

CUSTOMS AND EXCISE SERVICE

(WELFARE FUND) REGULATION

(Made by the Chief Executive in Council under section 22 of the Customs and Excise Service Ordinance (Cap. 342))

1. Commencement

This Regulation shall come into operation on the commencement of Schedule 5 to the Disciplined Services Welfare Funds Legislation (Amendment) Ordinance 1999 (58 of 1999).

2. Interpretation

In this Regulation---

"corporation" (法團) means the corporation sole constituted under section 19(1) of the Ordinance;

"current requirement" (當時需求), in relation to the Fund, means the requirement as estimated under section 4(1);

"deposit account" (存款帳戶) means the deposit account known as "Deposits--- Customs and Excise Service Welfare Fund" in English and "存款——香港海關福利基金" in Chinese;

"Director" (署長) means the Director of Accounting Services;

"Fund" (基金) means the Customs and Excise Service Welfare Fund continued by section 19A of the Ordinance.

3. Maintenance of the Fund

(1) The corporation must ensure that all money payable to the Fund under section 19B of the Ordinance is paid to the Director as soon as practicable after it is received.

(2) The Director must---

(a) maintain the deposit account; and

(b) credit money paid under subsection (1) to the deposit account; and

(c) submit to the corporation before the 10th day of each month a return showing particulars of all transactions relating to the deposit account during the previous month.

4. Investment of surplus funds

(1) The corporation may from time to time estimate the requirement of the Fund in terms of the amount (if any) by which the money payable from the Fund exceeds the money payable to the Fund during the 3 months' period beginning from the day on which the estimate is made.

(2) The corporation may---

(a) invest in securities or place on deposit any money held in the deposit account

that is surplus to the current requirement of the Fund from time to time; and
(b) for that purpose, request the Director to pay the surplus money to the corporation.

(3) The corporation must---

(a) comply with any direction that the Financial Secretary may give in relation to the investments or deposits made under subsection (2); and

(b) ensure that all dividends and interest accruing from the investments and deposits made under this Regulation are credited to the Fund.

5. Circumstances in which investments are to be disposed of

(1) If at any time the uninvested portion of the Fund falls below the amount necessary for the current requirement of the Fund, the corporation must dispose of such part of the investments of the Fund as will enable the Fund to meet that requirement.

(2) In this section, "the uninvested portion of the Fund" (基金的未投資部分) means the part of the Fund that is neither invested in securities nor placed on deposits under section 4.

6. Temporary loans to the Fund

(1) Pending the disposal of the investments of the Fund under section 5, the corporation may, with the approval of the Financial Secretary, request the Director to make a loan to the Fund of an amount necessary for meeting the current requirement of the Fund.

(2) If the Director has made a loan to the Fund under subsection (1), the corporation must, as soon as practicable after disposing of the relevant investments, repay to the Director the loan together with interest at such rate as the Financial Secretary may determine.

7. Certification of vouchers

(1) A person who requests the Director to make a reimbursement or payment from the Fund, must, at the time of the request, give the Director a voucher certified by the corporation or its delegate in relation to the request.

(2) The Director must not make payment from the Fund on the authority of a voucher unless the voucher has been certified by the corporation or its delegate.

8. Loans by the Fund

(1) A loan made from the Fund in accordance with section 19D(1) of the Ordinance is subject to the following conditions---

(a) repayment by a number of monthly instalments specified by the corporation, not exceeding 48;

(b) repayment in full (with any interest due) if any monthly instalment is not paid

on time;

(c) at the discretion of the corporation, the payment of interest at a rate that complies with subsection (2), with that interest being calculated monthly on the balance outstanding at the end of each month until the loan is repaid in full, and payable within 1 month after the date on which the previous instalment became payable.

(2) The rate mentioned in subsection (1)(c) must not exceed---

(a) 5 per cent per year; or

(b) such higher percentage as the corporation may determine with the approval of the Financial Secretary.

