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LEGISLATIVE COUNCIL BRIEF

Import and Export Ordinance
(Chapter 60)

Reserved Commodities Ordinance
(Chapter 296)

Industrial Training (Clothing Industry) Ordinance
(Chapter 318)

Protection of Non-Government Certificates of Origin Ordinance
(Chapter 324)

**IMPORT AND EXPORT
(ELECTRONIC TRANSACTIONS) BILL 2001**

**IMPORT AND EXPORT (GENERAL)
(AMENDMENT) REGULATION 2001**

**IMPORT AND EXPORT (REGISTRATION)
(AMENDMENT) REGULATION 2001**

**IMPORT AND EXPORT (REMOVAL OF ARTICLES)
(AMENDMENT) REGULATION 2001**

**RESERVED COMMODITIES (CONTROL OF IMPORTS,
EXPORTS AND RESERVE STOCKS)
(AMENDMENT) REGULATION 2001**

INTRODUCTION

At the meeting of the Executive Council on 22 May 2001, the Council ADVISED and the Chief Executive ORDERED that

- A
- (a) the Import and Export (Electronic Transactions) Bill 2001, at Annex A, should be introduced into the Legislative Council; and
- B
- (b) (i) the Import and Export (General) (Amendment) Regulation 2001, at Annex B;
- C
- (ii) the Import and Export (Registration) (Amendment) Regulation 2001, at Annex C;
- D
- (iii) the Import and Export (Removal of Articles) (Amendment) Regulation 2001, at Annex D; and
- E
- (iv) the Reserved Commodities (Control of Imports, Exports and Reserve Stocks) (Amendment) Regulation 2001, at Annex E,

should be approved in principle and be made after the Bill has passed into law,

to provide for the use of an electronic service provided by a particular electronic services provider in submitting cargo manifests.

BACKGROUND AND ARGUMENT

General background

2. Electronic data interchange (EDI) is a particular type of electronic service involving computer-to-computer exchange of information electronically in a standard format. The application of EDI in commerce results in improved efficiency and a significant reduction in paperwork.

3. In 1992, we granted Tradelink Electronic Commerce Ltd. (Tradelink) an exclusive franchise¹ to provide front-end services for the processing by EDI of six official trade-related documents. These six documents are restrained textile export licence, trade declaration, certificate of origin, production notification, cargo manifest, and dutiable commodities permit.

¹ Tradelink's franchise will last for seven years from the launch of the first commercial EDI service in 1997, expiring on 31 December 2003.

4. We have since launched EDI services for four of the documents, after the necessary computer systems have been developed. Services for restrained textile export licence and trade declaration were launched in 1997, and those for production notification and certificate of origin in 1999. We plan to launch EDI services for dutiable commodities permits and cargo manifests (excluding road mode transportation manifests) in the second half of 2001.

Present Requirements for Submission of Cargo Manifest

5. At present, carriers of cargo imported into and exported from Hong Kong are required to submit cargo manifests to Customs and Excise Department (C&ED), Census and Statistics Department (C&SD) and Trade and Industry Department (TID), as set out in paragraphs 8 to 10 below.

6. The Import and Export Ordinance requires carriers to furnish on demand to a C&ED officer a manifest of the cargo being imported or exported when entering or leaving Hong Kong. This enables C&ED officers to have access to the cargo information for the purpose of cargo clearance.

7. For the purpose of compilation of trade statistics, the Import and Export (Registration) Regulations require carriers to submit cargo manifests to the Commissioner of Customs and Excise (the Commissioner) within seven days of arrival or departure of the cargo. The Commissioner for Census and Statistics is authorized by the Commissioner to receive these manifests for checking against the import or export declaration lodged in respect of the cargo.

8. Regarding prohibited articles² and reserved commodities³, the Import and Export Ordinance, the Import and Export (General) Regulations and the Reserved Commodities (Control of Imports, Exports and Reserve Stocks) Regulations require carriers to submit to the Director-General of Trade and Industry (the Director) within specified periods⁴ an import or export licence or notification in respect of the cargo, together with a copy or

² These include goods that require a licence for import or export, e.g. textiles and clothing, drugs, strategic commodities.

³ Rice is specified as a reserved commodity under the Reserved Commodities Ordinance. The import or export of reserved commodities requires a licence.

⁴ For importation of goods, the period is seven days after the carrier receives the import licence or in the case of notification 14 days after the cargo is imported. For exportation of goods, the period is 14 days after the cargo is exported.

extract of the relevant cargo manifest. TID crosschecks the manifest and licence /notification for trade control purposes.

9. Apart from the above-mentioned statutory requirements, carriers in practice routinely deliver a copy of every cargo manifest to TID after the arrival or departure of the cargo. TID checks these manifests randomly to ascertain that the cargo imported or exported has complied with all the necessary licence or notification requirements.

Electronic Data Interchange System for Cargo Manifests

10. With the approval of funds by the Legislative Council in 1999, we have been developing an EDI system for processing submission of cargo manifests (EMAN). This system will be operational before the end of 2001. It will cover manifests submitted by carriers of all modes of transport except the road mode. The road mode of transport is not included because the feasibility study on EMAN considers that the risk of implementing such an EDI system too high due to the stringent time limit requirements of cargo clearance for this mode of transport, and the huge traffic throughput involved. Moreover, carriers in the road mode of transport are mostly small operators who are not yet ready to switch to electronic submission of manifests⁵.

11. After the implementation of EMAN, carriers will be required to submit manifests electronically to Government via the services of Tradelink. Carriers will no longer need to submit the same manifest separately to several departments as information submitted electronically can be sent to multiple recipients simultaneously.

12. Carriers who are unwilling to submit manifests through EDI on their own are able to authorize an agent to submit the manifest on their behalf. In practice, these agents will be the Electronic Trading Access Service (ETAS) centres authorized by Tradelink.

Legal Framework for Processing Submission of Manifests by Electronic Means

13. We need to mandate the use of an electronic service provided by a particular electronic services provider in submitting cargo manifests under the relevant Ordinances. This requirement will be subject to a

⁵ We are conducting another feasibility study on using EDI for the road mode in view of recent advancements in information and communications technology.

transitional period (see paragraph 15 below). This is in line with the practice regarding the other official trade documents for which such an electronic service has been launched. However, we **propose** to provide the Commissioner with the power to revert to the paper mode either as an option or as the only form of submission. This will cater for the contingency where the EMAN breaks down partially or completely for an extended period, and will allow the Commissioner to exempt road mode of transport from the mandatory use of an electronic service provided by a particular electronic services provider for submission of cargo manifests.

14. We also **propose** to reflect in the law the current practice whereby carriers deliver a copy of every cargo manifest to the Director (see paragraph 9 above). The Director's access to these manifests is essential for our trade control system. The same level of control should be maintained before and after the EMAN is operational.

15. To ensure a smooth migration, we will provide a transitional period whereby cargo manifests may be submitted either in paper form or by using an electronic service provided by a particular electronic services provider.

16. As for the use of an agent (paragraph 12 above), we only need to make provision for this in the Reserved Commodities Ordinance as provision already exists in the Import and Export Ordinance.

Miscellaneous Amendments

17. We also **propose** miscellaneous amendments to some of the Ordinances and Regulations concerned for the following purposes, in particular -

- (a) to standardize the timeframe for delivery of manifests to Government at 14 days;
- (b) to empower the Commissioner to serve notice electronically under the Import and Export (Removal of Articles) Regulation;
- (c) to make a technical amendment to the Import and Export Ordinance to provide for the payment of fees and charges payable under the Import and Export (Fees) Regulations and the Import and Export (Registration) Regulations respectively; and

- (d) to make drafting improvements to provisions of the various Ordinances dealing with the use of security devices in electronic transactions.

THE BILL

Schedule 1 - Amendments to the Import And Export Ordinance

18. **Section 1 of Schedule 1** amends the definition of “security device” in section 2 of the Import and Export Ordinance to make a drafting improvement. Similarly, **sections 2 and 3 of Schedule 1** amend sections 2B and 2C of the Ordinance respectively where security device is mentioned.

19. **Section 9 of Schedule 1** adds a **new section 19A** to the Ordinance to require that within 14 days after the arrival or departure of every vessel, aircraft or vehicle, a manifest shall be furnished to the Director (paragraph 14 above), and shall be so furnished using an electronic service provided by a particular service provider (in this Ordinance referred to as “services provided by a specified body”). (During the period of Tradelink’s exclusive franchise, Tradelink will be the only body specified for this purpose). **New section 19A(4)** stipulates that any person who, without reasonable excuse, furnishes a manifest to the Director that does not give all the particulars required commits an offence and is liable to a fine at level 3 (\$10,000). **New section 19A(5)** further provides that any person who without reasonable excuse fails or neglects to submit a manifest to the Director commits an offence and is liable to a fine at level 1 (\$2,000) and thereafter, to a fine of \$100 per day.

20. **Sections 4, 5 and 6 of Schedule 1** amend sections 8, 9 and 11 of the Ordinance respectively to exempt a person delivering the import or export licence from the requirement to deliver to the Director a copy or extract of the relevant manifest in cases where a manifest has been furnished under the new section 19A. These three sections also stipulate that the copy or extract of the manifest shall be delivered by using services provided by a specified body.

21. **Section 7 of Schedule 1** amends section 15 of the Ordinance to provide that the furnishing of a manifest under this section may be in the form of an electronic record if the C&ED officer so permits. In other words, submission in electronic form will be optional. This is because the carrier

and the C&ED officer may not have the necessary equipment to deliver and receive the manifest electronically in real time.

22. **Section 12 of Schedule 1** adds a **new section 32A** to the Ordinance. **New subsections 32A(1) and 32A(2)** empower the Commissioner to allow the paper mode as an alternative, and to revert to the paper mode only respectively. This will cater for the contingency where the EMAN breaks down partially or completely for an extended period, and will also allow the Commissioner to exempt road mode of transport from the mandatory use of services provided by a specified body in submitting cargo manifests.

23. **Section 11(2) of Schedule 1** adds a **new section 31(1A)** to the Ordinance to provide that regulations made for the purposes of section 31(1)(x) or (aa) of the Ordinance may provide that any fee or charge payable in connection with information sent using services provided by a specified body shall be paid in such manner as may be agreed between the Government and the relevant electronic services provider (paragraph 17(c) above). **Section 14 of Schedule 1** repeals section 11(c) of the Import and Export (Amendment) Ordinance 1995 as a consequential amendment.

24. **Section 13 of Schedule 1** adds a **new section 42** to the Ordinance to provide for a transitional period during which manifests may be furnished to the Director under section 8, 9, 11 or 19A of the Ordinance either in paper form or by using services provided by a specified body (paragraph 15 above).

Schedule 2 - Amendments to the Reserved Commodities Ordinance

25. **Section 1 of Schedule 2** amends section 2(1) of the Reserved Commodities Ordinance to provide the key definitions. The definitions of “recognized electronic service” and “specified electronic services provider”, read together with **new section 2A(1)** of the Ordinance in **section 2 of Schedule 2**, provide the Secretary for Commerce and Industry with the power to specify a person as provider of a service for the interchange of electronic records under the Ordinance. (During the period of Tradelink’s exclusive franchise, Tradelink will be the only body so specified.) **Section 1 of Schedule 2** also defines “specified electronic services agent”. This definition, read together with **new section 2A(2)** of the Ordinance in **section 2 of Schedule 2**, will allow persons who wish to send information using a recognized electronic service to do so through an agent if they so prefer (paragraph 12 above).

26. **Section 2 of Schedule 2** adds a **new section 2B(1)** to the Ordinance to provide that a person sending information to Government via a recognized electronic service is deemed to have provided the information if his identity is authenticated by a security device. **New section 2C** of the Ordinance provides that a person who has been issued a security device has the duty to keep the device for his own use only.

27. **Section 2 of Schedule 2** adds a **new section 2B(2)** to the Ordinance to provide that where information is sent by a specified electronic services agent using a recognized electronic service, the person authorizing the agent to send the information is deemed to have provided the information. **New section 2D** of the Ordinance requires a specified electronic services agent not to send information unless duly authorized to do so.

28. **Section 4 of Schedule 2** adds a **new section 6A** to the Ordinance to facilitate the admission and proof of electronic records in court proceedings.

29. **Section 5 of Schedule 2** adds a **new section 10A** to the Ordinance to provide that in relation to investigation of offences under the Ordinance, C&ED officers may require production of the relevant electronic information in a legible form.

30. **Section 6 of Schedule 2** adds a **new section 14** to the Ordinance. **New sections 14(1) and (2)** provide the Commissioner with the power to allow the paper mode as an alternative, and to revert to the paper mode only respectively (paragraph 13 above).

Schedule 3 - Amendments to the Industrial Training (Clothing Industry) Ordinance

31. **Section 1 of Schedule 3** amends the definition of “security device” in section 2 of the Industrial Training (Clothing Industry) Ordinance to make a drafting improvement. Similarly, **sections 2 and 3 of Schedule 3** amend sections 30A and 30B of the Ordinance respectively where security device is mentioned.

Schedule 4 - Amendments to the Protection of Non-Government Certificates of Origin Ordinance

32. **Section 1 of Schedule 4** amends the definition of “security device” in section 2 of the Protection of Non-Government Certificates of Origin Ordinance to make a drafting improvement. Similarly, **sections 2 and 3 of Schedule 4** amend sections 2A and 2B of the Ordinance respectively where security device is mentioned.

THE REGULATIONS

Import and Export (General) (Amendment) Regulation 2001

33. **Sections 1, 2 and 3** amend regulations 6A, 6B and 6D of the Import and Export (General) Regulations respectively to exempt a person delivering to the Director the import, export or transshipment notification from the requirement to deliver to the Director a copy or extract of the manifest in cases where a manifest has been furnished under new section 19A of the Import and Export Ordinance (paragraph 19 above). These three sections also require that the copy or extract of the manifest shall be delivered using services provided by a specified body.

34. **Section 4** adds a **new regulation 6H** to provide for a transitional period during which manifests may be furnished to the Director under regulations 6A, 6B or 6D either in paper form or by using services provided by a specified body.

Import and Export (Registration) (Amendment) Regulation 2001

35. **Sections 1 and 2** amend regulations 11 and 12 of the Import and Export (Registration) Regulations respectively to provide for the use of services provided by a specified body in lodging manifests with the Commissioner and to extend the timeframe for lodging manifests under the regulations from seven to 14 days.

36. **Section 4** adds a **new regulation 15** to provide for a transitional period during which manifests may be furnished to the Commissioner under regulation 11 or 12 either in paper form or by using services provided by a specified body.

Import and Export (Removal of Articles) (Amendment) Regulation 2001

37. **Sections 1 and 2** substitute **new regulations 3 and 4** for the existing regulations 2, 3, 4 of the Import and Export (Removal of Articles) Regulations to provide that certain notices, notifications or other information required to be given under sections 20A and 20B of the Ordinance shall contain the information specified in the new Schedules 1 and 2 of the Regulation.

38. **Section 4(1)** amends regulation 6(1) to provide that, in addition to the paper form, notices may be served by using the electronic service.

Reserved Commodities (Control of Imports, Exports and Reserve Stocks) (Amendment) Regulation 2001

39. **Sections 1, 2, and 3** amend regulations 5, 6 and 8 of the Reserved Commodities (Control of Imports, Exports and Reserve Stocks) Regulations respectively to exempt a person delivering the import or export licence to the Director from the requirement to deliver to the Director a copy or extract of the manifest in cases where a manifest has been furnished under the new section 19A of the Import and Export Ordinance (paragraph 19 above). These three sections also stipulate that the copy or extract of the manifest shall be delivered by using a recognized electronic service.

