

## **LEGISLATIVE COUNCIL BRIEF**

Telecommunications Ordinance (Chapter 106)

### **TELECOMMUNICATIONS (EXAMINATION, CERTIFICATION AND AUTHORIZATION OF RADIOCOMMUNICATIONS PERSONNEL) ORDER**

#### **INTRODUCTION**

This paper aims to brief Members on the Telecommunications (Examination, Certification and Authorization of Radiocommunications Personnel) Order, attached at Annex, made under section 32K of the Telecommunications Ordinance to provide for:

- (a) the examination of persons in connection with the operation of apparatus for radiocommunications;
- (b) the issue and revocation of certificates of competency in the operation of apparatus for radiocommunications;
- (c) the issue, suspension and revocation of authorities to operate to hold positions in radiocommunications stations; and
- (d) the fees payable in respect of such examination, certification and authorisation.

## **BACKGROUND**

2. Prior to the enactment of the Telecommunication (Amendment) Ordinance 2000, the Chief Executive in Council was empowered under section 37(1)(h) and (i) of the then Telecommunication Ordinance to make regulations to provide for the examination of persons in connection with the operation of apparatus for radiocommunications, and the issue, suspension and cancellation of certificates of competency and authorities to operate authorising persons to hold positions in radiocommunications stations. In accordance with the Ordinance, the Chief Executive in Council has made regulations 3, 4 and 6 of the Telecommunications Regulations.

3. To streamline the relevant procedures in view of the rapid development of the telecommunications industry, the Telecommunication (Amendment) Ordinance 2000 has introduced a new regime by virtue of the newly added section 32K of the Telecommunications Ordinance. Under the new regime, the power that previously rested with the Chief Executive in Council has been transferred to the Telecommunications Authority (the Authority). The Authority therefore made the Telecommunications (Examination, Certification and Authorization of Radiocommunications Personnel) Order on 10 January 2001 to provide for such matters.

### **The Order**

4. To maintain a level playing field for existing radiocommunications personnel and future personnel under the new regime, we do not propose any substantial changes to the existing procedures for examination and certification of radiocommunications personnel. Major provisions of the Order are set out as follows.

5. **Section 2** provides that the Authority may conduct examinations or tests on the competency of the radiocommunications personnel and issue certificates of competency if he is satisfied with the competency of the personnel. **Section 3** provides that the Authority may issue authority to operate to any personnel who holds a certificate of

competency or whom he considers suitably qualified. A person holding an authority to operate will be entitled to hold such position in a radiocommunications station other than in an aircraft.

6. Both sections provide that the validity period and form of the certificates/authorities to operate will be determined by the Authority from time to time. The Authority may also revoke the certificates/authorities to operate if he considers that the person holding the certificate/authorities to operate is no longer competent in the operation, and such certificates/authorities to operate shall be returned to the Authority within 14 days if required by the Authority. Opportunity is taken to lower the penalty for failure to return revoked certificates to the Authority to a maximum penalty of a fine of level 1 and an imprisonment term of one months (previously a fine of \$10,000 and an imprisonment term of six months) to align the severity of the breach with the penalty.

7. **Section 4** is a new provision to clarify that the Authority may issue a certificate of competency or authority to operate to a person holding a similar document issued by foreign administration if he is satisfied that the document is equivalent to the certificate/authority to operate. **Section 5** provides that the Authority may issue a duplicate of the certificate/authority to operate if such a document is lost or destroyed. **Section 6** provides that the Authority may waive or refund the fees payable if he considers it appropriate to do so.

8. **The Schedule** specifies the fees payable for the conduct of examinations, and the issue or, if appropriate, revalidation, of the certificates or authorities to operate. The fees are the same with those, if any, under the existing regime as prescribed under the Telecommunications Regulations.

## **LEGISLATIVE TIMETABLE**

9. The legislative timetable will be as follows -

Publication in the Gazette	12 January 2001
Tabling in the Legislative Council	17 January 2001
Commencement of the Order	1 April 2001

## **BASIC LAW IMPLICATIONS**

10. The Department of Justice advises that the Order does not conflict with those provisions of the Basic Law carrying no human rights implications.

## **HUMAN RIGHTS IMPLICATIONS**

11. The Department of Justice advises that the Order is consistent with the human rights provisions of the Basic Law.

## **BINDING EFFECT OF THE LEGISLATION**

12. The Order is consistent with the binding effect of the Telecommunications Ordinance.

## **FINANCIAL AND STAFFING IMPLICATIONS**

13. The Office of Telecommunications Authority will recover the costs for administration of the Order with the fees levied for the conduct of examination and the issue or revalidation of certificates and authorities to operate under the Order.