(3) The corporation may, by proceedings brought in a court of competent jurisdiction, recover as a debt any part of such a loan that is not repaid, or any interest on such a loan that is not paid, when it is due.

9. Irrecoverable assets and debts
to be written off

(1) The Financial Secretary, or a public officer authorized by the Financial Secretary, may authorize the corporation to write off an asset or a debt due to the Fund that the corporation considers irrecoverable.

(2) The writing-off of an asset or debt under subsection (1)---

(a) is subject to any guideline or direction that the Financial Secretary may specify or give; and

(b) takes effect only for the purpose of the accounting records of the Fund; and

(c) does not extinguish any right of the corporation to recover the asset or debt being written off.

10. Accounting records and annual
statement of accounts

(1) The corporation must ensure that---

(a) proper accounting records of all transactions, including investments, relating to the Fund are kept; and

(b) an annual statement of accounts of the Fund is prepared for every period of 12 months ending on 31 March in each year.

(2) The corporation must ensure that the accounting records and annual statement of accounts are kept and prepared in such manner as the Director may require.

11. Audit of annual statement of accounts

(1) The corporation must, within the period specified in subsection (2), submit an annual statement of accounts of the Fund to the Director of Audit for the purpose of auditing.

(2) For the purposes of subsection (1), the specified period is 6 months after the end of the period to which the statement relates, or such shorter period as is

agreed between the corporation and the Director of Audit.

(3) The Director of Audit must, within 3 months after receiving the annual statement of accounts from the corporation---

(a) audit the statement; and

(b) certify the statement subject to such report (if any) as the Director of Audit thinks appropriate.

12. Audited statement of accounts to be laid on table of Legislative Council

The corporation must ensure that---

(a) a copy of the audited statement of accounts of the Fund together with the report (if any) of the Director of Audit; and

(b) a report by the corporation on the administration of the Fund during the period to which the statement relates,

are laid on the table of the Legislative Council within 3 months after the date on which the corporation has received the audited statement from the Director of Audit, or within such further period as the Chief Executive may allow in a particular case.

13. Repeal

The Customs and Excise Service (Welfare Fund) Regulations (Cap. 342 sub. leg. A) are repealed.

14. Savings

(1) Without limiting section 23 of the Interpretation and General Clauses Ordinance (Cap. 1)---

(a) all investments and deposits made under the repealed Regulations at the commencement of this Regulation are taken as having been made under this Regulation; and

(b) all loans granted subject to the conditions provided in the repealed Regulations, if outstanding at the commencement of this Regulation, continue to be subject to those conditions, and are as valid and enforceable as if they were granted under this Regulation; and

(c) any act begun under the repealed Regulations but not completed before the commencement of this Regulation may, if authorized or required by this Regulation, be completed in accordance with this Regulation.

(2) In this section, "the repealed Regulations" (已廢除規例) means the Customs and Excise Service (Welfare Fund) Regulations (Cap. 342 sub. leg. A) repealed by this Regulation.

Mable CHAN

Clerk to the Executive Council

Council Chamber

5 October 1999

Explanatory Note

This Regulation repeals and re-enacts the Customs and Excise Service (Welfare Fund) Regulations (Cap. 342 sub. leg.) in consequence of the enactment of the Disciplined Services Welfare Funds Legislation (Amendment) Ordinance 1999 (58 of 1999). The Regulation---

- * replaces references to the Commissioner of Customs and Excise with references to the corporation on the Commissioner being constituted as a corporation sole for the purpose of the Customs and Excise Service Welfare Fund; and

- * replaces the current outdated provisions relating to the investment of surplus money held in the Fund; and

- * provides for payment of interest on loans made from the Fund; and

- * substitutes for the current requirement for tabling the audited statement of accounts prepared for the Fund a requirement that the audited annual statement of accounts must be tabled in the Legislative Council within 3 months after the date on which the corporation receives it from the Director of Audit, or within such further period as the Chief Executive allows in a particular case.