwealth.

Where an unqualified person residing or having a place of business in Singapore is entitled as owner to a legal or beneficial interest in an aircraft, or a share therein, the Chief Executive, upon being satisfied that the aircraft may otherwise be properly so registered, may register the aircraft in Singapore. However, the unqualified person is not permitted to cause or permit the aircraft, while it is registered in pursuance of this section, to be used for the purpose of public transport or aerial work.

Further, where any aircraft is chartered by demise (ie, a dry lease) to a qualified person, the charterer may register the aircraft in Singapore in the name of the charterer, and the aircraft may remain so registered during the continuation of the charter.

14 Is there a register of aircraft mortgages or charges, and if so how does it function?

There is no register of aircraft mortgages or charges in Singapore.

15 What rights are there to detain aircraft, in respect of unpaid airport or air navigation charges, or other unpaid debts?

The right to detain aircraft in respect of unpaid levies or service charges are provided for in sections 89 to 94 of the CAAS Act.

Under section 89 of the CAAS Act, if any levy or service charge imposed in respect of an aircraft is not paid in full by the due date for payment, the CAAS may make an entry in the Register of Statutory Liens.

Upon the making of an entry, a statutory lien on the aircraft will vest in the CAAS and this will have effect as a security interest in respect of the aircraft ranking in priority after any security interest (other than a floating charge) in respect of the aircraft created before the time of registration of the statutory lien, to the extent that the security interest covers a debt incurred before that time.

Any aircraft that is subject to a statutory lien cannot be removed from Singapore or be dismantled, without prior approval of the CAAS, and any person doing so will be guilty of an offence and shall be liable on conviction to a fine not exceeding S\$200,000 or to imprisonment for a term not exceeding 12 months or to both.

Where the amount covered by a statutory lien remains unpaid at the end of nine months, the CAAS may, seize the aircraft, or keep possession of the aircraft until all outstanding amounts covered by the statutory lien are paid. If so, the CAAS must take reasonable steps to give notice of the seizure to persons having an interest in the aircraft.

Where an aircraft is to be seized under this section, the CAAS has to insure the aircraft against the loss of or damage to the aircraft during its seizure or while it is in the custody, possession or control of the CAAS or its agents. However, the CAAS is entitled to recover any premium paid on the insurance policy in court as a debt due by the person who is liable to pay the amounts covered by the statutory lien on the aircraft.

Alternatively, where the amount covered by a statutory lien remains unpaid at the end of nine months, the CAAS may, only after taking reasonable steps to give reasonable notice of the sale or disposal to persons having an interest in the aircraft, sell or otherwise dispose of the aircraft, whether or not the aircraft has been seized.

A debtor with a registered International Interest (as defined in the Cape Town Treaty) will be able to rely on remedies under the International Interests in Aircraft Equipment Act Chapter 144 B, which implements the Cape Town Treaty (the Convention on International Interests in Mobile Equipment).

Further, a common law unpaid vendor may exercise a lien which includes the right of possession until the lien is discharged.

16 Do specific rules regulate the maintenance of aircraft?

Under Part III of the ANO, Singapore registered aircraft must not fly unless they are maintained in accordance with maintenance schedules and other requirements as set out in the ANO.

Further, any maintenance of Singapore aircraft or any aircraft component fitted or to be fitted into a Singapore aircraft has to be conducted by a person who has obtained a certificate or other form of written approval from the Chief Executive in respect of the maintenance of the aircraft or aircraft component, or been notified that no approval is required.

Under the ANO, the Chief Executive may also issue aircraft maintenance licences (which may limit the licence to particular types of aircraft or equipment) and approve of any training or instruction in respect of aircraft maintenance.

Airports

17 Who owns the airports?

There are two commercial airports in Singapore: Changi International Airport and Seletar Airport.

Changi Airport is Singapore's air hub for international air services, while Seletar Airport is the preferred airport for business aviation traffic in Singapore. Both airports are owned by the government of Singapore, and are managed and operated by the Changi Airport Group, which is also owned by the government of Singapore.

