

政府總部
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GOVERNMENT SECRETARIAT

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19 March 2007

Mr Raymond Lam
Clerk to Bills Committee
Legislative Council Building,
8 Jackson Road,
Central,
Hong Kong

Dear Mr LAM,

Bills Committee on Hong Kong Port Area Bill

Pursuant to the discussion on paragraph 1(a) to (c) of Schedule 2 to the Bill at the meeting of the Bills Committee on 16 March 2007, I attach a copy of the following provisions-

- Annex A: Section 20 of and Schedule 2 to the Immigration Ordinance (Cap. 115)
- Annex B: Section 19 of the Immigration Ordinance (Cap. 115)
- Annex C: Regulation 27A of the Prevention of the Spread of Infectious Diseases Regulations (Cap. 141B)

A paper will be provided on the examples of the pre-existing rights and obligations covered by paragraph 1(d) of Schedule 2 to the Bill.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Alan K M CHU'.

(Alan K M CHU)
for Secretary for Security



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Chapter: 115 Title: IMMIGRATION ORDINANCE Gazette Number:
Section: 20 Heading: Power to deport Version Date: 30/06/1997

(1) The Governor may make a deportation order against an immigrant if- (Amended 78 of 1982 s. 6; 31 of 1987 s. 17; 88 of 1997 s. 10)

- (a) the immigrant has been found guilty in Hong Kong of an offence punishable with imprisonment for not less than 2 years; or
- (b) the Governor deems it to be conducive to the public good.

(2)-(4) (Repealed 88 of 1997 s. 10)

(5) A deportation order shall require the person against whom it is made to leave Hong Kong and shall prohibit him from being in Hong Kong at any time thereafter or during such period as may be specified in the order.

(6) (Repealed 31 of 1987 s. 17)

(7) A deportation order made against a person shall invalidate any permission or authority to land or remain in Hong Kong given to that person before the order is made or while it is in force.

(8) For the purposes of this section, the question whether an offence is one for which a person is punishable with imprisonment shall be determined without regard to any Ordinance restricting the imprisonment of young offenders. (Amended 88 of 1997 s. 10)

(Amended 82 of 1993 s. 4)

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Chapter:	115	Title:	IMMIGRATION ORDINANCE	Gazette Number:	
Schedule:	2	Heading:	TRANSITIONAL PROVISIONS	Version Date:	30/06/1997

[section. 66]

1. In this Schedule-

"commencement date" (生效日期) means 1 April 1972;

"Deportation (British Subjects) Ordinance" (遞解(英籍人士)條例), "Deportation of Aliens Ordinance" (遞解外國人條例), and "Immigration (Control and Offences) Ordinance" (入境(管制及罪行)條例) mean respectively-

- (a) the repealed Deportation (British Subjects) Ordinance;
- (b) the repealed Deportation of Aliens Ordinance; and
- (c) the repealed Immigration (Control and Offences) Ordinance;

"Immigrants Control Ordinance" (入境者管制條例) means the Immigrants Control Ordinance (Cap 243 Revised Edition 1950) repealed by the repealed Immigration (Control and Offences) Ordinance;

"Police Supervision Ordinance" (警方監管條例) means the Police Supervision Ordinance (Cap 224 Revised Edition 1972) repealed by the Police Supervision (Repeal) Ordinance 1983 (55 of 1983); (Added 55 of 1983 s. 3)

"repealed" (廢除), except in relation to the Immigrants Control Ordinance and the Police Supervision Ordinance, means repealed by this Ordinance. (Replaced 55 of 1983 s. 3)

2. Section 4(1)(a)

Section 4(1)(a) shall have effect as if it included a reference to a person who arrived in Hong Kong before the commencement date, being a person who immediately before the commencement date was being examined or further examined under section 11 of the Immigration (Control and Offences) Ordinance or was about to be so examined or further examined; and the provisions of this Ordinance shall apply to any such person accordingly.

3. Section 5(4)(a) & (5)(a)

The references in section 5(4)(a) and 5(5)(a) to an entry permit and a re-entry permit include references to an entry permit and a re-entry permit issued under the Immigration (Control and Offences) Ordinance.

4. Section 9(1)(b)

Section 9(1)(b) shall have effect as if the references to a person having been refused permission to land in Hong Kong and having been given permission to land in Hong Kong included references to having been refused permission to enter Hong Kong under the Immigration (Control and Offences) Ordinance or the repealed

Immigrants Control Ordinance and to having been given permission to enter Hong Kong under either of those Ordinances.

