

L.N. 82 of 2008**TRADE DESCRIPTIONS (MARKING) (GOLD AND GOLD ALLOY) (AMENDMENT) ORDER 2008**

(Made by the Chief Executive in Council under section 4 of the Trade Descriptions Ordinance (Cap. 362))

1. Commencement

This Order shall come into operation on a day to be appointed by the Secretary for Commerce and Economic Development by notice published in the Gazette.

2. Articles to be marked

(1) Paragraph 4(1) of the Trade Descriptions (Marking) (Gold and Gold Alloy) Order (Cap. 362 sub. leg. A) is amended by adding “at retail level” after “or business”.

(2) Paragraph 4(1)(c) is amended by repealing “(Chuk Kam)”.

3. Articles of differing fineness

(1) Paragraph 5(3)(a) is amended by repealing “Chuk Kam standard” and substituting “a standard of not lower than 999”.

(2) Paragraph 5(3)(d) is amended in the Chinese text by repealing “白金” and substituting “白色黃金”.

4. Supply to be accompanied by written particulars

(1) Paragraph 6(1) is amended by repealing “, in the course of trade or business, supplies any article of gold or gold alloy shall, at the time of supply, deliver” and substituting “supplies any article of gold or gold alloy in the course of trade or business at retail level shall, at the time of supply, issue”.

(2) Paragraph 6(1) is amended by repealing everything after subparagraph (a) and substituting—

“(b) the price at which the article is supplied;

(c) the date of supply;

(d) the details of—

- (i) where the whole article is of gold or gold alloy of the same fineness, the mark required under paragraph 4 borne on the article and the corresponding fineness of the gold content specified in the First Schedule; or
 - (ii) where the article consists of different parts which are of different finenesses of gold or gold alloy, the mark required under paragraph 4 borne on each such part of the article and the corresponding fineness of the gold content specified in the First Schedule;
 - (e) where the article consists of different parts which are of gold or gold alloy and other metal—
 - (i) a description of the type of gold or gold alloy and the relevant parts; and
 - (ii) a description of the type of such other metal and the relevant parts;
 - (f) where appropriate, a description of any article or part of any article exempted by virtue of the Second Schedule; and
 - (g) where the whole article is of gold or gold alloy the fineness of which is not less than 999 parts by weight of gold in 1 000 parts by weight of alloy, the weight of the article.”.
- (3) Paragraph 6 is amended by adding—
- “(1A) For the purposes of subparagraph (1)(d), where—
- (a) an article has been subjected to soldering; and
 - (b) by virtue of paragraph 5(3), the article is marked with the standard of fineness of its main body,
- the whole article is regarded as being of gold or gold alloy of the same fineness.
- (1B) The fineness of gold and gold alloy contained in an invoice or receipt required under subparagraph (1) shall be expressed—
- (a) in number of parts by weight of gold in 1 000 parts by weight of alloy;
 - (b) in number of carats; and
 - (c) where the fineness is not less than 999 parts by weight of gold in 1 000 parts by weight of alloy, as “足金”.”.
- (4) Paragraph 6 is amended by adding—
- “(3) Any person who contravenes subparagraph (2) commits an offence and is liable on conviction to a fine at level 2 and imprisonment for 1 month.”.

5. Paragraph substituted

Paragraph 7 is repealed and the following substituted—

“7. Notice to be displayed

(1) No person shall supply or offer to supply any article made of gold or gold alloy in the course of trade or business at retail level unless a notice in the form specified in the Third Schedule is displayed prominently to all customers at the point of supply or offer.

(2) A notice displayed under subparagraph (1) shall not be less than 210 mm × 297 mm in size.

(3) The letters and characters appearing on a notice displayed under subparagraph (1) shall not be less than 5 mm in height.”.

6. Surface treated articles

(1) Paragraph 8 is amended by renumbering it as paragraph 8(1).

(2) Paragraph 8(1) is amended by repealing everything after “other words in” and substituting—

“the description—

(a) shall be in English; and

(b) shall not be less prominent than the word “gold”.”.

(3) Paragraph 8 is amended by adding—

“(2) If an article with a surface treatment of gold is marked with words describing such treatment which include the characters “黃金” or “金”, the other words in the description—

(a) shall be in Chinese; and

(b) shall not be less prominent than the characters “黃金” or “金”, as the case may be.”.

7. Paragraph added

The following is added—

“9. Position of auctioneer

(1) For the purposes of this order, where an article to which this order applies is sold by auction—

(a) the auctioneer shall be regarded as the supplier of the article; and

(b) it shall, in the absence of evidence to the contrary, be presumed to be supplied in the course of trade or business at retail level.

(2) For the purposes of this order, where an article to which this order applies is offered for sale by auction, it shall—

- (a) be regarded as being offered for supply by the auctioneer; and
- (b) in the absence of evidence to the contrary, be presumed to be offered for supply in the course of trade or business at retail level.”.

8. Standards of fineness

(1) The First Schedule is amended by repealing “& 4]” and substituting “, 4 & 6]”.

(2) The First Schedule is amended by repealing—

“Chuk Kam (足金) 990”

and substituting—

“足金 (Chuk Kam) 999”.

9. Exempted articles

The Second Schedule is amended by repealing “6(1)(e)]” and substituting “6(1)(f)]”.

10. Third Schedule amended

(1) The Third Schedule is amended in the English version of the Notice by adding “at retail level” after “or business”.

(2) The Third Schedule is amended in the English version of the Notice by repealing—

“Chuk Kam (足金) 990”

and substituting—

“足金 (Chuk Kam) 999”.

(3) The Third Schedule is amended in the Chinese version of the Notice by adding “零售層面的” before “營商過程”.

(4) The Third Schedule is amended in the Chinese version of the Notice by repealing—

“足金 (Chuk Kam) 990”.

and substituting—

“足金 999”.

LAM Chik-ting, Tony
Clerk to the Executive Council

COUNCIL CHAMBER
8 April 2008

Explanatory Note

This Order amends the Trade Descriptions (Marking) (Gold and Gold Alloy) Order (Cap. 362 sub. leg. A) (“the principal Order”) to enhance the protection offered by the principal Order to purchasers of articles made of gold or gold alloy. This Order also introduces certain technical amendments. The major amendments are highlighted below.

2. Section 1 empowers the Secretary for Commerce and Economic Development to specify the commencement date of this Order.
3. Section 2 amends paragraph 4(1) of the principal Order to limit the scope of application of the principal Order to sale at retail level.
4. Section 3 replaces the Chinese equivalent of “white gold” in paragraph 5(3) of the principal Order so that it will not be mistaken for the Chinese equivalent of “platinum”.
5. Section 4(2) amends paragraph 6(1) of the principal Order to expand the list of information to be provided to purchasers.
6. Section 4(4) adds a provision to provide that failure to comply with paragraph 6(2) of the principal Order is a criminal offence. That paragraph requires suppliers to retain copies of invoices and receipts for 3 years.
7. Section 6 amends paragraph 8 of the principal Order so that the paragraph applies more effectively in relation to bilingual markings.
8. Section 8 amends the First Schedule to the principal Order to raise the standard of fineness required for the description “足金” (Chuk Kam).