

LEGISLATIVE COUNCIL BRIEF

Dangerous Goods Ordinance (Chapter 295)

DANGEROUS GOODS (AMENDMENT) BILL 2000

INTRODUCTION

At the meeting of the Executive Council on 10 October 2000, the Council ADVISED and the Chief Executive ORDERED that –

- (a) the Dangerous Goods (Amendment) Bill 2000, at Annex A, should be introduced into the Legislative Council; and
- (b) the proposals set out in paragraph 9 should form the basis of further amendments to the subsidiary legislation pursuant to the passage of the Bill.

BACKGROUND AND ARGUMENT

Introduction into the previous Legislative Council

2. On 9 November 1999, the Chief Executive in Council directed that the Dangerous Goods (Amendment) Bill 1999 should be introduced into the then Legislative Council to improve the control over dangerous goods. The Bill was accordingly introduced on 1 December 1999, but lapsed at the end of the 1999/2000 legislative session before the previous Legislative Council had time to scrutinize it. Re-introduction of the Bill is necessary. The Dangerous Goods (Amendment) Bill 2000 at Annex A is the same as that introduced in December 1999, except for some technical changes notably as follows –

- (a) Originally, all dangerous substances to be put under control

were specified in the Schedules to the Ordinance. However, upon further review, it is considered that this is not the best approach since the Schedules contain some generic entries, for which further explanations are required to be provided in order to clarify their definitions. This would result in a level of complexity that would create uncertainty as to what substances the Ordinance applied to. Instead of including such additional technical details in the principal Ordinance to explain the classification criteria, we now propose, on the advice of the Department of Justice, that the dangerous substances to be controlled as well as all relevant technical details should be specified in the subsidiary legislation made by the Chief Executive in Council.

- (b) In this connection, new empowering provisions are to be added in section 5 of the Ordinance for the making of regulations –
 - (i) providing for the application to or exemption from the control in respect of the manufacture, storage or use on land, and the carriage at sea and on land; and
 - (ii) giving effect to the International Maritime Dangerous Goods (IMDG) Code, relevant publications of the International Maritime Organization, and other international agreements dealing with dangerous goods.

General Background

3. The Ordinance provides for the control on land and at sea of about 400 types of dangerous goods under ten broad Categories in accordance with their inherent characteristics as to whether the substances are explosive, flammable, corrosive, etc. When the Ordinance was enacted in 1956, there were no international standards governing the classification, labelling and packaging of dangerous goods. Over the years, international codes on the general transportation of dangerous goods and for specific modes of transport* have been developed and published, all based on the system developed by the United Nations (UN) Economic and Social Council's Committee of Experts on the Transport of Dangerous Goods.

* **Note** These include the United Nations' Recommendations on the Transport of Dangerous Goods, International Maritime Dangerous Goods Code, and Technical Instructions for the Safe Transport of Dangerous Goods by Air, and European Agreement Concerning the International Carriage of Dangerous Goods by Road.

Regular revisions reflecting technological changes and requirements arising from the booming global trade have made these codes increasingly suitable for domestic adoption. Many of our major trading partners such as the United States, the European Community and Australia have gradually aligned their national rules on dangerous goods with the UN system.

4. Although the Ordinance has been updated periodically since its enactment, there has not been any attempt to align the domestic control framework with the commonly adopted international system. As a result, when dangerous goods are imported, exported or re-exported through Hong Kong, they are often required to comply with two distinct sets of requirements prevailing locally and overseas. Furthermore, changes in local circumstances have called for improvements to the legislative control system.

Legislative Review

5. The Fire Services Department, the Civil Engineering Department and the Marine Department started a comprehensive review of the Ordinance in 1995 with a view to bringing it into line with international standards. As most dangerous goods are imported and exported by sea, the Departments agreed that the local control system should follow the IMDG Code as far as possible. The IMDG Code is published by the International Maritime Organization based on the UN system and specifically provides for recommendations in respect of control on sea carriage of dangerous goods. Furthermore, the Departments recommended that the list of dangerous goods under the Ordinance should be expanded with reference to the IMDG Code, subject to minor variations to suit local circumstances.

6. The Departments also proposed to update other arrangements under the Ordinance, including the exempted quantities for classified dangerous goods and the penalty provisions under the Ordinance.

7. Following the cyanide spillage incident at Tai Po Road in late 1997, the Director of Fire Services has engaged a consultant to study the need to strengthen the control over the conveyance of dangerous goods by vehicles. At present, conveyance of dangerous goods of Category 1 (explosives), Category 2 (compressed gases) and Category 5 (flammable liquids) by vehicles are subject to licensing controls. The consultancy study identified the need to expand the licensing regime to cover conveyance of dangerous goods in all other Categories, implement a

mandatory scheme to train and equip the drivers with the necessary knowledge and skills, and require the transmission of adequate information on dangerous goods across the conveyance chain.

8. The consultant's proposals were made the subject of a regulatory impact assessment commissioned by the Business and Services Promotion Unit of the Financial Secretary's Office. The assessment concluded that the proposed improvements to the licensing regime would be beneficial to the community and should not impose undue hardship on the trade in general.

The Proposal

9. Pursuant to the comprehensive review of the Ordinance, the public was consulted on the detailed proposals set out in a consultation document issued in March 1999 (copy at Annex B). There is general support to incorporate the following proposals into the Ordinance and its subsidiary legislation –

- (a) The penalties for offences under the dangerous goods legislation should be strengthened to preserve the necessary deterrent effect which may have been eroded by inflation over time. Furthermore, heavier penalties should be imposed on repeat offenders.
- (b) The Director of Fire Services and the Director of Marine should be empowered to issue codes of practice to promulgate detailed guidelines and safety practices to be followed by the trade in the handling of dangerous goods.
- (c) Subject to some minor variations, the coverage of controls of dangerous goods on land should be expanded from about 400 types under ten broad "Categories" of dangerous substances to some 1600 types under nine broad "Classes" in accordance with the IMDG scheme of classification.
- (d) The IMDG Code should be followed strictly for controlling conveyance of dangerous goods on board a vessel in the waters of Hong Kong. Nevertheless, existing controls regarding diesel oil at sea, which is not classified as dangerous goods under the IMDG Code, should be maintained.
- (e) The quantities of classified dangerous goods below which exemption from specified controls is allowed should be brought up-to-date.

- (f) The packaging, labelling and other requirements under the legislation should be revised in line with international standards.
- (g) In addition to conveyance of dangerous goods in Categories 1, 2 and 5 (or the proposed Classes 1, 2 and 3 following the IMDG Code) by vehicles, the licensing regime should be extended to cover conveyance of all other Classes of dangerous goods. A requirement for mandatory training of the vehicle drivers should also be introduced.
- (h) A registration system for Class 1 dangerous goods (i.e. explosives and blasting agents) should be introduced in line with the control framework and legislative arrangements in our major trading partners such as the United Kingdom, Canada and Australia.

10. The Bill contains specific provisions regarding items (a) and (b) in paragraph 9 above and empowering provisions for the remaining items, which will form the basis of further amendments to the subsidiary legislation.

Implementation Timetable

11. To facilitate compliance by the trade, we propose that grace periods of not more than two years should be provided for the more prominent control measures encompassed in the amendment legislation.

THE BILL

12. **Clause 2** provides for some key definitions, e.g. “IMDG Code” as a reference to the international standards.

13. **Clause 3** defines the application of the Ordinance only to the substances, materials or articles having dangerous properties, using the same terminology as that in the IMDG Code.

14. **Clause 4(a)** amends the regulation-making section to, among other things, require drivers of dangerous goods vehicles to undertake proper training and consignors of dangerous goods to produce declarations, and empower the Director of Marine to grant exemption in respect of shipping.

15. **Clauses 4(b), 6, 9 and 10** increase the maximum fines of sanctions.

16. **Clause 5** empowers the Director of Fire Services and the Director of Marine to issue codes of practice.

17. **Clause 7** creates an exception to the labelling, marking and notice requirements to cope with practical needs.

18. **Clause 8** inserts officers of Marine Department to the list of officers authorized to take enforcement actions.

19. **Clause 11** provides for compliance with the IMDG Code as an alternative to complying with the requirements under the Ordinance.

20. The existing provisions which are being amended are at Annex C.

PUBLIC CONSULTATION

21. The Dangerous Goods Standing Committee was consulted and supported the proposals.

22. A public consultation exercise was conducted in March 1999. In general, the Provisional District Boards and the trade are in support of the proposed amendments.

BASIC LAW IMPLICATIONS

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

HUMAN RIGHTS IMPLICATIONS

24. The Department of Justice advises that the Bill is consistent with the human rights provisions of the Basic Law.

BINDING EFFECT OF THE LEGISLATION

25. The Bill will not affect the current binding effect of the Ordinance.

FINANCIAL AND STAFFING IMPLICATIONS

26. We have earmarked funds for nine additional posts at a cost of \$7 million for Fire Services Department and the Government Laboratory to strengthen inspection and enforcement of dangerous goods arising from the implementation of the legislative proposals. Marine Department will redeploy its existing resources to strengthen control of dangerous goods on board arising from the proposals.

ECONOMIC IMPLICATIONS

27. According to the consultants, the benefits arising from the proposed legislative amendments are expected to outweigh the costs of compliance. Although the costs for dangerous goods storage will inevitably be higher than the costs for non dangerous goods storage, the new regulations would not lead to undue hardships for the businesses affected.

LEGISLATIVE TIMETABLE

28. The legislative timetable is –

Publication in the Gazette	20 October 2000
First Reading and commencement of Second Reading debate	1 November 2000
Resumption of Second Reading debate, committee stage and Third Reading	to be notified

PUBLICITY

29. A press release will be issued on 18 October. A spokesman will be available for answering media enquiries.

ENQUIRIES

30. Enquiries concerning the Bill may be directed to Mr David WONG, Principal Assistant Secretary of the Security Bureau at 2810 3435.

Security Bureau
18 October 2000

LEGISLATIVE COUNCIL BRIEF

Dangerous Goods Ordinance (Chapter 295)

DANGEROUS GOODS (AMENDMENT) BILL 2000: ANNEXES

- Annex A - Dangerous Goods (Amendment) Bill 2000
- Annex B - Proposed Amendments to the Dangerous Goods Ordinance Consultation Document
- Annex C - Existing provisions of the Dangerous Goods Ordinance being amended

DANGEROUS GOODS (AMENDMENT) BILL 2000

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A BILL

To

Amend the Dangerous Goods Ordinance.

Enacted by the Legislative Council.

1. Short title and commencement

(1) This Ordinance may be cited as the Dangerous Goods (Amendment) Ordinance 2000.

(2) This Ordinance shall come into operation on a day to be appointed by the Secretary for Security by notice published in the Gazette.

