

Rules on Rulemaking Procedures of Civil Aviation Administration of China

Chapter 1 General

Article 1 To standardize rulemaking procedures of civil aviation regulations, ensure the quality of civil aviation regulations, promote administration according to law, the Rules are developed according to *Legislation Law of the People's Republic of China* and *Regulations on Rulemaking Procedures*, and in conjunction with the actual rulemaking work of civil aviation.

Article 2 For the purpose of the Rules, Civil Aviation Regulations are the regulatory documents issued by CAAC order, which are developed by Civil Aviation Administration of China (CAAC) within its extent of authority, or jointly developed by related departments of the State Council within their extend of authority respectively, according to the laws and administrative laws and regulations, decision and order of the State Council.

Other regulatory documents that involve privilege and obligation of administrative counterpart and have general binding force and are issued by CAAC, CAAC functional department or regional administration of CAAC, may not conflict with civil aviation regulations.

Article 3 Civil aviation regulations are only allowed to be developed in the name of CAAC, and any CAAC functional department may not develop regulations in the name of its name.

Article 4 In developing civil aviation regulations, the following principle shall be followed:

- (1) Unification of national legal system;
- (2) Development according to the legal authority and procedure;
- (3) Consistency between authority and responsibility;
- (4) Maintaining legal interest of citizen legal person and other organization;
- (5) Ensuring administrative organ exercise authority according to law.

Article 5 CAAC legal department (hereafter referred to as legal department) is responsible to instruct and supervise rulemaking work, summarize, review and supervise the regulation drafting plan, and contact and coordinate with the legal department of National People's Congress (NPC) and the legal department of the State Council, and responsible for filing of regulations for reference.

CAAC functional departments are responsible for making application, drafting, and organizing drafting regulations.

The legal departments of CAAC Air Traffic Management Bureau (ATMB) and regional Administration of CAAC are responsible to study the measures and methods to implement the civil aviation laws, regulations and rules within its extend of authority, review the specific system and rules developed according to civil aviation laws, regulations and rules, and make suggestions on legislation.

Article 6 Civil aviation regulations shall be well-structured, complete in contents, standardized in form, well-organized, precise and terse in wording.

Chapter 2 Application

Article 7 Items specified in civil aviation regulations shall belong to the items to implement laws or administrative laws and regulations, decisions, and orders of the State Council; regulations shall be developed if administrative licensing, competence, qualification, administrative charges, administrative punishment are involved.

The contents specified in civil aviation regulations, if already specified in the related laws and regulations, are only allowed to detail the related articles, or specify the detailed operation methods and implementation rules according to the related articles, and may not be inconsistent with related laws and regulations; if there is no related laws and regulations, specify the involved contents according to the authority of CAAC.

Article 8 CAAC adopts annual legislative system, and the period from January 1 to December 31 of a year is a legislative year. CAAC develops the annual legislation plan and make decision on regulatory items to be developed and revised according to the legislative year.

Article 9 If CAAC functional department determines it is necessary to develop and revise regulations, it shall make application to the legal department prior to the new legislative year.

In making application, it shall state the necessity and feasibility of the regulation, basic ideas and major problems to be solved, intended main system, project leader and responsible person of the drafting department, and expected date of completion etc.

Article 10 Legal departments are responsible to review the application.

If the necessity is insufficient, inconsistent with related laws, administrative laws and regulations, and rules etc. and incompliant with the requirements of socialist market economy development and transformation of government functions, the application will not be approved.

Article 11 Legal departments shall summarize and coordinate the application of regulation development and revision, develop the legislation plan of next year, and implement after reported to and approved by the CAAC leader.

The annual legislation plan shall include the name of regulation, drafting department, project leader, and expected date of completion etc.

The drafting department shall accomplish the drafting work on time according to the rulemaking plan; if failed to accomplish the drafting work on time, it shall report to the CAAC leader and explain the reason.

Article 12 The annual legislation plan shall be strictly followed. Legal departments are responsible to check and supervise the implementation of annual legislation plan, and circulate the notice of plan implementation.

Article 13 The rulemaking work plan may be adjusted based on the actual situations. The new project other than the planned may be listed in the rulemaking work plan of the year after agreed by the CAAC leader.

Chapter 3 Drafting

Article 14 Regulations are drafted by the department making application.

If a regulation is complex and involves several functional departments, CAAC may designate one department of them or legal department to draft or organize drafting.

Experts or organizations may be invited to participate into drafting regulations, or be entrusted to draft regulations.

The fund necessary for drafting regulations shall meet the related CAAC provisions.

Article 15 Regulation drafting shall comply with the following basic requirements:

(1) Guarantee the legal interest of citizen, legal person and other organizations, specify their obligation and also specify their privilege, and guarantee the means to realize their privilege;

(2) Meet the objective requirements of socialist market economy development and the requirements of transformation of government functions, and may not set up the provisions for industry protection, to hinder market circulation and fair competition etc.;

(3) When giving necessary authority to related administrative organ, it also shall specify the conditions, procedures and responsibilities for exerting its authority; the specified management measures and operation procedures shall facilitate improvement of work efficiency and be convenient for administrative counterpart;

(4) Starting from the facts of the industry, its contents shall be specific, clear, detailed and operability.

