

政府總部
運輸及房屋局
運輸科
香港添馬添美道 2 號
政府總部東翼



Transport and
Housing Bureau
Government Secretariat

Transport Branch
East Wing, Central Government Offices,
2 Tim Mei Avenue,
Tamar, Hong Kong

本局檔號 Our Ref.: THB(T)CR 59/951/08

電話 Tel : (852) 3509 8195

來函檔號 Your Ref.: CB4/SS/8/20

傳真 Fax : (852) 2524 9397

by Email

(Email: hhchan@legco.gov.hk, ssptam@legco.gov.hk, mlmlui@legco.gov.hk)

16 August 2021

Ms Shirley CHAN
Clerk to the Subcommittee on Subsidiary Legislation to
Regulate the Operation of Small Unmanned Aircraft,
Legislative Council Complex,
1 Legislative Council Road,
Central, Hong Kong

Dear Ms Chan,

**Subcommittee on Subsidiary Legislation to
Regulate the Operation of Small Unmanned Aircraft**

The Administration's Response

In response to Hon Tony TSE Wai-chuen's letter dated 12 August 2021 to the Subcommittee on Subsidiary Legislation to Regulate the Operation of Small Unmanned Aircraft, the Administration's response is set out at **Annex**.

For further enquiries, please contact this Bureau.

Yours sincerely,

(TE Chi-wang)
for the Secretary for Transport and Housing

c.c. Civil Aviation Department

**Subcommittee on Subsidiary Legislation to
Regulate the Operation of Small Unmanned Aircraft**

**The Administration's response to the letter
from Hon Tony TSE Wai-chuen dated 12 August 2021**

- (i) In the past three years, the Civil Aviation Department (“CAD”) has received 210 complaints related to public’s concern about small unmanned aircraft (“SUA”) operations that might pose safety risks to other persons or properties and requested for investigation and follow-up actions. Meanwhile, there were four prosecution cases by the Police related to SUA operations, and all of them were convicted and fined. According to our records, four people were injured due to SUA operations in the past three years.
- (ii) Appropriate equipment would not only provide essential safety features where necessary, but also enhance the safety awareness of remote pilots, thereby safeguard aviation and public safety. Therefore, under the new Small Unmanned Aircraft Order (“SUA Order”), SUA for Category A2 / Category B operations must be equipped with basic capabilities of flight log (for recording basic flight parameters such as altitude, geographical location, speed, etc.) and geo-awareness (for providing real-time information and/or alerts to remote pilots on airspace restrictions), and these functions must be in use and function at all times during SUA operations.

We understand that the majority of the SUA products available in the market have already been equipped with the relevant safety equipment, and self-assembled SUA can also be equipped with the relevant equipment. Since this statutory requirement is applicable to all SUA for Category A2 and Category B operations, relevant persons shall ensure that the SUA has already been equipped with the relevant safety equipment before operations.

- (iii) Under the regulatory regime of the SUA Order, to ensure public and aviation safety, all SUA operations will be subject to the corresponding regulatory requirements under a risk-based approach. SUA operations with higher risks will be subject to more stringent safety requirements.

On the maximum flying altitude, it is measured from above ground level (including ground on mountain). Hence, the flying altitude is measured from above ground during the flight of an SUA. Remote pilot is responsible for ensuring that the SUA is flying in compliance with the relevant altitude requirements, regardless of Category A1 or other types of operation. The SUA Order stipulates that authorised officers, where necessary, may request relevant persons to provide the information relating to a flight so as to understand the flight conditions and ensure its compliance with the requirements. If necessary, authorised officers will take enforcement actions as appropriate.

- (iv) For implementation of the SUA Order, police officers and authorised officers appointed under the SUA Order will be empowered to stop SUA operations affecting public or aviation safety and other unauthorized operations. The enforcement powers cover certain areas, examples include preventing an SUA from flying or causing an SUA to land; preventing and/or stopping interference of or causing damage to SUA; seizing, detaining, searching and examining SUA and associated controlling device(s), etc. Offences relating to enforcement include refusal to produce documents and/or records in relation to SUA and flight operation; willfully obstructing or impeding an authorised officer or a police officer, etc. Similar to the current practice, the CAD will work closely with the Hong Kong Police Force in order to enforce the SUA Order by various means, including patrolling and follow-up of complaints.

If a person commits an offence under the SUA Order, the person is liable on conviction on indictment to a fine at level 6 (i.e. \$100,000) and to imprisonment for two years. Depending on the types and seriousness of the offences and circumstances of the cases, enforcement agencies which include the police officers and the authorised persons appointed under the SUA Order may take actions, including issuance of warnings / safety direction, suspension or revocation of registration / permission / rating / approval and prosecution etc. For cases of minor technical breach, for example, failure to update personal particulars as required by the SUA Order, a safety direction could be issued, under which the person concerned will be required to take the corrective actions in accordance with the safety direction within a specified period of time. Examples of corrective actions may include requiring the remote pilot to undergo appropriate training before he can resume flying, or requiring the responsible person to upgrade the equipment of SUA to meet the

required standard. Non-compliance with a safety direction is an offence.

Currently, there are nine officers under the Unmanned Aircraft Office in CAD. After the passage of the SUA Order, the office will be responsible for the implementation of the Order, including handling of applications and providing relevant services under the new Order, launching and managing an electronic platform, and discharging enforcement-related duties etc. CAD will launch a comprehensive publicity and public relations campaign in order to enhance public awareness and reduce enforcement burden. If necessary, CAD will seek the necessary manpower and financial resources in accordance with the Government's established resource allocation mechanism.

- (v) According to the Telecommunications Ordinance (Cap. 106 of the Laws of Hong Kong), a person shall not knowingly, and without lawful excuse, use any apparatus to cause direct or indirect harmful interference to any telecommunications devices (including SUA). In this regard, radio jammers that aim to interfere or even block radiocommunications by emitting radio wave at operating frequencies same as that of the affected radio apparatus (including SUA) are not licensable under the Telecommunications Ordinance and are strictly prohibited in Hong Kong. The Office of the Communications Authority ("OFCA") being the executive arm of the Communications Authority will perform regular market surveillance against suspected selling of illegal apparatus. Any person selling, possessing or using such jammers will contravene the Telecommunications Ordinance and OFCA will take enforcement actions as appropriate.

In addition, interfering with an SUA when it is being operated for a flight may constitute an offence under section 23 of the SUA Order. Offenders are liable to a fine at level 6 and to imprisonment for two years upon conviction.