40. **Section 4** amends regulation 26 to provide for a transitional period during which manifests may be furnished to the Director under regulations 5, 6 and 8 either in paper form or by using a recognized electronic service.

41. The relevant provisions of the Import and Export Ordinance, the Reserved Commodities Ordinance, the Industrial Training (Clothing Industry) Ordinance and the Protection of Non-Government Certificates of Origin Ordinance to be amended by the Bill are at Annex F. The relevant provisions of the Import and Export (General) Regulations, the Import and Export (Registration) Regulations, the Import and Export (Removal of Articles) Regulations and the Reserved Commodities (Control of Imports, Exports and Reserve Stocks) Regulations to be amended by the amendment Regulations are at Annex G.

F

G

LEGISLATIVE TIMETABLE

42. The legislative timetable will be as follows -

Publication in the Gazette	1 June 2001
First Reading and commencement of Second Reading debate	13 June 2001
Resumption of Second Reading debate, committee stage and Third Reading	to be notified

BASIC LAW IMPLICATIONS

43. The Department of Justice advises that the Bill and the amendment Regulations do not conflict with those provisions of the Basic Law carrying no human rights implications.

HUMAN RIGHTS IMPLICATIONS

44. The Department of Justice advises that the Bill and the amendment Regulations are consistent with the human rights provisions of the Basic Law.

BINDING EFFECT OF THE LEGISLATION

45. The amendments will not affect the current binding effect of the Ordinances concerned.

FINANCIAL AND STAFFING IMPLICATIONS

46. To support electronic processing of cargo manifests, we have provided \$110 million to upgrade Government's existing EDI computer system and \$15.6 million for 16 time-limited posts to support system development. The upgraded system will require an additional recurrent operating cost of \$29.1 million a year. It is expected that the implementation of EMAN will result in a net deletion of 30 posts with annual staff savings of \$6.5 million. The proposed legislative amendments do not have other financial or staffing implications for Government.

ECONOMIC IMPLICATIONS

47. The Bill will facilitate the launching of EMAN, which will reduce significantly the time and resources spent by the industry on submitting manifests to Government. It will also promote the wider use of EDI, thereby maintaining Hong Kong's position as a leading international trading centre.

PUBLIC CONSULTATION

48. Government and Tradelink have been jointly consulting the industry on EMAN and have its support. The Legislative Council Panel on Commerce and Industry supports the introduction of the Bill.

PUBLICITY

49. We plan to organize a series of publicity activities to inform the industry of the impending changes. These include setting up booths at the departmental counters currently handling cargo manifests, displaying messages at websites, and sending letters to the industry and relevant business associations. These measures proved to be effective when we launched the EDI services for other documents in the past.

50. A press release will be issued on 31 May 2001. A spokesman will be available to handle media enquiries.

ENQUIRIES

51. Enquiries on this brief should be referred to Mr Philip Chan, Principal Assistant Secretary for Commerce and Industry, on telephone number 2918 7480.

Commerce and Industry Bureau
30 May 2001

**IMPORT AND EXPORT (ELECTRONIC TRANSACTIONS)
BILL 2001**

CONTENTS

Clause		Page
1.	Short title and commencement	1
2.	Amendment of Import and Export Ordinance - (Schedule 1)	1
3.	Amendment of Reserved Commodities Ordinance - (Schedule 2)	1
4.	Amendment of Industrial Training (Clothing Industry) Ordinance - (Schedule 3)	1
5.	Amendment of Protection of Non-Government Certificates of Origin Ordinance - (Schedule 4)	2
Schedule 1	Amendment of Import and Export Ordinance	3
Schedule 2	Amendment of Reserved Commodities Ordinance	12
Schedule 3	Amendment of Industrial Training (Clothing Industry) Ordinance	19
Schedule 4	Amendment of Protection of Non-Government Certificates of Origin Ordinance	21

A BILL

To

Amend various Ordinances to provide for the use of electronic means in carrying out certain transactions under those Ordinances; and for connected purposes.

Enacted by the Legislative Council.

1. Short title and commencement

(1) This Ordinance may be cited as the Import and Export (Electronic Transactions) Ordinance 2001.

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

2. Amendment of Import and Export Ordinance - (Schedule 1)

The Import and Export Ordinance (Cap. 60) is amended as specified in Schedule 1.

3. Amendment of Reserved Commodities Ordinance - (Schedule 2)

The Reserved Commodities Ordinance (Cap. 296) is amended as specified in Schedule 2.

4. Amendment of Industrial Training (Clothing Industry) Ordinance - (Schedule 3)

The Industrial Training (Clothing Industry) Ordinance (Cap. 318) is amended as specified in Schedule 3.

**5. Amendment of Protection of Non-Government
Certificates of Origin Ordinance
- (Schedule 4)**

The Protection of Non-Government Certificates of Origin Ordinance (Cap. 324) is amended as specified in Schedule 4.

SCHEDULE 1

[s. 2]

AMENDMENT OF IMPORT AND EXPORT ORDINANCE

1. Interpretation

Section 2 of the Import and Export Ordinance (Cap. 60) is amended -

- (a) in the definition of "manifest", by repealing "document" where it twice appears and substituting "record";
- (b) in the definition of "security device", by repealing everything after "person" and substituting "to be used for authenticating that person as the sender of information using services provided by a specified body;"
- (c) by adding -
 - ""electronic record" (電子紀錄) has the meaning given to that term by section 2(1) of the Electronic Transactions Ordinance (Cap. 553);
 - "information" (資料) has the meaning given to that term by section 2(1) of the Electronic Transactions Ordinance (Cap. 553);".

2. Section substituted

Section 2B is repealed and the following substituted -

"2B. Presumption regarding information sent using services provided by specified body

(1) Where information received by the Commissioner or the Director was sent using services provided by a specified body, evidence which shows that the identity of the sender of the information was

authenticated by the use of a security device is, in the absence of evidence to the contrary -

- (a) proof that the person issued with the security device furnished the information; and
- (b) proof that the person issued with the security device made a statement or declaration contained in the information.

(2) Where information received by the Commissioner or the Director and sent using services provided by a specified body was sent by a specified agent who has obtained an authorization in accordance with section 2D -

- (a) a person named in the information as the person who furnished the information is, in the absence of evidence to the contrary, regarded for the purposes of this Ordinance as the person who furnished the information; and
- (b) a person named in the information as the person who made a statement or declaration contained in the information is, in the absence of evidence to the contrary, regarded for the purposes of this Ordinance as the person who made the statement or declaration."

3. Safekeeping of security device

Section 2C is amended by repealing everything after "device -" and substituting -

- "(a) shall not authorize or allow any other person to use the device in connection with the sending of information to the Commissioner or the Director under this Ordinance using services provided by a specified body;

- (b) shall take all reasonable steps and exercise due diligence to prevent any other person from using the device in connection with the sending of information to the Commissioner or the Director under this Ordinance using services provided by a specified body."

4. Delivery of import licence and manifest to the Director

- (1) Section 8(2)(b) is repealed and the following substituted -

"(b) shall, within 7 days after receiving the import licence -

- (i) deliver the import licence to the Director; and
- (ii) deliver to the Director, using services provided by a specified body, a copy or extract of the manifest of the vessel, aircraft or vehicle in or on which the article was imported."

- (2) Section 8 is amended by adding -

"(2A) The requirement under subsection (2)(b)(ii) does not apply where at the time of delivering the import licence under subsection (2)(b)(i) the Director has been furnished with the manifest under section 19A(1)."

5. Delivery of import licence and manifest in the case of part shipments

- (1) Section 9(2)(b) is amended by repealing everything after "declaration -" and substituting -

- "(i) endorse the licence and return it to the person to whom it was issued;
- (ii) deliver the declaration to the Director; and
- (iii) deliver to the Director, using services provided by a specified body, a copy or extract of the manifest of the vessel, aircraft or vehicle in or on which the article was imported."

- (2) Section 9 is amended by adding -

"(2A) The requirement under subsection (2)(b)(iii) does not apply where at the time of delivering the declaration under subsection (2)(b)(ii) the Director has been furnished with the manifest under section 19A(1).".

6. Delivery of export licence and manifest to the Director

(1) Section 11(2) is amended by repealing everything after "shall" and substituting -

"-

(a) where he has obtained a notification sent by the Director under section 10(1)(b) that is still in force, within 14 days after the day on which the article is exported -

(i) inform the Director of the export licence number; and

(ii) deliver to the Director, using services provided by a specified body, a copy or extract of the manifest of the vessel, aircraft or vehicle in or on which the article has been exported; or

(b) in any other case, within 14 days after the day on which the article is exported -

(i) deliver the export licence to the Director; and

(ii) deliver to the Director, using services provided by a specified body, a copy or extract of the manifest of the vessel, aircraft or vehicle in or on which the article has been exported.".

(2) Section 11 is amended by adding -

"(2A) The requirements under subsection (2)(a)(ii) and (b)(ii) do not apply where at the time of informing the Director of the export licence number under subsection (2)(a)(i) or delivering the export licence under subsection (2)(b)(i), as the case may be, the Director has been furnished with the manifest under section 19A(2).".

7. Duty to provide particulars of all cargo

(1) Section 15(1) is amended by repealing everything from "The master" to "shall, on" and substituting "A person specified in subsection (1A) in relation to a vessel, aircraft or vehicle shall, on any occasion that the vessel, aircraft or vehicle is".

(2) Section 15 is amended by adding -

"(1A) The following persons are specified for the purposes of subsection (1)

-

- (a) in the case of a vessel, the master or agent of the vessel;
- (b) in the case of an aircraft, the commander or the owner of the aircraft;
- (c) in the case of a vehicle other than a train, the person in charge of the vehicle;
- (d) in the case of a train, the handling agent in Hong Kong for the cargo carried by the train.

(1B) Where a manifest is required to be furnished following a request under subsection (1)(a) -

- (a) except as provided in paragraph (b), it shall be furnished in paper form; or
- (b) if the member of the Customs and Excise Service making the request so permits, it may be furnished in the form of an electronic record."

8. List showing ports of call to be furnished to the Commissioner

Section 19(1) is amended by repealing ", a written" and substituting "in paper form, a".

9. Part added

The following is added -

"PART IVA
MANIFEST

19A. Manifest to be provided

(1) Within 14 days after the arrival in Hong Kong of any vessel, aircraft or vehicle, the owner of the vessel, aircraft or vehicle shall furnish the Director with the manifest of the cargo imported in or on the vessel, aircraft or vehicle.

(2) Within 14 days after the departure from Hong Kong of any vessel, aircraft or vehicle, the owner of the vessel, aircraft or vehicle shall furnish the Director with the manifest of the cargo exported in or on the vessel, aircraft or vehicle.

(3) A manifest furnished under subsection (1) or (2) shall be furnished using services provided by a specified body.

(4) Any person who, without reasonable excuse, furnishes the Director under subsection (1) or (2) with a manifest that, in contravention of section 17, does not give all the particulars required by that section in respect of any cargo specified in the manifest, commits an offence and is liable on summary conviction to a fine at level 3.

(5) Any person who, being required to furnish the Director with a manifest under subsection (1) or (2) -

- (a) without reasonable excuse, fails or neglects to do so within the period specified in that subsection; or
- (b) where he has a reasonable excuse for the purposes of paragraph (a), fails or neglects to do so as soon as practicable after the cessation of the excuse,

commits an offence and is liable -

- (i) on summary conviction to a fine at level 1; and
- (ii) commencing on the day following the date of conviction under paragraph (i), to a fine of \$100 in respect of every day during which his failure or neglect to furnish the Director with the manifest continues."

10. Requirement that articles may be removed from vessel etc. for examination

Section 20B(6) is repealed and the following substituted -

"(6) Any notice, notification or information of any kind under this section or section 20A shall contain or include such information and be given in such manner as may be prescribed."

11. Power to make regulations

(1) Section 31(1)(*ia*) is amended by repealing "Commissioner to specify any form or requirement for giving information required to be given" and substituting "Commissioner or the Director to specify any form or requirement for giving information required to be given to the Commissioner or the Director respectively".

(2) Section 31 is amended by adding -

"(1A) Regulations made for the purposes of subsection (1)(x) or (aa) may provide that any fee or charge payable in connection with information that is sent using services provided by a specified body shall

be paid in such manner as may be agreed between the Government and the specified body."

12. Section added

The following is added immediately before section 33 -

"32A. Exemption from requirement to use services provided by specified body

(1) Where a provision of this Ordinance requires that any information to be given under this Ordinance shall be given using services provided by a specified body, the Commissioner may, by notice published in the Gazette, specify that the information may be given in paper form and, where a notice under this subsection has effect in relation to any information, the information shall, in accordance with the provision of this Ordinance as read together with the notice, be given either in paper form or using services provided by a specified body.

(2) Where a provision of this Ordinance requires that any information to be given under this Ordinance shall be given using services provided by a specified body, the Commissioner may, by notice published in the Gazette, specify that the information shall be given in paper form and, where a notice under this subsection has effect in relation to any information, the information shall, in accordance with the provision of this Ordinance as read together with the notice, be given in paper form only.

(3) A notice under subsection (1) or (2) providing for the giving of information in paper form may require that the information shall be certified as correct or that the document containing the information be certified as a true copy, as may be appropriate, by the person giving the information or by some other person.

(4) A notice under subsection (1) or (2) may make different provision in relation to different classes of persons or information.

- (5) A notice under subsection (1) or (2) is not subsidiary legislation."

13. Section added

The following is added -

"42. Transitional

(1) A requirement under section 8, 9, 11 or 19A that information shall be given using services provided by a specified body shall, during the period specified in subsection (2), be construed as requiring that the information shall be given either in paper form or using services provided by a specified body.

(2) The period specified for the purposes of subsection (1) is the period beginning with the commencement of the Import and Export (Electronic Transactions) Ordinance 2001 (of 2001) and ending at midnight on a date to be specified by the Commissioner for the purposes of this subsection by notice published in the Gazette.

(3) A notice under subsection (2) may specify different dates in relation to different classes of persons or information.

- (4) A notice published under subsection (2) is subsidiary legislation."

Consequential Amendments

Import and Export (Amendment) Ordinance 1995

14. Power to make regulations

Section 11(c) of the Import and Export (Amendment) Ordinance 1995 (30 of 1995) is repealed.

SCHEDULE 2

[s. 3]

AMENDMENT OF RESERVED COMMODITIES ORDINANCE

1. Interpretation

Section 2(1) of the Reserved Commodities Ordinance (Cap. 296) is amended by adding -

"electronic record" (電子紀錄) has the meaning given to that term in section 2(1) of the Electronic Transactions Ordinance (Cap. 553);

"information" (資料) has the meaning given to that term in section 2(1) of the Electronic Transactions Ordinance (Cap. 553);

"information system" (資訊系統) has the meaning given to that term in section 2(1) of the Electronic Transactions Ordinance (Cap. 553);

"recognized electronic service" (認可電子服務) means a service for the interchange of electronic records that is provided by a specified electronic services provider;

"security device" (保安裝置) means a device issued to a person to be used for authenticating that person as the sender of information using a recognized electronic service;

"specified electronic services agent" (指明電子服務代理人) means a person specified under section 2A(2);

"specified electronic services provider" (指明電子服務提供者) means a person specified under section 2A(1);".

2. Sections added

The following are added -

"2A. Specified electronic services providers and electronic services agents

(1) The Secretary for Commerce and Industry may, by notice published in the Gazette, specify a person to be a provider of a recognized electronic service under this Ordinance.

(2) The Secretary for Commerce and Industry may, by notice published in the Gazette, specify the persons who may act as agent for any person -

- (a) in sending information to the Director under this Ordinance using a recognized electronic service; or
- (b) in receiving information that has been sent by the Director under this Ordinance using a recognized electronic service.