5. Section 10(2)

Section 10(2) shall have effect as if it included a reference to a serviceman who ceased to be such before the commencement date, being a serviceman who had not made an application under section 38 of the Immigration (Control and Offences) Ordinance before that date or whose application had not been determined under the said Ordinance before that date.

6. Section 11(2)

Any conditions imposed in respect of a person who entered Hong Kong before the commencement date under section 15 of the Immigration (Control and Offences) Ordinance and in force immediately before that date (whether the same were imposed at the time of entry or subsequent thereto) shall, subject to section 8(2), continue in force and have effect as if they were conditions of stay imposed under section 11(2) of this Ordinance; and the provisions of this Ordinance shall apply accordingly.

7. Section 14(1)

Section 14(1) shall have effect as if it included a reference to an alien who is in Hong Kong on the commencement date, being an alien who had become liable before that date to comply with section 25(1) of the Immigration (Control and Offences) Ordinance but had not complied therewith.

8. Section 16

Section 16 shall have effect as if the references to particulars furnished in an arrival card and to particulars furnished in the prescribed form pursuant to section 14(1) include respectively references to corresponding particulars furnished to the Director or to the former immigration officer or to the former Registrar of Aliens in accordance with the Immigration (Control and Offences) Ordinance or the repealed Immigrants Control Ordinance or a requirement made under either of those Ordinances.

9. Sections 18, 24 & 32(1)

Sections 18, 24 and 32(1) shall apply to a person, not being a person who has the right to land in Hong Kong by virtue of section 8(1), who before the commencement date has been refused permission to enter Hong Kong under the Immigration (Control and Offences) Ordinance as they apply to a person who is refused permission to land under this Ordinance.

10. Section 18(1)(b)

Section 18(1)(b) shall have effect, except in the case of a person who has the right to land in Hong Kong by virtue of section 8(1), as if it included a reference to a condition imposed under section 15 of the Immigration (Control and Offences) Ordinance and in force immediately before the commencement date, being a condition making the same requirement as the condition of stay referred to in the said section 18(1)(b); and the provisions of this Ordinance shall apply accordingly.

11. Section 19(1)(b)(ii)

Section 19(1)(b)(ii) shall have effect as if it included a reference to a person who has contravened section 3(1)(a)(ii) or (b) of the Immigration (Control and Offences) Ordinance or any condition imposed under section 15 of the said Ordinance and in force immediately before the commencement date (whether such condition was imposed at the time of entry or subsequent thereto), but in whose case an order has not been made under section 43(4) of the said Ordinance; and the provisions of this Ordinance shall apply accordingly.

12. Section 19

Any order made in respect of a person under section 43(4) of the Immigration (Control and Offences) Ordinance, not being a person who has the right to land in Hong Kong by virtue of section 8(1), shall, if in force immediately before the commencement date, continue in force and have effect for all purposes of this Ordinance as if it were a removal order made in respect of that person under section 19 of this Ordinance.

13. Section 20(1)

Any deportation order made against a person under the Deportation (British Subjects) Ordinance or the Deportation of Aliens Ordinance and in force immediately before the commencement date shall continue in force and have effect for all purposes of this Ordinance as if it were a deportation order made under section 20(1) of this Ordinance.

14. Sections 19(4) & 20(7)

Sections 19(4) and 20(7) shall have effect as if-

- (a) the reference to permission to land in Hong Kong included a reference to permission to enter Hong Kong given under the Immigration (Control and Offences) Ordinance;
- (b) the reference to authority to remain in Hong Kong included a reference to a permit of the Director granted under the Immigration (Control and Offences) Ordinance.

15. Sections 24(2), 25(3) & 33

A person, not being a person who has the right to land in Hong Kong by virtue of section 8(1), who immediately before the commencement date was on board a ship or aircraft, having been placed thereon with a view to his removal from Hong Kong in accordance with the Immigration (Control and Offences) Ordinance, the Deportation (British Subjects) Ordinance or the Deportation of Aliens Ordinance or any order or requirement made or issued thereunder, shall be deemed to have been placed thereon under section 24(2) or section 25(3), as the case may be, and it shall be presumed that an immigration officer, immigration assistant or police officer has made a requirement under section 33 of this Ordinance; and the provisions of this Ordinance shall apply accordingly.

