

LEGISLATIVE COUNCIL BRIEF

Hazardous Chemicals Control Ordinance
(19 of 2007)

Hazardous Chemicals Control (General) Regulation

Hazardous Chemicals Control (Fees) Regulation

INTRODUCTION

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B
The Secretary for the Environment has made the Hazardous Chemicals Control (General) Regulation (“the General Regulation”) (copy at **Annex A**) under section 45 of the Hazardous Chemicals Control Ordinance (19 of 2007) (“the Ordinance”) and the Hazardous Chemicals Control (Fees) Regulation (“the Fees Regulation”) (copy at **Annex B**) under section 46 of the Ordinance. The General Regulation mainly provides for the applications of permits and other related matters under the Ordinance, whereas the Fees Regulation provides for the fees to be paid in respect of these applications.

JUSTIFICATIONS

2. The Hazardous Chemicals Control Bill was passed by the Legislative Council on 11 July 2007 and the Ordinance gazetted on 20 July 2007. The Ordinance provides for the regulation of the import, export, manufacture and use of non-pesticide hazardous chemicals¹ through an activity-based permit system. The Environmental Protection Department will be responsible for processing applications for the issue or renewal of such permits and other related matters. We need to make regulations under the Ordinance, *inter alia*, to set out the requirements relating to applications made under the Ordinance and the fees payable in respect of these applications.

¹ The expression “non-pesticide hazardous chemical” means any chemical, other than a chemical that is a pesticide, that has potentially harmful or adverse effect on human health or the environment.

THE GENERAL REGULATION AND THE FEES REGULATION

3. The main provisions of the General Regulation are set out below –

- (a) Section 1 provides for the commencement of the Regulation. The Regulation will commence on a day to be appointed by the Secretary for the Environment by notice published in the Gazette;
- (b) Section 2 defines certain terms used in the Regulation;
- (c) Sections 3 and 4 provide for applications for the issue or renewal of permits under section 10 of the Ordinance;
- (d) Section 5 provides for applications for the variation of permit conditions under section 13 of the Ordinance;
- (e) Section 6 provides for applications for the variation of the directions of the Director of Environmental Protection (“the Director”) regarding the disposal of non-pesticide hazardous chemicals regulated under the Ordinance;
- (f) Section 7 provides for applications for the issue of duplicates of permits under section 39 of the Ordinance;
- (g) Section 8 empowers the Director to require applicants to provide additional information, particulars and documents in relation to their applications under the Ordinance; and
- (h) Section 9 provides for the duration of permits issued or renewed under the Ordinance.

4. The Fees Regulation prescribes the fees payable under the Ordinance in respect of applications for the issue or renewal of permits, applications for the variation of permit conditions, and applications for the issue of duplicates of permits under the Ordinance. The Regulation will commence on a day to be appointed by the Secretary for the Environment by notice published in the Gazette.

LEGISLATIVE TIMETABLE

5. The legislative timetable will be as follows -

Publication in the Gazette	5 October 2007
Tabling at the Legislative Council	10 October 2007

IMPLICATIONS OF THE GENERAL REGULATION AND THE FEES REGULATION

C 6. The financial, civil service, economic, sustainability and environmental implications of the General Regulation and the Fees Regulation are the same as those applicable to the Ordinance, as set out in the Legislative Council Brief on the Hazardous Chemicals Control Bill issued on May 10, 2006 (copy at **Annex C**).

7. The General Regulation and the Fees Regulation are in conformity with the Basic Law, including the provisions concerning human rights. They will not affect the binding effect of the Ordinance. They have no productivity implications.

PUBLIC CONSULTATION

8. The General Regulation and the Fees Regulation seek to facilitate the implementation of the permit system under the Ordinance. Public consultation on the legislative proposals to be included in the Ordinance has been conducted before the Hazardous Chemicals Control Bill was introduced into the Legislative Council.

9. We held a stakeholder consultation workshop on the preparation of the draft HKSAR Implementation Plan (HKSARIP) for the Stockholm Convention in November 2005. In gist, the stakeholders appreciated the quality of the work that underpinned the preparation of the draft HKSARIP, which included the legislative proposals as one of the action items.

10. We consulted the Legislative Council Panel on Environmental Affairs and the Advisory Council on the Environment on the draft HKSARIP and the legislative proposals in February and March 2006, respectively. Members were in general in support of the draft HKSARIP and the legislative proposals.

