

LEGISLATIVE COUNCIL BRIEF

Electricity Ordinance
(Chapter 406)

ELECTRICAL PRODUCTS (SAFETY) (AMENDMENT) REGULATION 2000

INTRODUCTION

At the meeting of the Executive Council on 28 March 2000, the Council ADVISED and the Chief Executive ORDERED that the Electrical Products (Safety) (Amendment) Regulation 2000, at the Annex, should be made under section 59 of the Electricity Ordinance to provide, among other things, for electrical products supplied with premises to be exempt from the Regulation, except where they are supplied with a new premises the first time it is disposed of before its first occupation.

BACKGROUND AND ARGUMENT

General Background

2. The Electricity Ordinance (“the Ordinance”) provides for, among other things, safety requirements for electrical products. The provisions in the Ordinance relating to safety of electrical products (sections 24 to 29) were brought into effect in 1995, with the exception of section 29(1)(b), which provides that no person shall supply an electrical product for which no “certificate of safety compliance” has been issued as required by regulations in respect of electrical product safety.

3. The Electrical Products (Safety) Regulation (“the Regulation”) was made in 1997. It applies to electrical products which are designed for household use and supplied in Hong Kong. However, by virtue of section 3(2), certain categories of electrical products are exempted from the Regulation, such as those manufactured in Hong Kong for export. The Regulation is in operation, except for sections 7 and 8. Section 7 of the Regulation requires, among other things, that no person shall supply an electrical product unless a certificate of safety compliance has been issued in respect of the product. The purpose of the certificate is to show, to the satisfaction of the Director of Electrical and Mechanical Services, that the electrical product concerned complies with the relevant safety requirements under the Regulation. Section 8

of the Regulation sets out the various forms that the certificate can take. For example, it can be a certificate issued by a certification or testing body or a declaration of conformity issued by a manufacturer.

4. On 12 January 1999, the Council ADVISED and the Chief Executive ORDERED that under section 1(2) of the Electricity Ordinance, the Electricity Ordinance (Cap. 406) (Commencement) Notice 1999 should be made. Thereafter, the Secretary for Economic Services made the Electrical Products (Safety) Regulation (Cap. 406 sub. leg.) (Commencement) Notice 1999.

5. The notices appointed 25 February 1999 as the day on which section 29(1)(b) of the Ordinance and sections 7 and 8 of the Regulation would come into operation. The Legislative Council set up a Subcommittee (“the Subcommittee”) to examine them. The Subcommittee raised some concerns over the practical impact of the provisions. As the concerns required further study by the Administration before they could be resolved, the Subcommittee decided that the commencement notices should be repealed. The Legislative Council repealed the notices on 10 February 1999.

Electrical products supplied with premises

6. The Subcommittee’s principal concern was that the certificate of safety compliance provisions of the Regulation would apply to electrical products supplied with premises to be sold or rented out. The Subcommittee noted that this would entail additional responsibilities and costs for property vendors and lessors in arranging safety tests and obtaining safety certification for such equipment, have wide implications for property transactions and possibly overburden testing services. It requested the Administration to exclude from the certificate of safety compliance requirement electrical products supplied with premises to be sold or let.

7. In considering the practical concerns raised by the Subcommittee, we have also considered whether it is in the interests of public safety for electrical products supplied with premises to be exempt from the Regulation.

8. Where electrical products are supplied with existing premises, the owner or landlord, if he is to comply with the certificate of safety compliance requirement, would need to arrange for a qualified technician to certify that the individual electrical products meet the safety requirements of the Regulation, before he sells or rents out the premises. Taking into account that electrical products supplied with existing premises will be replaced over time with new products covered by certificates of safety compliance, we are prepared to

accede to the Subcommittee's request and exempt from the Regulation electrical products supplied with such premises.

9. On the other hand, every year, tens of thousands of new premises are constructed and equipped by developers with various electrical products prior to marketing. The number of electrical products reaching the consumer in this way runs into hundreds of thousands every year. If such products are exempted from the Regulation, its effectiveness in regulating the safety of electrical products supplied to consumers will be compromised. It should be relatively straightforward for the developer to obtain certificates of safety compliance from his electrical product suppliers when taking delivery of the products for installation in new premises. Under the Regulation, those suppliers, if they are in Hong Kong, may not supply the products to him unless certificates of safety compliance have been issued for the products concerned. If the electrical products are supplied to the developer directly from outside Hong Kong, he will need to request from the supplier certificates of safety compliance in the form required under the Regulation. Having regard to the huge number of electrical products being supplied by developers with new premises and the relative ease with which developers should be able to comply with the certificate of safety compliance requirements, we consider that electrical products supplied by developers with new premises should **not** be exempted from the Regulation.