2. Interpretation

Section 2 of the Dangerous Goods Ordinance (Cap. 295) is amended -

- (a) in the definition of "dangerous goods", by repealing "goods or substances" and substituting "substances, materials or articles";
- (b) by repealing the definition of "explosive" and substituting -

""explosive" (爆炸品) means -

- (a) any solid or liquid substance or any mixture of solid or liquid substances, or both, which is -
 - (i) capable by chemical

reaction in itself of producing gas at such a temperature and pressure and at such a speed as could cause damage to surroundings; or

- (ii) designed to produce an effect by heat, light, sound, gas or smoke, or a combination of these, as a result of non-detonative self-sustaining exothermic chemical reactions; or

- (b) any article containing any substance or mixture referred to in paragraph (a);"

- (c) by repealing the definition of "vessel" and substituting -

"vessel" (船隻) includes -

- (a) any ship, junk, boat, dynamically supported craft, seaplane, or any other

description of vessel used in navigation;
and

- (b) any other description of vessel in Hong Kong or in the waters of Hong Kong not used in navigation or not constructed or adapted for use in navigation;"

- (d) by adding -

""IMDG Code" (《規則》) means the International Maritime Dangerous Goods Code published by the International Maritime Organization, as amended or revised by the Organization from time to time;"

3. Application

Section 3 is amended by repealing everything from "This" to "section 5" and substituting -

"This Ordinance shall apply to -

- (a) explosives;
- (b) gases;
- (c) flammable liquids or solids;
- (d) substances liable to spontaneous combustion;
- (e) substances that, in contact with water, emit flammable gases;
- (f) oxidizing substances;

- (g) organic peroxides;
- (h) toxic substances;
- (i) infectious substances;
- (j) radioactive material;
- (k) corrosive substances; and
- (l) such substances, materials or articles to which the Ordinance is applied by the Chief Executive in Council under section 5".

4. Regulations

Section 5 is amended -

- (a) in subsection (1) -
 - (i) in paragraph (a), by adding ", materials" after "substances";
 - (ii) in paragraph (b), by adding ", material" after "substance";
 - (iii) by adding -
 - "(ba) the application to or exemption from -
 - (i) any section of this Ordinance; or
 - (ii) any provision of the regulations, in respect of dangerous goods on land or dangerous goods at sea;"
 - (iv) in paragraph (d), by repealing "storage,"

and substituting "handling, loading, unloading, stowage, storage, carriage,";

(v) in paragraph (e) -

(A) by adding ", placard, mark or sign" after "label";

(B) by adding ", freight container" after "case";

(vi) by adding -

"(ga) the implementation of all or part of the IMDG Code, any other publication issued by the International Maritime Organization or any other international agreement dealing with dangerous goods, including the utilization of -

(i) a system of classification of dangerous goods;

(ii) testing requirements used to determine whether or not a substance, material or article constitutes dangerous goods to which regulations

should apply,
contained in such code, publication or
other international agreement;"

- (vii) in paragraph (h) -
 - (A) by adding "and declaration" after "information" where it twice appears;
 - (B) by adding "and other persons" after "public officers";
- (viii) in paragraph (i), by adding "and warning signs" after "signals";
- (ix) by adding -
 - "(ma) empowering the Director of Marine to grant an exemption from all or any of the provisions of a regulation relating to vessels, and such an exemption may be made -
 - (i) by regulation in respect of a class of cases; or
 - (ii) by order published in the Gazette in respect of a specific case;
 - (mb) the detention of any vessel in respect of which any

contravention of a provision of this Ordinance or regulations made under this Ordinance is believed to have occurred;

- (mc) prohibiting or controlling the employment of any person or class of persons in connection with the manufacture, loading, unloading, shipment, transshipment, storage, carriage, movement, sale or use of dangerous goods, for the purpose of ensuring proper standards are maintained in the course of any such activity;
- (md) the imposition of duties on drivers of vehicles carrying dangerous goods;"

(b) in subsection (2), in the proviso, by repealing "of \$25,000" and substituting "at level 6";

(c) by adding -

"(3) For the avoidance of doubt, an order made under subsection (1) (ma) (ii) is not subsidiary legislation."

5. Section added

The following is added before Part II -

"5A. Codes of practice

(1) In this section, "Director" (處長) means the Director of Fire Services or the Director of Marine, as the case may be.

(2) For the purpose of providing practical guidance in respect of any one or more of the requirements of this Ordinance or of regulations made under this Ordinance, the Director may issue such codes of practice (whether prepared by the Director or not) as the Director considers appropriate.

(3) The Director may amend or revoke a code of practice issued by him under subsection (2).

(4) Where the Director exercises a power under subsection (2) or (3), he shall, as soon as may be reasonably practicable, publish notice thereof in the Gazette and the notice shall be in such form as the Director considers appropriate.

(5) A failure by any person to observe a provision of such a code shall not of itself cause him to incur any criminal liability, but where -

(a) in any criminal proceedings the defendant is alleged to have committed an offence either -

(i) by reason of a contravention of or a failure to comply with, whether by act or omission, this Ordinance or

regulations made under this Ordinance; or

- (ii) by reason of a failure to discharge or perform a duty imposed by this Ordinance or such regulations; and

- (b) the matter to which the alleged contravention or failure relates is one to which, in the opinion of the court, such a code relates,

then subsection (6) shall apply as regards the proceedings.

(6) In any criminal proceedings to which this subsection applies, the following namely -

- (a) compliance with a provision of a code found by the court to be relevant to a matter to which a contravention or failure alleged in the proceedings relates;
- (b) a contravention of or failure to comply with, whether by act or omission, any such provision so found,

may be relied on by any party to the proceedings as tending to establish or to negative any liability which is in question in the proceedings.

(7) In any criminal proceedings, any document which purports to be a copy of a particular code shall, in the absence of evidence to the contrary, be regarded by the court as being a true copy of that code."

6. Penalty for breach of licence

Section 9B is amended by repealing everything after "conviction" and substituting -
"-

- (a) for a first offence, by a fine at level 5 and imprisonment not exceeding 1 month;
- (b) for a subsequent offence, by a fine at level 6 and imprisonment not exceeding 3 months."

7. Marking of dangerous goods and giving of notice of their character

Section 10 is amended by repealing "No" and substituting "Except as otherwise provided in this Ordinance or regulations made under this Ordinance, no".

8. Power of entry, etc.

Section 12(1) is amended -

- (a) by adding "and any officer of the Marine Department not below the rank of Marine Inspector II" after "Commissioner of Mines,";
- (b) in paragraph (b), by adding ", material or article" after "substance".

9. Regulations for management of depots

Section 13E(2) is amended by repealing "of \$25,000" and substituting "at level 6".

10. Offences and penalties

Section 14 is amended -

- (a) in subsection (1), by repealing everything from "Any" to "months" and substituting -

"Any person who contravenes -

- (a) section 6 shall be guilty of an offence and shall be liable -

- (i) for a first offence, to a fine at level 6 and to imprisonment for 6 months;

- (ii) for a subsequent offence, to a fine of \$200,000 and to imprisonment for 12 months;

- (b) section 7, 8 or 10 shall be guilty of an offence and shall be liable to a fine at level 6 and to imprisonment for 6 months";

- (b) in subsection (2), by repealing "of \$1,000" and substituting "at level 2";

- (c) in subsection (3), by repealing "of \$20,000" and substituting "at level 6".

11. Section added

The following is added -

"19A. Application of IMDG Code

- (1) Where dangerous goods are being carried, or intended to be carried, on board a vessel and such goods are packed, marked and labelled in accordance with the IMDG Code,

they shall be deemed to comply with the requirements of any regulations made under this Ordinance in respect of the packing, marking and labelling of such goods for conveyance by vessels or by vehicles transporting them to or from any berth where the vessel on which they have been, or will be, conveyed is located.

(2) Where dangerous goods are passing through Hong Kong as part of an international journey and such goods are packed, marked and labelled in accordance with the IMDG Code, they shall be deemed to comply with the requirements of any regulations made under this Ordinance in respect of the packing, marking and labelling of such goods for conveyance by vessels or by vehicles across the territory."

Consequential Amendments

Shipping and Port Control Ordinance

12. Interpretation

Section 2 of the Shipping and Port Control Ordinance (Cap. 313) is amended by repealing the definition of "dangerous goods" and substituting -

"dangerous goods"(危險品) means dangerous goods within the meaning of section 2 of the Dangerous Goods (Shipping) Regulations (Cap. 295 sub. leg.);".

Merchant Shipping (Safety) Ordinance

13. Interpretation

Section 2(1) of the Merchant Shipping (Safety) Ordinance (Cap. 369) is amended -

(a) by repealing the definition of "dangerous goods" and substituting -

"dangerous goods" (危險品) means substances, materials or

articles -

(a) that are classified in the IMDG Code as dangerous for carriage by sea;

(b) the properties of which would reasonably be considered to be dangerous when carried by sea,

and includes empty receptacles and residues in tanks or cargo holds which have been used previously for the carriage of dangerous goods, unless such receptacles, tanks or cargo holds have, after such use, been -

(i) cleaned and dried;

(ii) gas freed or ventilated where appropriate; or

(iii) where the previous contents were radioactive materials,

cleaned and adequately closed,
but does not include substances, materials or articles forming
part of the equipment or stores of a vessel;"

(b) by adding -

"IMDG Code" (《規則》) means the International Maritime
Dangerous Goods Code published by the International
Maritime Organization, as amended or revised by the
Organization from time to time;"

Merchant Shipping (Local Vessels) Ordinance

14. Interpretation

Section 2 of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548) is amended by repealing the definition of "dangerous goods" and substituting -

"dangerous goods" (危險品) means dangerous goods within the meaning of section
2 of the Dangerous Goods (Shipping) Regulations (Cap. 295 sub. leg.);"

15. Interpretation

Section 37 is amended, in the definition of "修理", in paragraph (b), by repealing "貨物" and substituting "品".

Explanatory Memorandum

The purpose of this Bill is to make miscellaneous amendments to the Dangerous Goods Ordinance (Cap. 295) ("the Ordinance").

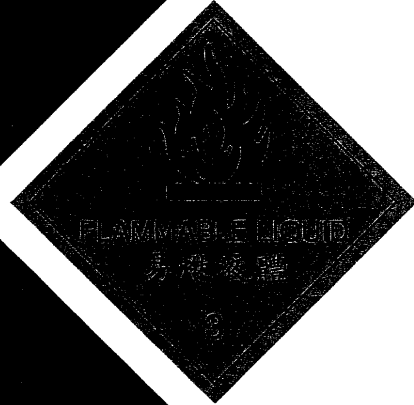
2. The Bill -

- (a) revises the definitions of "dangerous goods", "explosive" and "vessel" and introduces a new definition of "IMDG Code" (clause 2);
- (b) amends section 3 to reflect the terminology used in the IMDG Code to classify dangerous goods (clause 3);
- (c) amends the regulation making section to provide for implementation of the IMDG Code, other publications issued by the International Maritime Organization and other international agreements, empower the Director of Marine to grant exemptions in respect of shipping and to set the maximum fine at level 6 (clause 4);
- (d) enacts a new section empowering the Director of Fire Services and the Director of Marine to issue codes of practice (clause 5);
- (e) increases the penalties for breach of a licence (clause 6);
- (f) creates an exception to the notice, labelling and marking requirements in respect of dangerous goods (clause 7);
- (g) amends the search and seizure provisions to include officers of the Marine Department in the group of

officers authorized to exercise the powers (clause 8);

- (h) amends sections to set the fines at various levels (clauses 9 and 10);
- (i) enacts a new section that provides for compliance with the International Maritime Dangerous Goods Code as an alternative to complying with the requirements under the Ordinance (clause 11);
- (j) makes consequential amendments to other Ordinances (clauses 12 to 15).