11. We held a briefing session for the relevant trade and stakeholders and clarified the legislative proposals in March 2006.

PUBLICITY

12. A press release will be issued on 3 October 2007. A spokesman will be available to handle enquiries.

ENQUIRY

13. Any enquiry on this brief should be directed to Mr. Carlson K.S. Chan, Deputy Director of Environmental Protection (telephone number: 2594 6004).

**Environmental Protection Department
October 2007**

HAZARDOUS CHEMICALS CONTROL (GENERAL) REGULATION

(Made by the Secretary for the Environment under section 45 of the
Hazardous Chemicals Control Ordinance (19 of 2007))

PART 1

PRELIMINARY

1. Commencement

This Regulation shall come into operation on a day to be appointed by the Secretary for the Environment by notice published in the Gazette.

2. Interpretation

In this Regulation, unless the context otherwise requires –

“name” (名稱), in relation to a scheduled chemical, means the name of that chemical as specified in column 2 of Part 1 of Schedule 1 or 2 of the Ordinance;

“specified form” (指明表格), in relation to any matter, means the form specified by the Director under section 49 of the Ordinance in relation to that matter.

PART 2

REQUIREMENTS RELATING TO APPLICATIONS MADE UNDER ORDINANCE

3. Application for issue of permit under section 10 of Ordinance

(1) An application for the issue of a permit under section 10(1) of the Ordinance shall –

- (a) be made in writing to the Director;
- (b) be in the specified form;

- (c) include the information and particulars specified in subsection (2); and
 - (d) be accompanied by the prescribed fee.
- (2) The information and particulars referred to in subsection (1)(c) are –
- (a) the name and address of the applicant;
 - (b) the business name (if any) of the applicant;
 - (c) the activity in respect of which a permit is sought;
 - (d) in relation to each scheduled chemical in respect of which a permit is sought –
 - (i) the name of the chemical;
 - (ii) the address or (where applicable) location of each of the premises at which the chemical is to be manufactured, exported, imported or used; and
 - (iii) the purpose for which the chemical is to be manufactured, exported, imported or used; and
 - (e) such other information and particulars as are specified in the specified form.

4. Application for renewal of permit under section 10 of Ordinance

An application for the renewal of a permit under section 10(2) of the Ordinance shall –

- (a) be made in writing to the Director;
- (b) be in the specified form;
- (c) include such information and particulars as are specified in the specified form; and
- (d) be accompanied by the prescribed fee.

5. Application for variation of permit conditions under section 13 of Ordinance

An application for the variation of the conditions of a permit under section 13(1) of the Ordinance shall –

- (a) be made in writing to the Director;
- (b) be in the specified form;
- (c) include such information and particulars as are specified in the specified form; and
- (d) be accompanied by the prescribed fee.

6. Application for variation of directions given under section 22 of Ordinance

(1) An application for the variation of the directions given under section 22(1) of the Ordinance shall be made within 10 working days after the notice of cancellation is served on the permit holder.

(2) The application shall –

- (a) be made in writing to the Director;
- (b) be in the specified form;
- (c) state –
 - (i) the grounds of the application; and
 - (ii) the facts and circumstances that the permit holder relies on in support of those grounds; and
- (d) include such other information and particulars as are specified in the specified form.

7. Application for issue of duplicate permit under section 39 of Ordinance

An application for the issue of a duplicate permit under section 39(1) of the Ordinance shall –

- (a) be made in writing to the Director;
- (b) be in the specified form;

- (c) include such information and particulars as are specified in the specified form; and
- (d) be accompanied by the prescribed fee.

8. Requirement to provide additional information, etc. by Director

The Director may, by notice in writing, require a person who makes any application referred to in this Part to provide any additional information, particulars and documents that are reasonably necessary to enable him to determine the application concerned.

PART 3

DURATION OF PERMITS

9. Duration of permit issued or renewed under section 10 of Ordinance

(1) A permit issued or renewed under section 10 of the Ordinance shall be for a period of 12 months or for such shorter period as is specified in the permit.