(3) A notice under subsection (1) or (2) is not subsidiary legislation.

2B. Presumption regarding information sent using recognized electronic service

(1) Where information received by the Director was sent using a recognized electronic service, evidence which shows that the identity of the sender of the information was authenticated by the use of a security device is, in the absence of evidence to the contrary -

- (a) proof that the person issued with the security device furnished the information; and
- (b) proof that the person issued with the security device made a statement or declaration contained in the information.

(2) Where information received by the Director and sent using a recognized electronic service was sent by a specified electronic services agent who has obtained an authorization in accordance with section 2D -

- (a) a person named in the information as the person who furnished the information is, in the absence of evidence to the contrary, regarded for the purposes of this Ordinance as the person who furnished the information; and
- (b) a person named in the information as the person who made a statement or declaration contained in the information is, in the absence of evidence to the contrary, regarded for the purposes of this Ordinance as the person who made the statement or declaration.

2C. Safekeeping of security device

(1) A person who has been issued with a security device shall not authorize or allow any other person to use the device in connection with the sending of information to the Director under this Ordinance using a recognized electronic service.

(2) A person who has been issued with a security device shall take all reasonable steps and exercise due diligence to prevent any other person from using the device in connection with the sending of information to the Director under this Ordinance using a recognized electronic service.

(3) A person who contravenes subsection (1) or (2) commits an offence and is liable to a fine at level 5 and to imprisonment for 6 months.

2D. Duty of specified electronic services agent

(1) A specified electronic services agent shall not send on behalf of any person information using a recognized electronic service unless the agent has obtained from the person an authorization in writing to do so.

(2) A person who contravenes subsection (1) commits an offence and is liable to a fine at level 3."

3. Regulations

Section 3(1) is amended by adding -

"(1a) empowering the Director to specify any form or requirement for giving information required to be given in respect of any reserved commodity;"

4. Section added

The following is added -

"6A. Proof of contents of electronic record

(1) A document purporting -

- (a) to be a reproduction of any information sent in the form of an electronic record and retrieved from an information system operated by the Government or by a person on behalf of the Government; and
- (b) to be certified by the Director as to the matters mentioned in paragraph (a),

shall be admitted in any proceedings under this Ordinance before a court or magistrate on its production without further proof.

(2) Where a document is produced and admitted as evidence under subsection (1) -

- (a) the court or magistrate before which it is produced shall, until the contrary is proved, presume -
 - (i) that the document was certified by the Director as provided in subsection (1)(b);

- (ii) that the document is a true reproduction of the information sent in the form of an electronic record; and
 - (iii) that the reproduction was duly made on the date and at the time referred to in the document; and
- (b) the document is evidence of the contents of the information sent by the sender in the form of an electronic record.

(3) Where a document is produced and admitted as evidence under subsection (1), the court or magistrate may, if it or he thinks fit, on its or his own motion or on the application of any party to the proceedings, summon the person who certified the document and examine him as to its subject-matter."

5. Section added

The following is added -

"10A. Powers in relation to information in electronic form

(1) A power conferred under section 10(1)(c)(ii) to seize, remove and detain anything that is suspected to be or to contain evidence of an offence includes, where the evidence consists of information that is stored or capable of being retrieved in the form of an electronic record, the power to require that the information be produced in a form in which it can be removed and in which it is either legible or capable of being retrieved on a computer, and to seize, remove and detain the material so produced.

(2) A power conferred under section 10(1)(e) to require the production of and examine any document includes the power to require the production in a legible form of information that is stored or capable of

being retrieved in the form of an electronic record and to examine the information or material so produced.

(3) A power conferred by this Ordinance to seize, remove and detain anything found in any premises or place entered under section 10(1)(a) shall be construed as including the power -

- (a) to require that any information stored in the form of an electronic record and accessible from the premises or place be produced in a form in which it is either legible or capable of being retrieved on a computer and in which it can be removed; and
- (b) to remove anything produced pursuant to a requirement made under paragraph (a)."

6. Section added

The following is added -

"14. Exemption from requirement to use recognized electronic service

(1) Where a provision of this Ordinance requires that any information to be given under the Ordinance shall be given using a recognized electronic service, the Commissioner may, by notice published in the Gazette, specify that the information may be given in paper form, and where a notice under this subsection has effect in relation to any information, the information shall, in accordance with the provision of this Ordinance as read together with the notice, be given either in paper form or using a recognized electronic service.

(2) Where a provision of this Ordinance requires that any information to be given under the Ordinance shall be given using a recognized electronic service, the Commissioner may, by notice published in the Gazette, specify that the information shall be given in paper form

and, where a notice under this subsection has effect in relation to any information, the information shall, in accordance with the provision of this Ordinance as read together with the notice, be given in paper form only.

(3) A notice under subsection (1) or (2) providing for the giving of information in paper form may require that the information shall be certified as correct or that the document containing the information be certified as a true copy, as may be appropriate, by the person giving the information or by some other person.

(4) A notice under subsection (1) or (2) may make different provision in relation to different classes of persons or information.

(5) A notice under subsection (1) or (2) is not subsidiary legislation."

SCHEDULE 3

[s. 4]

AMENDMENT OF INDUSTRIAL TRAINING (CLOTHING
INDUSTRY) ORDINANCE**1. Interpretation**

Section 2 of the Industrial Training (Clothing Industry) Ordinance (Cap. 318) is amended -

- (a) in the definition of "security device", by repealing everything after "person" and substituting "to be used for authenticating that person as the sender of information using services provided by a specified body;"
- (b) by adding -
 "'information" (資料) has the meaning given to that term by section 2(1) of the Electronic Transactions Ordinance (Cap. 553);".

2. Section substituted

Section 30A is repealed and the following substituted -

**"30A. Presumption regarding information sent
using services provided by
specified body**

(1) Where information received by the Commissioner was sent using services provided by a specified body, evidence which shows that the identity of the sender of the information was authenticated by the use of a security device is, in the absence of evidence to the contrary -

- (a) proof that the person issued with the security device furnished the information; and
- (b) proof that the person issued with the security device made a statement or declaration contained in the information.

(2) Where information received by the Commissioner and sent using services provided by a specified body was sent by a specified agent who has obtained an authorization in accordance with section 30C -

- (a) a person named in the information as the person who furnished the information is, in the absence of evidence to the contrary, regarded for the purposes of this Ordinance as the person who furnished the information; and
- (b) a person named in the information as the person who made a statement or declaration contained in the information is, in the absence of evidence to the contrary, regarded for the purposes of this Ordinance as the person who made the statement or declaration."

3. Safekeeping of security device

Section 30B is amended by repealing everything after "device -" and substituting -

- "(a) shall not authorize or allow any other person to use the device in connection with the sending of information to the Commissioner under this Ordinance using services provided by a specified body;
- (b) shall take all reasonable steps and exercise due diligence to prevent any other person from using the device in connection with the sending of information to the Commissioner under this Ordinance using services provided by a specified body."

SCHEDULE 4

[s. 5]

AMENDMENT OF PROTECTION OF NON-
GOVERNMENT CERTIFICATES OF
ORIGIN ORDINANCE**1. Interpretation**

Section 2 of the Protection of Non-Government Certificates of Origin Ordinance (Cap. 324) is amended -

- (a) in the definition of "security device", by repealing everything after "person" and substituting "to be used for authenticating that person as the sender of information using services provided by a specified body;"
- (b) by adding -
 - ""information" (資料) has the meaning given to that term by section 2(1) of the Electronic Transactions Ordinance (Cap. 553);".

2. Section substituted

Section 2A is repealed and the following substituted -

**"2A. Presumption regarding information sent
using services provided by
specified body**

(1) Where information received by an approved body was sent using services provided by a specified body, evidence which shows that the identity of the sender of the information was authenticated by the use of a security device is, in the absence of evidence to the contrary -

- (a) proof that the person issued with the security device furnished the information; and

(b) proof that the person issued with the security device made a statement or declaration contained in the information.

(2) Where information received by an approved body and sent using services provided by a specified body was sent by a specified agent who has obtained an authorization in accordance with section 2C -

(a) a person named in the information as the person who furnished the information is, in the absence of evidence to the contrary, regarded for the purposes of this Ordinance as the person who furnished the information; and

(b) a person named in the information as the person who made a statement or declaration contained in the information is, in the absence of evidence to the contrary, regarded for the purposes of this Ordinance as the person who made the statement or declaration."

3. Safekeeping of security device

Section 2B is amended by repealing everything after "device -" and substituting -

"(a) shall not authorize or allow any other person to use the device in connection with the sending of information to an approved body under this Ordinance using services provided by a specified body;

(b) shall take all reasonable steps and exercise due diligence to prevent any other person from using the device in connection with the sending of information to an approved body under this Ordinance using services provided by a specified body."

Explanatory Memorandum

The object of this Bill is to amend various Ordinances, being Ordinances under the purview of the Secretary for Commerce and Industry, to provide for the use of electronic means or for the use of electronic services provided by a particular electronic services provider in carrying out certain transactions under those Ordinances.

Amendment of Import and Export Ordinance

2. Clause 2 and Schedule 1 amend the Import and Export Ordinance (Cap. 60)("the Ordinance") to require the use of electronic services provided by a particular electronic services provider in sending certain information under the Ordinance and to require that the manifest of any cargo imported into or exported from Hong Kong shall be furnished to the Director-General of Trade and Industry ("the Director").

3. Section 1 of Schedule 1 amends section 2 of the Ordinance ("Interpretation"). The definition of "manifest" is amended to reflect the fact that manifests may be prepared in electronic form, and the definition of "security device" is amended to make a drafting improvement. Definitions of newly introduced terms are added.

4. Sections 2 and 3 of Schedule 1 amend sections 2B and 2C of the Ordinance in relation to security devices to make drafting improvements.

5. Section 4, 5 and 6 of Schedule 1 amend section 8, 9 and 11 of the Ordinance respectively consequent on the introduction of new section 19A of the Ordinance (see paragraph 8 below), and also to require the use of electronic services provided by a particular electronic services provider (referred to in the Ordinance as "services provided by a specified body") in delivering a copy or extract of a manifest to the Director under those sections. The existing requirement for certification of the copy or extract of the manifest is removed.

6. Section 7 of Schedule 1 amends section 15 of the Ordinance to extend its application to the owner of an aircraft, and to specify the manner of production of a manifest under the section of the Ordinance.
7. Section 8 of Schedule 1 amends section 19(1) of the Ordinance so as to give effect within the Ordinance to an exclusion order made under section 11(1) of the Electronic Transactions Ordinance (Cap. 553) in relation to the section of the Ordinance.
8. Section 9 of Schedule 1 adds a new requirement (as section 19A of the Ordinance) that the Director shall be furnished with the manifest of the cargo imported or exported in every vessel, aircraft or vehicle arriving in or leaving Hong Kong, and shall be so furnished using services provided by a specified body.
9. Section 10 of Schedule 1 amends section 20B(6) of the Ordinance to provide for regulations to be made prescribing the information to be contained in any notice, notification or information given under section 20A or 20B of the Ordinance.
10. Section 11(1) of Schedule 1 amends the regulation-making power in section 31(1)(ia) of the Ordinance to allow regulations to be made providing for the Director to specify any form or requirement for giving information required to be given to the Director under the Ordinance.
11. Section 11(2) of Schedule 1 amends the regulation-making power under section 31 of the Ordinance to allow regulations to be made providing for the payment of fees and charges under the Ordinance in the case where information is sent using electronic services provided by a particular electronic services provider.
12. Section 12 of Schedule 1 adds a new section to the Ordinance empowering the Commissioner to specify the use of paper form in addition to or instead of the use of services provided by a specified body when furnishing information under the Ordinance.

13. Section 13 of Schedule 1 adds a transitional provision to the Ordinance in relation to the amendments effected by sections 4, 5, 6 and 9 of that Schedule requiring the use of services provided by a specified body. This transitional provision will allow information to be given in paper form, as an alternative to using services provided by a specified body, until a date to be specified by the Commissioner.

14. Section 14 of Schedule 1 repeals an earlier amendment to section 31(1)(aa) of the Ordinance. That amendment, which has not yet been brought into operation, is subsumed by the amendment effected by section 11(2) of Schedule 1 (see paragraph 11 above).

Amendment of Reserved Commodities Ordinance

15. Clause 3 and Schedule 2 amend the Reserved Commodities Ordinance (Cap. 296) ("the Ordinance") to provide for the use of electronic services provided by a particular electronic services provider in sending information, or receiving of information sent, under the Ordinance and to make other miscellaneous amendments relating to the use of electronic records generally under the Ordinance.

16. Section 1 of Schedule 2 amends section 2(1) of the Ordinance to introduce and define certain terms relevant to the use of a "recognized electronic service" under the Ordinance.

17. Section 2 of Schedule 2 adds new sections 2A to 2D to the Ordinance. Those sections provide for the specification of persons to be providers of recognized electronic services under the Ordinance (new section 2A(1)), for the use of agents in sending information using a recognized electronic service (new sections 2A(2) and 2D), for aids to proof in relation to information received by the Director-General of Trade and Industry ("the Director") that has been sent using a recognized electronic service (new section 2B) and for the use of

security devices in connection with recognized electronic services (new section 2C).

18. Section 3 of Schedule 2 amends the regulation-making power (section 3) under the Ordinance. This amendment will allow regulations to be made in relation to the use of recognized electronic services for giving information in respect of goods to which the Ordinance applies.

19. Section 4 of Schedule 2 adds new section 6A to the Ordinance to facilitate the admission and proof of electronic records in court proceedings.

20. Section 5 of Schedule 2 adds new section 10A to the Ordinance to provide for the application of powers of seizure and examination of documents conferred under section 10 of the Ordinance in relation to information in electronic form.

21. Section 6 of Schedule 2 adds a new section to the Ordinance empowering the Commissioner to specify the use of paper form in addition to or instead of the use of a recognized electronic service when furnishing information under the Ordinance.

Amendment of Industrial Training (Clothing Industry) Ordinance

22. Clause 4 and Schedule 3 amend the Industrial Training (Clothing Industry) Ordinance (Cap. 318) ("the Ordinance") to make drafting improvements to the definition of "security device" in section 2 of the Ordinance (section 1 of Schedule 3) and to the provisions relating to security devices in sections 30A and 30B of the Ordinance (sections 2 and 3 of Schedule 3).

Amendment of Protection of Non-Government Certificates of Origin Ordinance

23. Clause 5 and Schedule 4 amend the Protection of Non-Government Certificates of Origin Ordinance (Cap. 324) ("the Ordinance") to make drafting improvements to the definition of "security device" in section 2 of the Ordinance

(section 1 of Schedule 4) and to the provisions relating to security devices in sections 2A and 2B of the Ordinance (section 2 and 3 of Schedule 4).

**IMPORT AND EXPORT (GENERAL)(AMENDMENT)
REGULATION 2001**

(Made by the Chief Executive in Council under section 31
of the Import and Export Ordinance (Cap. 60))

**1. Delivery of import notification and
manifest to the Director**

(1) Regulation 6A(3) of the Import and Export (General) Regulations (Cap. 60 sub. leg.) is amended by repealing everything after "the textiles are imported" and substituting -

"-

- (a) deliver the import notification to the Director; and
- (b) deliver to the Director, using services provided by a specified body, a copy or extract of the manifest of the vessel, aircraft or vehicle in or on which the textiles have been imported."

(2) Regulation 6A is amended by adding -

"(3A) The requirement under paragraph (3)(b) does not apply where at the time of delivering the import notification under paragraph (3)(a) the Director has been furnished with the manifest under section 19A(1) of the Ordinance."

