

LEGISLATIVE COUNCIL BRIEF
Control of Chemicals Ordinance (Chapter 145)
CONTROL OF CHEMICALS (AMENDMENT) REGULATION 2008

INTRODUCTION

Section 29A of the Interpretation and General Clauses Ordinance (Cap. 1) empowers the Financial Secretary (which means also the Secretary for Financial Services and the Treasury by virtue of section 3 of Cap. 1) to vary fees which have previously been set by subsidiary legislation made by the Chief Executive in Council.

2. In exercise of this power, the Secretary for Financial Services and the Treasury has made the Control of Chemicals (Amendment) Regulation 2008 (the Regulation), at **Annex A**, to revise the fees specified in the Control of Chemicals Regulations (Cap. 145 sub. leg. A) made under the Control of Chemicals Ordinance (Cap. 145) (the Ordinance).

BACKGROUND AND JUSTIFICATIONS

3. Under the Ordinance, no person shall procure, supply, deal in or with, manufacture, possess, import into or export from Hong Kong any substance specified in Schedule 1 to the Ordinance, save under and in accordance with a licence issued by the Commissioner*. Similarly, no person shall manufacture, import into or export from Hong Kong any substance specified in Schedule 2 to the Ordinance, or export from Hong Kong any substance specified in Schedule 3 to the Ordinance to any country specified, unless he holds a licence issued by the Commissioner.

4. Furthermore, a person who wishes to remove any Schedule 1 substance or Schedule 2 substance which is in transshipment from a vessel, aircraft or vehicle in or on which it was imported into Hong Kong, or to move any such substance within Hong Kong after its removal from the vessel, aircraft or vehicle in or on which it was imported into Hong Kong, must obtain a permit from the Commissioner.

* According to section 2(1) of the Ordinance, the “Commissioner” means the Commissioner of Customs and Excise and any Deputy or Assistant Commissioner of Customs and Excise.

5. The Control of Chemicals Regulations prescribe the fees payable for the issue or reissue of the above licences and permits. The existing fee for the issue or reissue of a licence is \$1,090 and of a permit \$700. The fees were last revised in January 2007.

6. It is Government policy that fees should in general be set at levels sufficient to recover the full costs of providing the services. In 1997, we implemented the first phase of a three-phase increase for the fees to bring them to full cost recovery level. However, owing to the then poor economic conditions, Government had frozen most fees and charges since 1998. The remaining two phases were therefore suspended.

7. In line with the “user pays” principle, the Financial Secretary, in the 2004-2005 Budget Speech, indicated the need to resume the revision of Government fees and charges. As stated in the Legislative Council Panel on Security paper in June 2005, the Administration intended to resume the original plan to achieve full-cost recovery by the remaining two phases of fee increase. The second phase increase was implemented in January 2007, by the Control of Chemicals (Fee Revision) Regulation 2006. We now propose to implement the last phase increase by increasing the fees payable for the issue or reissue of a licence by \$440 (i.e. from \$1,090 to \$1,530) and a permit by \$250 (i.e. from \$700 to \$950) to achieve full cost recovery. Details of the cost computations are set out at **Annex B**.

THE REGULATION

8. The Regulation revises the fees as set out at **Annex C**. We propose that the new fees should come into effect on 1 August 2008.

EFFICIENCY INITIATIVES

9. The Customs and Excise Department regularly reviews the working procedures on licence and permit applications with a view to streamlining the procedures and enhancing efficiency. Efficiency savings from these efforts have been factored into the calculation of the fees for the provision of the services.

BASIC LAW AND HUMAN RIGHTS IMPLICATIONS

10. The proposal is in conformity with the Basic Law, including the provisions concerning human rights.

BINDING EFFECT OF THE LEGISLATION

11. The Regulation does not affect the current binding effect of the Ordinance.

FINANCIAL AND STAFFING IMPLICATIONS

12. Additional revenue to be generated from the proposed fee revision is estimated to be about \$100,000 per annum. There are no staffing implications.

ECONOMIC IMPLICATIONS

13. As the proposed fees represent a small percentage of the operating costs of the trade, the impact of the revision will be minimal. The overall economic impact is expected to be insignificant.

PUBLIC CONSULTATION

14. The trade is generally aware of the Administration's plan to increase the fees by phases to achieve full cost recovery. In February 2008, the Customs and Excise Department informed the trade of the increases in this final exercise and received no adverse comments.

15. We issued to the Legislative Council Panel on Security on 8 April 2008 a paper explaining the proposals for these and other fees. The Panel did not ask to discuss these fees.

PUBLICITY

16. The Regulation will be published in the Gazette on 16 May 2008. A spokesperson will be available to answer enquiries on this subject.

ENQUIRIES

17. For enquiries relating to this brief, please contact Ms Candy LAU, Assistant Secretary for Security, at telephone number 2867 2752.

Security Bureau
May 2008

**CONTROL OF CHEMICALS (AMENDMENT)
REGULATION 2008**

(Made by the Secretary for Financial Services and the Treasury under section 29A of the Interpretation and General Clauses Ordinance (Cap. 1) by virtue of section 16 of the Control of Chemicals Ordinance (Cap. 145))

1. Commencement

This Regulation shall come into operation on 1 August 2008.

2. Fees

(1) Regulation 6(1) of the Control of Chemicals Regulations (Cap. 145 sub. leg. A) is amended –

(a) in subparagraph (a), by repealing “\$1,090” and substituting “\$1,530”;

(b) in subparagraph (b), by repealing “\$700” and substituting “\$950”.

(2) Regulation 6(2) is amended –

(a) in subparagraph (a), by repealing “\$1,090” and substituting “\$1,530”;

(b) in subparagraph (b), by repealing “\$700” and substituting “\$950”.

Secretary for Financial Services and
the Treasury

8 May 2008

Explanatory Note

This Regulation amends regulation 6 of the Control of Chemicals Regulations (Cap. 145 sub. leg. A) to increase the fees payable for the issue or reissue of a licence or permit under the Control of Chemicals Ordinance (Cap. 145).

COST COMPUTATION

Customs and Excise Department Fees under the Control of Chemicals Regulations

Cost at 2008-09 Prices

	New Issue of Licence (\$)	Reissue of Licence (\$)	New Issue of Permit (\$)	Reissue of Permit (\$)
Staff Costs	1,314	1,264	647	647
Departmental Expenses	112	117	157	157
Accommodation Costs	46	44	30	30
Depreciation	40	46	99	99
Central Administrative Overhead	35	33	17	17
Unit Cost	1,547	1,504	950	950

Existing and Proposed Fees

Items	Existing Fee Level	Proposed Fee Level	Proposed Amount of Increase	Proposed Percentage Increase
New Issue of Licence	\$1090	\$1530	\$440	40%
Reissue of Licence	\$1090	\$1530	\$440	40%
New Issue of Permit	\$700	\$950	\$250	36%
Reissue of Permit	\$700	\$950	\$250	36%