Proposed amendments to Dangerous Goods Regulation



Information Document
March 1999



Civil Engineering
Department



Fire Services
Department



Marine
Department



1. Purpose

1.1 This document introduces the proposed legislative amendments to the Dangerous Goods Ordinance, Chapter 295, Laws of Hong Kong and its 4 Subsidiary Regulations (collectively named "the Legislation"). These proposals include bringing the provisions for classification, labelling and packaging in line with international standards, updating the provisions for exempted quantities and the penalties, and tightening the control over conveyance of dangerous goods other than Category 1 (Explosives), Category 2 (Compressed Gases) and Category 5 (Flammable Liquids).

1.2 Comments on these proposals are hereby invited. Please send your comments to the Fire Services Department (FSD) by mail, facsimile (fax) or electronic-mail (E-mail) at the following addresses before **30 April 1999**:-

	<u>FSD</u>
Mail	<i>FIRE PROTECTION COMMAND HEADQUARTERS, 5TH FLOOR, FSHQ BUILDING, No. 1 HONG CHONG ROAD, TSIM SHA TSUI EAST, KOWLOON.</i>
Fax	2723 2197
E-mail	<i>hkfsdfpb@hkstar.com.</i>

1.3 We would wish either in discussion or in any subsequent report, whether privately or publicly, to be able to refer to and attribute comments submitted in response to this consultation document. Any request to treat all or part of a response in confidence will be respected, but if no such request is made it will be assumed that the response is not intended to be confidential.

2. Background

2.1 The Dangerous Goods Ordinance (the Ordinance), Chapter 295, Laws of Hong Kong is a piece of legislation which provides for the controlling measures of dangerous goods on land and at sea. Under the Ordinance, there are 4 Subsidiary Regulations, which are:-

- Dangerous Goods (Application and Exemption) Regulations
- Dangerous Goods (General) Regulations
- Dangerous Goods (Government Explosives Depots) Regulations
- Dangerous Goods (Shipping) Regulations

2.2 "The Legislation" now stipulates about 400 types of dangerous goods which are classified into 10 Categories in accordance with their characteristics, e.g. inflammable, toxic, corrosive, spontaneous combustible, dangerous when wet, etc. In addition to the classification of such goods, "the Legislation" also provides for the control of such goods in other aspects, including proper labelling and packaging of such goods, safety precautions during manufacture, storage, use or conveyance of such goods on land and safety measures in the course of shipment and transshipment of such goods.

2.3 Presently, the provisions for classification, labelling and packaging are different in many ways from the United Nations' (UN') Recommendations and International Maritime Dangerous Goods (IMDG) Code, on which most overseas countries' dangerous goods legislation is based. When dangerous goods are imported, exported or re-exported, they are required to comply with two distinctive sets of requirements prevailing in Hong Kong and other countries. This has created practical difficulty to the local trades and users. Furthermore, these international standards have stipulated a total of about 2,000 types of dangerous goods and that most of these dangerous goods are often found in Hong Kong but are not covered by "the Legislation". In order to bring these provisions in line with the international standards, the Commissioner of Mines of the Civil Engineering Department (CED), Director of Fire Services and Director of Marine (i.e. the controlling authorities under "the Legislation") had carried out a comprehensive review of the provisions within the purview of their Departments. The review also covered the provisions for *exempted quantities* (#see the meaning in para. 3.2.4.1 below) and the penalties for offences under "the Legislation".

2.4 In addition to the above review, the Director of Fire Services had also engaged a consultant to study the conveyance of dangerous goods other than Category 1 (Explosives), Category 2 (Compressed Gases) and Category 5 (Flammable Liquids) on road by vehicles in the wake of the cyanide spillage incident at Tai Po Road occurred in December 1997. This study was completed in late December 1998 and it was recommended that the proposed measures for strengthening the control over the conveyance of these goods on road by vehicles should be included into the above proposals as one package.

2.5 The Government is undertaking a territory-wide consultation on the proposals to amend "the Legislation". Comments on such proposals are much welcome.

3. The Proposals

The following paragraphs give more detailed information on the proposed amendments to "the Legislation".

3.1 Scope of Amendments

The proposed amendments include the provisions for the following controlling measures:-

- Classification;
- Labelling;
- Packaging;
- Exempted Quantities;
- Conveyance of dangerous goods other than Categories 1,2 and 5 on road by vehicles; and
- Penalties

3.2 Detailed Proposals

3.2.1 Classification

3.2.1.1 In view that most dangerous goods in Hong Kong are imported and exported by sea, we propose the classification of dangerous goods in Hong Kong to follow the IMDG Code with minor variations to suit local circumstances where appropriate. To that effect, the dangerous goods listed in "the Legislation" will be

classified into 9 Classes (currently there are 10 Categories). The proposed Class 3 includes Classes 3.1, 3.2, 3.3 and 3.4. The proposed Class 4 includes Classes 4.1, 4.2 and 4.3. The proposed Classes 5 and 6 include Classes 5.1 and 5.2 and Classes 6.1 and 6.2 respectively. With these changes, the classification system currently stipulated in the Dangerous Goods (Application and Exemption) Regulations will be substantially revised. Having said that, there will however, be some difference between the list of dangerous goods for which the control on land and the list for which the control at sea shall apply (see the following paragraphs).

3.2.1.2 We plan to reclassify the dangerous goods currently stipulated in the Dangerous Goods (Application and Exemption) Regulations in accordance with the IMDG Code and set out such goods in a list conforming to the classification under the IMDG Code. In addition to these goods, we also plan to include all dangerous goods currently listed in the IMDG Code (1997 Edition) into that list with the exception of dangerous goods in Class 1, Class 6.2 and Class 7 and some other dangerous goods (see paragraphs 3.2.1.3 to 3.2.1.6 below). To that effect, the total number of dangerous goods in that list will be increased to about 1,600. Any goods appearing in that list shall be subject to "the Legislation"'s control on land.

3.2.1.3 Regarding the control over shipment and transshipment of dangerous goods at sea, we propose that any goods stipulated in IMDG Code shall be subject to the control of the Dangerous Goods (Shipping) Regulations. As the list of dangerous goods to be applied on land is slightly different from that at sea, a provision will be introduced to provide for the interface between the control at sea and control on land.

3.2.1.4 Presently, infectious substances and radioactive substances are not included in the Dangerous Goods (Application and Exemption) Regulations. That is to say, such goods are not controlled by "the Legislation". In fact, such goods are being controlled under the Pharmacy and Poisons Ordinance (Chapter 138, Laws of Hong Kong) and the Radiation Ordinance (Chapter 303, Laws of Hong Kong). To

maintain this position, we propose that dangerous goods currently stipulated in Class 6.2 (Infectious substances) and Class 7 (Radioactive substances) of the IMDG Code should not be included into the list referred to in paragraph 3.2.1.2 and thus, "the Legislation"'s control on land shall not apply to such goods.

3.2.1.5 In addition, the proposed list of dangerous goods for which "the Legislation"'s control on land applied will also be different in some other ways from that under the IMDG Code. Firstly, the IMDG Code does not regard diesel oil and furnace oil with a flash point over 61(E016) (i.e. dangerous goods in the existing Category 5, Class 3) as dangerous goods. However, we propose to introduce a Class 3.4 to cover such goods with a view to maintaining the control over such goods both on land and at sea. Similarly, we also propose to introduce a Class 9A to incorporate matches/plastics/rubber, etc. currently stipulated in Category 9A of "the Legislation" to maintain the control over the storage of such goods on land. However, we do not intend to extend this variation to the IMDG Code to cover the control over shipment and transshipment of such goods. Secondly, we also plan to maintain the current position of excluding certain goods, e.g. asbestos, ammonium nitrate fertilizers, etc. from "the Legislation" 's control on land albeit such goods are currently stipulated in the IMDG Code. To that effect, such goods will not be incorporated into the list referred to in paragraph 3.2.1.2. However, we propose that such goods should be subject to "the Legislation" 's control at sea under the Dangerous Goods (Shipping) Regulations.

3.2.1.6 Furthermore, as regards dangerous goods in Class 1 (Explosives), we plan to introduce a registration system under "the Legislation". Any person who wishes to manufacture, store, use or convey any explosives in Hong Kong is required to apply for registration of such explosives with the Commissioner of Mines, otherwise he/she shall commit an offence. The register of explosives will be revised and published in the gazette by the Commissioner of Mines from time to time.

3.2.1.7 A comparison of the proposed classification system and the existing classification system is at **Annex I**. Your attention is, in particular, drawn to the difference between the flash points in the definitions of the existing Category 5 and the proposed Class 3.

3.2.2 Labelling

3.2.2.1 We propose that the labelling of dangerous goods should follow the IMDG Code with minor variations where appropriate. For IMDG Code's dangerous goods labels, there may or may not be literal descriptions of the risks concerned. If literal descriptions are shown, the language used to describe the risks is optional to the local authorities. With this option, we propose that Hong Kong's dangerous goods labels should bear both Chinese and English descriptions with a view to making them more user friendly, especially to members of the general public. The English descriptions will follow IMDG Code's recommendations whereas the Chinese descriptions will follow the "國際海上危險貨物運輸規則" issued by the Central People's Government of the People's Republic of China.

3.2.2.2 To that effect, the dangerous goods labels currently specified in the First Schedule to the Dangerous Goods (General) Regulations have to be replaced completely. However, we intend that such proposed labels should be applied to dangerous goods on land only. As regards the shipment and transshipment of dangerous goods at sea or when the dangerous goods are conveyed on land through Hong Kong as part of their international journey, we propose that either such bilingual labels or the IMDG Code's labels shall be acceptable and applicable. This is for the purpose of facilitating the shipment, transshipment and conveyance on land of such goods across the territory.

3.2.2.3 With a view to conforming to the international rules, we also plan to introduce a provision to require freight containers used to convey dangerous goods to bear the labels of such goods. Again, we propose that such labels should either conform to the labels as proposed in para. 3.2.2.1 above or conform to the IMDG Code's labels.

3.2.2.4 A comparison between the existing and the proposed dangerous goods labels is at **Annex II**. More specifically, we propose that the labels should be of diamond shape with their colour, signs and literal descriptions conforming to those shown in Annex II. Furthermore, each type of dangerous goods will be required to have its outer package to bear a "Label of Class" to give warning of the main risk of such goods. If the dangerous goods also possess other subsidiary risk(s), its outer package will have to bear such other label or labels to give warning of the subsidiary risk(s). Your attention is drawn, in particular that only the "Label of Class" will show the Class number on its bottom corner. For subsidiary labels, no Class number will be shown.

3.2.3 Packaging

3.2.3.1 Currently, each type of dangerous goods is required to be packed in accordance with the packaging methods stipulated in the Dangerous Goods (General) Regulations to provide proper containment of such goods to safeguard the users and any other persons who may come into contact with such goods. More specifically, such goods is required to be stored inside a proper inner/main packing, which is then required to be enclosed in a proper outer packing to give further containment of such goods. Appropriate absorbent materials may need to be filled inside the space between the inner/main packing and outer packing to absorb any leaked contents or the vibration force. In addition, there are also specific requirements for the percentage of air space (i.e. ullage) inside the inner/main packing, the material used for making the inner/main packing and outer packing and the maximum gross quantity of the contents in each type of inner/main packing, etc..

