

**Chemical Weapons (Convention) Bill –
The Administration’s response to comments/questions
raised at the thirteenth meeting of the Bills Committee
held on 19 May 2003**

Clause 2

Upon request, we have added the definitions of “toxic chemical” and “precursor” in the CSAs and amended the definition of “facility” in the Chinese version of the CSAs. Moreover, we will not amend item (d) of the Chinese version of the definition of “purpose not prohibited under the Convention”.

Definition of “in-country escorts”

2. Members suggested that the agreed administrative arrangement between the Central People’s Government (CPG) and the Hong Kong Special Administrative Region Government (HKSARG) for appointing “in-country escorts” for inspection in Hong Kong should be stated in the definition of “in-country escorts” in the Bill.

3. According to the Convention, it is for the inspected State Party to specify “in-country escorts” for inspections to be conducted in its territory. There is no further regulation of the appointment mechanism under the Convention. We consider it not necessary to prescribe the administrative arrangements between the CPG and the HKSARG for appointing “in-country escorts”.

Clause 4

4. We accept the Bills Committee’s comments and have amended the CSAs accordingly.

Clause 5

5. As regards Members’ question on whether the word “retain” in the new clause 5(c) is commonly used in Hong Kong legislation, we have found over 200 provisions containing the word “retain” in the Hong

Kong statute book. It is apparent that the word “retain” is widely used in Hong Kong legislation. A copy of the list of provisions concerned is at **Annex I**.

6. Our policy is to follow the text of paragraph 1 of Article I of the Convention. This is to ensure that we fulfill HKSAR’s obligations under the Convention fully and effectively.

Clause 16(5), 21(1) and 21(3)

7. We accept Members’ comments and have amended the CSAs accordingly. A copy of the revised clause is at **Annex II**.

Clause 21(6)(c)

8. Section 21(6)(c) provides that where a notice cannot be delivered to the person on whom it is to be served or sent by registered post addressed to such person at the place of residence or business of such person, if any, known to the Commissioner for Customs and Excise (the Commissioner), the notice will be exhibited at the Customs and Excise Department (C&ED), in a place to which the public have access, for a period of not less than 7 days commencing within 30 days from the date of the seizure of the article, vessel or vehicle.

9. The notice concerned under clause 21(6)(c) refers to the “Notice of Seizure” which serves to inform the owner or his authorized agent of the seized articles, vessels or vehicles of the concerned seizure and the channel provided under the ordinance to appeal against the forfeiture of their properties. Under normal circumstance of which the owner or his authorized agent of the seized article is known to the Commissioner, the Commissioner will send the Notice either by delivery or registered post. If the owner or his authorized agent is unknown, before exhibiting the Notice at a public area, the Commissioner will endeavour to trace the innocent owners or person who may have an equity interest in the seized article, vessel or vehicle in case the article, vessel or vehicle was stolen or to issue each and every person know to him to be an owner of the seized article in case there are more than one owners.

10. After taking all the necessary steps to identify the owners, if the Commissioner still cannot find the concerned person(s), he will exhibit the Notice at the Customs and Excise Notice Board on the 2nd floor of the Harbour Building in Central in accordance with clause 21(6)(c). Indeed, exhibition of such kind of notices on the Customs and Excise Notice Board is a well established practice and is well known to members of the public who maintain dealings with the C&ED. Any change of the well established practice may cause unnecessary confusion and inconvenience to the public.

11. In view of Members' suggestion, apart from exhibiting on the Customs and Excise Notice Board, the Commissioner will also post all such notices on the internet for public access.

Commerce, Industry and Commerce Bureau
May 2003

"retain"