Article 16 In drafting regulations, it shall carry out legislative research on conditions, know the actual problem, research domestic and international advanced experience, broadly listen to the related organs, organizations and persons' suggestions in writing and by means of symposium, discussion meeting and hearing etc.

Article 17 If the regulation involves general issues, the drafting department shall have symposium, listen to the suggestions of related organs, organizations and management counterpart; if the regulation involves significant legal issues or special professional technical questions, the drafting department shall have discussion meeting and listen to the suggestions of experts or other professionals; if the regulation directly involves the vital interests of citizen, legal person or other organization, and the related organ, organization or citizen has significant difference in opinion, it shall be published to society or hold a hearing.

Article 18 If the regulation involves the duties and responsibilities of or have close relationship with other department of the State Council, or involve the work of other functional department of CAAC, the drafting department shall conscientiously listen to the suggestions and positively coordinate; if coordination is impossible, the drafting department shall submit the draft regulation together with suggestions for review.

If the regulation involves the significant issue to be decided by CAAC, such as adjustment of management system, function etc., the drafting department shall report to CAAC to make decision in advance.

Article 19 The draft regulation for review shall be decided by group discussion of the drafting department, signed by the leader of drafting department, and submitted to the legal department for review. If several departments jointly draft the regulation, the draft regulation shall be submitted to the legal department for review after the leaders of drafting departments jointly sign.

Article 20 When submitting the draft regulation for review, the drafting department shall submit the following documents and material:

- (1) The report for submitting the draft regulation for review;
- (2) Draft regulation for review and its electronic file;
- (3) Draft regulation description and its electronic file;
- (4) If hearing is held due to difference opinion of related organ, organization and persons on the draft regulation, the hearing record shall be attached;
- (5) Related legal basis;
- (6) Other related material.

Article 21 The draft regulation description shall include the following:

- (1) Current situation and major problem of the item to be standardized;
- (2) Guiding thought and purpose of the regulation;
- (3) Specified main measures and the legal basis;
- (4) Feasibility of implementation and its expected effect;
- (5) Handling of different opinion;
- (6) Other issues necessary to be stated.

Article 22 The draft regulation for review normally include the following:

- (1) Purpose and basis;
- (2) Applicability;
- (3) Responsible authority or department;
- (4) Management principle;
- (5) Detailed management measures and working procedures;
- (6) Privilege and obligation relationship of civil aviation administrative organization and administrative counterpart;
- (7) Legal liability;
- (8) Effective date;
- (9) Other contents necessary to be specified.

Article 23 If the draft regulation for review does not comply with the requirements of article 20, 21 and 22 of the Rules, the legal department may ask the drafting department to supplement the related material within 15 days.

If the drafting department does not supplement the related material or the drafting work does not comply with the requirements of article 18 and 19 of the Rules the legal department may return the draft regulation back to the drafting department.

Chapter 4 Review

Article 24 The legal department is responsible to review the draft regulation and the review includes the following:

- (1) Whether it complies with the principle specified in article 4 of the Rules;
- (2) Whether it complies with the legal authority and procedure;
- (3) Whether it properly deals with the different opinion of related organ, organizations and persons on the draft regulation;
- (4) Whether it complies with legislative technical requirements;
- (5) Other contents necessary to be reviewed.

Article 25 The legal department may seek advice of draft regulation from the related departments, and may send the draft regulation to the related organization and experts to seek advice as necessary.

If the draft regulation for review involves significant issues, the legal department may invite related organizations and experts to have symposium and discussion meeting, listen to their opinion, and make a study and argument.

If the draft regulation for review directly involves the vital interests of citizen, legal person or other organizations, and there is significant difference in opinion, the drafting department has not seek advice from the general public and has not had hearing, after approved by CAAC, the legal department may seek advice from the general public and also may hold a hearing.

The fund necessary for reviewing regulations shall meet the related CAAC provisions.

Article 26 The legal department shall be objective and fair and be practical and realistic in dealing with various opinions during review.

If the related department have different opinion on the main measures, management system, and division of authority etc. involved in the draft regulation, the legal department shall coordinate and strive to reach consensus; if not, the legal department shall report to CAAC to make decision.

Article 27 If the draft regulation for review has one of the following situations, the legal department may postpone or return to the drafting department:

- (1) Does not comply with the basic principle for drafting regulations;
- (2) The conditions for the regulation are immature;
- (3) The main systems lack practical basis and need investigate and study again;
- (4) The drafting department has not coordinated with other departments involved in the regulation;
- (5) The related department has significant difference in opinion with adequate reason;
- (6) The attached material of draft regulation is incomplete;
- (7) Does not follow the specified procedures;
- (8) Other situations that are not suitable to submit to the CAAC general affairs meeting (hereafter referred to as general affairs meeting) for examination.

If the postponed or returned regulation is revised by the drafting department and meets the conditions for review, the drafting department shall submit to the legal department again according to the specified procedures.