3.2.3.2 We propose the packaging requirements to follow the IMDG Code, for which there are also specific requirements on the inner/main packing, outer packing and the ullage. However, with regard to the maximum gross quantity of the contents inside the inner/main packing, there will be 3 different levels dependent upon the level of risk of such goods stored inside such packing. In this regard, each type of dangerous goods (except those in Classes 1 and 2 and those possessing some distinctive characteristics) will be given a Packaging Group Number, i.e. Packaging Group I, Packaging Group II and Packaging Group III, representing the level of risk posed by such goods shown below:-

- Packaging Group I (PkG I) - Great Danger
- Packaging Group II (PkG II) - Medium Danger
- Packaging Group III (PkG III) - Danger

3.2.3.3 As regards the packaging requirements for cylinders used to store compressed gases in Class 2 and tanks used to store dangerous goods in liquid form in bulk on land, we propose to depart from the IMDG Code with a view to adopting the current packaging requirements for such goods under Regulation 64 and 99A of the Dangerous Goods (General) Regulations to ensure a more rigid control over such packings on land. That is to say, such cylinders and tanks will be required to be approved by the Director of Fire Services before they can be used to store such goods. However, "the Legislation" only requires the storage tanks for diesel/furnace oil in Category 5, Class 3 (i.e. proposed Class 3.4) to be approved by the Director of Fire Services whereas the tanks used to store other dangerous goods in liquid form in bulk are not subject to such requirement. As such, we propose to extend the above requirement (i.e. for applying the Director's approval) to the storage tanks for such other dangerous goods in liquid form. Such departure from IMDG Code will

not be applied to dangerous goods at sea. That is to say, the packaging requirements for dangerous goods at sea will follow the IMDG Code.

3.2.3.4 Furthermore, we also plan to follow the UN's Recommendations to exempt small containers of dangerous goods from the proposed labelling and packaging requirements on the ground that the legislation is dedicated to provide for the control of medium and large quantity of dangerous goods. Such "limited quantity" for the disapplication of the provisions for labelling and packaging under "the Legislation" is enclosed in **Annex III**.

3.2.4 Exempted Quantities

3.2.4.1 The exempted quantity of dangerous goods means the maximum quantity of such goods, for which the licensing control over the storage, use or conveyance of such goods under Section 6 of the Ordinance shall not apply. The purpose of introducing such provision is to permit certain dangerous goods to be stored, used or conveyed generally in such small quantity that the premises or vehicle concerned need not be subject to the above licensing requirements.

3.2.4.2 Presently, the provisions for exempted quantities are stipulated in the Dangerous Goods (General) Regulations. For dangerous goods in Category 1 (i.e. proposed Class 1) and Category 2 (i.e. proposed Class 2), there is only one level of exempted quantities. However, as regards dangerous goods in other Categories, there are two levels. One level is to be applied generally and the other is to be applied when such goods is used for medical, laboratory purposes, etc. Whether or not a dangerous goods is provided with an exempted quantity is dependent on the risk posed by such goods. For example, there is no exempted quantity provided for the toxic gas "Hydrogen Cyanide".

3.2.4.3 We propose that the provisions for exempted quantities should be revised and updated to suit local circumstances and that such provisions should be removed to the Dangerous Goods (Application and Exemption) Regulations. We plan to introduce two levels of exempted quantities for dangerous goods in Class 2 to Class 9 dependent on whether such goods are used in industrial buildings/premises or non-industrial buildings/premises. Exempted quantities provided for the level of "industrial" will generally be higher than "non-industrial". When the dangerous goods are used for medical, laboratory purposes, etc, we propose that the level for "industrial" should be applied. As regards dangerous goods in Class 1, we propose to extend the provisions for exempted quantities to cover the storage of certain explosives which are to be used for exigency purposes.

3.2.4.4 In view of the enhancement of fire protection in buildings, we plan to increase the exempted quantities for certain dangerous goods with a view to providing greater flexibility to the trades, in particular those in chemical wastes disposal. Regarding compressed gases in Class 2, we propose to express their exempted quantities in terms of water capacity (currently they are expressed in terms of "number of cylinders") with a view to giving a more accurate measurement. In simple terms, water capacity means the quantity of water, measured in litres, required to fill the internal volume of a gas cylinder.

3.2.4.5 We propose to extend the aggregate limit currently governing the mixed storage or conveyance of different types of dangerous goods in Category 2 and Category 5, Class 1 and Class 2 to cover dangerous goods in other Classes with a view to avoiding a further increase in the aggregate of quantities over the storage or conveyance of different types of dangerous goods pursuing to the proposed increase in the exempted quantities for dangerous goods. To that effect, if the aggregate of the quantities of any dangerous goods stored in a premises or conveyed on a vehicle exceeds such limit, the licensing control under Section 6 of the Ordinance shall apply whether or not, the exempted quantities for such goods are exceeded.

3.2.4.6 The proposed aggregate limit for dangerous goods in Class 2 will be 450 litres water capacity for "industrial" and 300 litres water capacity for "non-industrial". In cases where both compressed gases and refrigerated gases are involved, we propose one litre of refrigerated gas to be deemed equivalent to 6 litres water capacity. The proposed aggregate quantity limit for dangerous goods in Classes 3.1 to 3.3 will be 150 litres for "industrial" and 100 litres for "non-industrial". As regards dangerous goods in Classes 4 to 9, we propose that the aggregate limit should be 1000 litres or kilogrammes for "industrial" and 100 litres or kilogrammes for "non-industrial". For calculation propose, we propose that one kilogramme of dangerous goods in Classes 4 to 9 in solid form should be deemed equivalent to one litre of dangerous goods in such Classes in liquid form.

3.2.4.7 With regard to the conveyance of dangerous goods in Classes 2 to 9, we propose that the respective aggregate limits for "non-industrial" should apply.

3.2.4.8 The proposed aggregate limits for governing the storage and conveyance of dangerous goods in different Classes are summarized in **Annex IV** for easy reference.

3.2.5 Conveyance

3.2.5.1 Presently, the licensing control under Section 6 of the Ordinance applies to the conveyance on land of dangerous goods in Categories 1,2 and 5 only (i.e. proposed Classes 1, 2 and 3). The safe conveyance on land of dangerous goods in other Categories is dependent upon the proper packaging and labelling of such goods as well as the proper handling by the persons involved in the conveyance of such goods.

3.2.5.2 The consultant mentioned in paragraph 2.4 above recommends that the control over the conveyance on land of dangerous goods other than Classes 1,2 and 3 should be strengthened by imposing a package of legislation, similar to that adopted by UK, USA, Australia and Singapore. The main legislative measures recommended by the consultant are as follows:-

- The vehicles used to convey such goods shall be licensed by FSD and that these vehicles shall be permitted to convey together with any other goods, except dangerous goods in Class 1 (Explosives), Class 2 (Compressed Gases) and Class 3 (Flammable Liquids) and certain incompatible goods.
- The above licensing requirement shall not apply when the aggregate of the quantities of such goods does not exceed 100 kg or 100 litres or when such goods are being conveyed on land through Hong Kong as part of their international journey.
- Drivers of these vehicles shall be required to undertake a basic training course and shall be issued with a certificate after completing the course. In the longer term, only those drivers who possess such certificate shall be permitted to convey such goods.
- Consignors of such goods shall provide a transport document and a declaration in writing to the operators of these vehicles (i.e. the persons who undertake to use the vehicles to consign such goods), giving relevant information on such goods, including their classification, quantities, safety instructions, emergency handling procedures, etc. and declaring that such goods are properly packed.

- The operators and drivers shall inspect such goods against the aforesaid document and declaration and shall not commence the journey unless the results of inspection are satisfactory. Such document and declaration shall be passed to the drivers and thence, the consignees together with such goods.

- The operators shall ensure such goods are properly loaded and secured on board the vehicle and shall provide proper placards and emergency equipment to the vehicles.

- The drivers shall observe the safety instructions and emergency procedures for such goods as stipulated in the transport document as well as required to adopt other safety practices, including no smoking, eating, or drinking on board the vehicles, no attempt to unseal the packings of such goods, etc.

3.2.5.3 The above recommendations have been examined and endorsed by the Steering Group for the study, comprising representatives of the Fire Services Department, Electrical and Mechanical Services Department, Environmental Protection Department, Transport Department and Government Laboratory. We propose to introduce new regulations in "the Legislation" to implement such recommendations.

3.2.6 Penalties

3.2.6.1 The Ordinance was enacted in 1956 and the penalty provisions were last revised in 1984. As such, we consider it necessary to revise and update the penalty provisions in conjunction with the above review and study.

3.2.6.2 The review of the penalty mentioned in paragraph 2.3 above has taken account of the penalties imposed by court in 1993-1998, the penalty provisions in other legislation and the cumulated inflation since the enactment of the relevant provisions.

3.2.6.3 The above review notes that the composite consumer price indices have increased by about 300% after the enactment of such provisions. As such, the maximum fines under these provisions are proposed to be suitably adjusted with a view to maintaining their deterrent effect. Furthermore, in the wake of the recent incidents involving dangerous goods, we also propose to introduce a higher level of penalties to those persons who are found guilty for the offences regarding to the manufacture, storage, use or conveyance of dangerous goods without a valid licence (Section 6 of the Ordinance refers) or the failure to comply with the licensing conditions (Section 9 of the Ordinance refers) for more than one time. That is to say, the accused is liable to be subject to more severe punishment on a second and subsequent conviction for these two offences.

3.2.6.4 In this regard, we propose to increase all maximum fines under "the Legislation" by 3 to 4 times with the highest maximum fines becoming \$100,000 (currently \$25,000). However, as regards to the second or subsequent conviction of the above two offences, we propose that the penalty for contravening the licensing control (i.e. Section 6 of the Ordinance) shall be subject to a maximum fine of \$200,000 and 12 months imprisonment whereas the penalty for the breach of licensing requirements (i.e. Section 9 of the Ordinance) will be subject to a maximum fine of \$100,000 and 3 months imprisonment.

3.2.6.5 Furthermore, we also plan to express such maximum fines in terms of "level of fines" as stipulated in Schedule 8 of the Criminal Procedure Ordinance (Chapter 221, Laws of Hong Kong) to facilitate future adjustment in accordance with changes in consumer price indices.

3.2.7 Other Legislative Amendments

3.2.7.1 With the above changes a provision will be introduced to provide for the interface between the control of dangerous goods at sea and on land. Furthermore, minor consequential legislative amendments will also be made in other legislation, e.g. the Merchant Shipping (Fees) Regulations (Chapter 281, Laws of Hong Kong), Shipping and Port Control Ordinance (Chapter 313, Laws of Hong Kong), Pilotage Ordinance (Chapter 84, Laws of Hong Kong), etc.

3.2.7.2 In addition, we also plan to make other amendments to the legislation. These include the extension of the hydraulic test intervals of certain gas cylinders which are used to store compressed gases for fire suppression purposes and that such cylinders are being secured in a position approved by the Director of Fire Services and less susceptible to damage. To that effect, the first and second hydraulic test intervals of such cylinders as required under "the Legislation" will be extended from 5 years to 10 years.

3.2.7.3 As regards the control over the storage of freight containers loaded with dangerous goods in the container port terminals under the existing Dangerous Goods (General) Regulations, we propose to transfer the controlling authority from the Director of Marine to the Director of Fire Services with a view to streamlining the control of dangerous goods on land and at sea.