18 What system is there for the licensing of airports?

The conditions for the licencing and management of airports are set out in Part IV of the CAAS Act. Under the CAAS Act, no person is allowed to operate an airport unless the person is authorised to do so by an airport licence, or an exemption granted by the CAAS.

In deciding whether to grant a licence, the CAAS will take into consideration, among others, the ability of the person to finance the operation of the airport and the experience of that person in operating the airport.

According to section 37, these airport licences may include such conditions as appear to the CAAS to be requisite or expedient, which include requirements to enter into agreements or arrangements with any other person or class or persons, to be prepared for public emergencies, or to do or not do such things as specified by the CAAS. Further, airport licence holders have to comply with codes of practice, as discussed below at question 19.

Airport licences cannot be transferred, and airport licence holders are not permitted to carry on substantial trading or financial activities other than activities that are related or incidental to the operation of the airport.

Part V of the CAAS Act also sets out a number of restrictions on ownership and management of an airport licence holder, for example share ownership, acquisition of, or appointments of staff in an airport licence holder.

19 Is there a system of economic regulation of airports, and, if so, how does it function?

Yes. The CAAS has implemented three forms of economic regulation.

Service regulation

The Code of Practice for Changi Airport Service Standards and the Code of Practice for Seletar Airport Service Standards set out requirements with which an airport licensee operating the airport must comply with, and also set out penalties and other measures to be imposed by the CAAS on the licensee for any breach of the code.

Competition regulation

The CAAS enforces the Airport Competition Code, as discussed at question 28.

Pricing regulation

The CAAS enforces a pricing regulation framework by controlling aeronautical charges at Changi Airport, while providing incentives for the Changi Airport licensee to be efficient, by utilising a portion of economic profit from retail businesses at Changi Airport to subsidise Changi Airport's aeronautical costs each year. Price regulation covers among others, landing, parking and aerobridge charges.

There is no similar pricing regulation at Seletar Airport as the nature of operations at Seletar Airport is fundamentally different.

20 Are there laws or rules restricting or qualifying access to airports?

Other than compliance with the general civil aviation requirements (eg, registration, licences and permits), there are no restrictions to access to airports.

However, under section 70 of the CAAS Act, the Minister may require an the airport operator to give access or priority of access to specified kinds of airport service for specified kinds of defence-related purposes, or for the conduct of specified kinds of public events of national significance.

21 How are slots allocated at congested airports?

The CAAS oversees slot allocation at Changi Airport and exercises supervisory oversight over the Slot Coordinator at Changi Airport.

All flight operators, both scheduled and non-scheduled, and both commercial and non-commercial, have to apply for and be allocated slots by the Slot Coordinator. However, certain flights are exempted from this requirement (ie, emergency landings, diplomatic flights, military flights, humanitarian flights, and technical flights).

An airline with slot matters that cannot be resolved with the Slot Coordinator may submit its feedback or appeal in writing to the Chairman of the Changi Slot Committee.

22 Are there any laws or rules specifically relating to ground handling?

Holders of AOCs are required by the Air Operator Certificate Requirements to provide ground handling instructions, procedures and arrangements so that all ground handling despatch tasks are carried out in a standard manner. Further, all ground handling responsibility must be maintained by the AOC holder, even where all or part of the functions and tasks related to ground handling services have been contracted to a service provider.

Aerodrome operators are required under the CAAS's Manual of Aerodrome Standards to establish procedures for ground handling activities such as aircraft handling operations. In order to ensure that all aircraft handling operations are conducted safely, aerodrome operators are required to ensure that these procedures are complied with by all organisations that perform air handling operations, including ground handling service providers, fixed-based operators, and ground handling agents.

Further, pursuant to the ANO and the Manual of Aerodrome Standards, the CAAS has published Aerodrome Safety Publication No. 02/2014 which sets out guidelines on the safety of ground handling operations, including the development of safety requirements, safety training, performance indicators, the setting up of a ground operations safety committee, and enforcement of safety requirements.