Annex I

	Version Date
Cap 4A order 14 SUMMARY JUDGMENT	01/07/1997
Cap 4A order 29 INTERLOCUTORY INJUNCTIONS, INTERIM PRESERVATION OF PROPER	28/06/2002
Cap 4A order 35 PROCEDURE AT TRIAL	01/07/1997
Cap 4A order 70 OBTAINING EVIDENCE FOR FOREIGN COURTS, ETC.	25/09/1998
Cap 4A app A FORMS	05/05/2000
Cap 6 s 45 Restriction of rights of creditor under execution or attachment	01/04/1998
Cap 6 s 46 Duties of bailiff as to goods taken in execution	01/04/1998
Cap 6 s 53 Possession of property by trustee	30/06/1997
Cap 6 s 61 Powers exercisable by trustee with permission of creditors' committee	01/04/1998
Cap 6 s 91 Payment of moneys into bank	01/04/1998
Cap 6 sched 1 CRIMINAL BANKRUPTCY ORDERS	20/11/1998
Cap 6A rule 161 Liability for costs, expenses and damages	01/04/1998
Cap 6B SCHEDULE	01/04/1998
Cap 7 s 17 Restriction on recovery of possession and effect of retention of possession	30/06/1997
Cap 7 s 21 Termination of principal tenancy	01/07/1997
Cap 7 s 39 A tenant about to absent himself from Hong Kong for certain periods may sublet under c	30/06/1997
Cap 7 sched 2	30/06/1997
Cap 10 s 57 Protection of persons acting on probate or administration	30/06/1997
Cap 19 s 24 Forged or unauthorized signature	30/06/1997
Cap 23 s 16 Adjustment of rights and liabilities of parties to frustrated contracts	30/06/1997
Cap 26 s 41 Unpaid seller's rights	30/06/1997
Cap 26 s 43 Unpaid seller's lien	30/06/1997
Cap 26 s 46 Right of stoppage in transitu	30/06/1997
Cap 29 s 5 Retention of redeemable stocks until redemption	30/06/1997
Cap 29 s 8 Investment in bearer securities	30/06/1997
Cap 29 s 11 Powers supplementary to powers of investment	30/06/1997
Cap 29 s 90 Investment of trust funds	30/06/1997
Cap 32 s 15 Registration of memorandum and articles	30/06/1997
Cap 32 s 19 Unlimited companies may be re-registered as limited	30/06/1997
Cap 32 s 269 Restriction of rights of creditor as to execution or attachment in case of company bein	01/07/1997
Cap 32 s 270 Duties of bailiff as to goods taken in execution	30/06/1997
Cap 32H rule 17 Use of file by Official Receiver	30/06/1997
Cap 32H rule 28 Appointment of provisional liquidator	30/06/1997
Cap 32H rule 183 Payment of undistributed and unclaimed money into companies liquidation accou	30/06/1997
Cap 34 s 4 Money changer to provide transaction note	30/06/1997
Cap 41 s 71 Insurance broker's client monies	30/06/1997
Cap 48 s 13 Saving for rights of true owner	30/06/1997
Cap 51B reg 5 Determination of application for construction approval	30/06/1997
Cap 51C reg 32 Unsafe gas fittings	01/04/2000
Cap 51C reg 33 Reinstatement of supply of gas	01/04/2000
Cap 59A reg 16C Employees not to work underground unless examined medically	30/06/1997
Cap 59A reg 20 Power to take samples	09/06/2000
Cap 60 s 7 Possession of prohibited article after import	30/06/1997
Cap 60A reg 6A Delivery of import notification and manifest to the Director	11/04/2003
Cap 60A reg 6DG Registered rough diamond trader to keep daily trade record, etc.	02/01/2003
Cap 78 s 11 Attestation of contracts	01/07/1997
Cap 79 s 14 Return of contributions and surrender of benefits	30/06/1997
Cap 91 s 19B Disposal by Director of moneys paid to him	01/07/1997
Cap 98 s 4A Charity postage stamps	30/06/1997
Cap 98 s 28 Unlawful retention of postal packets	30/06/1997
Cap 104D bylaw 7 Forfeiture and cancellation of monthly and season tickets	30/06/1997
Cap 104E bylaw 7 Forfeiture and cancellation of monthly or season tickets	30/06/1997
Cap 106 s 2 Interpretation	07/07/2000
Cap 106A sched 3 FORM OF LICENCES	01/01/2001
Cap 109A reg 98 Record of goods	21/07/2002