3.2.7.4 Furthermore, minor amendments will also be made to the Dangerous Goods (Government Explosives Depots) Regulations to simplify the fee structure for the storage or delivery of explosives.

3.3 Controlling Authorities

If the above proposals are implemented, the controlling authorities will be as follows:-

- The Commissioner of Mines will be the controlling authority over dangerous goods in Class 1 (Explosives) on land [existing Category 1]
- The Director of Fire Services will be the controlling authority over dangerous goods in Class 2 (except * Liquefied Petroleum Gas (LPG)) to Class 9 and Class 9A (including the proposed Class 3.4 (Diesel Oil and Furnace Oil)) on land [existing Categories 2 to 10, including Category 9A].
- The Director of Marine will be the controlling authority over all dangerous goods currently stipulated in the IMDG Code plus the proposed Class 3.4 at sea.

- * ● For LPG, the controlling authority will continue to be vested upon with the Director of Electrical and Mechanical Services in accordance with the Gas Safety Ordinance, Chapter 51, Laws of Hong Kong.

4. Technical Instructions

The Commissioner of Mines and Director of Fire Services propose to prepare and issue Technical Instructions to give details on the controlling measures on the classification, labelling, packaging and exempted quantities for dangerous goods in Class 1 and Classes 2 to 9A respectively. Apart from these measures, the Technical Instructions will also contain some other information pertaining to such goods, for example their properties, UN numbers, etc. with a view to making the Technical Instructions a self-contained publication on such goods.

5. Consultation

All the above proposals have been submitted to and endorsed by the Dangerous Goods Standing Committee (DGSC), comprising representatives of the relevant government departments, industries and trades. Its function is to constantly review the control over dangerous goods in Hong Kong and to advise the Government on the better control over such goods.

6. Enquiry

For enquiry, you may call the Dangerous Goods Ordinance Review hotline 2733 7590 at the following hours (except Sunday and public holiday):-

(a) Monday to Friday

9:00 am - 12:00 p.m.

14:00 p.m. - 17:00 p.m.

(b) Saturday

9:00 a.m. - 12:00 p.m.

7. Reference Materials

Annex I - Comparison of the proposed and existing classification systems

Annex II - Comparison of the existing and proposed labelling systems

Annex III "Limited quantity" for dis-application of labelling and packaging requirements

Annex IV Proposed aggregate limits governing the storage and conveyance on land of dangerous goods

**Comparison of the Proposed and
Existing classification systems**

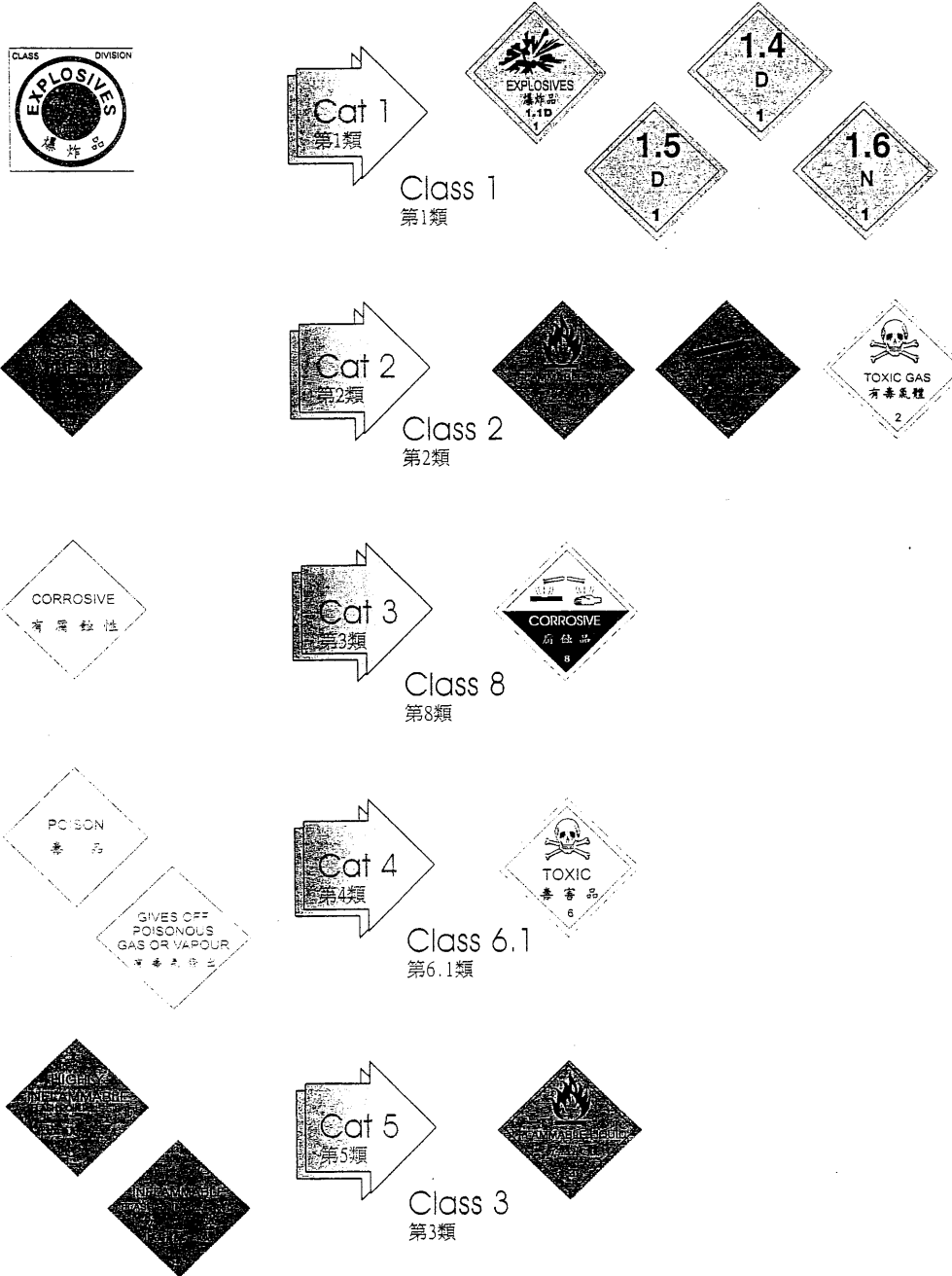
Properties	Proposed Classification	Existing Classification under DGO
Explosives	Class 1	Category 1
Compressed gases	Class 2	Category 2
Flammable liquids having a flash point below - 18(E016) (0(E014)) closed cup test	Class 3.1	Category 5 Class 1*
Flammable liquids having a flash point of -18(E016)(0(E014)) up to but not including 23(E016) (73(E014)) closed cup test	Class 3.2	
Flammable liquids having a flash point of 23(E016) (73(E014)) up to and Including 61(E016) (141(E014)) closed cup test	Class 3.3	Category 5 Class 2*
Flammable liquids having a flash point exceeding 61(E016) closed cup test	Class 3.4	Category 5 Class 3*
Flammable solids	Class 4.1	Category 8
Substances liable to spontaneous combustion	Class 4.2	Category 9
Substances which become dangerous in contact with water	Class 4.3	Category 6
Oxidizing substances	Class 5.1	Category 7
Organic peroxides	Class 5.2	Category 10
Toxic substances	Class 6.1	Category 4
Corrosives	Class 8	Category 3
Miscellaneous #	Class 9	-
Combustible goods exempted from Section 6 to 11 of the Ordinance	Class 9A	Category 9A

- Note:*
- (i) *The generic definitions of the existing Class 1, Class 2 and Class 3 in Category 5 are as follows: -
 - Class 1 Substances having a flash point below 23(E016)
 - Class 2 Substances having a flash point of or exceeding 23(E016) but not exceeding 66(E016)
 - Class 3 Substances having a flash point of or exceeding 66(E016)
 - (ii) #Most of the dangerous goods in the proposed Class 9 are currently not stipulated under "the Legislation".
 - (iii) "Closed Cup Test" means a testing method conforming to British Standard BS2000 Part 170 or equivalent where a closed receptacle apparatus is utilized to determine the flash point of a flammable liquid.



Comparison of the Existing and Proposed Labelling systems

現行和建議的標籤制度比較



ANNEX II (cont'd)
附件II(續)



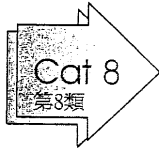
Class 4.3
 第4.3類



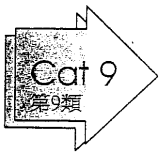
OXIDISING AGENT
 氧化劑



Class 5
 第5類



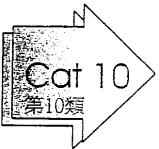
Class 4.1
 第4.1類



Class 4.2
 第4.2類



As specified
 按指定



Class 9
 第9類



Subsidiary labels 次要標籤

Subsidiary risk labels are similar to the above labels, but they should not bear the class number in the bottom corner. For example:
 次要危險標籤類似上述標籤，但不會在底部角落註明類別編號，例如：



**"Limited Quantity" for Dis-application of
Labelling and Packaging Requirements**

Class (1)	Packaging group (2)	State (3)	Maximum quantity per inner packaging (4)
2	-	Gas	#120 m(E036) (in metal or plastics packaging)
2	-	Gas	120 m(E036) (in glass packaging)
3	II	Liquid	1 (E036) (in metal packaging); or 500 m(E036) (in glass or plastics packaging)
3	III	Liquid	5 (E036)
4.1	II	Solid	500 g
4.1	III	Solid	3 kg
4.3	II	Liquid or solid	500 g
4.3	III	Liquid or solid	1 kg
5.1	II	Liquid or solid	500 g
5.1	III	Liquid or solid	1 kg
*5.2	II	Solid	100g
*5.2	II	Liquid	25 m(E036)
@5.2	II	Solid	500 g
@5.2	II	Liquid	125 m(E036)
6.1	II	Solid	500 g
6.1	II	Liquid	100 m(E036)
6.1	III	Solid	3 kg
6.1	III	Liquid	1 (E036)
8	II	Solid	1 kg
8	II	Liquid	^^500 m(E036)
8	III	Solid	2 kg
8	III	Liquid	1 (E036)

- Remarks:-**
- (i) # This limit may be increased to 1,000 m(E036) for aerosols not containing toxic substance (s).
- * Only apply to organic peroxide of type B or C and not require temperature control.
- @ Only apply to organic peroxide of type D, E or F and not require temperature control.
- ^^ Glass, porcelain or stoneware inner packaging should be enclosed in a compatible and rigid intermediate packaging.
- (ii) The above "Limited Quantity" shall not apply to:-
- dangerous goods in Class 1, 6.2, 7 and 9;
 - dangerous goods in Packaging Group I;
 - compressed gases in Class 2 (other than an aerosol) which exhibit a flammable, corrosive, oxidizing or toxic risk; and
 - self-reactive substances and desensitized explosives in **Class 4.1**.