23 Who provides air traffic control services? And how are they regulated?

Air traffic control services are provided by air navigation service providers. At present, CAAS is the sole air navigation service provider.

All air traffic controllers are required to be licenced by the Chief Executive, pursuant to the ANO, and must comply with the CAAS Licencing of Air Traffic Control Personnel Manual of Standards, which sets out standards, recommended practices and guidance material relating to the licensing of air traffic controllers and the approval of persons to provide training for air traffic controllers.

The ANO also sets out prohibitions on acting as an air traffic controller including incapacity, fatigue or the use of psychoactive substances.

Liability and accidents

24 Are there any special rules in respect of death of, or injury to, passengers or loss or damage to baggage or cargo in respect of domestic carriage?

Not applicable, as there is no domestic carriage of passengers or cargo by air in Singapore.

25 Are there any special rules about the liability of aircraft operators for surface damage?

Under section 9 of the ANA, damages are recoverable from the owner of any aircraft in respect of any damage or loss caused to any person or

property by an aircraft (including in flight, taking off or landing, or by any person in any aircraft, or by any article falling from any aircraft). Where such a claim is brought, damage is recoverable as though the damage or loss had been caused by a wilful act or negligence of the owner, without the claimant needing to prove negligence or any cause of action (unless the damage or loss was caused by or contributed to by the negligence of the claimant).

However, where damages for loss are recoverable from the owner by virtue of the ANA, and legal liability is created in a third party to pay damages in respect of that damage or loss, the owner is entitled to be indemnified by that third party in respect of that damage or loss.

26 What system and procedures are in place for the investigation of air accidents?

Part IIA of the ANA sets out a legislative framework for accidents and incidents investigation.

The ANA provides for the establishment of a department of the Government known as the Air Investigation Bureau of Singapore (AIB), comprising of public officials and Inspectors of Accidents, who are individuals with suitable qualifications and experience to exercise investigatory powers of the AIB.

Further, the Air Navigation (Investigation of Accidents and Incidents) Order sets out provisions on the investigation of accidents and incidents, including the notification procedure, powers of inspectors, and publication of investigation reports.

Under the Air Navigation (Investigation of Accidents and Incidents) Order, the owner, operator or pilot-in-command of an aircraft must notify the AIB when an aircraft accident or serious incident occurs in Singapore, regardless of the country that the aircraft is registered in, or a Singapore-registered aircraft or an aircraft operated by a Singapore operator is involved in an accident or serious incident overseas.

27 Is there a mandatory accident and incident reporting system, and if so, how does it operate?

Yes, there is. Section 13 (E) of the ANA sets out a mandatory accident and incident reporting scheme.

Where a 'relevant person' (as defined in the ANA to include the owner of the aircraft, the provider of air traffic services, and owners or operators of aerodromes) has knowledge of an accident or serious incident occurring in Singapore or an accident or a serious incident outside Singapore involving a Singapore registered aircraft or an aircraft operated by a Singapore operator, that person must give notice of the accident or serious incident to the AIB.

Further, section 88 of the ANO also sets out a mandatory reporting procedure for specified persons (including holders of AOCs, owners of aircraft, and other holders of certificated under the ANO) to report incidents relating to defects or malfunctioning of aircraft or facility, or any incident relating to a violation of any regulation or procedures.

Failure to comply with either mandatory reporting system without reasonable excuse constitutes an offence and an offender is liable on conviction to a fine not exceeding S\$100,000 or to imprisonment for a term not exceeding 5 years, or to both.

Competition law

28 Do sector-specific competition rules apply to aviation? If not, do the general competition law rules apply?

The CAAS's Airport Competition Code (Competition Code) sets out the sector-specific competition rules applicable to airport licence holders in Singapore, including the prohibitions against anti-competitive activities in the airport market.

The general competition law rules apply in relation to non-airport licence holders (eg, air operators, ground service providers) as the Competition Code only applies to airport licence holders.