Version Date

	Version Date
Cap 112 s 20A Persons chargeable on behalf of a non-resident	30/06/1997
Cap 112 s 51B Power to issue search warrant	30/06/1997
Cap 112 s 51C Business records to be kept	30/06/1997
Cap 112 s 51D Rent records to be kept	30/06/1997
Cap 113 s 4 Functions of the Authority	01/07/2002
Cap 113 sched 3 PROVISIONS WITH RESPECT TO THE AUTHORITY AND COMMITTEES	01/07/2002
Cap 115A sched 1	01/07/1997
Cap 119 s 15 Membership limited to persons with common occupation, etc.	30/06/1997
Cap 123 s 3 *Registers of authorized persons and structural engineers	01/11/2000
Cap 123 s 8E Building Authority to give reasons	01/04/1998
Cap 123A reg 41 Duty of registered contractor to supervise	01/04/1998
Cap 123B reg 65 General requirement	30/06/1997
Cap 123I reg 14 Construction of watercloset fittings	30/06/1997
Cap 128A reg 15 Procedure where instrument is withheld from registration	12/12/2002
Cap 132 s 22 Prevention of obstructions to scavenging or conservancy operations	01/07/1997
Cap 132 s 51 Adulteration, etc. of milk	30/06/1997
Cap 132 s 63 Provisions as to the taking of samples for analysis	30/06/1997
Cap 132W sched 3 MARKING AND LABELLING OF PREPACKAGED FOODS	30/06/1997
Cap 132AK reg 7A Retention of official certificate	30/06/1997
Cap 132AL s 19 Library material borrowed to be returned within 14 days	01/01/2000
Cap 132AL s 26 Restriction on the use of books requested by another person	01/01/2000
Cap 134 s 28 Statutory authority of masters of ships to possess, supply and procure dangerous drug	01/07/1997
Cap 134 s 31 Supply of dangerous drug on prescription	30/06/1997
Cap 138A reg 28 Records to be kept by wholesale dealer	30/06/1997
Cap 139 s 7 Retention for observation by order of the Director	30/06/1997
Cap 139D reg 31 Power of inspector to take samples and procedure in connection therewith	30/06/1997
Cap 156A reg 9 Alteration of register	30/06/1997
Cap 159 s 2 Interpretation	07/07/2000
Cap 159H rule 5D Steps to be taken in criminal matters	30/06/1997
Cap 159Z s 9 Record of attendance	14/03/2003
Cap 159AB rule 9 Attendance record	28/03/2003
Cap 163 s 19 Duty of money lender to give information to borrower	30/06/1997
Cap 163 s 29 Offences by money lenders	30/06/1997
Cap 163A sched 3 FORM OF SUMMARY OF PROVISIONS OF THE ORDINANCE TO BE INC	30/06/1997
Cap 167 s 11 Removal from detention, forfeiture, etc.	11/06/1999
Cap 171 s 5 Power of search and seizure	30/06/1997
Cap 171 s 7 Seizure and forfeiture of things used for the commission of offences	30/06/1997
Cap 172A reg 162 Licences	01/01/2000
Cap 179A rule 54 Shorthand note etc. of proceedings at trial in the Court of First Instance	01/07/1997
Cap 191 s 2 Administration of estates by Consular Officers	01/07/1997
Cap 196 s 7 Offences and provisions relating to the recovery of ammunition	30/06/1997
Cap 201C para 8 Permission in respect of advantages other than passages	30/06/1997
Cap 204 s 10D Power to take finger-prints and photographs	30/06/1997
Cap 204A para 8 Articles found in detainee's possession	30/06/1997
Cap 210 s 6 "Belonging to another" (屬於另一人)	30/06/1997
Cap 210 s 17 Obtaining property by deception	30/06/1997
Cap 211A reg 36 Responsibility for keys	30/06/1997
Cap 219 s 50 Power to appoint a receiver	30/06/1997
Cap 219 sched 2 COVENANTS AND CONDITIONS WHICH MAY BE INCORPORATED BY R	01/07/1997
Cap 221A rule 10 Signature and certificate of shorthand writer	30/06/1997
Cap 221A rule 17 Retention of fine pending appeal	30/06/1997
Cap 221A rule 48 Appellant's and surety's recognizances	30/06/1997
Cap 230 s 25 *Temporary retention by Government of bus assets used by company whose franchise	01/07/1997
Cap 230A reg 18 Safe keeping of property	30/06/1997
Cap 232 s 59 Finger-prints, photographs, etc.	01/07/1997

