

For information

**Bills Committee on
Telecommunications (Amendment) Bill 2009**

**Examples of licensing-related provisions
under other legislation**

To facilitate Members' consideration of the Telecommunications (Amendment) Bill 2009, some examples of licensing-related provisions under other legislation are at **Annex** for Members' reference.

Commerce and Economic Development Bureau
November 2009

Chapter: 109 DUTIABLE COMMODITIES ORDINANCE Gazette Number Version Date
Long title 30/06/1997

To amend the law relating to the taxation and control of liquors, tobacco, hydrocarbon oil, methyl alcohol and other substances, for providing for the licensing of certain dealings in liquors and for purposes connected therewith.

(Amended 3 of 1970 s. 2; 40 of 1974 s. 2; 34 of 1976 s. 2; 20 of 1985 s. 2; 66 of 1986 s. 2; 35 of 1992 s.2; 32 of 1993 s. 2)

[16 October 1963] *L.N. 120 of 1963*

(Originally 26 of 1963)

Section: 8A Determining applications for and revocation of licences in respect of premises
4 of 2003 01/04/2003

Remarks:

For the saving and transitional provisions relating to the amendments made by the Dutiable Commodities (Amendment) Ordinance 2003 (4 of 2003), see Part III of the Ordinance.

(1) In determining an application for the grant or renewal of a licence in respect of any premises, the Commissioner or the officer deputed by him in that behalf shall take into account-

- (a) whether the applicant possesses the appropriate financial status;
- (b) whether the books of account and other documents that are kept or proposed to be kept by the applicant in relation to the premises are sufficient for the purpose of auditing;
- (c) whether the systems, procedures and standards that are used or proposed to be used by the applicant in respect of inventory control, record keeping and security are appropriate;
- (d) whether the applicant and his responsible personnel are fit and proper persons; and
- (e) any other relevant matter.

(2) No licence shall be granted in respect of any premises which are or will be used wholly or partly as a place of residence.

(3) In determining whether to revoke under section 7(1A) a licence that was granted in respect of any premises, the Commissioner or the officer deputed by him in that behalf shall take into account-

- (a) whether the licensee possesses the appropriate financial status;
- (b) whether the books of account and other documents that are kept by the licensee in relation to the premises are sufficient for the purpose of auditing;
- (c) whether the systems, procedures and standards that are used by the licensee in respect of inventory control, record keeping and security are appropriate;
- (d) whether the licensee and his responsible personnel are fit and proper persons; and
- (e) any other relevant matter.

(4) In determining whether a person is a fit and proper person for the purposes of subsection

(1)(d) or (3)(d),

the Commissioner or the officer deputed by him in that behalf shall take into account-

(a) the fact that the person has a conviction in Hong Kong or elsewhere for an offence for which it was necessary to find that the person had acted fraudulently, corruptly or dishonestly;

(b) the fact that the person has been convicted of an offence against this Ordinance;

(c) if the person is an individual, the fact that the person is an undischarged bankrupt or has entered into a composition or a scheme of arrangement or a voluntary arrangement within the meaning of the Bankruptcy Ordinance (Cap 6) within the 5 years preceding the date of the application;

(d) if the person is a body corporate, the fact that the person is in liquidation, is the subject of a windingup order or there is a receiver appointed in relation to it or it has entered into a composition or a scheme of arrangement or a voluntary arrangement within the meaning of the Bankruptcy Ordinance (Cap 6) within the 5 years preceding the date of the application; and

(e) any other relevant matter.

(5) The Commissioner or the officer mentioned in subsection (1) or (3), as the case may be, shall give reasons in writing to the applicant or licensee, as the case may be, for refusing an application to grant or renew a licence in

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respect of any premises, or for revoking a licence granted in respect of any premises, under section 7.

(6) In this section, "responsible personnel" (負責人員), in relation to a person who is an applicant or licensee (as the case may be), means-

(a) where the person is a body corporate, any of its directors;

(b) where the person is an unincorporated association, the president, chairman, vice chairman or secretary of its management or executive committee (however described), or a person holding a similar office; or

(c) any other person who is or will be wholly or mainly responsible for the management of the premises concerned.

(Added 4 of 2003 s. 3)

Chapter: 311 AIR POLLUTION CONTROL ORDINANCE Gazette Number Version Date
Long title 30/06/1997

To make provision for abating, prohibiting and controlling pollution of the atmosphere and for matters connected therewith.

(Amended 2 of 1991 s. 2)

[1 October 1983] *L.N. 303 of 1983*

(Originally 17 of 1983)

Section: 15 Grant or refusal of licences 31 of 2008 18/07/2008

(1) The Authority may, not earlier than 40 days after the last notice is published in a newspaper pursuant to section 14(3)(b), either grant or refuse to grant a licence.

(2) If he refuses to grant a licence the Authority shall notify the applicant in writing of his refusal and shall inform him of his reasons therefor.