29 Is there a sector-specific regulator or are competition rules applied by the general competition authority?

The Civil Aviation Authority is Singapore's sector-specific regulator. It enforces the provisions against anti-competitive activities under the Competition Code, applicable only to airport licence holders.

The Competition Commission of Singapore is a statutory body under the Ministry of Trade and Industry, and is the general competition authority that administers and enforces the Competition Act (Cap 50B).

30 How is the relevant market for the purposes of a competition assessment in the aviation sector defined by the competition authorities?

Under the Competition Code, the relevant market is defined as 'any market in Singapore wherein an airport licensee is engaged in the provision of airport services and facilities'.

There is no statutory definition of the relevant market in the Competition Act. However, the Competition Commission of Singapore's Guidelines on Market Definition set out the analytical framework on how relevant markets are defined when investigating infringements of prohibitions under the Competition Act. In general, the relevant market is the smallest product group (and geographical area) such that a hypothetical monopolist controlling that product group could profitably sustain 'supra competitive' prices. However, in practice this requires an assessment of the evidence and the exercise of judgment.

31 What are the main standards for assessing the competitive effect of a transaction?

Competition Code

In respect of airport licence holders, the Competition Code prohibits agreements that are entered into, or concerted practices, by an airport licensee (whether directly or indirectly) which have as their object or effect the prevention, restriction or distortion of competition within any airport market. In particular the Competition Code prohibits agreements that:

- directly or indirectly fix prices, or any other trading conditions, for the provision of airport services and facilities or for any other goods or services in relation to such provision;
- limit or control services, markets, technical development or investment in relation to airport services and facilities or for any other goods or services in relation to such provision;
- allocate or share markets or sources of supply for airport services and facilities or for any other goods or services in relation to such provision; or
- result in an agreement to boycott any other person in relation to the provision of airport services and facilities or for any other goods or services connected with such provision.

Competition Act

Generally, the Competition Act stipulates three basic prohibitions, namely:

- agreements, decisions and practices that prevent, restrict or distort competition;
- abuse of dominant position; and
- mergers causing a substantial lessening of competition.

A transaction may fall within these prohibitions if it, among others:

- causes a substantial lessening of competition;
- directly or indirectly fixes purchase or selling prices or other trading conditions;
- limits or controls production, markets, technical development or investment; or
- applies dissimilar conditions to equivalent transactions with other trading parties thereby placing them at a competitive disadvantage.

32 What types of remedies have been imposed to remedy concerns identified by the competition authorities?

Competition Code

Under the Competition Code, the CAAS has the power to issue directions to the airport licensee to bring the contravention to an end, issue directions to the airport licensee to take such action to remedy, mitigate or eliminate any adverse effect on the airport market, or require the airport licensee to pay such penalty as the Authority may think appropriate, subject to a maximum of S\$1,000,000.

Competition Act

Under the Competition Act, the Competition Commission of Singapore has the power to give interim or final directions to bring infringements to an end, or impose financial penalties of up to 10 per cent of the turnover of the business of the undertaking in Singapore for each year of infringement up to a maximum of three years.

Financial support and state aid

33 Are there sector-specific rules regulating direct or indirect financial support to companies by the government or government-controlled agencies or companies (state aid) in the aviation sector? If not, do general state aid rules apply?

There are no rules specific to the aviation sector regulating any financial support to companies by the government or government-controlled agencies or companies.

However, there are several schemes through which the Singapore Government assists companies with subsidies and incentives. These include the Aviation Development Fund, which is a scheme of grants and incentives for the purpose of accelerating further development and growth of the aviation industry in Singapore, and to ensure its continued relevance and competitiveness globally.

Further, the Singapore Economic Development Board implements an Aircraft Leasing Scheme, which applies to aircraft leasing companies which derive income from leasing of aircraft or other prescribed activities. Under the Aircraft Leasing Scheme, companies may:

- Be granted a concessionary tax rate of 5 per cent-10 per cent for a period of five years;
- Apply for withholding tax exemption on interest and qualifying related payment arising from qualifying foreign loans taken to finance the purchase of aircraft or aircraft engines; and
- Apply to depreciate their aircraft over a working life of five to 20 years.