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Cap 234A rule 11 Prisoner's property	30/06/1997
Cap 243A reg 45G Accounts	09/06/2000
Cap 265B bylaw 22 Monthly and season tickets	30/06/1997
Cap 265B bylaw 28 Storage of lost property etc.	30/06/1997
Cap 277 s 11 Power of search, seizure and arrest	30/06/1997
Cap 279A reg 64 Accounts	28/02/2003
Cap 282 s 8 Employee requiring attention	30/06/1997
Cap 282 s 16A Determination of claims in respect of minor injuries	01/07/2002
Cap 285 s 16 Ownership and disposal of minerals	01/07/1997
Cap 285 s 32 Mining Compensation Board	01/07/1997
Cap 285A reg 11 Application to dispose of or retain minerals	30/06/1997
Cap 285A sched 3 PREMIUMS AND FEES	28/11/1997
Cap 285B reg 23 Duty of manager to retain certificate	30/06/1997
Cap 295B reg 68 Destruction of defective cylinders	01/07/1997
Cap 295B reg 82 Conditions for grant of licence	30/06/1997
Cap 295B reg 97 Conditions for grant of licence	30/06/1997
Cap 295B reg 107 Storage of leaking or damaged containers	30/06/1997
Cap 295C reg 10 Manning of tankers	30/06/1997
Cap 296A reg 7A Retention of possession of reserved commodity after import	26/05/2000
Cap 311B reg 8 Division of sample	30/06/1997
Cap 311B sched 3 METHOD OF TAKING SAMPLES OF DUST AND GRIT FOR SIZE ANALY	30/06/1997
Cap 331C s 8 Articles found in detainee's possession	14/11/1997
Cap 336H order 14 SUMMARY JUDGMENT	01/09/2000
Cap 336H order 29 INTERLOCUTORY INJUNCTIONS, INTERIM PRESERVATION OF PROP	01/09/2000
Cap 336H order 35 PROCEDURE AT TRIAL	01/09/2000
Cap 336H app A FORMS	01/09/2000
Cap 344 s 18 Duties and powers of corporation	01/08/2000
Cap 344 s 20 Establishment of funds	01/07/1997
Cap 344 sched 7 MANDATORY TERMS IN DEEDS OF MUTUAL COVENANT	01/08/2000
Cap 354 s 23E Analysis of samples	30/06/1997
Cap 354C s 28 Retention of trip ticket and copies thereof	30/06/1997
Cap 354L s 4 Powers of Director	30/06/1997
Cap 357 s 4 Statutory easements	01/07/1997
Cap 358 s 39 Analysis of samples	30/06/1997
Cap 362 s 30D Enforcement of detention order	04/04/2003
Cap 362A para 6 Supply to be accompanied by written particulars	30/06/1997
Cap 362C para 6 Supply to be accompanied by written particulars	30/06/1997
Cap 368 s 22A Remunerations, etc., under management agreements	25/06/1999
Cap 369AE reg 5 Siting, distribution and storage of deck cargo	30/06/1997
Cap 369AU s 16 Requirements for falls	30/06/1997
Cap 369AV s 6 Stowage and securing of cargoes	26/03/1999
Cap 372A reg 6 Powers of inspectors in relation to investigation of accidents or other occurrences	30/06/1997
Cap 374 s 115A Remuneration, etc. under management agreements	23/07/1999
Cap 374B reg 41 Withholding of licences and permits	30/06/1997
Cap 374D reg 38 Hiring of public service vehicle as a whole	30/06/1997
Cap 392 s 14 Excised film to be retained by Authority	30/06/1997
Cap 403B s 7 Records to be kept in relation to refrigeration equipment	30/06/1997
Cap 405 s 14 Exercise of powers by Court of First Instance or receiver	01/07/1997
Cap 405 s 21 Authority for search	30/06/1997
Cap 405A sched 3 DRUG TRAFFICKING (RECOVERY OF PROCEEDS) ORDINANCE AS MC	01/01/2003
Cap 406 s 4 Removal of item for examination	30/06/1997
Cap 406 s 27 Electrical product testing	30/06/1997
Cap 413A reg 15 Retention of oil on board	30/06/1997
Cap 413H s 10 List, manifest or stowage plan	30/06/1997
Cap 414 s 16 Issue of certificate by Director	05/01/2000

