

Shenzhen Bay Port Hong Kong Port Area Bill
Restrictions on cross-boundary movement for quarantine reasons

Purpose

At Members' request at the Bills Committee meeting on 16 March 2007, this paper sets out the restrictions on cross-boundary movement for quarantine reasons.

Background

2. If a pre-existing right or obligation falling within a description included in Schedule 2 to the Bill has a territorial limit confined to, or including, Hong Kong, then, pursuant to clause 9(1), its territorial limit is extended to include the Hong Kong Port Area ("HKPA"). Paragraph 1(c) of Schedule 2 covers a direction made under regulation 27A of the Prevention of the Spread of Infectious Diseases Regulations (Cap. 141B) prohibiting a person from leaving Hong Kong without the permission in writing of a health officer. Members are interested to know how the restrictions on entry of persons and import and export of animals for quarantine reasons will be dealt with in the HKPA.

Quarantine of persons

3. According to the Department of Health, sections 27A, 27B and 27C of the Prevention of the Spread and Infectious Diseases Regulations (Cap. 141B) are the main legal provisions related to quarantine of persons at control points.

4. Section 27A of Cap. 141B (see copy at [Annex A](#)) deals with persons restricted from leaving Hong Kong without permission in writing of a health officer. Where a health officer has reason to believe or suspect that a person –

- (a) is suffering from a specified disease¹;
- (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,

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. Paragraph 1(c) of Schedule 2 to the Bill covers a pre-existing direction made under regulation 27A of Cap. 141B so that the person concerned is prohibited from leaving Hong Kong including the HKPA without the permission in writing of a health officer.

5. Regulation 27B of Cap. 141B (see copy at **Annex C**) provides for the power to stop and detain persons seeking to leave Hong Kong in contravention of regulation 27A. By applying the laws of Hong Kong to the HKPA under clause 5(1) of the Bill, the power to stop and detain persons under regulation 27B of Cap. 141B would extend to cover the HKPA and could be exercised in respect of a person seeking to leave Hong Kong including the HKPA in contravention of regulation 27A.

6. Regulation 27C of Cap. 141B (see copy at **Annex D**) deals with medical examination of persons arriving in or leaving Hong Kong. Regulation 27C(2) provides that a health officer, or a medical practitioner authorized by the Director of Health for the purposes of that paragraph, may carry out a medical examination on, and for that purpose stop and detain, any person arriving in Hong Kong or leaving Hong Kong, for the purpose of ascertaining whether that person is likely to be infected with a specified disease. Regulation 27C(4) provides that if after a medical examination on a person under regulation 27C(2), the health officer or the medical practitioner referred to in that paragraph has reason to believe or

¹ According to section 27AA of Cap. 141B (see copy at **Annex B**), "specified disease" means any of the following infectious diseases –

- (a) Severe Acute Respiratory Syndrome;
- (b) Influenza A (H5), Influenza A (H7) or Influenza A (H9).

suspect that the person is likely to be infected with a specified disease, that person may be detained and removed by any person referred to in regulation 27B(1)(a), (b) or (c)² to an infectious diseases hospital or such other place as appointed by a health officer. By applying the laws of Hong Kong to the HKPA under clause 5(1) of the Bill, the power to detain and remove persons under regulation 27C of Cap. 141B would extend to cover the HKPA and could be exercised in respect of a person arriving in Hong Kong including the HKPA or leaving Hong Kong including the HKPA. The operation of regulation 27C does not involve a pre-existing decision and therefore does not need to be included in Schedule 2 to the Bill.

7. Further, clause 9(1) as read with paragraph 1(d) of Schedule 2 to the Bill will put beyond any dispute that a medical practitioner who has been authorized, prior to the date when the laws of Hong Kong applies to the HKPA (the “Relevant Date”), by the Director of Health for the purposes of regulation 27C(2) of Cap. 141B to carry out a medical examination on any person arriving in Hong Kong or leaving Hong Kong will, as from the Relevant Date, be authorized to carry out a medical examination on any person arriving in Hong Kong including the HKPA or leaving Hong Kong including the HKPA. A fresh authorization by the Director of Health will not be necessary.

Quarantine of animals

8. According to the Agriculture, Fisheries and Conservation Department, Hong Kong only exercises regulatory control on import but not export of animals³.

9. Section 11 of the Rabies Regulation (Cap. 421A) (see copy at **Annex E**) imposes restriction on import of, inter alia, animals. According to that provision, no person shall import or cause, suffer or

² I.e. (a) any police officer or health officer; (b) any member of the Immigration Service, Auxiliary Medical Service or Civil Aid Service authorized by the Director of Health; or (c) any public officer authorized by the Director of Health.