10. In such circumstances, however, only the first disposition of a premises with electrical products **before** it is first occupied need be caught by the Regulation, as that is sufficient to establish that the electrical products being supplied into the market are safe. This applies whether the first such disposition is by the developer, as will usually be the case, or by a person other than the developer.

11. The first disposition of the premises with electrical products may also arise **after** the premises is first occupied. In such cases, it is likely that the electrical products will have been bought by the householder from retail suppliers, in which case no further regulation is necessary. Furthermore, it is unlikely that a developer or a person who is not the householder would find it cost-effective or convenient to equip a new premises with electrical products after the premises is occupied. We are therefore prepared to provide that, where any disposition of a premises with electrical products is made after its first occupation, those electrical products should be exempt from the Regulation.

12. In summary, we propose to amend the Regulation so that it will **not** apply to an electrical product which is supplied as part of or in connection with a disposition of any premises **unless** the disposition is the first disposition made prior to the first occupation of the premises. In other words, in the case

of electrical products supplied with premises, only those supplied with a new premises the first time it is disposed of before its first occupation will be caught by the Regulation.

Other Proposals

13. We also propose to amend the Regulation in several other respects to improve or update certain definitions and to enhance flexibility for the trade.

(A) Safety Requirements

14. Currently, the definition of “safety requirements” in the Regulation encompasses the essential safety requirements for all electrical products and the specific safety requirements for prescribed electrical products, required respectively by sections 4 and 5 of the Regulation. It does not cover those for particular types of electrical products required by section 6 of the Regulation, which include, for example, those designed to operate on 110 volts. As a consequence, non-compliance with the safety requirements under section 6 is outside the scope of the offence provisions of the Regulation. This is inconsistent with the existing policy that a person who supplies an electrical product which fails to comply with the applicable safety requirements commits an offence.

15. We therefore propose to amend the definition so that it also applies to the safety requirements for particular types of electrical products required by section 6 of the Regulation. We will also amend the definition to read “applicable safety requirements” for greater clarity.

(B) Certification

16. Under the Regulation, a certificate of safety compliance may be a test certificate or test report issued by a certification or testing body registered by the Director of Electrical and Mechanical Services under section 9 of the Regulation as a “recognized certification body”. Some suppliers of certain electrical products, including parallel imports, have been concerned that they may not be able to obtain a certificate of safety compliance in the form of a test certificate or test report issued by a recognized certification body. The Legislative Council Subcommittee requested that the Administration re-examine the practicality of the requirement as applied to such suppliers. Consultation with the trade indicates that many of these suppliers are able to obtain test certificates or test reports issued by certification bodies that are

known to meet the criteria for such recognition as a “recognized certification body” under the Regulation, but have not applied for recognition.

17. We therefore propose to amend the Regulation so as to enable the Director of Electrical and Mechanical Services to accept certificates or test reports as certificates of safety compliance under the Regulation if, in his opinion, they demonstrate that an electrical product complies with the applicable safety requirements. The amendment will provide flexibility for the Director to accept such certificates or reports as certificates of safety compliance. This will enhance flexibility for the trade without compromising safety standards.

(C) Accreditation and Other Matters

18. In the Regulation, “accreditation body” is defined as a body which conducts and administers an accreditation system, grants accreditation and has entered into a mutual recognition agreement with the Hong Kong Laboratory Accreditation Scheme (HOKLAS) Executive. The Regulation, however, does not take into account the establishment of the Hong Kong Accreditation Service (HKAS), which incorporates HOKLAS. We therefore propose to amend the Regulation so as to update the definitions relating to accreditation and add new definitions of “HKAS” and “HKAS Executive”.

19. We also propose that minor changes be made to the technical requirements in the Regulation for the numbering of declarations of conformity, the markings on electrical products, plugs and flexible cords and the labelling of plugs. The relaxation of the labelling requirements for certain types of plugs is made in response to representations from the trade and without lowering safety standards.

THE AMENDMENT REGULATION

20. The main provisions of the Amendment Regulation are as follows
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- (a) **Section 2** amends and adds new definitions as explained in paragraphs 14, 15 and 18 above.
- (b) **Section 3** provides that the Regulation does not apply to an electrical product which is supplied as part of or in connection with a disposition of any premises unless the disposition is the first disposition made prior to the first occupation of the premises.