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Cap 415 s 25 Retention of documents	01/05/2001
Cap 415 s 31 Retention of documents on provisional registration	01/05/2001
Cap 415 s 78 Retention of documents relating to Government ship	30/06/1997
Cap 415 s 99 Retention of documents for transitional ships	30/06/1997
Cap 421 s 38 Removal from detention, forfeiture, etc.	30/06/1997
Cap 445 s 8 Order for delivery up	30/06/1997
Cap 448B reg 9 Power of Inspectors	30/06/1997
Cap 448F s 8 Requirements as to the production of documentary proof	15/12/2000
Cap 448F s 9 Power to require production of declaration	15/12/2000
Cap 448F s 12 Power to inspect aircraft, etc.	15/12/2000
Cap 455 s 5 Authority for search	01/07/1997
Cap 455 s 19 Exercise of powers by Court of First Instance or receiver	01/07/1997
Cap 466 s 24 Power to test, etc.	01/07/1997
Cap 470 s 13 Duty of owner	30/06/1997
Cap 478L s 16 Superintendent may demand lists of crew	30/06/1997
Cap 478O s 12 Records and annual returns	30/06/1997
Cap 478X sched 1 SCALES	30/06/1997
Cap 483C s 7 Powers of inspector in relation to investigation of accidents or occurrences	13/02/1998
Cap 485 s 27 Duties and powers of approved trustees of registered schemes	03/08/1999
Cap 485A s 49 Duties of approved trustee with respect to investment of scheme funds	03/08/1999
Cap 485A s 147 Transfer of accrued benefits of casual employee who is a member of industry sche	01/12/2000
Cap 485A s 148 Transfer of accrued benefits of self-employed person	01/12/2000
Cap 485A s 172 Approved trustee to notify scheme member of entitlement	01/02/2003
Cap 485A s 174 Treatment of unclaimed benefits in master trust scheme or industry scheme	01/12/2000
Cap 491 s 2 Restriction on development etc. of certain biological agents and toxins and of biologica	30/06/1997
Cap 503A SCHEDULE	30/06/1997
Cap 503B SCHEDULE	30/06/1997
Cap 503C SCHEDULE	30/06/1997
Cap 503D SCHEDULE	16/06/2001
Cap 503E SCHEDULE	30/06/1997
Cap 503O SCHEDULE	13/07/2001
Cap 503P SCHEDULE	14/11/1997
Cap 503Q SCHEDULE	11/06/1998
Cap 503R SCHEDULE	19/03/1998
Cap 503U SCHEDULE	
Cap 503V SCHEDULE	19/04/2003
Cap 504 s 10 Power of entry and search	04/05/1998
Cap 509 s 23 Powers of occupational safety officers who have entered premises	30/06/1997
Cap 509B s 4 Risk assessment	
Cap 511C s 12 Keeping of accounts and records	01/11/1999
Cap 511C s 14 Commission	01/11/1999
Cap 515 s 40 False or incorrect statements	30/06/1997
Cap 521 s 6 Unauthorized use of official documents, etc.	30/06/1997
Cap 522 s 53 Order for delivery up	30/06/1997
Cap 525 sched 2 ENFORCEMENT, ETC. OF EXTERNAL CONFISCATION ORDERS	01/01/2003
Cap 528 s 109 Order for delivery up	01/04/2001
Cap 528 s 138 Enforcement of detention order	01/07/1997
Cap 528 s 228 Order for delivery up	01/04/2001
Cap 528 s 265 Enforcement of detention order	01/07/1997
Cap 541D s 74 Arrangements for separating ballot papers and verifying ballot paper account at cent	05/05/2000
Cap 541D s 88 Chief Electoral Officer to retain election documents for at least 6 months	21/01/1998
Cap 541F s 86 Chief Electoral Officer to retain election documents for at least 6 months	01/08/1999
Cap 541I s 73 Arrangements for counting of votes and verification of the ballot paper account in m	12/10/2001
Cap 541I s 74 Arrangements for counting of votes and verification of the ballot paper account in co	12/10/2001
Cap 541I s 85 Chief Electoral Officer to retain subsector election documents for at least 6 months	12/10/2001