16. Section 26

Any person detained immediately before the commencement date under section 13(1)(a) of the Immigration (Control and Offences) Ordinance may, if any member of the Immigration Service of or above the rank of chief immigration officer or a police officer of or above the rank of assistant commissioner of police is satisfied as to the matters referred to in section 26(a), be detained on the authority of such member or police officer for a total period of seven days, taking account of the period for which such person had been detained before the commencement of this Ordinance.

17. Section 29(2)

A person detained immediately before the commencement date-

- (a) following his arrest on a warrant issued under section 5(3) of the Deportation (British Subjects) Ordinance; or
- (b) in accordance with the direction of a judge, court or magistrate given under section 7 of that Ordinance, may continue to be detained as if a detention warrant had been issued in respect of him on the commencement date under section 29(2); and the provisions of this Ordinance shall apply accordingly.

18. Section 29(2)

A person detained immediately before the commencement date under the authority of a warrant issued under section 4 or 5 of the Deportation of Aliens Ordinance may continue to be detained as if a detention warrant had been issued in respect of him on the commencement date under section 29(2); and the provisions of this Ordinance shall apply accordingly.

19. Section 32(3) & (3A)

A person detained immediately before the commencement date under section 9(2) of the Deportation (British Subjects) Ordinance or section 8(2) of the Deportation of Aliens Ordinance may continue to be detained as if his detention had been authorized by the Secretary for Security under section 32(3) or by the Director of Immigration or Deputy Director of Immigration under section 32(3A) of this Ordinance, whichever is appropriate in the particular case.

20. Section 32(3) & (3A)

A person detained immediately before the commencement date under section 43(4) of the Immigration (Control and Offences) Ordinance may, unless he is a person who has the right to land in Hong Kong by virtue of section 8(1), continue to be detained as if his detention had been authorized by the Secretary for Security under section 32(3) or by the Director of Immigration or Deputy Director of Immigration under section 32(3A) of this Ordinance, whichever is appropriate in the particular case.

21. Section 33

Section 33 shall apply to a person, not being a person who has the right to land in Hong Kong by virtue of section 8(1), who before the commencement date has been refused permission to enter Hong Kong under the Immigration (Control and Offences) Ordinance as it applies to a person who has been refused permission to land in Hong Kong under this Ordinance; and it shall be presumed that an immigration officer, immigration assistant or police officer has made a requirement under the said section 33.

22. Section 38(1)(b)

The reference in section 38(1)(b) to the authority of the Director includes a reference to a permit of the Director granted under the Immigration (Control and Offences) Ordinance.

23. Section 42(2)(a)

The reference in section 42(2)(a) to a travel document, entry permit, re-entry permit, certificate of identity, document of identity or Vietnamese refugee card or other document issued, kept or made under or for the purposes of Part II, III or IV of this Ordinance includes a reference to a travel document, entry permit, re-entry permit or other document issued, kept or made under or for the purposes of the Immigration (Control and Offences) Ordinance.

24. Section 42(2)(b) & (c)(i)

The references in section 42(2)(b) to a travel document, entry permit, re-entry permit, certificate of identity, document of identity, Vietnamese refugee card or other document and the references in section 42(2)(c)(i) to a travel document, entry permit, re-entry permit, certificate of identity, document of identity or Vietnamese refugee card include references to a travel document, entry permit or re-entry permit issued under the Immigration (Control and Offences) Ordinance.

25. Section 47(1) & (2)

Section 47(1) and (2) shall have effect as if they included, respectively, a reference to a ship not exceeding two hundred and fifty gross tons, and a vehicle, which has been used in the contravention or attempted contravention of any of the provisions of the Immigration (Control and Offences) Ordinance (whether or not any person has been convicted of such contravention or attempted contravention), being a ship or vehicle in respect of which notice of

seizure has not been served before the commencement date under section 46(2) of the said Ordinance; and the provisions of this Ordinance shall apply accordingly.

26. Section 55(2)

Any condition imposed under section 17(1) of the Deportation of Aliens Ordinance and in force immediately before the commencement date shall, if it has not been complied with, be deemed to be a requirement under section 55(2) of this Ordinance; and any recognizance entered into in accordance with an order under the said section 17(3) and in force immediately before the commencement date shall be deemed to be a recognizance entered into in accordance with a requirement under section 55(2) of this Ordinance and shall continue in force for the remainder of the period for which it would have continued in force in accordance with the order under the said section 17(3).

27. Section 56(1)(e) & (1A)(b)

References in section 56(1)(e) and (1A)(b) to an offence under this Ordinance include references to an offence under the Immigration (Control and Offences) Ordinance.