(3) In the exercise of his discretion to grant or refuse to grant a licence the Authority shall-

(a) have regard to the capability of the applicant to provide and maintain the best practicable means for the prevention of the emission from his premises of any air pollutant;

(b) have as his purpose the attainment and maintenance of any relevant air quality objective;

and

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(Replaced 23 of 1987 s. 3)

(c) have regard to whether the emission of noxious or offensive emissions would be, or be likely to be, prejudicial to health. (Added 23 of 1987 s. 3)

(4) A licence granted under this section shall be for a reasonable period of not less than 2 years and- (Amended 31 of 2008 s. 4)

(a) without prejudice to any term or condition imposed under paragraph (b) (if applicable), may be subject to such terms and conditions (including terms and conditions relating to the matters set out in Schedule

2) as the Authority thinks fit; and

(b) where the licence concerned is a specified licence, shall from 1 January 2010 onwards also be subject to such terms and conditions as may be set out in Schedule 2A. (Amended 13 of 1993 s. 31; 31 of 2008 s. 4)

Chapter: 238 FIREARMS AND AMMUNITION ORDINANCE Gazette Number Version

Date Long title 30/06/1997

To repeal and replace the Arms and Ammunition Ordinance.

[1 September 1981] L.N. 283 of 1981

(Originally 68 of 1981)

Section: 27 Licences in respect of arms and ammunition L.N. 193 of 2000 26/11/2000

PART IV

LICENSING

(1) An application for-

(a) a licence for possession; or

(b) a dealer's licence, shall be made to the Commissioner in the specified form and the prescribed manner.

(2) Upon application duly made to him under subsection (1)(a) and upon payment of the prescribed fee, the Commissioner may grant to the applicant a licence, conforming with section 28, to possess arms or ammunition or both.

(3) Upon application duly made to him under subsection (1)(b), the Commissioner may grant to the applicant a licence, conforming with section 29, to deal in arms or ammunition or both.

(3A) In exercising the powers under subsection (2) or (3) to grant a licence, the Commissioner shall, in addition to any other relevant matter that he may reasonably take into consideration, have regard to-

(a) whether the applicant is a fit and proper person to be granted a licence;

(b) whether there is good reason for that applicant to hold a licence; and

(c) whether it is objectionable, for reasons of public safety and security, to grant the licence to that

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applicant. (Added 14 of 2000 s. 13)

(4) A licence granted under this section may be subject to such terms and conditions (including conditions imposing a limit or restriction on the number, type, class or description of arms, or the quantity, type, class or description of ammunition, or both) as the Commissioner thinks fit.

(5) The Commissioner shall, in a form determined by him, keep a register in respect of each type of licence granted by him under subsections (2) and (3).

(Amended 14 of 2000 s. 13)

Chapter: 374 ROAD TRAFFIC ORDINANCE Gazette Number Version Date

Long title 30/06/1997

To provide for the regulation of road traffic and the use of vehicles and roads (including private roads) and for other purposes connected therewith.

(Amended 80 of 1988 s. 2)

[25 August 1984] L.N. 294 of 1984

(Originally 75 of 1982)

Section: 28 Matters to be taken into account in considering an application for a passenger service licence 3 of 2002 01/07/1997

Remarks:

Adaptation amendments retroactively made - see 3 of 2002 s. 15

In determining an application for a passenger service licence, the Commissioner shall take into account, in

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addition to any other matter which he considers relevant to the application-

- (a) any policy direction from the Chief Executive with respect to the provision of public transport services; (Amended 3 of 2002 s. 15)
- (b) any limit in force under section 23 on the number of vehicles that may be registered;
- (c) the need for the services to be provided by the applicant;
- (d) the level of service already provided or planned by other public transport operators;
- (e) traffic conditions in the areas and on the roads where the services are to be provided; and
- (f) the standard of service to be provided by the applicant.

Chapter: 448A AIR TRANSPORT (LICENSING OF AIR SERVICES)
REGULATIONS

Gazette Number Version Date

Empowering section 30/06/1997

(Cap 448, sections 12 and 13(6))* [4 November 1949]

(G.N.A. 238 of 1949)

Note:

*** These regulations were originally made under the Air Navigation Act 1936 (1936 c. 44 s. 5 U.K.) as applied by the Colonial Air Navigation (Application of Acts) Order 1937 (S.R. & O. 1937/378 U.K.) and the Colonial Air Navigation (Application of Acts) (Amendment) Order 1947 (S.R. & O. 1947/2738 U.K.). See now sections 12 and 13(6) of the Civil Aviation Ordinance, enacted in 1994 (Cap 448).**

Regulation: 11 General policy of Licensing Authority 30/06/1997

In exercising their discretion to grant, or to refuse, a licence and their discretion to attach conditions to any licence the Licensing Authority shall have regard to the co-ordination and development of air services generally with the object of ensuring the most effective service to the public while avoiding uneconomical overlapping and generally to the interests of the public, including those of persons requiring or likely to require facilities for air transport, as well as those of persons providing such facilities. In particular the Licensing Authority shall have regard to the following matters-

- (a) the existence of other air services in the area through which the proposed services are to be operated;
- (b) the demand for air transport in that area;
- (c) the degree of efficiency and regularity of the air services, if any, already provided in that area, whether by the applicant or by other operators;
- (d) the period for which such services have been operated by the applicant or by other operators;
- (e) the extent to which it is probable that the applicant will be able to provide a satisfactory service in respect of safety, continuity, regularity of operation, frequency, punctuality, reasonableness of charges, and general efficiency;
- (f) the financial resources of the applicant;
- (g) the type of aircraft proposed to be used;
- (h) the remuneration and general conditions of employment of aircrew and other personnel employed by the applicant, and the Licensing Authority shall take into consideration any objections or representations duly made in accordance with the provision of these regulations.