It also provides that “disposition” includes a sale, lease, licence and permission to occupy.

- (c) **Section 6** enables the Director to accept as a certificate of safety compliance any certificate or test report if, in his opinion, it demonstrates that an electrical product complies with the applicable safety requirements.
- (d) **Section 10** amends the technical requirements in the Regulation for the markings on electrical products, plugs and flexible cords and the labelling of plugs.

LEGISLATIVE TIMETABLE

21. The legislative timetable will be -
- | | |
|------------------------------------|---------------|
| Publication in the Gazette | 7 April 2000 |
| Tabling at the Legislative Council | 12 April 2000 |

BASIC LAW IMPLICATIONS

22. The Department of Justice advises that the Amendment Regulation does not conflict with those provisions of the Basic Law carrying no human rights implications.

HUMAN RIGHTS IMPLICATIONS

23. The Department of Justice advises that the Amendment Regulation is consistent with the human rights provisions of the Basic Law.

BINDING EFFECT OF THE LEGISLATION

24. The Regulation does not bind the State by express provision. The Electrical Products (Safety) (Amendment) Regulation 2000 does not affect the current binding effect of the Regulation.

FINANCIAL AND STAFFING IMPLICATIONS

25. There are no financial or staffing implications.

ECONOMIC IMPLICATIONS

26. The exemption in respect of electrical products supplied with existing premises will remove the prospect of additional costs in property transactions for vendors and lessors of such premises.

PUBLIC CONSULTATION

27. The Legislative Council Panel on Economic Services was briefed on the proposals on 28 February 2000 and raised no objection to them. The Real Estate Developers Association and six other organisations who may have an interest in the proposals have been consulted. No objections to the proposals had been received by the closing date for submission of views. The Electrical and Mechanical Services Department has recently held meetings with the electrical trade, including representatives of the wholesaling and retailing, parallel import and lighting products businesses. The trade has indicated no major difficulties in coping with the certificate of safety compliance requirement when it is put into operation.

PUBLICITY

28. A press release was issued on 6 April 2000. A spokesman will handle media and public enquiries.

ENQUIRIES

29. Subject officer : Mr Eric Johnson, Principal Assistant Secretary for Economic Services, telephone 2810 3943, fax 2868 4679.

Economic Services Bureau
6 April 2000

ELECTRICAL PRODUCTS (SAFETY) (AMENDMENT) REGULATION 2000

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ELECTRICAL PRODUCTS (SAFETY) (AMENDMENT) REGULATION 2000

(Made by the Chief Executive in Council under section 59

of the Electricity Ordinance (Cap. 406))

1. Commencement

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

2. Interpretation

Section 2(1) of the Electrical Products (Safety) Regulation (Cap. 406 sub. leg.) is amended -

- (a) in the definition of “accreditation body”, by adding “or the HKAS Executive” after “HOKLAS Executive”;
- (b) in the definition of “HOKLAS”, by repealing “Fourth Edition) of the Hong Kong Laboratory Accreditation Scheme under the charge of the Director-General of Industry on behalf of the Government” and substituting”) of the Hong Kong Laboratory Accreditation Scheme as amended from time to time”;
- (c) by repealing the definition of “safety requirements”;

(d) by adding -

““applicable safety requirements” (適用的安全規格) , in relation to an electrical product, means the requirements that apply to that electrical product by virtue of sections 4, 5 and 6;

“HKAS” (香港認可處) has the same meaning as in Regulations for Laboratory Accreditation (HOKLAS 002) of the Hong Kong Laboratory Accreditation Scheme as amended from time to time;

“HKAS Executive”(香港認可處的執行人員)has the same meaning as in Regulations for Laboratory Accreditation (HOKLAS 002) of the Hong Kong Laboratory Accreditation Scheme as amended from time to time;”.

3. Application to electrical products

Section 3 is amended by adding -

“(3) This Regulation does not apply to an electrical product which is supplied as part of or in connection with a disposition of any premises unless the disposition is the first disposition made prior to the first occupation of the premises.

(4) In this section, “disposition” (處置) includes a

sale, lease, licence and permission to occupy.”.

4. Applicable safety requirements

**for particular types of
electrical products**

Section 6 is amended -

- (a) in subsection (3), by adding “applicable” before “safety requirements”;
- (b) in subsection (4)(b)(i), by adding “applicable” before “safety requirements”.

5. Certificate of safety compliance

Section 7(1) is amended by repealing “is in compliance with the safety requirements for electrical products specified in Part II” and substituting “complies with the applicable safety requirements”.