**Proposed Aggregate Limits Governing the
Storage and Conveyance on land of Dangerous Goods**

Class (1)	Buildings/Premises for which Aggregate Limits for Storage of Dangerous Goods Shall Apply	
	Non-industrial Buildings/Premises (2)	Industrial Buildings/Premises (3)
Class 2 <i>[Category 2]</i>	300 litres water capacity <i>[5 cylinders]</i>	450 litres water capacity <i>[5 cylinders]</i>
Classes 3.1 to 3.3 <i>[Category 5, Class 1 & Class 2]</i>	100 litres <i>[Class 1 : 40 litres Class 2 : 40 litres]</i>	150 litres <i>[Class 1 : 120 litres Class 2 : 120 litres]</i>
Paint, Enamels, Lacquers, etc.	250 litres <i>[250 litres]</i>	250 litres <i>[250 litres]</i>
Class 3.4 (diesel, etc.) <i>[Category 5, Class 3]</i>	2,500 litres <i>[2,500 Litres]</i>	2,500 litres <i>[2,500 litres]</i>
Classes 4 to 9 <i>[Category 3, 4, 6, 7, 8, 9 & 10]</i>	100 litres/kg <i>[no aggregate limit]</i>	1,000 litres/kg <i>[no aggregate limit]</i>

Remarks

- (i) The aggregate limits set out in brackets are currently stipulated under the Dangerous Goods (General) Regulations.
- (ii) It is proposed that the aggregate limits for conveyance of dangerous goods should follow the aggregate limits for the storage of different types of dangerous goods in non-industrial buildings/premises (i.e. column 2).

第 295 章 危險品條例

CAP. 295

Dangerous Goods

3

第 295 章
危險品條例

CHAPTER 295
DANGEROUS GOODS

本條例旨在綜合和修訂與危險品有關的法例。

To consolidate and amend the law relating to dangerous goods.

[1956 年 7 月 27 日]

[27 July 1956]

第 1 部

PART I

導言

PRELIMINARY

(由 1971 年第 9 號第 2 條增補)

(*Added 9 of 1971 s.2*)

1. 簡稱

本條例可引稱為《危險品條例》。

1. Short title

This Ordinance may be cited as the Dangerous Goods Ordinance.

2. 釋義

在本條例中，除文意另有所指外——

“石油” (petroleum) 包括原油、從石油、煤、頁巖、泥煤或其他瀝青物質提煉所得的油類、其他石油產品或上述任何油類的產品，以及含有石油或上述任何油類的混合物；

“本條例” (this Ordinance) 包括根據第 5 條訂立的規例；

“危險品” (dangerous goods) 指根據第 3 條本條例適用的任何物品或物質；

“佔用人” (occupier) 包括任何數目的人及任何法團，就任何製造而言，包括任何從事該項製造的人；

“承運人” (carrier) 包括所有出租由陸路或水路運載物品或乘客的人；

“倉庫” (depot) 指根據第 13A 條指定為政府爆炸品倉庫的任何地方或船隻； (由 1971 年第 9 號第 3 條增補)

“船隻” (vessel) 包括任何船舶、船艇、中式帆船，或任何其他各類用於航行的船隻；

“貨倉擁有人” (warehouse owner) 包括任何擁有或管理任何存放物品的貨倉、貯存所、埠頭、碼頭或其他處所的人；

2. Interpretation

In this Ordinance, unless the context otherwise requires (E001)

carrier" (承運人) includes all persons carrying goods or passengers for hire by land or water;

dangerous goods" (危險品) means any of the goods or substances to which this Ordinance applies under section 3;

depot" (倉庫) means any place or vessel designated as a Government Explosives Depot under section 13A; (*Added 9 of 1971 s.3*)

explosive" (爆炸品) includes any substance used or manufactured with a view to producing a practical effect by explosion or a pyrotechnic effect;

licence" (牌照) includes permit; (*Added 8 of 1964 s.2*)

licensed premises" (領有牌照處所) means any premises in which dangerous goods are permitted to be manufactured or stored by virtue of a licence issued under this Ordinance;

manufacture" (製造) includes process, compress, liquefy or otherwise alter the nature or form of any substance; (*Added 8 of 1964 s.2*)

“貯存”、“貯存所”(store)前者用作動詞時，包括管有、保管或控制與此動詞有關的東西；（由 1964 年第 24 號第 2 條增補）

“牌照”(licence)包括許可證；（由 1964 年第 8 號第 2 條增補）

“違禁品”(prohibited goods)指由任何根據第 5 條訂立的規例為施行本條例而宣布為違禁品的任何危險品；（由 1959 年第 8 號第 2 條增補）

“過境”(transit)就貨物而言，指——

- (a) 純粹為帶離香港而帶進香港的貨物；及
- (b) 一直留在將其帶進香港的船隻、飛機或車輛之內或之上的貨物；（由 1973 年第 25 號第 2 條增補）

“領有牌照處所”(licensed premises)指任何處所而憑藉根據本條例發出的牌照獲准在其內製造或貯存危險品者；

“製造”(manufacture)包括加工、壓縮、液化或以其他方式改變任何物質的性質或形態；（由 1964 年第 8 號第 2 條增補）

“擁有人”(owner)就任何船隻而言，包括承租人及任何以擁有人的代理人身分行事的人；

“擁有人”(owner)就危險品而言，包括任何以擁有人的代理人身分行事的人；

“爆炸品”(explosive)包括任何為藉爆炸而產生實際效果或為產生煙火效果而使用或製造的物質。

3. 適用範圍

本條例適用於所有爆炸品、壓縮氣體、石油及其他發出易着火蒸氣的物質、發出有毒氣體或蒸氣的物質、腐蝕性物質、與水或空氣相互影響時會變為危險的物質、可自然或隨時可能燃燒的物質、放射性物料，以及根據第 5 條由行政長官會同行政會議規定本條例須適用的物質；

但本條例並不適用於——

- (a) 任何由英國軍用船艦或任何外國的軍用船艦運載的危險品；或（由 1998 年第 23 號第 2 條修訂）

occupier"(佔用人) includes any number of persons and a body corporate and, in the case of any manufacture, includes any person carrying on such manufacture;

owner"(擁有人), in respect of any vessel, includes a charterer and any person acting as agent for the owner;

owner"(擁有人), in respect of dangerous goods, includes any person acting as agent for the owner;

petroleum"(石油) includes crude petroleum, oil made from petroleum or from coal, shale, peat or other bituminous substance, and other products of petroleum or of any of the above-mentioned oils, and mixtures containing petroleum or any of the above-mentioned oils;

prohibited goods"(違禁品) means any dangerous goods declared by any regulation made under section 5 to be prohibited goods for the purposes of this Ordinance; (Added 8 of 1959 s.2)

store"(貯存、貯存所), when used as a verb, includes to have possession or custody of or control over that to which the verb relates; (Added 24 of 1964 s.2)

this Ordinance"(本條例) includes regulations made under section 5;

transit"(過境), in relation to cargo, means cargo which(E001)

- (a) is brought into Hong Kong solely for the purpose of taking it out of Hong Kong; and
- (b) remains at all times in or on the vessel, aircraft or vehicle in or on which it is brought into Hong Kong; (Added 25 of 1973 s.2)

vessel"(船隻) includes any ship or boat or junk or any other description of vessel used in navigation;

warehouse owner"(貨倉擁有人) includes any person owning or managing any warehouse, store, quay, pier or other premises in which goods are deposited.

3. Application

This Ordinance shall apply to all explosives, compressed gases, petroleum and other substances giving off inflammable vapours, substances giving off poisonous gas or vapour, corrosive substances, substances which become dangerous by interaction with water or air, substances liable to spontaneous combustion or of a readily combustible nature, radioactive material and to such substances to which it is applied by the Chief Executive in Council under section 5:

Provided that this Ordinance shall not apply(E001)

- (a) to any dangerous goods carried in Her Majesty's ships of war, or in the ships of war of any foreign state; or (Amended 23 of 1998 s.2)

(b) 在符合第 III 部的規定下，任何由國家管有和管制的危險品。 (由 1971 年第 9 號第 4 條修訂)

(由 1999 年第 71 號第 3 條修訂)

4. 行政長官發出指示的權力

(1) 行政長官可(在一般或個別情況下)就任何公職人員(法官、區域法院法官或裁判官除外)在根據本條例行使或執行任何權力、職能及職責方面，發出他認為適合的指示。 (由 1998 年第 25 號第 2 條修訂)

(2) 公職人員在根據本條例行使或執行任何權力、職能及職責時，須遵從行政長官根據第(1)款所發出的任何指示。

(由 1971 年第 9 號第 5 條增補。由 1999 年第 71 號第 3 條修訂)

5. 規例

(1) 行政長官會同行政會議可訂立規例，就下列事項訂定條文—— (由 1999 年第 71 號第 3 條修訂)

- (a) 本條例對任何物質及物品的適用範圍；
- (b) 使本條例適用的任何物質或物品或其中任何分量獲得豁免，不受本條例或其任何部分的施行所規限；
- (c) 為施行本條例而將任何危險品宣布為違禁品； (由 1959 年第 8 號第 3 條增補)
- (d) 對危險品的製造、管有、卸在陸上、裝運、轉運、貯存、移動、出售及使用作出的管制，以及與上述各項有關而須採取的安全預防措施；
- (e) 須附在任何載有危險品的桶、罐、箱或其他包裝上的標籤，及張貼在任何存有危險品的處所的通告，以及用以標記該等物品或處所的其他方法；
- (f) 為任何目的而就任何危險品或任何曾載有危險品的容器所作的試驗；
- (g) 任何危險品的包裝方式；
- (h) 規定須向指明公職人員提供載於或將會裝上任何船隻、飛機或車輛的危險品資料及該等資料的性質； (由 1959 年第 8 號第 3 條修訂)

(b) subject to Part III, to any dangerous goods in the possession and control of the State. (Amended 9 of 1971 s.4)

(Amended 71 of 1999 s.3)

4. Power of Chief Executive to give directions

(1) The Chief Executive may give such directions as he thinks fit (either generally or in any particular case) with respect to the exercise or performance by any public officer (other than a judge, a District Judge or a magistrate) of any powers, functions and duties under this Ordinance.

(2) A public officer shall, in the exercise or performance of any powers, functions and duties under this Ordinance, comply with any directions given by the Chief Executive under subsection (1).