**2. Delivery of export notification and manifest
to the Director**

(1) Regulation 6B(2) is amended by repealing everything after "the textiles are exported" and substituting -

"-

- (a) deliver the export notification to the Director; and
- (b) deliver to the Director, using services provided by a specified body, a copy or extract of the manifest of the vessel, aircraft or vehicle in or on which the textiles have been exported."

(2) Regulation 6B is amended by adding -

"(2A) The requirement under paragraph (2)(b) does not apply where at the time of delivering the export notification under paragraph (2)(a) the Director has been furnished with the manifest under section 19A(2) of the Ordinance."

3. Delivery of transshipment notification, manifest, etc., to the Director

(1) Regulation 6D(2) is amended by repealing everything after "the textiles are imported" and substituting -

"-

- (a) deliver the transshipment notification to the Director; and
- (b) deliver to the Director, using services provided by a specified body, a copy or extract of the manifest of the vessel, aircraft or vehicle in or on which the textiles have been imported."

(2) Regulation 6D(4) is amended by repealing everything after "the textiles are exported" and substituting -

"-

- (a) deliver the transshipment notification to the Director; and
- (b) deliver to the Director, using services provided by a specified body, a copy or extract of the manifest of the vessel, aircraft or vehicle in or on which the textiles have been exported."

(3) Regulation 6D is amended by adding -

"(4A) The requirement under paragraph (2)(b) or (4)(b) does not apply where at the time of delivering the transshipment notification under paragraph (2)(a) or (4)(a), as the case may be, the Director has been furnished with the manifest under section 19A(1) or (2) of the Ordinance, as may be appropriate."

4. Regulation added

The following is added-

"6H. Transitional

(1) During the period specified in paragraph (2), any provision in regulation 6A, 6B or 6D requiring information to be given using services provided by a specified body shall be construed as requiring the information to be given either in paper form or using services provided by a specified body.

(2) The period specified for the purposes of paragraph (1) is the period beginning with the commencement of the Import and Export (General) (Amendment) Regulation 2001 (L.N. of 2001) and ending at midnight on a date to be specified by the Commissioner for the purposes of this paragraph by notice published in the Gazette.

(3) A notice published under paragraph (2) may specify different dates in relation to different classes of persons or information.

(4) A notice published under paragraph (2) is subsidiary legislation."

Clerk to the Executive Council

COUNCIL CHAMBER

2001

Explanatory Note

This Regulation amends regulations 6A, 6B and 6D of the Import and Export (General) Regulations (Cap. 60 sub. leg.) ("the Regulations") to require the use of services provided by a specified body in delivering to the Director-General of Trade and Industry ("the Director") certain information under those provisions (sections 1, 2 and 3). These regulations are also amended consequent on the enactment of new section 19A of the Import and Export Ordinance (Cap. 60), which requires that the manifest of the cargo imported or exported in every vessel, aircraft or vehicle entering or leaving Hong Kong shall be furnished to the Director.

2. Section 4 adds a transitional provision to the Regulations in relation to the amendments effected by sections 1, 2 and 3 requiring the use of services provided by a specified body. That provision will allow information to be sent in paper form, as an alternative to using services provided by a specified body, until a date to be specified by the Commissioner of Customs and Excise.

**IMPORT AND EXPORT (REGISTRATION) (AMENDMENT)
REGULATION 2001**

(Made by the Chief Executive in Council under section 31
of the Import and Export Ordinance (Cap. 60))

1. Import manifests and other particulars

Regulation 11(2) of the Import and Export (Registration) Regulations (Cap. 60 sub. leg.) is repealed and the following substituted -

- "(2) Every manifest required to be lodged under paragraph (1) -
- (a) shall be lodged within 14 days after the arrival of the vessel, aircraft or vehicle within Hong Kong on the occasion concerned; and
 - (b) shall be lodged using services provided by a specified body."

2. Export manifests

Regulation 12(2) is repealed and the following substituted -

- "(2) Every manifest required to be lodged under paragraph (1) -
- (a) shall be lodged within 14 days after the departure of the vessel, aircraft or vehicle from Hong Kong on the occasion concerned; and
 - (b) shall be lodged using services provided by a specified body."

3. Safekeeping of security device

Regulation 13A(1) is amended by repealing everything after "device-" and substituting -

- "(a) shall not authorize or allow any other person to use the device in connection with the sending of information to the Commissioner under these regulations using services provided by a specified body;

- (b) shall take all reasonable steps and exercise due diligence to prevent any other person from using the device in connection with the sending of information to the Commissioner under these regulations using services provided by a specified body."

4. Regulation added

The following is added -

"15. Transitional

(1) During the period specified in paragraph (2), any provision in regulation 11 or 12 requiring information to be given using services provided by a specified body shall be construed as requiring the information to be given either in paper form or using services provided by a specified body.

(2) The period specified for the purposes of paragraph (1) is the period beginning with the commencement of the Import and Export (Registration) (Amendment) Regulation 2001 (L.N. of 2001) and ending at midnight on a date to be specified by the Commissioner for the purposes of this paragraph by notice published in the Gazette.

(3) A notice published under paragraph (2) may specify different dates in relation to different classes of persons or information.

(4) A notice published under paragraph (2) is subsidiary legislation."

Clerk to the Executive Council

COUNCIL CHAMBER

2001

Explanatory Note

This Regulation amends the Import and Export (Registration) Regulations (Cap. 60 sub. leg.) ("the Regulations") to provide for the use of services provided by a specified body in lodging manifests under regulations 11 and 12, and to extend the period within which a manifest is required to be lodged under those regulations (sections 1 and 2).

2. Section 3 amends regulation 13A(1) of the Regulations in relation to security devices to make a drafting improvement.

3. Section 4 adds a transitional provision to the Regulations in relation to the amendments effected by sections 1 and 2 requiring the use of services provided by a specified body. This provision will allow information to be sent in paper form, as an alternative to using services provided by a specified body, until a date to be specified by the Commissioner of Customs and Excise.

**IMPORT AND EXPORT (REMOVAL OF ARTICLES) (AMENDMENT)
REGULATION 2001**

(Made by the Chief Executive in Council under section 31
of the Import and Export Ordinance (Cap. 60))

1. Interpretation

Regulation 2 of the Import and Export (Removal of Articles) Regulations (Cap. 60 sub. leg.) is repealed.

2. Regulations substituted

Regulations 3 and 4 are repealed and the following substituted -

"3. Notice etc. under section 20A

(1) A notice under section 20A(2) of the Ordinance shall contain the information specified in Part 1 of Schedule 1.

(2) A notification of permission under section 20A(4)(a) of the Ordinance shall contain the information specified in Part 2 of Schedule 1.

4. Notice etc. under section 20B

(1) A notice under section 20B(1) of the Ordinance shall contain the information specified in Part 1 of Schedule 2.

(2) The information required to be given in writing under section 20B(3)(b) of the Ordinance shall include the matters specified in Part 2 of Schedule 2."

3. Use of forms

Regulation 5 is repealed.

4. Service of notice

(1) Regulation 6(1) is amended by adding -

"(ba) by sending it to him using services provided by a specified body;"

(2) Regulation 6 is amended by adding -

"(3) In this regulation, reference to a notice under section 20A or 20B of the Ordinance is a reference to a notice, notification or information under those sections."

5. Schedule substituted

The Schedule is repealed and the following substituted -

"SCHEDULE 1

[s. 3]

INFORMATION TO BE INCLUDED IN NOTICE ETC.
UNDER SECTION 20A OF THE ORDINANCE

PART 1

NOTICE UNDER SECTION 20A(2) OF THE ORDINANCE

1. The name of the owner of vessel, aircraft or vehicle on which the article was found to be.
2. The place designated by the owner for the purposes of section 20A(2)(a) of the Ordinance.
3. The name of the occupier of the place designated by the owner for the purposes of section 20A(2)(a) of the Ordinance.
4. A description of the article, and its quantity.
5. Any identification mark of the article.
6. If the article was carried by -
 - (a) a vessel, the vessel name and voyage number (if any);
 - (b) an aircraft, the flight number;
 - (c) a vehicle, the registration or identification number of the vehicle and, if the vehicle was a train, the wagon number (if any).

7. If the article was carried in a container, the number of the container (if any).
8. The date of arrival in Hong Kong of the vessel, aircraft or vehicle carrying the article.
9. The place of loading of the article on the vessel, aircraft or vehicle.
10. The number of the bill of lading, air waybill or delivery order relating to the article.
11. The name and rank of the officer giving the notice.
12. The date and time of giving the notice.

PART 2

NOTIFICATION OF PERMISSION UNDER SECTION 20A(4)(a) OF THE ORDINANCE

1. The name of the owner of vessel, aircraft or vehicle on which the article was found to be.
2. The place designated by the owner for the purposes of section 20A(2)(a) of the Ordinance.
3. The name of the occupier of the place designated by the owner for the purposes of section 20A(2)(a) of the Ordinance.
4. A description of the article, and its quantity.
5. Any identification mark of the article.
6. If the article was carried by -
 - (a) a vessel, the vessel name and voyage number (if any);
 - (b) an aircraft, the flight number;

- (c) a vehicle, the registration or identification number of the vehicle and, if the vehicle was a train, the wagon number (if any).
7. If the article was carried in a container, the number of the container (if any).
 8. The date of arrival in Hong Kong of the vessel, aircraft or vehicle carrying the article.
 9. The place of loading of the article on the vessel, aircraft or vehicle.
 10. The number of the bill of lading, air waybill or delivery order relating to the article.
 11. The name and rank of the officer giving the notification of permission.
 12. The date and time of giving the notification of permission.

SCHEDULE 2

[s. 4]

INFORMATION TO BE INCLUDED IN NOTICE ETC. UNDER SECTION 20B OF THE ORDINANCE

PART 1

NOTICE UNDER SECTION 20B(1) OF THE ORDINANCE

1. The name of the consignee of the article.
2. If the article is a prohibited article in transit, the name of the owner of the vessel, aircraft or vehicle carrying the article.
3. The premises nominated by the consignee or the owner for the purposes of section 20B(1) of the Ordinance.

4. The name of the occupier of the premises nominated by the consignee or the owner for the purposes of section 20B(1) of the Ordinance.
5. A description of the article, and its quantity.
6. Any identification mark of the article.
7. If the article was carried by -
 - (a) a vessel, the vessel name and voyage number (if any);
 - (b) an aircraft, the flight number;
 - (c) a vehicle, the registration or identification number of the vehicle and, if the vehicle was a train, the wagon number (if any).
8. If the article was carried in a container, the number of the container (if any).
9. The date of arrival in Hong Kong of the vessel, aircraft or vehicle carrying the article.
10. The place of loading of the article on the vessel, aircraft or vehicle.
11. The number of the bill of lading, air waybill or delivery order relating to the article.
12. Any condition imposed under section 20B(5) of the Ordinance.
13. The name and rank of the officer giving the notice.
14. The date and time of giving the notice.

PART 2
INFORMATION UNDER SECTION 20B(3)(b) OF THE ORDINANCE

1. The name of the consignee of the article.
2. If the article is a prohibited article in transit, the name of the owner of the vessel, aircraft or vehicle carrying the article.
3. The premises nominated by the consignee or the owner for the purposes of section 20B(1) of the Ordinance.
4. The name of the occupier of the premises nominated by the consignee or the owner for the purposes of section 20B(1) of the Ordinance.
5. A description of the article, and its quantity.
6. Any identification mark of the article.
7. If the article was carried by -
 - (a) a vessel, the vessel name and voyage number (if any);
 - (b) an aircraft, the flight number;
 - (c) a vehicle, the registration or identification number of the vehicle and, if the vehicle was a train, the wagon number (if any).
8. If the article was carried in a container, the number of the container (if any).
9. The date of arrival in Hong Kong of the vessel, aircraft or vehicle carrying the article.
10. The place of loading of the article on the vessel, aircraft or vehicle.

11. The number of the bill of lading, air waybill or delivery order relating to the article.
12. Any condition imposed under section 20B(5) of the Ordinance.
13. The name and rank of the officer giving the information.
14. The date and time of giving the information."

Clerk to the Executive Council

COUNCIL CHAMBER

2001

Explanatory Note

This Regulation amends the Import and Export (Removal of Articles) Regulations (Cap. 60 sub. leg.) to specify the information to be contained in notices issued under sections 20A and 20B of the Import and Export Ordinance (Cap. 60)(sections 2 and 5), and to provide for the use of services provided by a specified body in serving such notices (section 4).

**RESERVED COMMODITIES (CONTROL OF IMPORTS,
EXPORTS AND RESERVE STOCKS) (AMENDMENT)
REGULATION 2001**

(Made by the Chief Executive in Council under section 3
of the Reserved Commodities Ordinance (Cap. 296))

**1. Delivery of import licence and manifest to
the Director**

(1) Regulation 5(2)(b) of the Reserved Commodities (Control of Imports, Exports and Reserve Stocks) Regulations (Cap. 296 sub. leg.) is repealed and the following substituted -

"(b) shall, within 7 days after receiving the import licence -

(i) deliver the import licence to the Director; and

(ii) deliver to the Director, using a recognized electronic service, a copy or extract of the manifest of the vessel, aircraft or vehicle in or on which the reserved commodity was imported."

(2) Regulation 5 is amended by adding -

"(3) The requirement under paragraph (2)(b)(ii) does not apply where at the time of delivering the import licence under paragraph (2)(b)(i) the Director has been furnished with the manifest under section 19A(1) of the Import and Export Ordinance (Cap. 60)."

**2. Delivery of import licence and manifest in
case of part shipment**

(1) Regulation 6(1)(a) is amended by repealing "註明" and substituting "批署".

(2) Regulation 6(2) is amended by repealing "註明" where it first appears and substituting "批署".

(3) Regulation 6(2)(b) is amended by repealing everything after "declaration -" and substituting -

- "(i) endorse the licence and return it to the person to whom it was issued;
- (ii) deliver the declaration to the Director; and
- (iii) deliver to the Director, using a recognized electronic service, a copy or extract of the manifest of the vessel, aircraft or vehicle in or on which the reserved commodity was imported."

(4) Regulation 6 is amended by adding -

"(2A) The requirement under paragraph (2)(b)(iii) does not apply where at the time of delivering the declaration under paragraph (2)(b)(ii) the Director has been furnished with the manifest under section 19A(1) of the Import and Export Ordinance (Cap. 60)."

3. Delivery of export licence and manifest to the Director

(1) Regulation 8(2) is amended by repealing everything after "the reserved commodity is exported" and substituting -

"-

- (a) deliver the export licence to the Director; and
- (b) deliver to the Director, using a recognized electronic service, a copy or extract of the manifest of the vessel, aircraft or vehicle in or on which the reserved commodity has been exported."

(2) Regulation 8 is amended by adding -

"(3) The requirement under paragraph (2)(b) does not apply where at the time of delivering the export licence under paragraph (2)(a) the Director has been furnished with the manifest under section 19A(2) of the Import and Export Ordinance (Cap. 60)."

4. Transitional

(1) Regulation 26 is amended by renumbering it as regulation 26(1).

(2) Regulation 26 is amended by adding -

"(2) Any provision in regulation 5, 6 or 8 requiring information to be given using a recognized electronic service shall, during the period specified in paragraph (3), be construed as requiring the information to be given either in paper form or using a recognized electronic service.

(3) The period specified for the purposes of paragraph (2) is the period beginning with the commencement of the Reserved Commodities (Control of Imports, Exports and Reserve Stocks) (Amendment) Regulation 2001 (L.N. of 2001) and ending at midnight on a date to be specified by the Commissioner for the purposes of this paragraph by notice published in the Gazette.

(4) A notice published under paragraph (3) may specify different dates in relation to different classes of persons or information.