On a more general level, companies can also obtain relief from income tax under the Economic Expansion Incentives (Relief from Income Tax) Act (Cap 86), which provides incentives for the establishment of pioneer industries and for economic expansion by way of providing relief from income tax.

34 What are the main principles of the state aid rules applicable to the aviation sector?

Not applicable.

35 Are there exemptions from the state aid rules or situations in which they do not apply?

Not applicable.

36 Must clearance from the competition authorities be obtained before state aid may be granted?

Not applicable.

37 If so, what are the main procedural steps to obtain clearance?

Not applicable.

38 If no clearance is obtained, what procedures apply to recover unlawfully granted state aid?

Not applicable.

Miscellaneous

39 Is there any aviation-specific passenger protection legislation?

The Carriage by Air Act (Cap 32A) gives effect to the provisions of the Warsaw Convention concerning international carriage by air and the Convention as amended by the Hague Protocol and the Montreal Protocol No. 4, which, among others:

- regulates liability for international carriage of persons, luggage, or goods;
- sets rules for documents of carriage;
- mandates carriers to use passenger tickets;
- requires carriers to issue baggage checks for checked luggage; and
- sets down limitation periods for bringing claims.

The Carriage By Air (Montreal Convention, 1999) Act (Cap. 32B) provides that the rules of the Montreal Convention, setting out rules relating to the international carriage of passengers, baggage and cargo, shall have the force of law in Singapore in relation to any carriage by air to which the Convention applies irrespective of the nationality of the aircraft performing that carriage.

Further, the general law relating to consumer protection and contract will apply to contracts of carriage between air service operators and passengers, particularly the Unfair Contract Terms Act (Cap 396) which imposes limits on the extent to which civil liability for breach of contract can be avoided, and the Consumer Protection (Fair Trading) Act (Cap 52A) which prohibits unfair practices and sets out the rights of consumers to sue for unfair practice.

40 Are there mandatory insurance requirements for the operators of aircraft?

Although there are legislative provisions enabling the CAAS and the Minister to make regulations in respect of insurance requirements, there are at the moment no mandatory insurance requirements for the operators of aircraft:

- Section 3A(1) of the ANA states that the CAAS may make regulations for the safety of air navigation or for public safety, including but not limited to requiring the operator of an aircraft that is flying into or out of Singapore to have a policy of insurance that insures the operator in respect of such liabilities as may be prescribed. Section 3A(2) of the ANA also provides that the regulations may include requirements for notification of insurance coverage for air services.
- Section 10(1) of the Carriage by Air (Montreal Convention, 1999) Act (Cap 32B) states that the Minister may make regulations that make such provisions as may be necessary to give effect to article 50 of the Montreal Convention in relation to the insurance that a carrier must maintain to cover its liability under the Montreal Convention.

However, details of the aircraft's insurance and the certificate of insurance are required by the CAAS when:

- applying for or renewing a Certificate of Airworthiness, which is required under the ANO for any aircraft to fly; and
- requesting for approval of commercial flights to/from Singapore by foreign operators and non-scheduled flights for Singapore operators.

Further, when granting or renewing an AOC, the Chief Executive is likely to take into consideration the aircraft operator's insurance. As mentioned at question 4, the Chief Executive will take into consideration, among others, the previous conduct and experience of the applicant, his equipment, organisation, staffing, maintenance and other arrangements, to secure the safe operation of aircraft.

In addition, as operators of aircraft are employers of staff, they are required to have insurance against all liabilities which they may incur under the provisions of the Work Injury Compensation Act (Cap. 354) in respect of any employee employed by them.

41 What legal requirements are there with regard to aviation security?

The ANA, and the regulations made thereunder, contain detailed provisions on aviation safety.