Article 28 The legal department summarizes various opinion, revises the draft regulation, form the draft regulation and its description jointly with the drafting department based on the review comment. The description shall include the issues intended to be solved by the regulation, main measures and the coordination with related departments etc.

After the draft regulation and description is signed by the leader of legal department and jointly signed by related functional departments, it shall be submitted to the general affairs meeting for examination.

Chapter 5 Decision, Issuance and Filing

Article 29 Regulations shall be examined and decided by the general affairs meeting. In examining the draft regulation, the leader of legal department shall state the review and the leader of drafting department shall state the drafting of the regulation.

Article 30 After examined by the general affairs meeting, the drafting department shall revise the draft regulation jointly with the legal department based on the revision suggestion made in the examination, and submit to the administrator of CAAC to sign the order and issue.

If a draft regulation does not pass the examination due to significant difference in opinion, the drafting department shall coordinate and discuss jointly with the legal department, related functional departments and the department with different opinion according to the requirements of general affairs meeting, form the revision, and submit it to the general affairs meeting for examination again.

Article 31 A regulation jointly issued by CAAC and other departments of the State Council shall be sent to the joint department for signing and issuing after the draft regulation has pass the examination of general affairs meeting and signed by the administrator of CAAC.

If a regulation is drafted by other department of the State Council and will be jointly issued by CAAC, after reviewed by the legal department, it will be jointly signed and issued by the administrator of CAAC and the drafting department of the State Council in the order number of that department.

Article 32 Regulations shall become effective 30 days after issuing, and may become effective if the national security is involved and regulations implementation will be affected if not immediate implemented after issuing, the regulation may become effective on the date of issuing.

Article 33 After a regulation is signed, it shall timely release on CAAC website (www.caac.gov.cn), *CAAC Bulletin* or *CAAC Journal* or other means convenient to the public.

The regulation published on *CAAC Bulletin* is the standard text.

Article 34 Within 30 days after a regulation is issued, the legal department shall file the regulation to the legal department of the State Council according to the procedures and requirements specified in *Rules on Laws and Regulations Filing*.

Chapter 6 Interpretation, Evaluation, Revision and Abolishment

Article 35 The power of regulation interpretation belongs to CAAC. The functional department and regional Administration of CAAC have not the power to interpret regulations.

In one of the following situations, it is interpreted by CAAC:

- (1) The provisions of regulations need further clarify the meaning;
- (2) New situations appear after regulations are issued, and it is necessary to clarify the basis of regulation applicability.

The regional Administration of CAAC may make application for regulation interpretation to CAAC; citizen, legal person and other organizations may make suggestion for regulation interpretation to CAAC as necessary.

The regulation interpretation may be drafted by the original drafting department or legal department. After drafted, the regulation interpretation together with the drafting description are submitted to the legal department to make suggestion by referring to the review procedure of draft regulation, and submit to CAAC for approval and issuing.

The regulation interpretation has the same effect as the regulation.

Article 36 For the regulation has strong responses in the civil aviation industry or the public, after implementation, the regional Administration of CAAC reports the regulation implementation in its region to CAAC.

The report mainly includes the following:

- (1) Learning and propaganda after issued the regulation;
- (2) Effect achieved in implementation of the regulation;
- (3) Supportive documents or main measures taken for implementation of the regulation;
- (4) Problems and suggestions for implementation of the regulation.

If regional Administration of CAAC reports obvious problems in the implementation of regulations, CAAC may organize the legislation evaluation.

Article 37 In one of the following situations, it shall revise the regulation:

- (1) It is necessary to add or delete contents based on the need of policy or practice;
- (2) It shall revise due to revision or abolishment of related laws and administrative laws and regulations;
- (3) The specified competent authority or implementation authority changes;
- (4) The same item is specified in 2 or more regulations with inconsistent provisions;
- (5) Other situations if revision is necessary.

Article 38 In one of the following situations, it shall abolish the regulation:

- (1) The specified item has completed, or is no longer necessary to implement due to situations change;
- (2) The legislative basis is lost due to abolishment or revision of related laws and administrative laws and regulations;
- (3) The same item has been specified by new regulation that has been issued and become effective;
- (4) The effective period specified by the regulation expires.

Article 39 The revision and abolishment of regulation may be initiated by the drafting

department or legal department. After the drafting department negotiates with the legal department and submits the suggestion, it shall refer to the applicable provisions of rulemaking.

After the regulation is revised, it shall timely issue the new regulation text.

Chapter 7 Supplementary Provisions

Article 40 For the procedure that CAAC drafts the laws and administrative laws and regulations for the State Council, refer to the applicable provisions in the Rules, and the legal department is responsible for drafting and coordination work.

Article 41 The legal department edits and publishes the publication of civil aviation regulations based on arrangement of current civil aviation regulations.

Article 42 The Rules become effective 30 days after issuance. *Rules on Rulemaking Procedures of CAAC* developed in 1990 and revised in 1995 (CAAC Order No.45) are abolished as of the effective date of the Rules.