(5) A notice published under paragraph (3) is subsidiary legislation."

Clerk to the Executive Council

COUNCIL CHAMBER

2001

Explanatory Note

This Regulation amends regulations 5, 6 and 8 of the Reserved Commodities (Control of Imports, Exports and Reserve Stocks) Regulations (Cap. 296 sub. leg.)("the Regulations") to require the use of a recognized electronic service in giving certain information to the Director-General of Trade and Industry ("the Director") under those regulations (section 1, 2 and 3).

2. Regulations 5, 6 and 8 of the Regulations are further amended consequent on the enactment of new section 19A of the Import and Export Ordinance (Cap. 60). That section requires that the manifest of the cargo imported or exported in every vessel, aircraft or vehicle entering or leaving Hong Kong shall be furnished to the Director.

3. Section 4 amends regulation 26 of the Regulations to add a transitional provision in relation to the amendments effected by sections 1, 2 and 3 requiring the use of a recognized electronic service. This provision will allow information to be sent in paper form, as an alternative to using a recognized electronic service, until a date to be specified by the Commissioner of Customs and Excise.

Chapter: 60	Title: IMPORT AND EXPORT ORDINANCE	Gazette Number: L.N. 173 of 2000
Section: 2	Heading: Interpretation	Version Date: 01/07/2000

Remarks:

Adaptation amendments retroactively made - see 66 of 2000 s. 3

- In this Ordinance, unless the context otherwise requires-
- "air consignment note" (航空托運單) and "air waybill" (空運提單) mean any document which-
- (a) bears the signature of the owner, operator, charterer, authorized agent or commander of an aircraft; and
 - (b) records particulars of a contract for the consignment of cargo in an aircraft;
- "air transshipment cargo" (航空轉運貨物) means transshipment cargo that is both imported and consigned for export in an aircraft and which, during the period between its import and export, remains within the cargo transshipment area of Hong Kong International Airport; (Added 29 of 2000 s. 2)
- "aircraft" (飛機) means any machine which can derive support in the atmosphere from reactions of the air;
- "appointed officer" (獲委任人員) means a person appointed by the Director under section 4A; (Added L.N. 294 of 1982)
- "article in transit" (過境物品) means an article which-
- (a) is brought in to Hong Kong solely for the purpose of taking it out of Hong Kong; and
 - (b) remains at all times in or on the vessel or aircraft in or on which it is brought into Hong Kong; (Amended 40 of 1996 s. 2)
- "authorized officer" (獲授權人員) means a person authorized by the Commissioner under section 4; (Amended L.N. 294 of 1982)
- "bill of lading" (提單) means any document which-
- (a) bears the signature of-
 - (i) the owner, charterer, agent or master of a ship; or
 - (ii) the owner, hirer or person in charge of a vehicle; and
 - (b) records particulars of a contract for the consignment of cargo in a vessel or vehicle;
- "cargo" (貨物) means any article which is imported or exported other than-
- (a) the necessary equipment, stores or fuel of the vessel, aircraft or vehicle in or on which the article is imported or exported;
 - (b) food and other provisions reasonably required for consumption by the crew or passengers of such vessel, aircraft or vehicle;
 - (c) items of personal property reasonably required for the personal use of the crew or passengers of such vessel, aircraft or vehicle;
 - (d) any document relating to-
 - (i) the carriage of cargo in or on such vessel, aircraft or vehicle; or
 - (ii) the inter-office business transactions of the owner of such vessel, aircraft or vehicle;
 - (e) articles imported or exported by a passenger of such vessel, aircraft or vehicle, in his personal baggage or carried by him; and (Added 78 of 1979 s. 2)
 - (f) any article in transit unless such article is a prohibited article not falling under paragraphs (a) to (e); (Added 65 of 1991 s. 2)
- "cargo transshipment area of Hong Kong International Airport" (機場貨物轉運區) means-
- (a) any part of Hong Kong International Airport that is designated under section 35 of the Aviation Security Ordinance (Cap 494) as a restricted area; and
 - (b) any area approved by the Commissioner of Customs and Excise under section 2AA;

(Added 29 of 2000 s. 2)

"claimant" (聲請人) means a person-

- (a) who claims to be the owner of an article, vessel or vehicle liable to forfeiture under Part VI;
- (b) who is the authorized agent of a person claiming to be the owner of an article, vessel or vehicle liable to forfeiture under Part VI;
- (c) who was in possession of an article, vessel or vehicle at the time of seizure of the article, vessel or vehicle liable to forfeiture under Part VI; or
- (d) who claims to have a legal or equitable interest in an article, vessel or vehicle liable to forfeiture under Part VI,

and who makes a claim or petitions under that Part; (Added 62 of 1993 s. 2)

"commander" (機長) means, in respect of an aircraft, the member of the flight crew designated as commander of the aircraft by the operator thereof or, if no member of the flight crew is so designated, the person for the time being in command of the aircraft;

"Commissioner" (關長) means the Commissioner of Customs and Excise and any Deputy or Assistant Commissioner of Customs and Excise; (Added L.N. 294 of 1982. Amended 66 of 2000 s. 3)

"consign" (托運) means to deliver or transmit an article into the custody of a person for the purpose of delivery or transmission of the article by that person to another specified person;

"contraband" (違禁品) means an article which is exported, imported or otherwise dealt with contrary to the provisions of this Ordinance or any other law controlling the import or export of any article;

"court" (法庭、法院) includes a magistrate; (Added 1 of 1994 s. 2)

"Director" (署長) means the Director-General of Trade and Industry and, except where the expression "Director-General of Trade and Industry" (工業貿易署署長) is used, any Deputy or Assistant Director-General of Trade and Industry; (Replaced L.N. 294 of 1982. Amended L.N. 292 of 1989; L.N. 173 of 2000)

"domestic premises" (住用處所) means any premises or place used exclusively for residential purposes and constituting a separate household unit;

"export" (出口、輸出) means to take, or cause to be taken, out of Hong Kong any article;

"Hong Kong International Airport" (香港國際機場) means the airport referred to in section 5(1)(a) of the Airport Authority Ordinance (Cap 483); (Added 29 of 2000 s. 2)

"import" (進口、輸入) means to bring, or cause to be brought, into Hong Kong any article;

"licence" (許可證) means a licence, certificate, authorization or permit issued under the provisions of this Ordinance and includes a licence issued under this Ordinance which is sent to the licensee using services provided by a specified body; (Amended 30 of 1995 s. 2)

"manifest" (艙單) means a document prepared as a manifest containing the particulars prescribed under section 17 but does not include any document, containing the same or similar particulars, which is not specifically prepared as a manifest; (Replaced 62 of 1993 s. 2)

"master" (船長) means, in respect of a vessel, the person (except a pilot) having for the time being command or charge of the vessel;

"member of the Customs and Excise Service" (海關人員) means any person holding an office specified in Schedule 1 to the Customs and Excise Service Ordinance (Cap 342); (Amended 1 of 1994 s. 2)

"owner" (擁有人) means, other than for the purposes of Part VI-

- (a) in respect of an article, any person being or holding himself out to be the owner, importer, exporter, consignee, agent or person in possession of, or beneficially interested in, or having any control of, or power of disposition over, the article; and
- (b) in respect of a vessel, aircraft or vehicle-
 - (i) the registered owner and any person holding himself out to be the owner thereof;
 - (ii) any person acting as agent for the owner in connexion with the handling of cargo carried in or on the vessel, aircraft or vehicle;

- (iii) any person to whom the vessel, aircraft or vehicle has been chartered or hired; and
- (iv) any person having for the time being the control or management of the vessel, aircraft or vehicle;

"production notification" (生產通知書) means a notification required to be lodged under section 6AB(1); (Added 37 of 1999 s. 2)

"prohibited article" (禁運物品) means any article-

- (a) the import or export of which is prohibited under the provisions of this Ordinance;
- (b) the import or export of which is permitted subject to the terms and conditions of a licence; or
- (c) the import or export of which is prohibited or controlled under any other law, not being an article in transit which is excluded from such prohibition or control;

"reference number" (編號)-

- (a) in relation to a production notification, means the reference number assigned to the notification under section 6AB(2)(d);
- (b) in relation to a validated production notification, means the reference number assigned to the notification under section 6AC(2); (Added 37 of 1999 s. 2)

"security device" (保安裝置) means a device issued to a person by a specified body for the purpose of authenticating information to be sent using information technology services provided by the specified body; (Added 30 of 1995 s. 2)

"services provided by a specified body" (指明團體所提供的服務) means information technology services for the transmission of information to and from the Commissioner or the Director under this Ordinance, provided by a specified body; (Added 30 of 1995 s. 2)

"smuggling" (走私) means importing, exporting, unshipping, shipping, landing, loading, carrying, conveying or otherwise dealing with any article contrary to the provisions of this Ordinance or any other law controlling the import or export of any article; (Amended 22 of 1991 s. 3)

"specified agent" (指明代理人) means a body specified in Schedule 3; (Added 30 of 1995 s. 2)

"specified body" (指明團體) means a body specified in Schedule 2; (Added 30 of 1995 s. 2)

"transhipment cargo" (轉運貨物) means any imported article that-

- (a) is consigned on a through bill of lading or a through air waybill from a place outside Hong Kong to another place outside Hong Kong; and
- (b) is or is to be removed from the vessel, aircraft or vehicle in which it was imported and either returned to the same vessel, aircraft or vehicle or transferred to another vessel, aircraft or vehicle before being exported, whether it is or is to be transferred directly between such vessels, aircraft or vehicles or whether it is to be landed in Hong Kong after its importation and stored, pending exportation; (Added 29 of 2000 s. 2)

"unmanifested cargo" (未列艙單貨物) means any cargo which is not recorded in a manifest;

"validated production notification" (認可生產通知書) means a production notification validated under section 6AC(1); (Added 37 of 1999 s. 2)

"vehicle" (車輛) means every means of conveyance or of transit or other mobile apparatus used or capable of being used on land, whether on roads or rails and, in any way whatever, drawn or propelled or carried;

"vessel" (船隻) includes every description of vessel used in navigation for the carriage of persons or articles, whether or not the vessel is mechanically propelled and whether or not the vessel is towed or pushed by another vessel.

(Amended 65 of 1991 s. 2)

Chapter:	60	Title:	IMPORT AND EXPORT ORDINANCE	Gazette Number:	L.N. 589 of 1997
Section:	2B	Heading:	Authorization of information	Version Date:	01/01/1998

PART IA

SPECIAL PROVISIONS FOR USING SERVICES
PROVIDED BY A SPECIFIED BODY

(1) Where information received by the Commissioner or the Director was sent using services provided by a specified body, evidence which shows that the information was authenticated by the use of a security device is, in the absence of evidence to the contrary, proof that the person issued with the security device by the specified body-

- (a) furnished the information; or
- (b) made a statement or declaration contained in the information.

(2) Where information received by the Commissioner or the Director was sent using services provided by a specified body through a specified agent who has obtained an authorization in accordance with section 2D, a person named in the information as the one who furnished the information or who made a statement or declaration contained in the information is, in the absence of evidence to the contrary, regarded for the purposes of this Ordinance as the person who-

- (a) furnished the information; or
- (b) made the statement or declaration contained in the information.

(Part IA added 30 of 1995 s. 3)

Chapter:	60	Title:	IMPORT AND EXPORT ORDINANCE	Gazette Number:	
Section:	2C	Heading:	Safekeeping of security device	Version Date:	30/06/1997

A person who has been issued with a security device-

- (a) shall not authorize or suffer any other person to use; and
- (b) shall take all reasonable steps and exercise due diligence in preventing any other person from using,

the device for authenticating information to be sent to the Commissioner or the Director under this Ordinance using services provided by a specified body.

(Part IA added 30 of 1995 s. 3)

Chapter:	60	Title:	IMPORT AND EXPORT ORDINANCE	Gazette Number:	L.N. 173 of 2000
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(1) Subject to section 9, a person to whom an import licence has been issued under this Ordinance shall present the licence to the owner of the vessel, aircraft or vehicle in or on which the article is imported within 7 days after the article was imported.

(2) On presentation of an import licence pursuant to subsection (1), the owner of the vessel, aircraft or vehicle in or on which the article has been imported-

- (a) may release the article to the consignee, if he is satisfied that he is not prohibited from doing so under any condition of the import licence; and
- (b) shall, within 7 days after receiving the import licence, deliver it to the Director together with a copy or extract of the manifest of the vessel, aircraft or vehicle in or on which the article was imported, duly certified by him as a true copy or extract of the manifest.

(3) Any person who contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine of \$5000.

Chapter: 60	Title: IMPORT AND EXPORT ORDINANCE	Gazette Number:
Section: 9	Heading: Delivery of import licence and manifest in the case of part shipments	Version Date: 30/06/1997

(1) If an article which is imported forms part only of a consignment of articles in respect of which an import licence has been issued under this Ordinance, the person to whom the licence was issued shall present-

- (a) the import licence endorsed by him to this effect; and
- (b) a written declaration signed by him stating that the article which has been imported forms part only of a consignment of articles in respect of which the licence was issued,

to the owner of the vessel, aircraft or vehicle in or on which the article was imported within 7 days after the article was imported.

(2) The owner of the vessel, aircraft or vehicle, on receiving from a licensee an endorsed import licence and written declaration pursuant to subsection (1)-

- (a) may release the article to the consignee, if he is satisfied that he is not prohibited from doing so under any condition of the import licence; and
- (b) shall, within 7 days after receiving the import licence and written declaration-
 - (i) endorse the licence and return it to the person to whom it was issued; and
 - (ii) deliver the written declaration to the Director together with a copy or extract of the manifest of the vessel, aircraft or vehicle in or on which the article was imported, duly certified by him as a true copy or extract of the manifest.

(3) The written declaration referred to in subsections (1) and (2) shall be made in such form as the Director may specify from time to time.

(4) Any person who contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine of \$5000.

Chapter: 60	Title: IMPORT AND EXPORT ORDINANCE	Gazette Number: L.N. 589 of 1997
Section: 11	Heading: Delivery of export licence and manifest to the Director	Version Date: 01/01/1998

(1) When a licence has been issued under this Ordinance for the export of an article, the owner of the article shall, before it is exported-

- (a) where the licence has been issued on paper, deliver the licence to the owner of the vessel, aircraft or vehicle in or on which he intends to export it; or
- (b) where the licence has not been issued on paper, inform the owner of the vessel, aircraft or vehicle in or on which he intends to export it-
 - (i) the licence number; and
 - (ii) the reference number used to identify the application for the licence when the application was sent to the Director using services provided by a specified body.

(2) The owner of the vessel, aircraft or vehicle in or on which an article in respect of which an export licence has been issued under this Ordinance is exported shall, within 14 days after the day on which the article is exported-

- (a) where he has obtained a notification sent by the Director under section 10(1)(b) that is still in force, deliver to the Director a certified copy or certified extract of the manifest of the vessel, aircraft or vehicle in or on which the article has been exported, stating on the copy or extract the export licence number in respect of the article exported; or
- (b) in any other case, deliver the export licence to the Director, together with a certified copy or certified extract of the manifest of the vessel, aircraft or vehicle in or on which the article has been exported.

(3) Any person who contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine of \$5000.

(Amended 30 of 1995 s. 6)

Chapter: 60	Title: IMPORT AND EXPORT ORDINANCE	Gazette Number:
Section: 15	Heading: Duty to provide particulars of all cargo	Version Date: 30/06/1997

(1) The master or agent of a vessel, the commander of an aircraft, the person in charge of a vehicle (other than a train) and, in the case of cargo carried by train, the handling agent in Hong Kong for such cargo shall, on entering or leaving Hong Kong- (Amended 36 of 1983 s. 3)

- (a) furnish any member of the Customs and Excise Service of or above the rank of Inspector a manifest in respect of the cargo being imported or exported in or on the vessel, aircraft or vehicle if he is requested to do so by any such member of the Customs and Excise Service; and (Amended 46 of 1977 s. 17; 36 of 1983 s. 3; 62 of 1993 s. 6)
- (b) allow any member of the Customs and Excise Service to board the vessel, aircraft or vehicle, inspect the cargo and search the vessel for contraband.