## **ECONOMIC IMPLICATIONS**

14. There are no economic implications.

## **ENVIRONMENTAL IMPLICATIONS**

15. There are no environmental implications.

## **PUBLIC CONSULTATION**

16. The Order is technical in nature, and the procedures prescribed therein are similar to those of the existing regime. No public consultation is considered necessary.

## **PUBLICITY**

17. A press release will be issued on the date of publication of the Order in the gazette. A spokesman will be made available to answer media enquiry.

## **ENQUIRIES**

18. For any enquiries relating to this Brief, please contact –

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January 2001  
Office of the Telecommunications Authority

**TELECOMMUNICATIONS (EXAMINATION, CERTIFICATION  
AND AUTHORIZATION OF RADIOCOMMUNICATIONS  
PERSONNEL) ORDER**

(Made under section 32K of the Telecommunications  
Ordinance (Cap. 106))

**1. Commencement**

This Order shall come into operation on 1 April 2001.

**2. Examinations and tests for issue  
of certificates of competency**

(1) The Authority may, upon payment of the appropriate fee prescribed in column 3 of Part 1 of the Schedule, conduct in respect of a person -

(a) any of the examinations specified in column 2 of Part 1 of the Schedule and, if he is satisfied as to the competency of the person examined, issue to the person the appropriate certificate of competency; and

(b) any of the tests specified in column 2 of Part 1 of the Schedule.

(2) The Authority may, upon payment of the appropriate fee prescribed in column 3 of Part 2 of the Schedule, issue to a person, in accordance with section 32K(2) of the Ordinance, a certificate of competency in radiocommunications.

(3) A certificate of competency shall be -

(a) valid for such period; and

(b) in such form,

as the Authority may, from time to time, determine.

(4) The person to whom a certificate of competency is issued shall make a declaration of secrecy in such form as the Authority may, from time to time, determine.

(5) Before the expiry of an endorsement in a certificate of competency mentioned in item 7 of Part 2 of the Schedule, the person to whom the certificate is issued may, in such form and manner as the Authority may from time to time determine, apply to the Authority for revalidation of the certificate in so far as it relates to the endorsement, and the Authority may, upon payment of the appropriate fee prescribed in column 3 of Part 2 of the Schedule, so revalidate the certificate for such period as he may determine.

(6) Where under section 32K(2) of the Ordinance the Authority revokes a certificate of competency issued to a person, the person shall, not later than 14 days after notice of the revocation is served on him and if the notice requires him to do so, surrender the certificate to the Authority.

(7) Where under section 32K(2) of the Ordinance the Authority revokes a certificate of competency mentioned in item 7 of Part 2 of the Schedule issued to a person, the Authority may issue to the person a certificate of competency -

- (a) mentioned in item 3, 4, 5 or 6, as the case may require, of Part 2 of the Schedule; and
- (b) valid for the unexpired portion of the period of validity of the first-mentioned certificate had to run at the time of its revocation.

(8) A person who, without reasonable excuse, contravenes subsection (6) commits an offence and is liable on conviction to a fine at level 1 and to imprisonment for 1 month.

(9) The Authority may treat a certificate of competency issued under regulation 3 of the Telecommunications Regulations (Cap. 106 sub. leg.) as equivalent to the like certificate of competency which may be issued under this section.

**3. Issue of authorities to operate in relation to radiocommunications station**

(1) The Authority may, upon payment of the appropriate fee prescribed in column 3 of Part 3 of the Schedule, issue an authority to operate to a person -

- (a) who holds a certificate of competency mentioned in Part 2 of the Schedule; or
- (b) whom he considers suitably qualified.

(2) The person to whom an authority to operate is issued may hold such position in a radiocommunications station other than in an aircraft as is specified in the authority to operate, being a position that may, by virtue of a condition of the licence issued under the Ordinance in respect of the radiocommunications station, be held only by a person for the time being holding the authority to operate.

(3) An authority to operate shall be -

- (a) valid for such period; and
- (b) in such form,

as the Authority may, from time to time, determine.

(4) The person to whom an authority to operate is issued shall make a declaration of secrecy in such form as the Authority may, from time to time, determine.

(5) Before the expiry of an authority to operate, the person to whom the authority to operate is issued may, in such form and manner as the Authority may from time to time determine, apply to the Authority for revalidation of the authority to operate, and the Authority may, upon payment of the appropriate fee prescribed in column 3 of Part 3 of the Schedule, so revalidate the authority to operate for such period as he may determine.

(6) Where under section 32K(5) of the Ordinance the Authority revokes an authority to operate issued to a person, the person shall, not later than 14 days after notice of the revocation is served on him and if the notice requires him to do so, surrender the authority to operate to the Authority.