6. Issue of certificate of safety compliance

Section 8 is amended -

- (a) in subsection (1) -
 - (i) in paragraph (c), by repealing “or” at the end;
 - (ii) in paragraph (d), by repealing the full stop and substituting”; or”;
 - (iii) by adding -

“(e) a certificate or test report which, in the

opinion of the Director, demonstrates that an electrical product complies with the applicable safety requirements.”;

(b) in subsection (2), by repealing “paragraph” and substituting “paragraphs (a) and”;

(c) in subsection (3)(a), by adding “applicable” before “safety requirements”.

7. Director’s powers

Section 11(1) is amended by adding “applicable” before “safety requirements”.

8. Offences

Section 12(a) is amended by repealing “any of the” and substituting “the applicable”.

9. Essential safety requirements

for electrical products

Schedule 1 is amended -

(a) within the square brackets, by repealing “ss. 2, 4” and substituting “ss. 4”;

(b) in section 1(2)(b), by repealing “or kilowatts and amperes” and substituting”,
kilowatts, amperes”.

10. Specific safety requirements

for prescribed products

Schedule 2 is amended -

(a) in item 1, in column 2 -

(i) by repealing “Any plug” and substituting -

“(1) Subject to paragraph (2), any plug”;

(ii) by adding -

“(2) The requirements in subparagraphs (a) (ii) and (b) (ii) of column 3 do not apply to a non-rewirable plug or a plug fitted to an electrical product.”;

(b) in item 1, in column 3 -

(i) by repealing subparagraph (a)(i) and substituting -

“(i) the plug shall be legibly and durably marked with -

(A) the number of BS to which the plug conforms;

(B) its rated current in amperes (A), identities of plug pins

(line (L),

neutral (N) and earth (E or ≡)) and

availability of fuse in accordance with BS 1363 Part 1;

and

(C) the word “FUSED” or “FUSE” or equivalent symbol

(⊞) together with the standard to which the fuse-link

conforms and the rated current of the fuse-link in

amperes (A) in accordance with BS 1363 Part 1;”;

(ii) by repealing subparagraph (b)(i) and substituting -

“(i) the plug shall be legibly and durably marked with -

(A) the number of BS to which the plug conforms; and

(B) its rated current in amperes (A), identities of plug pins

(line (L), neutral (N) and earth

(E or 三)) in accordance with BS 546;”;

(c) in item 4, in column 2 -

(i) by repealing “Any flexible cord” and substituting -

“(1) Subject to paragraph (2), any flexible cord”;

(ii) by adding -

“(2) The requirement in paragraph (1)(a) of column 3 does not apply to a flexible cord fitted to an electrical product.”.

11. Organizations qualified to apply

for recognition as recognized

certification bodies

Schedule 4 is amended, in section 2, by adding “or the HKAS Executive” after “HOKLAS Executive”.

12. Requirements for recognition

as recognized manufacturers

Schedule 5 is amended, in paragraph (a)(ii), by adding “or the HKAS Executive” after “HOKLAS Executive”.

Clerk to the Executive Council

COUNCIL CHAMBER

2000

Explanatory Note

This Regulation amends the Electrical Products (Safety) Regulation (Cap. 406 sub. leg.) (“the principal Regulation”) by

- (a) amending the definitions of “accreditation body” and “HOKLAS”, and repealing the definition of “safety requirements” and substituting “applicable safety requirements” and adding new definitions of “HKAS” and “HKAS Executive”;
- (b) specifying that the Regulation does not apply to electrical products which are supplied as part of a disposition of a premises unless the disposition is a first disposition made prior to the first occupation of the premises;
- (c) specifying that a document may be accepted as a certificate of safety compliance if it is a certificate or test report which, in the opinion of the Director of Electrical and

Mechanical Services, demonstrates that an electrical product complies with the applicable safety requirements;

- (d) specifying that a declaration of conformity issued by a manufacturer of certain products need not contain information required under section 7(2) (a) of the principal Regulation to be accepted by the Director as a certificate of safety compliance;
- (e) specifying that the rated input can either be stated in watts, kilowatts, amperes or milliamperes;
- (f) amending the marking requirements on a 3- rectangular-pin fused plug rated at 13A and a 3-round-pin plug rated at 5A or 15A;
- (g) specifying that certain safety requirements in column 3 of item 1 of Schedule 2 do not apply to non-rewirable plug or a plug fitted to an electrical product;
- (h) specifying that certain requirements in column 3 of item 4 of Schedule 2 do not apply to flexible cord fitted to an electrical product.