(2) Any person who contravenes subsection (1)(a) or (b) shall be guilty of an offence and shall be liable on conviction to a fine of \$1000 and to imprisonment for 1 month.

Chapter:	60	Title:	IMPORT AND EXPORT ORDINANCE	Gazette Number:	
Section:	19	Heading:	Written list showing ports of call to be furnished to the Commissioner	Version Date:	30/06/1997

(1) The owner of any vessel shall, if required to do so by the Commissioner, an authorized officer or a member of the Customs and Excise Service, furnish forthwith to the Commissioner or to the authorized officer or member of the Customs and Excise Service, a written list showing, so far as the owner is aware, every port or place at which the vessel has called during the period of 3 months immediately preceding the date of its arrival in Hong Kong. (Amended L.N. 294 of 1982)

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine of \$200.

Chapter:	60	Title:	IMPORT AND EXPORT ORDINANCE	Gazette Number:	
Section:	20B	Heading:	Requirement that articles may be removed from vessel etc. for examination	Version Date:	30/06/1997

(1) Where any article is upon any vessel, aircraft or vehicle for importation into Hong Kong and an officer desires, in the exercise of his functions under section 20, to examine such article, but he is of the opinion that such article can be more conveniently examined after it has been removed from such vessel, aircraft or vehicle, he may give notice to the consignee of the article, or, in the case of an article in transit being a prohibited article, to the owner of the vessel, aircraft or vehicle, requiring the article to be removed for examination to premises specified in the notice, being premises nominated by the consignee or such owner, as the case may be.

(2) A copy of any notice given under subsection (1) shall, where the goods are to be removed to premises occupied by a person other than the consignee or such owner, as the case may be, be given also the person occupying such premises.

(3) The consignee or such owner, as the case may be, and, in the event of a copy of the notice being served upon any occupier under subsection (2), the occupier, shall not remove, or permit the removal of, the article from the premises specified in the notice given under subsection (1) until-

- (a) the article has been examined by an officer in accordance with the powers vested in such officer under section 20; or
- (b) an officer has informed such consignee, owner or occupier in writing that such examination is unnecessary.

(4) Where an article is removed to any premises pursuant to a notice given under subsection (1), it shall be the duty of-

- (a) every person in control of such premises to permit an officer to have access to the article and to examine it in accordance with the powers vested in such officer under section 20; and
- (b) the Commissioner to ensure that such examination is made as soon as reasonably

practicable.

(5) It may be the condition of any notice given under subsection (1) that the article shall, at all times until it is examined by an officer under section 20, be guarded by an officer and if there is such a condition, an officer may enter upon any place where the article is and take such measures as are reasonably necessary to protect the article from interference.

(6) Notice under this section and section 20A shall be in such form and given in such manner as may be prescribed.

(Added 36 of 1983 s. 5. Amended 65 of 1991 s. 3)

Chapter: 60	Title: IMPORT AND EXPORT ORDINANCE	Gazette Number: L.N. 173 of 2000
Section: 31	Heading: Power to make regulations	Version Date: 01/07/2000

Remarks:

Adaptation amendments retroactively made - see 66 of 2000 s. 3

PART VII

REGULATIONS

(1) The Chief Executive in Council may make regulations for all or any or the following purposes- (Amended 66 of 2000 s. 3)

- (a) prohibiting the import and export of any article;
- (b) prohibiting the import and export of any article except under and in accordance with the terms and conditions of a licence;
- (c) providing for the issue of licences to import or export any article;
- (ca) empowering the Director to exempt any person from any requirement to obtain a licence to import or export any prohibited article; (Added 50 of 1984 s. 2)
- (cb) prescribing any article or a class or description of an article the import or export of which except under and in accordance with a licence is prohibited under this Ordinance; (Added 62 of 1993 s. 13)
- (d) prescribing conditions to be observed by any person before or after the issue of an import licence or an export licence;
- (e) imposing upon owners of ships, aircraft and vehicles, masters of ships, commanders of aircraft and persons in charge of vehicles such obligations in respect of manifests, bills of lading, air waybills, air consignment notes and such other similar matters as may be necessary for carrying into effect the provisions of this Ordinance;
- (f) imposing other conditions or restrictions on the import or export of any article;
- (g) imposing conditions or restrictions on any cargo placed in or on any vessel, aircraft or vehicle for the purpose of import or export;
- (h) controlling the examination and storage of articles imported or exported or about to be imported or exported;
- (i) requiring any person importing or exporting any article to give any specified information in respect of the article before or after it has been imported or exported;
- (ia) empowering the Commissioner to specify any form or requirement for giving information required to be given in respect of any imported or exported article; (Added 30 of 1995 s. 11)

- (j) regulating the movement within Hong Kong of any article which has been or is intended to be imported or exported or otherwise dealt with under the provisions of this Ordinance;
- (ja) providing for the imposition of conditions in the discretion of the Commissioner on the carriage of articles prescribed by the regulations or by the Director in accordance with the requirements of this Ordinance on or by vessels in the waters of Hong Kong including activities incidental to the transportation on land of the articles to the vessels and loading of such articles on to such vessels and for the issue of licences by the Commissioner to regulate all such activities; (Added 22 of 1991 s. 11. Amended 1 of 1994 s. 16)
- (k) providing for the issue of certificates in respect of the importing, exporting, producing, processing, manufacturing and composition of any article and for conditions which may be attached to such certificate;
- (l) providing for the issue of certificates in respect of preferential customs tariffs and for conditions which may be attached to such certificate;
- (m) providing for the registration of any person applying for the issue of any licence or validated production notification, or any person required to lodge a production notification or any other document under this Ordinance, or any combination thereof, and for conditions which may be attached to such registration; (Amended 37 of 1999 s. 6)
- (n) providing for the registration of any person importing, exporting, manufacturing, processing, storing, distributing, selling or dealing with any article in respect of which any licence or validated production notification may be issued, or in respect of which any production notification or other document is required to be lodged under this Ordinance, or any combination thereof, and for the conditions which may be attached to the registration of any such person; (Amended 37 of 1999 s. 6)
- (o) providing for the registration of any premises-
 - (i) in respect of which any licence or validated production notification may be issued, or in respect of which any production notification or other document is required to be lodged under this Ordinance, or any combination thereof; or
 - (ii) connected with the importing, exporting, manufacture, processing, storage, distribution, sale or other dealing with any article in respect of which any licence or validated production notification may be issued, or in respect of which any production notification or other document is required to be lodged under this Ordinance, or any combination thereof,
 and prescribing any condition upon the registration of such premises; (Amended 37 of 1999 s. 6)
- (p) providing for the cancellation, revocation or suspension for any period of the registration of any person where the Director is satisfied that the person so registered has contravened any condition of any licence, validated production notification or other document issued under this Ordinance; (Amended 37 of 1999 s. 6)
- (q) providing for the imposition and administration of quota controls in respect of the import or export of any article;
- (r) providing for the sale or transfer of any quota and for the conditions under which any quota may be sold or transferred;
- (s) providing for the registration of any person involved in any dealing with an article on which any quota control is imposed and the transfer of any such registration from one person to another;
- (t) requiring importers, exporters, carriers, owners and manufacturers to furnish to the Director or any other specified public officer information for the purpose of compiling statistics of trade with any person or body of persons, corporate or unincorporate, carrying on business or other activities outside Hong Kong; (Amended 23 of 1998 s. 2)
- (u) prohibiting or controlling the publication or disclosure of information or particulars furnished to the Commissioner or the Director, an authorized officer, an appointed officer or a member of the Customs and Excise Service under this Ordinance;

- (ua) controlling the use of a security device issued by a specified body for authenticating information to be sent for the purposes of this Ordinance using services provided by a specified body; (Added 30 of 1995 s. 11)
- (ub) prohibiting the unauthorized sending of information for the purposes of this Ordinance by a specified agent on behalf of a person using services provided by a specified body; (Added 30 of 1995 s. 11)
- (v) providing for the verification of any particulars or information required to be furnished by any person under this Ordinance;
- (w) providing that any person who fails to submit any document or furnish any information to the Commissioner or the Director or other specified public officer within a prescribed period of time shall be liable to pay a prescribed sum of money, which sum shall be a civil debt due to and recoverable by the Government; (Amended 66 of 2000 s. 3)
- (x) prescribing fees to be collected by the Commissioner or the Director in respect of any matter arising under this Ordinance and generally to prescribe the mode and time of payment of such fees;
- (y) empowering the Director to determine the form of any licence and any undertaking required under this Ordinance;
- (z) providing that the Director-General of Trade and Industry may, by notice published in the Gazette, amend the Schedule to any regulation made under this Ordinance, other than a Schedule or a part of a Schedule referred to in section 6B(1) or 6F; (Amended L.N. 292 of 1989; 1 of 1994 s. 16; L.N. 173 of 2000)
- (za) requiring any person to whom a licence has been issued to keep such records or documents as may be prescribed or as the Director may determine; (Added 3 of 1973 s. 3)
- (zb) providing for any matter required or permitted by Part IIA to be prescribed by or provided for in the regulations; (Added 37 of 1999 s. 6)
- (zc) without prejudice to the generality of paragraph (z), specifying any matter referred to in paragraph (zb) in a Schedule to any regulation made under this Ordinance, and providing that the Director-General of Trade and Industry may, by order published in the Gazette, amend that Schedule; (Added 37 of 1999 s. 6. Amended L.N. 173 of 2000)
- (zd) empowering the Director to determine a process to be the process of manufacturing any specified textiles for the purposes of the definition of "production" in section 6AA(1); (Added 37 of 1999 s. 6)
- (ze) empowering the Director to specify a particular as material for the purposes of the definition of "material particular" in section 6AA(1); (Added 37 of 1999 s. 6)
- (aa) levying, with or without exception or exemption, a charge on persons or any category of persons who furnish particulars pursuant to any regulation made under this section, and prescribing the amount or method of ascertaining the amount of such charge and the mode and time of payment thereof;
- (ab) imposing or providing for the imposition of a pecuniary penalty, recoverable civilly, on any person who, being required under any regulation made under this Ordinance to lodge a declaration with the Commissioner in connexion with the import or export of any article, fails to lodge such a declaration or fails to lodge such a declaration within a prescribed period of time;
- (ac) empowering the Commissioner to waive the payment of any pecuniary penalty imposed under regulations made under paragraph (ab) and to refund any such pecuniary penalty which has been paid;
- (ad) empowering the Director to require an applicant for a licence to deposit with him, before the issue of a licence, such sum of money as the Director may specify;
- (ae) providing for the forfeiture to the Government by a magistrate of all or any of the sum of money deposited under regulations made under paragraph (ad); (Amended 66 of 2000 s. 3)

(af) prescribing any thing which is to be or may be prescribed under this Ordinance; and

(ag) generally for the better carrying out of the provisions and purposes of this Ordinance. (Amended L.N. 294 of 1982)

(2) Subject to subsection (3), regulations made under this section may provide that a contravention of any such regulation shall be an offence and may prescribe penalties therefor.

(3) Regulations made under this section may prescribe that a contravention or breach therefor shall be punishable by a fine not exceeding \$50000 and imprisonment for a term not exceeding 2 years. (Amended 60 of 1980 s. 5)

(4) No regulation made under paragraph (aa), (ab), (ac), (ad) or (ae) shall come into operation until it has been approved by resolution of the Legislative Council.

11. Power to make regulations

Section 31(1) is amended—

- (a) by adding—
 - "(ia) empowering the Commissioner to specify any form or requirement for giving information required to be given in respect of any imported or exported article;"
- (b) by adding—
 - "(ua) controlling the use of a security device issued by a specified body for authenticating information to be sent for the purposes of this Ordinance using services provided by a specified body;
 - (ub) prohibiting the unauthorized sending of information for the purposes of this Ordinance by a specified agent on behalf of a person using services provided by a specified body;"
- (c) in paragraph (aa), by repealing "the mode and time of" and substituting "prescribing for the".

12. Section added

The following is added—

"33A. Certificate of record of information sent using services provided by specified body

- (1) A document purporting—
 - (a) to be a copy of the record of any information sent using services provided by a specified body and produced from one of the Government's computer systems; and
 - (b) to be certified by the Commissioner or the Director,shall be admitted in any proceedings under this Ordinance before a court or magistrate on its production without further proof.
- (2) Where a document is produced and admitted as evidence under subsection (1)—
 - (a) the court or magistrate before which it is produced shall, until the contrary is proved, presume—
 - (i) that it was certified under subsection (1)(b);
 - (ii) that the document is a true copy of the record of information so sent; and
 - (iii) that the record was duly made at the time referred to in the document; and

Chapter:	296	Title:	RESERVED COMMODITIES ORDINANCE	Gazette Number:	L.N. 173 of 2000
Section:	2	Heading:	Interpretation	Version Date:	01/07/2000

Remarks:

Adaptation amendments retroactively made - see 65 of 2000 s. 3

- (1) In this Ordinance, unless the context otherwise requires-
- "aircraft" (飛機) means any machine which can derive support in the atmosphere from reactions of the air;
- "article in transit" (過境物品) means an article which-
- (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 or aircraft in or on which it is brought into Hong Kong; (Amended 42 of 1996 s. 2)
- "authorized officer" (獲授權人員) means a public officer authorized by the Commissioner under section 4; (Amended L.N. 294 of 1982)
- "Commissioner" (關長) means the Commissioner of Customs and Excise and any Deputy or Assistant Commissioner of Customs and Excise; (Added L.N. 294 of 1982. Amended 65 of 2000 s. 3)
- "Director" (署長) means the Director-General of Trade and Industry and any Deputy or Assistant Director-General of Trade and Industry; (Replaced L.N. 294 of 1982. Amended L.N. 292 of 1989; L.N. 173 of 2000)
- "domestic premises" (住用處所) means any premises or place used exclusively for residential purposes and constituting a separate household unit;
- "export" (出口) means to take or cause to be taken out of Hong Kong any article other than an article in transit;
- "import" (進口) means to bring or cause to be brought into Hong Kong any article other than an article in transit;
- "licence" (許可證) means a licence issued under regulations made under section 3;
- "member of the Customs and Excise Service" (香港海關人員) means any person holding an office specified in Schedule 1 to the Customs and Excise Service Ordinance (Cap 342); (Amended 13 of 1995 s. 2)
- "permit" (准許證) means a permit issued under regulations made under section 3;
- "registered" (註冊) means registered under regulations made under section 3;
- "reserved commodity" (儲備商品) means any commodity specified as a reserved commodity under regulations made under section 3;
- "sale" (售賣) and "purchase" (購買) include a sale and purchase by barter;
- "sale by retail" (以零售方式售賣) means every sale of an article other than a sale by wholesale;
- "sale by wholesale" (以批發方式售賣) means any sale of an article in whatever quantity for resale in the same form or state or as part of a manufactured product;
- "transshipment cargo" (轉運貨物) means any imported article that is consigned on a through bill of lading or a through air waybill from a place outside Hong Kong to another place outside Hong Kong and is or is to be removed from the vessel, vehicle or aircraft in which it was imported and either returned to the same vessel, vehicle or aircraft or transferred to another vessel, vehicle or aircraft before being exported, whether it is or is to be transferred directly between such vessels, vehicles or aircraft or whether it is to be landed in Hong Kong after its importation and stored pending exportation; (Added 51 of 1984 s. 2)
- "vehicle" (車輛) means every means of conveyance or of transit or other mobile apparatus used or

capable of being used on land whether on roads or rails and, in any way whatever, drawn or propelled or carried;

"vessel" (船隻) includes every description of vessel used in navigation for the carriage of persons or articles, whether or not the vessel is mechanically propelled and whether or not the vessel is towed or pushed by another vessel.