(7) A person who, without reasonable excuse, contravenes subsection (6) commits an offence and is liable on conviction to a fine at level 1 and to imprisonment for 1 month.

(8) The Authority may treat an authority to operate issued under regulation 4 of the Telecommunications Regulations (Cap. 106 sub. leg.) as equivalent to the like authority to operate which may be issued under this section.

**4. Issue of certificate of competency, etc.,  
to holder of equivalent document issued  
in place outside Hong Kong**

Where a person is the holder of a document -

- (a) issued in a place outside Hong Kong; and

(b) in respect of which the Authority is satisfied that it is equivalent to a certificate of competency or an authority to operate which may be issued by the Authority under section 2 or 3, as the case may be, then the Authority may under that section issue to the person that certificate of competency or authority to operate, as the case may be.

**5. Issue of duplicate certificates of competency, etc.**

If a certificate of competency or an authority to operate issued under this Order is lost or destroyed, the Authority may issue a duplicate of the certificate or authority to operate, as the case may be, upon payment of a fee of \$55 for the duplicate.

**6. Waiver or refund of fees**

The Authority may -

- (a) waive in whole or in part the payment of a fee under a provision of this Order; or
- (b) refund in whole or in part a fee paid under a provision of this Order.

## SCHEDULE

[ss. 2 &amp; 3]

CERTIFICATES OF COMPETENCY, AUTHORITIES TO  
OPERATE AND ENDORSEMENTS

## PART 1

## EXAMINATIONS AND TESTS

Item		Fee
1.	For restricted certificate of competency in radiotelephony examination	\$150
2.	For radio amateur's written examination leading to the radio amateur's certificate	\$350
3.	Amateur Morse test	\$ 80

## PART 2

## CERTIFICATES OF COMPENTENCY

Item		Fee
1.	Radio amateur certificate	\$120
2.	Restricted certificate of competency in radiotelephony	\$120
3.	First Class Radio Electronic Certificate	\$780
4.	Second Class Radio Electronic Certificate	\$780
5.	General Operator's Certificate	\$410
6.	Restricted Operator's Certificate	\$410
7.	Any certificate mentioned in item 3, 4, 5 or 6 with an endorsement in the certificate that the Authority is satisfied that the holder of the certificate has fully complied with the	Fee mentioned in item 3, 4, 5 or 6, as the

	requirements of the International Convention on Standards of Training, Certificate and Watchkeeping for Seafarers, 1978, as in force from time to time	case may be, plus\$160
8.	Revalidation of certificate mentioned in item 7 insofar as it relates to endorsement in certificate	\$160

## PART 3

## AUTHORITY TO OPERATE

Item		Fee
1.	Issue of authority to operate	\$160
2.	Revalidation of authority to operate	\$160

Telecommunications Authority

2001

**Explanatory Note**

Following the commencement of sections 17 and 25 of the Telecommunication (Amendment) Ordinance (36 of 2000), the power to make subsidiary legislation in relation to certificates of competency in the operation of apparatus for radiocommunications, and authorities to operate to hold positions in

radiocommunications stations, has been transferred from the Chief Executive in Council under section 37 of the Telecommunications Ordinance (Cap. 106) ("the Ordinance") to the Telecommunications Authority ("the Authority") under section 32K of the Ordinance. Accordingly, this Order largely duplicates the superseded provisions of regulations 3, 4 and 6 of, and Schedule 2 to, the Telecommunications Regulations (Cap. 106 sub. leg.) made by the Chief Executive in Council in so far as they relate to matters previously falling under the repealed section 37(1)(h) and (i) of the Ordinance.

2. The Order provides for -

- (a) examinations and tests for the issue of certificates of competency and the surrender of such certificates when they are revoked (section 2);
- (b) the issue of authorities to operate and the surrender of such authorities when they are revoked (section 3);
- (c) the issue of certificates of competency and authorities to operate to persons who hold like documents issued in places outside Hong Kong (section 4);
- (d) the issue of duplicate certificates of competency and authorities to operate for lost or destroyed certificates or authorities to operate (section 5);
- (e) the waiver or refund by the Authority of a fee payable under the Order (section 6); and
- (f) the fees payable for various services provided

under the Order (the Schedule).

3. It should be noted that, although no new certificates of competency or authorities to operate will be issued under regulations 3 and 4 of the Telecommunications Regulations (Cap. 106 sub. leg.), those regulations will not be repealed until the validity of all previous authorities to operate issued under them have expired. However, it should also be noted that sections 2(9) and 3(8) of the Order empower the Authority to treat those certificates of competency and authorities to operate as equivalent to the like certificates of competency and authorities to operate which may be issued under the Order.