(Added 9 of 1971 s.5. Amended 71 of 1999 s.3)

5. Regulations

- (1) The Chief Executive in Council may by regulation provide for (E001) (Amended 71 of 1999 s.3)
- (a) the application of this Ordinance to any substances and articles whatsoever;
 - (b) the exemption of any substance or article to which this Ordinance applies or any quantity thereof from the operation of this Ordinance or any part thereof;
 - (c) the declaration of any dangerous goods to be prohibited goods for the purposes of this Ordinance; (Added 8 of 1959 s.3)
 - (d) the control of and the safety precautions which shall be taken in relation to the manufacture, possession, landing, shipment, transshipment, storage, movement, sale and use of dangerous goods;
 - (e) the label to be attached to any drum, tin, case or other package containing dangerous goods and the notices to be affixed to any premises containing dangerous goods and other methods of marking such goods or premises;
 - (f) the tests to be applied for any purpose whatsoever to any dangerous goods or to any receptacle which has contained dangerous goods;
 - (g) the manner in which any dangerous goods shall be packed;
 - (h) requiring information to be furnished to such public officers as may be specified in respect of dangerous goods carried or to be loaded on any vessel, aircraft or vehicles, and the nature of such information; (Amended 8 of 1959 s.3)

- (i) 規定須在任何運載或將會運載危險品的船隻或車輛上展示訂明的危險品訊號；
- (j) 規定在任何運載危險品的船隻發生火警時須展示或發出訂明的港口火警訊號；
- (k) 對就石塊、泥土或其他物料所進行的爆破作出的管制、爆破時須採取的預防措施，以及可進行爆破的時間；
- (l) 在並非《公眾娛樂場所條例》(第 172 章)所指公眾娛樂場所的任何處所使用任何電影放映機或類似器材；
- (m) 在沒有手令下拘捕任何被發現在領有牌照處所犯了任何指明危險罪行的人，以將該人送往裁判官席前；
- (n) 任何根據本條例發出的牌照的格式及條件、可發出該等牌照的公職人員、牌照費用及牌照的有效期；
- (o) 一般格式；及
- (p) 更有效施行本條例的條文。
- (2) 根據本條訂立的規例，可規定違反該規例的指明條文即屬犯罪，並可為此訂定

刑罰：
但所訂定的刑罰不得超過罰款\$25,000 及監禁 6 個月。
(修訂)

(由 1984 年第 171 號法律公告

第 II 部

危險品的管制

(由 1971 年第 9 號第 6 條增補)

6. 危險品的製造等所需的牌照

- (1) 除根據並按照本條例批給的牌照外，任何人不得製造、貯存、運送或使用任何危險品：

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- (i) requiring such dangerous goods signals as may be prescribed to be exhibited on any vessel or vehicle carrying or about to load dangerous goods;
- (j) requiring such port fire alarm signals as may be prescribed to be exhibited or made on an outbreak of fire on any vessel carrying dangerous goods;
- (k) the control of the blasting of stone, earth or other material, the precautions to be taken while such blasting takes place and the times during which such blasting may take place;
- (l) the use of any cinematograph or similar apparatus upon any premises which is not a place of public entertainment within the meaning of the Places of Public Entertainment Ordinance (Cap. 172);
- (m) the apprehension without a warrant of any person found committing any such dangerous offence as may be specified on licensed premises, for the purpose of conveying such person before a magistrate;
- (n) the form and conditions of any licence issued under this Ordinance, the public officers who may issue such licence, the fees therefor, and the period for which such licence shall be valid;
- (o) forms generally; and
- (p) the better carrying out of the provisions of this Ordinance.

(2) Regulations made under this section may provide that contravention of specified provisions of such regulations shall be an offence and may provide penalties therefor:

Provided that no penalty so provided shall exceed a fine of \$25,000 and imprisonment for 6 months. (Amended L.N. 171 of 1984)

PART II

CONTROL OF DANGEROUS GOODS

(Added 9 of 1971 s.6)

6. Licence required for manufacture, etc. of dangerous goods

- (1) Except under and in accordance with a licence granted under this Ordinance, no person shall manufacture, store, convey or use any dangerous goods:

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第 295 章 *危險品條例*

(2) 上述人員如信納牌照持有人經證明犯了本條例所訂罪行或違反牌照的任何條件，可藉面交送達或以掛號郵遞方式送達牌照持有人的書面通知，撤銷根據本條例發出的任何牌照。

(3) 根據第(2)款發出的通知須載有一項撤銷牌照理由的陳述。
(由 1994 年第 6 號第 54 條代替)

9A. 上訴

牌照申請人或持有人可在接獲拒絕批給牌照或撤銷牌照的通知後 28 天內，就根據第 9 條被拒絕批給牌照或被拒絕為牌照續期事或就撤銷牌照事向行政上訴委員會提出上訴。

(由 1994 年第 6 號第 54 條增補)

9B. 違反牌照條件的罰則

即使根據本條例或其他條例的條文會產生任何其他法律責任，違反批註在依據第 9 條發出的牌照上的任何條款或條件，即屬犯罪，一經循簡易程序定罪，可處罰款不超過\$10,000 及監禁不超過 1 個月。

(由 1994 年第 6 號第 54 條增補)

10. 為危險品加上標記及就其特性作出通知

任何人不得向任何貨倉擁有人或承運人交付任何危險品，或由陸路或水路在香港任何地方往來送遞或運載任何危險品，或致使任何危險品由陸路或水路在香港任何地方往來送遞或運載，或出售、展示以供出售或貯存任何危險品，或在任何貨倉、貨運碼頭或埠頭之內或之上存放任何危險品——

- (a) 除非該等危險品的真實名稱或描述已在載有該等危險品的桶、罐、箱或其他包裝外面以中英文書寫、印刷或標記清楚；及
- (b) 除非訂明標籤（如有的話）已附在載有該等危險品的桶、罐、箱或其他包裝外面；及

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(2) Such officer may, by notice in writing served upon the holder of the licence either personally or by registered post, revoke any licence issued under this Ordinance on proof to his satisfaction of an offence against this Ordinance or a breach of any condition of such licence by the holder.

(3) A notice under subsection (2) shall include a statement of the reasons for the revocation.

(Replaced 6 of 1994 s.54)

9A. Appeals

An applicant for or holder of a licence may, within 28 days after receipt of notice of such refusal or revocation, appeal to the Administrative Appeals Board against any refusal to grant or renew or against any revocation of the licence under section 9.

(Added 6 of 1994 s.54)

9B. Penalty for breach of licence

Notwithstanding any other liability which may arise under the provisions of this Ordinance or otherwise, the breach of any term or condition endorsed upon any licence issued pursuant to section 9 shall constitute an offence which shall be punishable on summary conviction by a fine not exceeding \$10,000 and imprisonment not exceeding 1 month.

(Added 6 of 1994 s.54)

10. Marking of dangerous goods and giving of notice of their character

No person shall deliver to any warehouse owner or carrier, or send or carry or cause to be sent or carried to or from any part of Hong Kong by land or water, or sell or expose for sale, or store any dangerous goods, or deposit any dangerous goods in or on any warehouse, wharf or quay unless(E001)
(Amended 71 of 1999 s.3)

- (a) the true name or description of such goods is distinctly written, printed or marked in English and Chinese on the outside of the drum, tin, case or other package containing such goods; and
- (b) the prescribed label, if any, is attached to the outside of the drum, tin, case or other package containing such goods; and

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- (c) 如屬交付任何貨倉擁有人或承運人的情況，已將該等危險品的真實名稱或描述及其危險性質以書面通知該貨倉擁有人或承運人。

11. 移走違反規例的危險品

凡在違反任何根據第 5 條訂立的規例下管有任何危險品，或將任何危險品卸在陸上、以船運載、轉運、貯存或以其他方式處理，或將任何運載危險品的船隻停泊、碇泊或停定，則警務處處長、海事處處長、消防處處長或礦務處處長，或任何根據上述任何一位人員的命令行事的人，可安排將該等危險品或船隻移往符合上述規例的地方，開支則由危險品或船隻的擁有人負責；移走危險品或船隻所招致的一切開支，在各方面均可作為一筆欠政府或須付予政府的可追討費用的款項，以同樣方式向危險品或船隻的擁有人追討。

(由 1961 年第 42 號第 2 條修訂；由 1964 年第 8 號第 5 條修訂；由 1999 年第 71 號第 3 條修訂)

12. 進入等權力

(1) 任何不低於督察職級的警務人員、任何不低於消防隊長職級的消防處人員、任何不低於一級爆炸品主任職級的土木工程署礦務部人員、任何獲礦務處處長書面授權而職級不低於二級爆炸品主任的土木工程署礦務部人員及任何由《香港海關條例》(第 342 章)界定的海關人員，可—— (由 1991 年第 27 號法律公告代替。由 1991 年第 364 號法律公告修訂)

- (a) 在日夜任何時候，進入、視察和檢查任何製造、貯存或使用危險品的地方或建築物及其每一部分，但不得有必要地阻礙或妨礙該地方或建築物內的工作；亦可就本條例的規定是否已予遵守，並就一切與公眾安全或受僱在該地方或建築物內或附近工作的人的安全有關的事宜及事物，作出查訊；

- (c) in the case of delivery to any warehouse owner or carrier, notice in writing has been given to such warehouse owner or carrier of the true name or description of such goods and the dangerous nature thereof.

11. Removal of dangerous goods in contravention of regulations

Where any dangerous goods are possessed, landed, shipped, transhipped, stored or are otherwise dealt with, or where any vessel, carrying any dangerous goods is berthed or has anchored or stopped contrary to any regulations made under section 5, the Commissioner of Police, the Director of Marine, the Director of Fire Services or the Commissioner of Mines, or any other person acting under the orders of any of those officers, may cause such dangerous goods, or such vessel to be removed, at the expense of the owner thereof, to such place as may be in conformity with the said regulations, and all expenses incurred in such removal may be recovered from the owner thereof in like manner, in all respects, as a sum of money due or payable to the Government in respect of a fee is recoverable.

(Amended 42 of 1961 s.2; 8 of 1964 s.5; 71 of 1999 s.3)

12. Power of entry, etc.

(1) Any police officer not below the rank of inspector, and any officer of the Fire Services Department not below the rank of station officer and any officer of the Mines Division, Civil Engineering Department not below the rank of explosives officer I and any other officer of the Mines Division, Civil Engineering Department, not below the rank of explosives officer II, authorized in writing by the Commissioner of Mines, and any member of the Customs and Excise Service, as defined in the Customs and Excise Service Ordinance (Cap. 342), may(E001) (Replaced L.N. 27 of 1991. Amended L.N. 364 of 1991)

- (a) enter, inspect and examine any place or building in which dangerous goods are manufactured, stored or used and every part thereof, at all times by day and by night, but so as not unnecessarily to impede or obstruct the work in such place or building, and may make inquiries as to the observance of this Ordinance and all matters and things relating to the safety of the public or of the persons employed in or about such place or building;

- (b) 要求他根據本條有權進入的任何地方或建築物的佔用人或由該佔用人僱用於其內工作的人，將該地方或建築物內任何物質的樣本交給他；
- (c) 進入和搜查該人員有合理理由懷疑可能內有根據(e)段可予檢取的物品的任何地方或建築物；
- (d) 截停、登上和搜查該人員有合理理由懷疑可能內有根據(e)段可予檢取的物品的任何船隻、車輛或飛機；及
- (e) 檢取、移走和扣留——
- (i) 該人員有合理理由懷疑與本條例所訂的任何罪行的發生有關的物品；或
- (ii) 該人員覺得相當可能是或相當可能載有任何上述罪行的證據的任何其他物品。
- (2) 任何該等人員可——
- (a) 破啓他獲賦權進入和搜查的任何地方或建築物的任何外門或內門；
- (b) 強行進入他獲賦權截停、登上和搜查的任何船隻、車輛或飛機及該船隻、車輛或飛機的每一部分；
- (c) 以武力移走任何實際上妨礙他進行他獲賦權作出的逮捕、扣留、搜查、視察、檢取或移走的障礙物，或以武力驅趕妨礙他進行上述行動的人；
- (d) 扣留在他獲賦權進入和搜查的任何地方或建築物內的任何人，直至該地方或建築物已被搜查為止；及
- (e) 扣留他獲賦權截停、登上和搜查的任何船隻、車輛或飛機，及該船隻或車輛上的人，並阻止任何人接近或登上該船隻或車輛，直至該船隻或車輛已被搜查為止。
- (3) 在不損害任何其他成文法則所賦予的進入或搜查權力的原則下，第(1)款所指的人員不得進入或搜查任何只作住宅用途的處所的任何部分，但下列情況除外——
- (a) 該人員進入或搜查該處所的任何部分，是憑藉裁判官發出的一項手令，而手令是裁判官根據經宣誓而作的告發，信納有合理理由懷疑本條例所