28. Police Supervision Ordinance-s. 3(1) & (2)

Any police supervision order made under section 3(1) or (2) of the repealed Police Supervision Ordinance (Cap 224 Revised Edition 1972) and in force immediately before the commencement of this Ordinance shall continue in force and have effect for all purposes of the Police Supervision Ordinance as if it were made under section 3(1) or (2) of that Ordinance as amended.

(Schedule 2 added 64 of 1981 s. 2. Amended 78 of 1982 s. 13; 55 of 1983 s. 3)

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Chapter: 115 Title: IMMIGRATION ORDINANCE Gazette Number: 8 of 1998
Section: 19 Heading: Power to order removal Version Date: 13/03/1998

Remarks:

Adaptation amendments retroactively made - see 28 of 1998 s. 2(2)

(1) A removal order may be made against a person requiring him to leave Hong Kong-

(a) by the Governor if it appears to him that that person is an undesirable immigrant who has not been ordinarily resident in Hong Kong for 3 years or more; or (Amended 82 of 1993 s. 3; 88 of 1997 s. 9)

(b) by the Director if it appears to him that that person- (Amended 31 of 1987 s. 16)

(i) might have been removed from Hong Kong under section 18(1) if the time limited by section 18(2) had not passed; or

(ii) has (whether before or after commencement of the Immigration (Amendment) (No. 4) Ordinance 1981 (75 of 1981)) landed in Hong Kong unlawfully or is contravening or has contravened a condition of stay in respect of him; or (Replaced 75 of 1981 s. 7. Amended 79 of 1982 s. 8)

(iia) not being a person who enjoys the right of abode in Hong Kong, or has the right to land in Hong Kong by virtue of section 2AAA, has contravened section 42; or (Added 31 of 1984 s. 7. Amended 31 of 1987 s. 16; 88 of 1997 s. 9; 28 of 1998 s. 2(2))

(iii) being a person who by virtue of section 7(2) may not remain in Hong Kong without the permission of an immigration officer or immigration assistant, has remained in Hong Kong without such permission. (Added 79 of 1982 s. 8)

(2) (Repealed 31 of 1987 s. 16)

(3) (Repealed 88 of 1997 s. 9)

(4) A removal order made against a person shall invalidate any permission or authority to land or remain in Hong Kong given to that person before the order is made or while it is in force.

(5) Where the Director makes a removal order he shall cause written notice to be served as soon as is practicable on the person against whom it is made informing him-

(a) of the ground on which the order is made; and

(b) that if he wishes to appeal he must do so by giving to an immigration officer or immigration assistant written notice of his grounds of appeal and the facts upon which he relies within 24 hours of receiving the notice of the order.

(6) In this section "Director" (處長) means the Director of Immigration, the Deputy Director of Immigration or any assistant director of immigration. (Amended 8 of 1998 s. 4)

(Replaced 62 of 1980 s. 4)

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Chapter: 141B Title: PREVENTION OF THE SPREAD OF INFECTIOUS DISEASES REGULATIONS Gazette Number: L.N. 208 of 2005
 Regulation: 27A Heading: **Persons restricted from leaving Hong Kong without permission in writing of health officer** Version Date: 25/11/2005

PART VIA

RESTRICTION ON DEPARTURE FROM HONG KONG AND MEDICAL EXAMINATION OF TRAVELLERS TO PREVENT SPREAD OF CERTAIN INFECTIOUS DISEASES

(L.N. 208 of 2005)

(1) Where a health officer has reason to believe or suspect that a person-

- (a) is suffering from a specified disease;
- (b) has been exposed to the risk of infection of a specified disease by contact with a person suffering from that disease; or
- (c) is a carrier of a specified disease, (L.N. 208 of 2005)

the health officer may make a direction in writing prohibiting the person from leaving Hong Kong without the permission in writing of a health officer during a period specified in the direction.

(2) A health officer shall serve a copy of the direction on the subject of the direction, either personally or by post, but whether or not it is served, the direction comes into force immediately upon being made.

(3) The subject of a direction made under paragraph (1) may not leave Hong Kong without the permission in writing of a health officer during the period specified in the direction.

(4) A health officer may attach any conditions that he considers appropriate to any permission referred to in paragraph (3).

(5) A person who knowingly contravenes paragraph (3) or fails to comply with a condition attached under paragraph (4) commits an offence and is liable to a fine of \$5000 and to imprisonment for 6 months.

(Part VIA added L.N. 107 of 2003)

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