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Cap 541J s 59 Retention of election documents	21/12/2001
Cap 541J s 71 Declaration and undertaking concerning political affiliation	21/12/2001
Cap 541L s 71 Retention of election documents	01/06/2003
Cap 556 s 15 Suspension of franchise	30/06/2000
Cap 556A reg 6 Powers of inspectors in relation to investigation of accidents or other occurrences	30/06/2000
Cap 556D s 18 Ticket	30/06/2000
Cap 559 s 23 Order for delivery up	04/04/2003
Cap 561 s 37 Power of authorized persons to enter premises to which licence relates	
Cap 562 sched 1 DISQUALIFICATION FOR HOLDING DOMESTIC FREE OR PAY TELEVISI	01/04/2003
Cap 571 s 25 Transfer and resumption of functions of Commission	01/04/2003
Cap 571 s 68 Transfer and resumption of function of the Commission	01/04/2003
Cap 571 s 171 Requirements to confirm short selling order	01/04/2003
Cap 571I s 5 Payment of client money out of segregated accounts	01/04/2003
Cap 571I s 6 Treatment of interest on client money held in segregated accounts	01/04/2003
Cap 571O s 10 Record retention period	01/04/2003
Cap 571Q s 14 Duty to provide copies of certain documents	01/04/2003
Cap 571Q s 16 Retention of copies	01/04/2003
Cap 571R s 4 Classes of persons and circumstances in which certain requirements of section 171 of	01/04/2003
Cap 571R s 5 Record keeping by lenders under securities borrowing and lending agreements	01/04/2003
Cap 571X s 5 Exclusion for an approved lending agent and a person controlling an approved lenden	01/04/2003
Cap 571X s 7 Prescribed interests and short positions in shares of a regulated person to be disregar	01/04/2003
Cap 571X s 9 Records to be kept by an approved lending agent	01/04/2003
Cap 571X s 10 Records to be kept by a regulated person	01/04/2003
Cap 571AE s 4 Fees	01/04/2003
Cap 573A s 4 Certification of plans	08/01/2003
Cap 1022 s 3 Delivery of documents to Registrar and fee	30/06/1997
Cap 1022 s 4 Deemed incorporation under Companies Ordinance (Cap 32)	30/06/1997
Cap 1052 s 7 Members	01/07/1997
Cap 1156A s 6 Power to require production of permit, etc.	31/10/1997
Cap 2101 article 93	01/07/1997
Cap 2101 article 100	01/07/1997
Cap 2101 article 137	01/07/1997
Cap 2101 article 142	01/07/1997
Cap 2101 article 152	01/07/1997
Cap 2301 Text of Joint Declaration	30/06/1997
Cap 2301 annex 1 Elaboration by the Government of the People's Republic of China of its basic pol	30/06/1997
Cap 2301 Exchange of Memoranda	30/06/1997
Cap 2402 sched 4 NATIONALITY LAW OF THE PEOPLE'S REPUBLIC OF CHINA	01/07/1997

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(a) By deleting subclauses (3) and (4) and substituting -

"(3) The Commissioner shall, not later than 30 days beginning on the date of the seizure of an article, vessel or vehicle, serve a notice of the seizure -

(a) on a person who was to the knowledge of the Commissioner at the time of, or immediately after, seizure, an owner of the article, vessel or vehicle; and

(b) specifying -

(i) the reasons for the seizure;

(ii) that the article, vessel or vehicle is liable for forfeiture if -

(A) in the case of the article, the ground stated in subsection

(1)(a) is applicable to the article;

(B) in the case of the vessel or

vehicle, the
ground stated
in subsection
(1)(b) is
applicable to
the vessel or
vehicle; and

(iii) that the
Commissioner is
required by section
16(5) to restore the
article, vessel or
vehicle to the
person who appears
to him to be the owner
thereof or the
authorized agent of
the owner as soon as
is reasonably
practicable after
the article, vessel
or vehicle -

(A) is not, or is no
longer,
required for
the purposes of
any

investigation
or criminal
proceedings
under this
Ordinance or
any other
enactment; and

(B) is not liable
to forfeiture
under this
Ordinance or
any other
enactment,

and the notice shall be accompanied by copies
of section 16(5) and this section.