- (2) This Ordinance shall not apply to-
- (a) articles in transit; or
 - (b) transshipment cargo imported or exported by a person to whom an exemption relating to that transshipment cargo has been granted pursuant to regulations made under section 3(1)(ja). (Replaced 51 of 1984 s. 2)

Chapter:	296	Title:	RESERVED COMMODITIES ORDINANCE	Gazette Number:	65 of 2000
Section:	3	Heading:	Regulations	Version Date:	01/07/1997

Remarks:

Adaptation amendments retroactively made - see 65 of 2000 s. 3

(1) The Chief Executive in Council may make regulations for all or any of the following matters- (Amended 65 of 2000 s. 3)

- (a) specifying any article to be a reserved commodity for any purpose;
- (b) prohibiting or controlling the sale or purchase of any reserved commodity for the purpose of resale in or export from Hong Kong;
- (c) regulating or controlling the maximum price of any reserved commodity;
- (d) prohibiting, regulating or controlling the import or export of any reserved commodity;
- (e) prohibiting, regulating or controlling the movement or distribution of any reserved commodity;
- (f) prohibiting, regulating or controlling the storage of any reserved commodity;
- (g) restricting the sale by wholesale or retail of any reserved commodity to persons registered or holding licences or permits issued under the regulations;
- (h) restricting the sale of any reserved commodity either by an individual or generally by all persons dealing in such reserved commodity;
- (i) prohibiting, regulating or controlling the manufacture, processing or production of any reserved commodity either generally or as regards form, shape, quantity, quality, constituents or otherwise;
- (j) the issue of licences, permits and certificates and the registration of persons and premises for the purposes of this Ordinance;
- (ja) empowering the Director to exempt any person from any requirement to obtain a licence to import or export any reserved commodity; (Added 51 of 1984 s. 3)
- (k) the examination of reserved commodities stored or kept in any premises or in or on any vessel, aircraft or vehicle by or on behalf of any person;
- (l) information and particulars to be given in respect of reserved commodities;
- (m) fees and charges;
- (n) appeal to the Chief Executive against any decision of the Commissioner or the Director; (Amended L.N. 294 of 1982; 65 of 2000 s. 3)
- (o) generally for the better carrying out of the provisions and purposes of this Ordinance.

(2) Regulations under this section may provide that a contravention of any such regulation shall

be an offence and shall be punishable on conviction by a fine not exceeding \$100000 and imprisonment for a term not exceeding 2 years.

Chapter:	318	Title:	INDUSTRIAL TRAINING (CLOTHING INDUSTRY) ORDINANCE	Gazette Number:	23 of 1998; 56 of 2000
Section:	2	Heading:	Interpretation	Version Date:	01/07/1997

Remarks:

Adaptation amendments retroactively made-see 23 of 1998 s. 2; 56 of 2000 s. 3

In this Ordinance, unless the context otherwise requires-

"A.T.A. Carnet" (暫准進口證) means a document-

- (a) in the form set out in the annex to the Customs Convention on the A.T.A. Carnet for the temporary admission of goods (otherwise known as the A.T.A. Convention) agreed at Brussels on 6th December 1961, or set out in Appendix 1 to Annex A to the Convention on Temporary Admission agreed at Istanbul on 26th June 1990; or
- (b) in such other form as may from time to time be provided by any amendment to the A.T.A. Convention, so long as it applies to Hong Kong, or by any amendment to the Convention on Temporary Admission, so long as Hong Kong remains a contracting party to it; (Amended 2 of 1995 s. 2; 56 of 2000 s. 3)

"Authority" (訓練局) means the Clothing Industry Training Authority established by section 4;

"authorized officer" (獲授權人員) means an authorized officer under the Imports and Exports Ordinance (Cap 60);

"chairman" (主席) means the chairman of the Authority appointed under section 8;

"clothing industry" (製衣業) means the industry of manufacturing and marketing clothing items;

"clothing item" (成衣製品) means any item of apparel which is specified in Schedule 1 and manufactured in Hong Kong; (Amended 93 of 1993 s. 2)

"Commissioner" (關長) means the Commissioner of Customs and Excise and any Deputy or Assistant Commissioner of Customs and Excise; (Replaced L.N. 294 of 1982. Amended 56 of 2000 s. 3)

"export" (出口) means to take, or cause to be taken, out of Hong Kong any clothing item;

"exporter" (出口商) means a person who exports clothing items;

"F.O.B. value" (離岸價值) means value comprising the cost of clothing items to a buyer outside Hong Kong until the clothing items have been loaded onto the exporting ship, vehicle or aircraft; (Amended 23 of 1998 s. 2)

"financial year" (財政年度) means the period fixed by the Authority under section 15(2);

"levy" (徵費) means the clothing industry training levy prescribed under section 22;

"manufactured" (製造), in relation to a clothing item, includes any process involved in the manufacture of the item;

"member" (委員) means a member of the Authority appointed under section 7;

"security device" (保安裝置) means a device issued to a person by a specified body for the purpose of authenticating information to be sent using information technology services provided by the specified body; (Added 31 of 1995 s. 2)

"services provided by a specified body" (指定團體提供的服務), "specified agent" (指定代理人) and

"specified body" (指定團體) have the respective meanings assigned to them by the Import and Export Ordinance (Cap 60); (Added 31 of 1995 s. 2)
"surcharge" (附加費) means the surcharge under section 25(3).

Chapter:	318	Title:	INDUSTRIAL TRAINING (CLOTHING INDUSTRY) ORDINANCE	Gazette Number:	
Section:	30A	Heading:	Authorization of information	Version Date:	30/06/1997

(1) Where information received by the Commissioner was sent using services provided by a specified body, evidence which shows that the information was authenticated by the use of a security device is, in the absence of evidence to the contrary, proof that the person issued with the security device by the specified body-

- (a) provided or supplied the information; or
- (b) made a statement or declaration contained in the information.

(2) Where information received by the Commissioner was sent using services provided by a specified body through a specified agent who has obtained an authorization in accordance with section 30C, the person named in the information as the one who provided or supplied the information or who made a statement or declaration contained in the information is, in the absence of evidence to the contrary, regarded for the purposes of this Ordinance as the person who-

- (a) provided or supplied the information; or
- (b) made the statement or declaration contained in the information.

(Added 31 of 1995 s. 6)

Chapter:	318	Title:	INDUSTRIAL TRAINING (CLOTHING INDUSTRY) ORDINANCE	Gazette Number:	
Section:	30B	Heading:	Safekeeping of security device	Version Date:	30/06/1997

A person who has been issued with a security device-

- (a) shall not authorize or suffer any other person to use; and
- (b) shall take all reasonable steps and exercise due diligence in preventing any other person from using,

the device for authenticating information to be sent to the Commissioner under this Ordinance using services provided by a specified body.

(Added 31 of 1995 s. 6)

Chapter:	324	Title:	PROTECTION OF NON- GOVERNMENT CERTIFICATES OF ORIGIN ORDINANCE	Gazette Number:	L.N. 197 of 1999
Section:	2	Heading:	Interpretation	Version Date:	23/07/1999

Remarks:

Adaptation amendments retroactively made - see 65 of 2000 s. 3

In this Ordinance, unless the context otherwise requires-

"approved body" (認可機構) means a body specified in the Schedule; (Added 14 of 1990 s. 2)

"authorized officer" (獲授權人員) means an officer of the Customs and Excise Department authorized in writing by the Commissioner to carry out duties under this Ordinance; (Replaced L.N. 294 of 1982)

"certificate of origin" (產地來源證) means a certificate of origin issued under section 3;

"Commissioner" (關長) means the Commissioner of Customs and Excise and any Deputy or Assistant Commissioner of Customs and Excise; (Replaced L.N. 294 of 1982. Amended 65 of 2000 s. 3)

"country or territory of destination" (目的國家或地區) means the final country or territory of destination declared on a certificate of origin; (Added 14 of 1990 s. 2. Amended 65 of 2000 s. 3)

"domestic premises" (住用處所) means premises or place used exclusively for residential purposes and constituting a separate household unit; (Added 14 of 1990 s. 2)

"register" (登記冊) means any register maintained by any approved body under section 5; (Amended 14 of 1990 s. 10)

"security device" (保安裝置) means a device issued to a person by a specified body for the purpose of authenticating information to be sent using information technology services provided by the specified body; (Added 38 of 1999 s. 2)

"services provided by a specified body" (指明團體所提供的服務) means information technology services for the transmission of information to and from an approved body under this Ordinance, provided by a specified body; (Added 38 of 1999 s. 2)

"specified agent" (指明代理人) has the same meaning as in section 2 of the Import and Export Ordinance (Cap 60); (Added 38 of 1999 s. 2)

"specified body" (指明團體) has the same meaning as in section 2 of the Import and Export Ordinance (Cap 60). (Added 38 of 1999 s. 2)

(Amended 14 of 1990 s. 2)

Chapter:	324	Title:	PROTECTION OF NON- GOVERNMENT CERTIFICATES OF ORIGIN ORDINANCE	Gazette Number:	L.N. 197 of 1999
Section:	2A	Heading:	Authorization of information	Version Date:	23/07/1999

(1) Where information received by an approved body was sent using services provided by a specified body, evidence which shows that the information was authenticated by the use of a security device is, in the absence of evidence to the contrary, proof that the person issued with the security device

by the specified body-

- (a) furnished the information; or
- (b) made a statement or declaration contained in the information.

(2) Where information received by an approved body was sent using services provided by a specified body through a specified agent who has obtained an authorization in accordance with section 2C, a person named in the information as the one who furnished the information or who made a statement or declaration contained in the information is, in the absence of evidence to the contrary, regarded for the purposes of this Ordinance as the person who-

- (a) furnished the information; or
- (b) made the statement or declaration contained in the information.

(Added 38 of 1999 s. 3)

Chapter: 324	Title: PROTECTION OF NON-GOVERNMENT CERTIFICATES OF ORIGIN ORDINANCE	Gazette Number: L.N. 197 of 1999
Section: 2B	Heading: Safekeeping of security device	Version Date: 23/07/1999

A person who has been issued with a security device-

- (a) shall not authorize or suffer any other person to use; and
- (b) shall take all reasonable steps and exercise due diligence in preventing any other person from using,

the device for authenticating information to be sent to an approved body under this Ordinance using services provided by a specified body.

(Added 38 of 1999 s. 3)

Chapter: 60A	Title: IMPORT AND EXPORT (GENERAL) REGULATIONS	Gazette Number:
Regulation: 6A	Heading: Delivery of import notification and manifest to the Director	Version Date: 30/06/1997

(1) The owner of any vessel, aircraft or vehicle in or on which textiles are imported shall, subject to the terms and conditions of an exemption issued to a registered textiles trader under regulation 6(3A), retain possession of the textiles until the registered textiles trader produces to him an import notification or a transshipment notification.

(2) When a registered textiles trader relies on an exemption issued to him under regulation 6(3A) to import textiles, the registered textiles trader shall deliver an import notification to the owner of the vessel, aircraft or vehicle in or on which textiles are imported at the time when the textiles are imported and, on receipt of the import notification, the owner of the vessel, aircraft or vehicle may release the textiles to the consignee.

(3) The owner of the vessel, aircraft or vehicle in or on which textiles are imported under an exemption issued to a registered textiles trader under regulation 6(3A) and for which an import notification has been issued by the registered textiles trader shall, within 14 days after the day on which the textiles are imported, deliver the import notification to the Director, together with a certified copy or certified extract of the manifest of the vessel, aircraft or vehicle in or on which the textiles have been imported.

(4) Any person who contravenes paragraph (1) commits an offence and is liable on conviction to a fine of \$500000 and to imprisonment for 1 year.

(5) Any person who contravenes paragraph (2) commits an offence and is liable on conviction to a fine of \$500000 and to imprisonment for 2 years.

(6) Any person who contravenes paragraph (3) commits an offence and is liable on conviction to a fine of \$5000.

(L.N. 111 of 1993)

Chapter: 60A	Title: IMPORT AND EXPORT (GENERAL) REGULATIONS	Gazette Number:
Regulation: 6B	Heading: Delivery of export notification and manifest to the Director	Version Date: 30/06/1997

(1) When a registered textiles trader is to rely on the exemption issued to him under regulation 6(3A) to export textiles, the registered textiles trader shall, before the textiles are exported, deliver an export notification to the owner of the vessel, aircraft or vehicle in or on which he intends to export them.

(2) The owner of the vessel, aircraft or vehicle, in or on which textiles are exported under an exemption issued to a registered textiles trader under regulation 6(3A) and for which an export notification has been issued by the registered textiles trader shall, within 14 days after the day on which the textiles are exported, deliver the export notification to the Director, together with a certified copy or certified extract of the manifest of the vessel, aircraft or vehicle in or on which the textiles have been

exported.

(3) Any person who contravenes paragraph (1) commits an offence and is liable on conviction to a fine of \$500000 and to imprisonment for 2 years.

(4) Any person who contravenes paragraph (2) commits an offence and is liable on conviction to a fine of \$5000.

(L.N. 111 of 1993)

Chapter: 60A	Title: IMPORT AND EXPORT (GENERAL) REGULATIONS	Gazette Number:
Regulation: 6D	Heading: Delivery of transhipment notification, manifest, etc., to the Director	Version Date: 30/06/1997

(1) When a registered textiles trader relies on the exemption issued to him under regulation 6(3A) to import textiles as transhipment cargo, the registered textiles trader shall deliver a transhipment notification to the owner of the vessel, aircraft or vehicle in or on which the textiles are imported at the time the textiles are imported.

(2) The owner of the vessel, aircraft or vehicle in or on which textiles are imported under an exemption issued to a registered textiles trader under regulation 6(3A) and for which a transhipment notification has been issued by a registered textiles trader shall, within 14 days after the day on which the textiles are imported, deliver the transhipment notification to the Director, together with a certified copy or certified extract of the manifest of the vessel, aircraft or vehicle in or on which the textiles have been imported and a through bill of lading or air waybill under which the textiles have been imported.

(3) When a registered textiles trader is to rely on the exemption issued to him under regulation 6(3A) to export textiles as transhipment cargo, the registered textiles trader shall, before the textiles are exported, deliver a transhipment notification to the owner of the vessel, aircraft or vehicle in or on which he intends to export them.

(4) The owner of the vessel, aircraft or vehicle in or on which textiles are exported under an exemption issued to a registered textiles trader under regulation 6(3A) and for which a transhipment notification has been issued by a registered textiles trader shall, within 14 days after the day on which the textiles are exported, deliver the transhipment notification to the Director, together with a certified copy or certified extract of the manifest of the vessel, aircraft or vehicle in or on which the textiles have been exported and a thorough bill of lading or air waybill under which the textiles have been exported.

(5) Any person who contravenes paragraph (1) or (3) commits an offence and is liable on conviction to a fine of \$500000 and to imprisonment for 2 years.

(6) Any person who contravenes paragraph (2) or (4) commits an offence and is liable on conviction to a fine of \$5000.