³ In order to assist local exporters in meeting veterinary health requirements of importing countries/places, the Agriculture, Fisheries and Conservation Department provides services such as the issue and endorsement of health certificates to facilitate such exports.

permit to be imported into Hong Kong any animal except under and in accordance with a permit to do so issued by an authorized officer⁴. Paragraph 1(d) of Schedule 2 to the Bill covers a pre-existing permit for the import of animals issued under section 11 of Cap. 421A so that the holder of a permit issued prior to the Relevant Date to allow him to import into Hong Kong an animal may, from the Relevant Date, import into Hong Kong including the HKPA an animal under and in accordance with the permit.

10. We would also like to provide some information about import of birds as a further example. Regulation 7A of the Public Health (Animals and Birds) Regulations (Cap. 139A) (see copy at Annex F) requires imported birds to be accompanied by valid health certificate. Regulation 7A(1) provides that no person shall bring, or cause to be brought, into Hong Kong from any place outside Hong Kong any bird unless it is accompanied by a valid health certificate issued by a competent veterinary authority⁵ in that place certifying, to the Director's satisfaction, as to the matters referred to in Schedule 4 (see copy at Annex G). The establishment of the HKPA will not affect the validity of a pre-existing health certificate issued by a competent veterinary authority outside Hong Kong.

11. Regulation 12 of Cap. 139A (see copy at Annex H) deals with detention of animal or bird by the senior veterinary officer. According to that regulation, any animal or bird which has been conveyed in the same vehicle as any diseased animal or bird, or which has otherwise been in contact with any diseased animal or bird, or which, in the opinion of the senior veterinary officer, may be likely to spread infection, may be detained by the senior veterinary officer in quarantine for such period as he may, in the circumstances of the case, think proper. By applying the laws of Hong Kong to the HKPA under clause 5(1) of the Bill, the power

4 According to section 2 of the Rabies Ordinance (Cap. 421), "authorized officer" means a person authorized by the Director (defined as Director of Agriculture, Fisheries and Conservation, the Deputy Director of Agriculture, Fisheries and Conservation or an Assistant Director of Agriculture, Fisheries and Conservation) under section 5 of the Ordinance.

⁵ In that regulation, "competent veterinary authority", in relation to a veterinary authority in any place outside Hong Kong, means a veterinary authority who, to the Director's satisfaction, is competent for the purposes of that regulation.

to detain animals or birds under regulation 12 of Cap. 139A would extend to cover the HKPA and could be exercised in respect of animals or birds being brought into Hong Kong including the HKPA.

Security Bureau
19 March 2007



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Contents of Section

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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Annex B

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Chapter:	141B	Title:	PREVENTION OF THE SPREAD OF INFECTIOUS DISEASES REGULATIONS	Gazette Number:	L.N. 208 of 2005
Regulation:	27AA	Heading:	Interpretation of Part VIA	Version Date:	25/11/2005

In this Part, "specified disease" (指明疾病) means any of the following infectious diseases-

- (a) Severe Acute Respiratory Syndrome;
- (b) Influenza A (H5), Influenza A (H7) or Influenza A (H9).

(L.N. 208 of 2005)

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Chapter: 141B Title: PREVENTION OF THE SPREAD OF INFECTIOUS DISEASES REGULATIONS Gazette Number: L.N. 107 of 2003
 Regulation: 27B Heading: **Power to stop and detain persons seeking to leave Hong Kong in contravention of regulation 27A** Version Date: 17/04/2003

(1) Any-

- (a) police officer or health officer;
- (b) member of the Immigration Service, Auxiliary Medical Service or Civil Aid Service authorized by the Director of Health; or
- (c) public officer authorized by the Director of Health,

may stop and detain any person seeking to leave Hong Kong in contravention of regulation 27A.

(2) A person detained under paragraph (1) may be removed by any person referred to in subparagraph (a), (b) or (c) of that paragraph to an infectious diseases hospital or such other place as appointed by a health officer.

(3) An authorization under paragraph (1)(b) or (c) may be given by the Director of Health to a member of the Services referred to in paragraph (1)(b), or a public officer referred to in paragraph (1)(c), by rank or office as specified by the Director.

(4) A person who obstructs the exercise of a power under paragraph (2) by a person referred to in paragraph (1)(a), (b) or (c) 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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Chapter: 141B Title: PREVENTION OF THE SPREAD OF INFECTIOUS DISEASES REGULATIONS Gazette Number: L.N. 208 of 2005

Regulation: 27C Heading: **Medical examination of persons arriving in or leaving Hong Kong** Version Date: 25/11/2005

(1) As a measure for preventing the introduction into, the spread in and the transmission from Hong Kong of a specified disease, any person authorized by the Director of Health for the purposes of this paragraph may take the body temperature of any person arriving in Hong Kong or leaving Hong Kong. (L.N. 145 of 2003)

(2) A health officer, or a medical practitioner authorized by the Director of Health for the purposes of this paragraph, may carry out a medical examination on, and for that purpose stop and detain, any person arriving in Hong Kong or leaving Hong Kong, for the purpose of ascertaining whether that person is likely to be infected with a specified disease.