In particular, Division 5 of Part II covers detailed provisions on serious risks to aviation safety, including tampering with aircraft, interference with crew and unruly passengers, dangerous activity involving aircraft, failure to satisfy safety requirements, and trespassing.

Part IIB of the ANA also provides for the appointment of the National Civil Aviation Security Authority, responsible for the development, implementation and maintenance of the National Civil Aviation Security Programme to safeguard civil aviation operations from unlawful interference.

Further, Part VB of the ANO sets out restrictions on the carriage of munitions of war and dangerous goods by air in accordance with the Technical Instructions for the Safe Transport of Dangerous Goods by Air (Doc 9284), approved and issued in accordance with the procedure established by the Council of the International Civil Aviation Organisation, and prohibits the transportation of dangerous goods on passenger or cargo aircraft unless certain requirements set out in sections 50C to 50DA of the ANO are complied with.

Apart from aviation for public transport, under the SGAR for Aeroplanes, as mentioned above in question 3, the operator of a Singapore aeroplane for any purpose other than for public transport or aerial work has to establish and maintain a training programme to acquaint employees with preventive measures and techniques in relation to passengers, baggage, cargo, mail, equipment, stores and supplies intended for carriage on

Update and trends

The ASEAN Open Skies Policy

Singapore, as a member of the Association of South East Asian Nations (ASEAN), is a party to the discussion on open skies for ASEAN.

The ASEAN Single Aviation Market policy came into effect on 1 January 2015, aiming to increase regional and domestic connectivity by integrating production networks and enhancing regional trade by allowing airlines from ASEAN member states to fly freely throughout the region.

If this policy is successfully implemented, there will be no regulatory limits on the frequency or capacity of flights between international airports across the 10 ASEAN member countries.

Although progress is still ongoing, ASEAN is working on implementing 'fifth freedom right'. This will allow an airline to fly to beyond a second country to a third country with the right to sell tickets in the second country. ASEAN aims to ultimately achieve an open sky, which would allow an airline to operate anywhere in the region, while crew and staff would also be able to work in any country throughout ASEAN.

The need for a regional aviation safety and traffic control regulator

In the wake of the numerous air disasters in the region in 2014, commentators have suggested that the lack of a regional agency overseeing safety or coordinating air traffic control in ASEAN has a part to play.

The aviation safety standards in ASEAN are often said to be lacking, compared to the unified regional standards in Europe and America, which are enforced by the European Aviation Safety Agency and the Federal Aviation Administration respectively. These bodies ensure unified standards in flight control and safety policy.

In comparison, aviation experts have raised the region's congested skies and patchwork of differing safety standards as factors contributing to the need for a regional aviation regulator in ASEAN, and have stated that unless the industry comes together for this purpose, the ASEAN Open Skies Policy may be too far off to achieve.

an aeroplane so that they contribute to the prevention of acts of sabotage or other forms of unlawful interference.

42 What serious crimes exist with regard to aviation?

Singapore is a party to several international conventions including the Convention for the Suppression of Unlawful Seizure of Aircraft, the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation and the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation.

In order to give effect to these conventions, the Hijacking of Aircraft and Protection of Aircraft and International Airports Act (Cap 124) was passed, making any violence against passengers or crew, or any act destroying, damaging or endangering safety of aircraft, an offence.

Singapore is also a party to the Convention on Offences and certain other Acts Committed on board Aircraft, given effect to by the Tokyo Convention Act (Cap 327) which applies criminal law to any acts jeopardising the safety of persons or property on board aircraft in flight elsewhere than in or over Singapore, and recognises powers of the aircraft commander to restrain persons.

QUAHE WOO & PALMER LLC

ADVOCATES & SOLICITORS, SINGAPORE

Rajaram Ramiah
Amos Tan

rr@quahewoo.com
amos.tan@quahewoo.com

180 Clemenceau Avenue
#02-02 Haw Par Centre
Singapore 239922

Tel: +65 6622 0366
Fax: +65 6622 0377
www.quahewoo.com