(L.N. 111 of 1993)

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Chapter: 60E	Title: IMPORT AND EXPORT (REGISTRATION) REGULATIONS	Gazette Number:
Regulation: 11	Heading: Import manifests and other particulars	Version Date: 30/06/1997

PART III

MANIFESTS AND OTHER INFORMATION

(1) The manifest of the cargo imported in every vessel, aircraft or vehicle which arrives within Hong Kong shall- (L.N. 256 of 1984)

- (a) give such particulars of each article therein as may be prescribed by notice under section 17 of the Ordinance;
- (b) be completed in such manner and in such number of copies as the Commissioner may require; and
- (c) be lodged with the Commissioner or such other officer as he may appoint by the owner or master of the vessel, or the owner or commander of the aircraft, or the owner or person in charge of the vehicle (other than a train), or the person acting as the agent for the owner of goods carried by train, as the case may be. (L.N. 235 of 1973)

(2) Every manifest required to be lodged under paragraph (1) shall be lodged within 7 days after the arrival of the vessel, aircraft or vehicle within Hong Kong on the occasion concerned. (L.N. 256 of 1984)

(3)-(4) (Repealed L.N. 235 of 1973)

(5) Any person who, without reasonable excuse, lodges a manifest that, in contravention of paragraph (1), does not give all the particulars required by that paragraph in respect of any article specified in the manifest, or contravenes a requirement of the Commissioner under paragraph (1) shall be guilty of an offence and shall be liable on summary conviction to a fine of \$10000. (5 of 1971 s. 13)

(6) Any person who, being required to lodge a manifest under paragraph (1), fails or neglects, without reasonable excuse (the burden of proof whereof shall be upon him), to do so within the period specified in paragraph (2), or, where he has such excuse, fails or neglects to lodge such manifest as soon as is practicable after the cessation of such excuse, shall be guilty of an offence and shall be liable on summary conviction to a fine of \$1000, and, commencing on the day following the date of conviction, to a fine of \$100 in respect of every day during which his failure or neglect to lodge the manifest continues.

(L.N. 235 of 1973; L.N. 294 of 1982; L.N. 260 of 1983)

Chapter: 60E	Title: IMPORT AND EXPORT (GENERAL) REGULATIONS	Gazette Number:
Regulation: 12	Heading: Export manifests	Version Date: 30/06/1997

(1) The manifest of the cargo exported in every vessel, aircraft or vehicle which leaves Hong Kong shall- (L.N. 256 of 1984)

- (a) give such particulars of each article therein as may be prescribed by notice under section 17 of the Ordinance;
- (b) be completed in such manner and in such number of copies as the Commissioner may require; and

(c) be lodged with the Commissioner or such other officer as he may appoint by the owner or master of the vessel, or the owner or commander of the aircraft, or the owner or person in charge of the vehicle (other than a train), or the person acting as the agent for the owner of goods carried by train, as the case may be. (L.N. 235 of 1973)

(2) Every manifest required to be lodged under paragraph (1) shall be lodged not later than 7 days after the departure from Hong Kong of the vessel, aircraft or vehicle on the occasion concerned. (L.N. 256 of 1984)

(3) (Repealed L.N. 235 of 1973)

(4) Any person who, without reasonable excuse, lodges a manifest that, in contravention of paragraph (1), does not give all the particulars required by that paragraph in respect of any article specified in the manifest or contravenes a requirement of the Commissioner under paragraph (1) shall be guilty of an offence and shall be liable on summary conviction to a fine of \$10000. (5 of 1971 s. 13)

(5) Any person who, being required to lodge a manifest under paragraph (1), fails or neglects, without reasonable excuse, to do so within the period specified in paragraph (2), or, where he has such excuse, fails or neglects to lodge such manifest as soon as is practicable after the cessation of such excuse, shall be guilty of an offence and shall be liable on summary conviction to a fine of \$1000, and, commencing on the day following the date of conviction, to a fine of \$100 in respect of every day during which his failure or neglect to lodge the manifest continues.

(L.N. 235 of 1973; L.N. 294 of 1982; L.N. 260 of 1983)

Chapter: 60E	Title: IMPORT AND EXPORT (REGISTRATION) REGULATIONS	Gazette Number:
Regulation: 13A	Heading: Safekeeping of security device	Version Date: 30/06/1997

(1) A person who has been issued with a security device-

(a) shall not authorize or suffer any other person to use; and

(b) shall take all reasonable steps and exercise due diligence in preventing any other person from using,

the device for authenticating information to be sent to the Commissioner under these regulations using services provided by a specified body.

(2) Where a person who has been issued with a security device contravenes paragraph (1)(a) or (b), he commits an offence and is liable to a fine at level 3.

(L.N. 544 of 1995)

Chapter: 60F	Title: IMPORT AND EXPORT (REMOVAL OF ARTICLES) REGULATIONS	Gazette Number:
Regulation: 2	Heading: Interpretation	Version Date: 30/06/1997

In these regulations "form" (表格、格式) means a form prescribed in the Schedule.

Chapter: 60F	Title: IMPORT AND EXPORT (REMOVAL OF ARTICLES) REGULATIONS	Gazette Number:
Regulation: 3	Heading: Notice and permission under section 20A	Version Date: 30/06/1997

(1) A notice under section 20A(2) of the Ordinance shall be in the form prescribed in Part I of Form 1.

(2) Permission granted under section 20A(4) of the Ordinance to remove or permit the removal of the article to which Part I of Form 1 relates may be given in the form prescribed in Part II of Form 1.

Chapter: 60F	Title: IMPORT AND EXPORT (REMOVAL OF ARTICLES) REGULATIONS	Gazette Number:
Regulation: 4	Heading: Notice and permission under section 20B	Version Date: 30/06/1997

(1) A notice under section 20B(1) of the Ordinance shall be in the form prescribed in Part I of Form 2.

(2) For the purposes of section 20B(3)(b) of the Ordinance an officer may inform the consignee, the owner of the vessel, aircraft or vehicle or the occupier that an examination is unnecessary by an appropriate endorsement on Form 2 in the form prescribed in Part II thereof and if he examines the article he shall likewise make the appropriate endorsement. (L.N. 299 of 1991)

Chapter: 60F	Title: IMPORT AND EXPORT (REMOVAL OF ARTICLES) REGULATIONS	Gazette Number:
Regulation: 5	Heading: Use of forms	Version Date: 30/06/1997

(1) A form shall be used with such variations as the circumstances of the case may require and shall be signed by the officer by whom the notice is given.

(2) Particulars required to be stated in any form may be stated on a document annexed thereto signed by the officer who signs the form and any document so annexed shall be deemed to be part of the form.

Chapter: 60F	Title: IMPORT AND EXPORT (REMOVAL OF ARTICLES) REGULATIONS	Gazette Number: L.N. 370 of 1998
Regulation: 6	Heading: Services of notice	Version Date: 11/12/1998

- (1) A notice under section 20A or 20B of the Ordinance may be served on any person-
- (a) by delivery to him personally;
 - (b) by leaving it at, or by sending it by facsimile transmission to, his usual place of abode or business;
 - (c) in the case of a company as defined for the purposes of the Companies Ordinance (Cap 32), by leaving it at, or by sending it by facsimile transmission to, the registered office of the company;
 - (d) in the case of any body of persons, corporate or unincorporate, by leaving it at, or by sending it by facsimile transmission to, their principal place of business in Hong Kong.
- (2) Any notice served in accordance with subregulation (1) shall, in the absence of evidence to the contrary, be deemed to have been duly served. (L.N. 370 of 1998)
- (L.N. 370 of 1998)

Chapter: 60F	Title: IMPORT AND EXPORT (REMOVAL OF ARTICLES) REGULATIONS	Gazette Number:
Schedule:	Heading: SCHEDULE	Version Date: 30/06/1997

[regulations 2, 3 & 4]

FORM 1

[regulation 3]

IMPORT AND EXPORT ORDINANCE

(Chapter 60)

Notice given by a member of the Customs and Excise Service
prohibiting the removal of articles for the purpose of
establishing the identity of the
consignee of the articles

Serial No.

PART I

To:

(Owner of Vessel/Aircraft/Vehicle*)

Notice is hereby given under section 20A of the Import and Export Ordinance (Chapter 60) that you are prohibited from removing or permitting the removal of the article(s) described as follows-

Description and Quantity
.....
Identification Mark.....
Vessel/Flight No./Vehicle No.*.....
Container No. (if any).....
Date of Arrival Port of Loading
Bill of Lading/Air Waybill/Delivery Order No.*

from the said vessel/aircraft/vehicle* except to the place designated by you, namely,....., and where such article(s) is/are* to be stored in the said designated place, you and the occupier thereof, namely,....., are prohibited from removing or permitting the removal of such article(s) from the said designated place save in accordance with permission therefor.

Officer's name Officer's signature.....
Officer's rank..... Date Time.....
Telephone No.

Copy of this notice given to:
(Occupier of the storage place)

on(date)(time)

.....
Officer's signature

Note: (1) It shall be the duty of the person upon whom this notice is served and the occupier of the storage place if it is served on him, at any time prior to the grant of permission to remove or permit the removal of the article(s), upon obtaining information as to the identity or particulars of the consignee of the article to which the notice relates, being information not previously supplied by such person to the officer giving the notice, to supply such information to the officer specified in the notice. It is a criminal offence not to supply such information.

(2) It is a criminal offence-
(a) to fail to comply with this notice;
(b) where the notice is served on the occupier of any storage place for him to remove or permit the removal of the article without the permission of the officer giving this notice.

The maximum penalty is \$10000 and 6 months' imprisonment.

PART II

Permission is hereby granted for the removal of the article(s) described in Part I of this notice from the vessel/aircraft/vehicle* or the designated place* specified in Part I of this notice unconditionally/after examination under section 20 of the said Ordinance*.

Officer's name Officer's signature.....

Officer's rank..... Date Time.....

FORM 2

[regulation 4]

IMPORT AND EXPORT ORDINANCE

(Chapter 60)

Notice given by a member of the Customs and Excise Service
or an authorized officer requiring the removal of articles
to specified premises for examination

Serial No.

PART I

To:.....

(Consignee of the article(s)/Owner of vessel/aircraft/vehicle*)

1. Notice is hereby given under section 20B of the Import and Export Ordinance (Chapter 60) that you are required to remove the article(s) described as follows-

Description and Quantity

Identification Mark

Vessel/Flight No./Vehicle No.*

Container No. (if any).....

Date of Arrival Port of Loading

Bill of Lading/Air Waybill/Delivery Order No.*

from the said vessel/aircraft/vehicle* to the premises nominated by you, namely,....., for examination. You and the occupier thereof, namely,, are prohibited from removing or permitting the removal of such article(s) from the said nominated premises until the article(s) has/have* been examined by an officer/or* such examination is declared unnecessary by an officer.

2. It is a condition of this notice that the article(s) shall at all times until it is/they are examined by an officer under section 20 of the said Ordinance by guarded by an officer.

Officer's name Officer's signature.....

Officer's rank..... Date Time.....

Telephone No.

Copy of this notice given to:
(Occupier of the storage place)

on(date)(time)

.....
Officer's signature

- Note: (1) It is the duty of the person in control of the premises specified in Part I of this notice to permit an officer to have access to, and to examine, the article(s).
- (2) If paragraph 2 is applicable an officer may at any time enter upon the premises specified in Part I of this notice and take such measures as are reasonably necessary to protect the article(s) described in Part I of this notice from interference until the completion of examination.
- (3) It is an offence-
- (a) to fail to comply with this notice;
 - (b) for the consignee of the article(s) or the owner of the vessel, aircraft or vehicle, as the case may be, and, where this notice is served on the occupier of any storage place, for that occupier, to remove or permit the removal of the article(s) from the place specified in this notice until the article(s) is/are examined or an officer has informed such consignee, owner or occupier an examination is unnecessary.

The maximum penalty is \$10000 and 6 months' imprisonment.

PART II

Article(s) described in Part I of this notice examined/Examination of the article(s) described in Part I of this notice is unnecessary.*

Officer's name Officer's signature.....

Officer's rank..... Date Time.....

* Delete whichever is inapplicable.

(L.N. 299 of 1991; L.N. 360 of 1996)

Chapter: 296A	Title: RESERVED COMMODITIES (CONTROL OF IMPORTS, EXPORTS AND RESERVE STOCKS) REGULATIONS	Gazette Number:
Regulation: 5	Heading: Delivery of import licence and manifest to Director	Version Date: 30/06/1997

(1) Subject to regulation 6, a person to whom an import licence for a reserved commodity has been issued shall present the licence to the owner of the vessel, aircraft or vehicle in or on which the reserved commodity is imported within 7 days after the reserved commodity is imported.

(2) On presentation of an import licence pursuant to paragraph (1), the owner of the vessel, aircraft or vehicle in or on which the reserved commodity has been imported-

- (a) may release the reserved commodity to the consignee, if he is satisfied that he is not prohibited from doing so under any condition of the import licence; and
 - (b) shall, within 7 days after receiving the import licence, deliver it to the Director together with a copy or extract of the manifest of the vessel, aircraft or vehicle in or on which the reserved commodity was imported, duly certified by him as a true copy or extract of the manifest.
-

Chapter: 296A	Title: RESERVED COMMODITIES (CONTROL OF IMPORTS, EXPORTS AND RESERVE STOCKS) REGULATIONS	Gazette Number:
Regulation: 6	Heading: Delivery of import licence and manifest in case of part shipment	Version Date: 30/06/1997

(1) If a reserved commodity which is imported forms part only of a consignment of the reserved commodity in respect of which the licence has been issued, the person to whom the licence was issued shall present-

- (a) the import licence endorsed by him to this effect; and
- (b) a written declaration signed by him stating that the reserved commodity which has been imported forms part only of a consignment of that reserved commodity in respect of which the licence was issued,

to the owner of the vessel, aircraft or vehicle in or on which the reserved commodity was imported within 7 days after the reserved commodity is imported.

(2) The owner of the vessel, aircraft or vehicle, on receiving from a licensee an endorsed import licence and written declaration pursuant to paragraph (1)-

- (a) may release the reserved commodity to the consignee if he is satisfied that he is not prohibited from doing so under any condition of the import licence; and
- (b) shall, within 7 days after receiving the import licence and written declaration-
 - (i) endorse the licence and return it to the person to whom it was issued; and
 - (ii) deliver the written declaration to the Director together with a copy or extract of the manifest of the vessel, aircraft or vehicle in or on which the reserved commodity was imported, duly certified by him as a true copy or extract of the manifest.

(3) The written declaration referred to in paragraph (1) or (2) shall be made in such form as the Director may specify.

Chapter: 296A	Title: RESERVED COMMODITIES (CONTROL OF IMPORTS, EXPORTS AND RESERVE STOCKS) REGULATIONS	Gazette Number:
Regulation: 8	Heading: Delivery of export licence and manifest to the Director	Version Date: 30/06/1997

(1) Where a licence has been issued for the export of a reserved commodity, the owner of the reserved commodity shall, before it is exported, deliver the licence to the owner of the vessel, aircraft or vehicle in or on which he intends to export it.

(2) The owner of the vessel, aircraft or vehicle in or on which a reserved commodity in respect of which an export licence has been issued is exported shall, within 14 days after the day on which the reserved commodity is exported, deliver the export licence to the Director, together with a certified copy or certified extract of the manifest of the vessel, aircraft or vehicle in or on which the reserved commodity has been exported.

Chapter:	296A	Title:	RESERVED COMMODITIES (CONTROL OF IMPORTS, EXPORTS AND RESERVE STOCKS) REGULATIONS	Gazette Number:	
Regulation:	26	Heading:	Transitional	Version Date:	30/06/1997

Any person who at the commencement of these regulations was registered under the Import and Export (Reserved Commodities) Regulations (Cap 60 sub. leg.)* in respect of a reserved commodity shall be deemed to have been registered as a stockholder in that reserved commodity under regulation 13(1)(a).

* Repealed-see 12 of 1978 s. 14.