(3) Without limiting paragraphs (1) and (2), any person referred to in regulation 27B(1)(a), (b) or (c) may stop and detain any person arriving in Hong Kong or leaving Hong Kong, until-

- (a) the person's body temperature can be taken under paragraph (1); or
- (b) a medical examination can be carried out on the person under paragraph (2).

(4) If after a medical examination on a person under paragraph (2), the health officer or the medical practitioner referred to in that paragraph has reason to believe or suspect that the person is likely to be infected with a specified disease, that person may be detained and removed by any person referred to in regulation 27B(1)(a), (b) or (c) to an infectious diseases hospital or such other place as appointed by a health officer.

(5) A person who obstructs the exercise of a power-

- (a) under paragraph (1) by an authorized person;
- (b) under paragraph (2) by a health officer or an authorized medical practitioner; or
- (c) under paragraph (3) or (4) by a person referred to in regulation 27B(1)(a), (b) or (c),

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. L.N. 208 of 2005)

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Chapter: Section:	421A 11	Title: Heading:	RABIES REGULATION Restriction on import of animals, carcasses and animal products	Gazette Number: Version Date:	 30/06/1997
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PART III**IMPORTATION OF ANIMALS, CARCASSES
AND ANIMAL PRODUCTS**

(1) No person shall import or cause, suffer or permit to be imported into Hong Kong any animal, carcass or animal product except under and in accordance with a permit to do so issued by an authorized officer.

(2) A person who contravenes subsection (1) commits an offence and is liable to a fine of \$50000 and to imprisonment for 1 year.

(3) Where subsection (1) is contravened the owner and the operator of any conveyance in or on which the animal, carcass or animal product was imported into Hong Kong shall each be guilty of an offence and liable to a fine of \$25000 and to imprisonment for 6 months.

(Enacted 1994)

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Chapter: 139A Title: PUBLIC HEALTH (ANIMALS AND BIRDS) REGULATIONS Gazette Number: L.N. 44 of 1998
 Regulation: 7A Heading: **Imported birds to be accompanied by valid health certificate** Version Date: 23/01/1998

HEALTH CERTIFICATES

(1) No person shall bring, or cause to be brought, into the Hong Kong Special Administrative Region from any place outside the Hong Kong Special Administrative Region any bird unless it is accompanied by a valid health certificate issued by a competent veterinary authority in that place certifying, to the Director's satisfaction, as to the matters referred to in Schedule 4. The health certificate shall be produced on demand to the Director or any person authorized by him.

(2) In this regulation, "competent veterinary authority" (禽畜衛生主管當局), in relation to a veterinary authority in any place outside the Hong Kong Special Administrative Region, means a veterinary authority who, to the Director's satisfaction, is competent for the purposes of this Regulation.

(L.N. 44 of 1998)

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Chapter:	139A	Title:	PUBLIC HEALTH (ANIMALS AND BIRDS) REGULATIONS	Gazette Number:	L.N. 44 of 1998
Schedule:	4	Heading:	MATTERS TO BE CERTIFIED IN HEALTH CERTIFICATE ISSUED BY COMPETENT VETERINARY AUTHORITY TO SATISFACTION OF DIRECTOR	Version Date:	23/01/1998

[section 7A]

1. The health certificate must certify that-

(a) the bird or birds-

(i) shows or show no clinical signs of disease;

(ii) has or have not been kept at premises or at a farm or other establishment where there is serological or virological evidence of H5 avian influenza virus infection having occurred within the 180 days immediately preceding the day on which the health certificate was issued ; and

(iii) has or have been segregated from other birds for the 5 days immediately preceding the day on which the health certificate was issued; and

(b) the bird or birds, or a sample of birds forming such portion of all birds covered by the certificate as may be acceptable to the Director, was or were subject to a diagnostic test for H5 avian influenza within the 5 days immediately preceding the day on which the health certificate was issued with negative results.

2. The health certificate must specify the name and address of the premises or the farm or other establishment from which the bird or birds is or are being brought into the Hong Kong Special Administrative Region and the quantity of birds involved.

(L.N. 44 of 1998)

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Chapter: 139A Title: PUBLIC HEALTH (ANIMALS AND BIRDS) REGULATIONS Gazette Number:
Regulation: 12 Heading: Detention of animal or bird by senior veterinary officer Version Date: 30/06/1997

Any animal or bird which has been conveyed in the same vessel, aircraft, train or vehicle as any diseased animal or bird, or which has otherwise been in contact with any diseased animal or bird, or which, in the opinion of the senior veterinary officer, may be likely to spread infection, may be detained by the senior veterinary officer in quarantine for such period as he may, in the circumstances of the case, think proper.

(L.N. 51 of 1968)

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