- (b) require the occupier of any place or building which he is entitled under this section to enter, or a person employed by such occupier therein, to give him samples of any substance therein;
- (c) enter and search any place or building in which such officer may have reasonable grounds for suspecting that there may be anything which, under paragraph (e), is liable to seizure;
- (d) stop, board and search any vessel, vehicle or aircraft in which such officer or member may have reasonable grounds for suspecting that there may be anything which, under paragraph (e), is liable to seizure; and
- (e) seize, remove and detain(E001)
- (i) anything with respect to which such officer or member may have reasonable grounds for suspecting that any offence against this Ordinance has been committed; or
- (ii) any other thing, which may appear to such officer or member likely to be, or to contain, evidence of any such offence.
- (2) Any such officer or member may(E001)
- (a) break open any outer or inner door of any place or building which he is empowered to enter and search;
- (b) forcibly enter any vessel, vehicle or aircraft which he is empowered to stop, board and search and every part thereof;
- (c) remove by force any material obstruction to, or any persons obstructing any arrest, detention, search, inspection, seizure or removal which he is empowered to make;
- (d) detain any person found in any place or building which he is empowered to enter and search until such place or building has been searched; and
- (e) detain any vessel, vehicle or aircraft which he is empowered to stop, board and search and any person on board such vessel or vehicle and prevent any person from approaching or boarding such vessel or vehicle until such vessel or vehicle has been searched.
- (3) Without prejudice to any power of entry or search conferred by any other enactment, no officer or member referred to in subsection (1) shall enter or search any part of any premises used solely for dwelling purposes except(E001)
- (a) by virtue of a warrant issued by a magistrate, where such magistrate is satisfied by information on oath that there is reasonable ground for suspecting that an offence against this Ordinance has been, is being or is about to be committed in such part of the premises or there is in such part of the

訂的罪行已經、正在或即將在該部分的處所內發生，或該部分處所中有相當可能是或相當可能載有上述罪行的證據的物品而發出的；或

(b) 該人員在顧及有關情況後，認為申請手令將會使進入或搜查的目的無法達成，因而在並無手令的情況下進入或搜查該處所的任何部分。（由 1959 年第 8 號第 6 條代替）

（由 1973 年第 25 號第 3 條修訂）

13. 報告因爆炸或火警造成的意外

凡在任何領有牌照處所內或附近發生因爆炸或火警而造成的意外或因與該處所有關的爆炸或火警而造成的意外，則該處所的佔用人須立即將該意外及在該意外中造成的任何人命損失或身體受傷向消防處處長報告。

（由 1961 年第 42 號第 2 條修訂；由 1964 年第 8 號第 7 條修訂）

第 III 部

政府爆炸品倉庫

13A. 行政長官可指定地方及船隻為政府爆炸品倉庫

行政長官可藉憲報刊登的公告，指定任何地方或船隻為政府爆炸品倉庫，以供貯存爆炸品。

（由 1999 年第 71 號第 3 條修訂）

13B. 倉庫由礦務處處長掌管

除第 13C 條另有規定外，所有倉庫均由礦務處處長管制和管理。

13C. 海事處處長的權力

- (1) 海事處處長可就任何指定為倉庫的船隻的檢驗、移動、位置和繫泊，發出指示。
- (2) 海事處處長如覺得指定為倉庫的船隻在任何方面不適宜貯存爆炸品，則可——

premises anything likely to be or to contain evidence of such offence; or

(b) without warrant, where such officer or member is of opinion having regard to the circumstances that the purpose of the entry or the search would be defeated by application for such warrant. (Replaced 8 of 1959 s.6)

(Amended 25 of 1973 s.3)

13. Report of accident by explosion or fire

Whenever there occurs any accident by explosion or fire in or about or in connexion with any licensed premises, the occupier of such premises shall forthwith report such accident, and any loss of life or personal injury occasioned thereby, to the Director of Fire Services.

(Amended 42 of 1961 s.2; 8 of 1964 s.7)

PART III

GOVERNMENT EXPLOSIVES DEPOTS

13A. Chief Executive may designate places and vessels as Government Explosives Depots

The Chief Executive may, by notice published in the Gazette, designate any place or vessel as a Government Explosives Depot for the storage of explosives.

(Amended 71 of 1999 s.3)

13B. Commissioner of Mines to be in charge of depots

The Commissioner of Mines shall, subject to section 13C, have the control and management of every depot.

13C. Powers of Director of Marine

(1) The Director of Marine may give directions as to the surveying, movement, siting and mooring of any vessel designated as a depot.

(2) The Director of Marine may, if it appears to him that a vessel designated as a depot is in any respect unsuitable for the storage of explosives(E001)

- (a) 禁止使用該船隻貯存爆炸品；或
 (b) 無條件地或以他認為適合而施加的條件，准許使用該船隻貯存爆炸品。

13D. 經理及副經理的委任

行政長官可藉憲報刊登的公告，委任一名倉庫經理及一名或多於一名副經理。
 (由 1999 年第 71 號第 3 條修訂)

13E. 管理倉庫的規例

(1) 行政長官會同行政會議可訂立規例，就下列事項訂定條文—— (由 1999 年第 71 號第 3 條修訂)

- (a) 倉庫的管制和管理；
 (b) 在倉庫內採取的安全預防措施；
 (c) 賦權任何公職人員就倉庫的妥善管制、管理和安全發出他認為適合的指示；
 (d) 對在倉庫內貯存爆炸品並由政府將爆炸品運入或運出倉庫所收取的費用；
 (e) 貯存在倉庫內的爆炸品的銷毀；
 (f) 出售貯存在倉庫內而未繳付訂明費用的爆炸品以及從出售所得收益中扣除該等費用及出售開支；及
 (g) 更有效施行本部的條文。

(2) 根據本條訂立的規例，可規定違反該規例的指明條文即屬犯罪，並可為此訂定刑罰，但所訂定的刑罰不得超過罰款 \$25,000 及監禁 6 個月。 (由 1984 年第 171 號法律公告修訂)
 (第 III 部由 1971 年第 9 號第 7 條增補)

第 IV 部

一般條文

(由 1971 年第 9 號第 8 條增補)

- (a) prohibit the use of the vessel for the storage of explosives; or
 (b) permit the use of the vessel for the storage of explosives, either unconditionally or subject to such conditions as he may think fit to impose.

13D. Appointment of managers and deputy managers

The Chief Executive may, by notice published in the Gazette, appoint a manager and one or more deputy managers of a depot.

(Amended 71 of 1999 s. 3)

13E. Regulations for management of depots

(1) The Chief Executive in Council may by regulation provide for (E001) (Amended 71 of 1999 s. 3)

- (a) the control and management of depots;
 (b) safety precautions to be taken in depots;
 (c) the empowering of any public officer to give such directions as he thinks fit for the purposes of the proper control and management and the safety of depots;
 (d) the fees chargeable for the storage of explosives in depots and for deliveries of explosives by the Government to or from depots;
 (e) the destruction of explosives stored in depots;
 (f) the sale of explosives stored in depots in respect of which the prescribed fees have not been paid and the deduction of such fees and the expenses of sale from the proceeds of sale; and
 (g) the better carrying out of the provisions of this Part.

(2) Regulations made under this section may provide that contravention of specified provisions of such regulations shall be an offence and may provide penalties therefor, but no penalty so provided shall exceed a fine of \$25,000 and imprisonment for 6 months. (Amended L.N. 171 of 1984)

(Part III added 9 of 1971 s. 7)

PART IV

GENERAL

(Added 9 of 1971 s. 8)

14. 罪行及罰則

(1) 任何人違反第 6、7、8 或 10 條任何條文，即屬犯罪，可處罰款\$25,000 及監禁 6 個月：（由 1959 年第 8 號第 7 條修訂）

但如任何人被控違反第 10 條任何條文，而他表明並令主審裁判官信納他並不知道與資料有關的物品的性質，且即使他作出合理的努力亦不可能知道，則不得被定罪。

(2) 任何處所的佔用人如在違反第 13 條的條文下沒有就意外作出報告，即屬犯罪，可處罰款\$1,000。

(3) 任何人——

(a) 妨礙或阻延任何人員行使由本條例賦予該人員的任何權力；或

(b) 故意或罔顧後果地就任何危險品的獲取來源，或就任何危險品的製造、運送、貯存、包裝、標籤或使用，提供虛假資料或隱瞞資料，（由 1964 年第 8 號第 8 條代替）

即屬犯罪，可處罰款\$20,000 及監禁 6 個月。

（由 1984 年第 171 號法律公告修訂）

15. 牌照持有人對其僱員及代理人
所犯罪行須負的法律責任

凡經證明並令任何具有司法管轄權的法院信納任何持有根據本條例所發牌照的人的任何僱員或代理人犯了本條例所訂罪行，則該牌照持有人須就該罪行負上法律責任，並可處以爲此訂定的刑罰，除非他證明該罪行是在他不知道或沒有同意的情況下發生的，且他已盡一切應盡的努力防止該罪行發生：

但——

(a) 不得就本條所訂的任何罪行而將牌照持有人判處監禁（不付罰款者除外）；及

(b) 本條的任何規定不得當作豁免僱員或代理人被處以所犯罪行的刑罰。

14. Offences and penalties

(1) Any person who contravenes any of the provisions of section 6, 7, 8 or 10 shall be guilty of an offence and shall be liable to a fine of \$25,000 and to imprisonment for 6 months: (Amended 8 of 1959 s. 7)

Provided that any person accused of having contravened any of the provisions of section 10 shall not be liable to be convicted thereof if he shows, to the satisfaction of the magistrate before whom he is tried, that he did not know the nature of the goods to which the information relates, and that he could not, with reasonable diligence, have obtained such knowledge.

(2) The occupier of any premises who fails to report an accident in contravention of the provisions of section 13 shall be guilty of an offence and shall be liable to a fine of \$1,000.

(3) Any person who(E001)

(a) obstructs or delays any officer in the exercise of any of the powers conferred upon him by this Ordinance; or

(b) wilfully or recklessly gives false information or withholds information, as to the source from which any dangerous goods were obtained or as to the manufacture, conveyance, storage, packing, labelling or use of any dangerous goods, (Replaced 8 of 1964 s. 8)

shall be guilty of an offence and shall be liable to a fine of \$20,000 and to imprisonment for 6 months.

(Amended L.N. 171 of 1984)

15. Liability of licence holder for offences committed
by his employees and agents

Whenever it is proved to the satisfaction of any court having jurisdiction that an offence against this Ordinance has been committed by any employee or agent of any person holding a licence issued under this Ordinance, such person shall be held to be liable for such offence and to the penalty provided therefor, unless he proves that the offence was committed without his knowledge or consent and that he had exercised all due diligence to prevent the commission of the offence:

Provided that(E001)

(a) no such person shall be sentenced to imprisonment (except in default of payment of a fine) for any offence under this section; and

(b) nothing in this section shall be deemed to exempt the employee or agent from the penalties provided for the offence committed by him.