(2) Notwithstanding subsection (1) –

- (a) a permit issued under section 17(1) of the Ordinance shall not in any case continue to have effect after the time at which the permit returned under section 16 of the Ordinance would have been expired; and
- (b) a permit issued under section 31(3)(b) or (4)(b) of the Ordinance shall not in any case continue to have effect after the time at which the permit returned under section 31(3)(a) or (4)(a) of the Ordinance would have been expired.

Secretary for the Environment

2007

Explanatory Note

This Regulation is made by the Secretary for the Environment under section 45 of the Hazardous Chemicals Control Ordinance (19 of 2007) (“the Ordinance”).

2. The Regulation mainly provides for applications for –

- (a) the issue or renewal of permits for the manufacture, export, import or use of scheduled chemicals (Note: the term “scheduled chemical” is defined in section 2 of the Ordinance.);
- (b) the variation of permit conditions;
- (c) the variation of the directions of the Director of Environmental Protection (“the Director”) regarding the disposal of scheduled chemicals; and
- (d) the issue of duplicates of permits.

The Regulation also provides for the imposition of requirements by the Director in relation to such applications, and the duration of permits issued or renewed under the Ordinance.

HAZARDOUS CHEMICALS CONTROL (FEES) REGULATION

(Made by the Secretary for the Environment under section 46 of the
Hazardous Chemicals Control Ordinance
(19 of 2007))

PART 1

PRELIMINARY

1. Commencement

This Regulation shall come into operation on a day to be appointed by the Secretary for the Environment by notice published in the Gazette.

2. Interpretation

In this Regulation, unless the context otherwise requires –

“special permit” (特別許可證) means a permit issued only in respect of one or more specified chemicals;

“specified chemical” (指明化學品) means a scheduled chemical that is, or is a part of, a transshipment cargo or article in transit within the meaning of section 2 of the Import and Export Ordinance (Cap. 60).

PART 2

FEES PAYABLE FOR PURPOSES OF ORDINANCE

3. Fees

The fee specified in column 3 of the Schedule is prescribed in respect of the matter described opposite to that fee in column 2 of the Schedule.

SCHEDULE

[s. 3]

FEES

Item	Matter	Fee (\$)
1.	Application for the issue of a permit under section 10(1) of the Ordinance –	
	(a) in any case where the permit is a special permit	855
	(b) in any other case	1,280
2.	Application for the renewal of a permit under section 10(2) of the Ordinance –	
	(a) in any case where the permit is a special permit	460
	(b) in any other case	710
3.	Application for the variation of the conditions of a permit under section 13(1) of the Ordinance	730
4.	Application for the issue of a duplicate permit under section 39(1) of the Ordinance	210

Secretary for the Environment

2007

Explanatory Note

This Regulation is made by the Secretary for the Environment under section 46 of the Hazardous Chemicals Control Ordinance (19 of 2007) (“the Ordinance”).

2. The purpose of the Regulation is to prescribe the fees payable under the Ordinance in respect of applications for the issue or renewal of permits, applications for the variation of permit conditions, and applications for the issue of duplicates of permits.

IMPLICATIONS OF THE PROPOSAL

Financial and Civil Service Implications

It is estimated that the recurrent cost arising from the implementation of the proposed Bill is about \$582,000 per year (\$500,000 for the Environmental Protection Department (EPD) and \$82,000 for the Trade and Industry Department), involving minimal additional staffing requirements. The additional resource requirement will be met by EPD's existing allocation. On the other hand, the new licensing system under the Bill would give rise to revenue of about \$500,000 per year.

Economic Implications

2. According to an initial survey conducted by EPD in early 2005, there is little current trading and/or domestic use of the chemicals that are subject to the Stockholm Convention and Rotterdam Convention in Hong Kong. Against this, the proposed enactment of the new legislation to control and regulate chemicals under these two Conventions is unlikely to have significant additional compliance burden on traders/carriers. Further, administrative burden on the Government is modest.

Sustainability Implications

3. The proposal will help to ensure the HKSARG's compliance with the obligations under the Stockholm Convention and Rotterdam Convention with regard to the control and regulation of non-pesticide hazardous chemicals and is in line with the sustainability principles of avoiding environmental problems for present and future generations, seeking to find opportunities to enhance environmental quality, and providing a living environment which promotes and protects the physical health of the people of Hong Kong.

Environmental Implications

4. The enactment of the Bill will help to reduce environmental and public health risks resulting from non-pesticide hazardous chemicals. The Bill per se does not have any environmental implications.