

LEGISLATIVE COUNCIL BRIEF

IMPORT AND EXPORT (FACILITATION) BILL 2003

INTRODUCTION

A At the meeting of the Executive Council on 10 June 2003, the Council ADVISED and the Chief Executive ORDERED that the Import and Export (Facilitation) Bill 2003, at Annex A, should be introduced into the Legislative Council, to provide for the relaxation of import, export and transportation control on nine categories of articles.

JUSTIFICATIONS

Present arrangements

2. At present, 31 categories of articles are subject to licensing control on their import, export and transshipment¹, and in some cases, their storage or movement in Hong Kong. The controls are applied for reasons of fulfilling our international obligations, public health or safety, anti-smuggling, or protection of public revenue.

3. The following facilitation arrangements are already in place in respect of some categories of articles –

- (a) A great number of the 31 categories of articles are already exempted from licensing if they are brought into Hong Kong during their international transport movement and remain at all times in the same vessel or aircraft while in Hong Kong, i.e. articles in transit. Exceptions only include radiocommunications transmitting apparatus and sensitive strategic commodities.

¹ Transshipment cargoes mean cargoes which are imported into Hong Kong for the purpose of export, evidenced by shipping documents (e.g. through bills of lading).

- (b) For textiles, traders registered under the Textiles Trader Registration Scheme (TTRS) do not need to obtain a licence for import, export or transshipment of textiles. All these traders need to do is to provide a notification before import, export or transshipment.
- (c) For rice; frozen/chilled meat and poultry; and pharmaceutical products and medicines, carriers or freight forwarders registered under the Transshipment Cargo Exemption Scheme (TCES) are exempted from obtaining import and export licences for the transshipment of these cargoes. The freight forwarders only need to report to the Trade and Industry Department details of transshipments conducted in each month.
- (d) For plants, plant pests and soil; and endangered species, transshipment is exempted from licensing control subject to fulfilling certain conditions.
- (e) For some categories of articles, air-to-air transshipment does not require any licence, provided that the imported cargoes remain at all times in the restricted area of the airport while in Hong Kong before being exported by the same or a different flight.

Review of existing arrangements

4. We have reviewed the licensing requirement for each of the 31 categories of articles. We have examined carefully whether the justifications for the licensing requirement for each category are still valid and whether the requirement could be dispensed with or simplified.

5. The review concludes that –

- (a) the exemptions provided for the six categories of articles set out in paragraphs 3(b), (c) and (d) above (namely textiles; rice; frozen/chilled meat and poultry; pharmaceutical products and medicines; plants, plant pests and soil; and endangered species) should continue;

- (b) there is a need to maintain licensing requirement for another 12 categories of articles² to meet our international obligations (e.g. precursor chemicals), or because of the relatively high risk of the articles posing a health hazard or danger to the public (e.g. hazardous waste, dangerous drugs and dangerous goods), or because of the risk of abuse leading to public revenue loss (e.g. dutiable commodities). The existing level of control is still required to screen out problematic shipments in advance, and to enable control authorities to impose specific conditions on individual shipments case by case to ensure that the shipment is properly handled; and
- (c) the licensing control for the following 13 categories of articles may be removed entirely or partially, or replaced with a notification system. Details are as follows –

Removing licensing or export certification requirement entirely

- (i) television sets, video cassette recorders and video cassette players;
- (ii) air conditioners and refrigerators;
- (iii) poultry carcasses and poultry products;

Combining import and export licences or removing licences for all or specified modes of transshipment

- (iv) left hand drive vehicles;
- (v) outboard engines exceeding 111.9 kilowatts;
- (vi) ozone depleting substances;
- (vii) marine fish;
- (viii) radioactive substances and irradiating apparatus;
- (ix) strategic commodities;

Replacing licensing requirements with a notification system

- (x) optical disc mastering and replication equipment;
- (xi) radiocommunications transmitting apparatus;
- (xii) firearms and ammunition; and
- (xiii) pesticides.

² These are : equines; live animals (other than equines) and birds; animal carcasses and products; dutiable commodities; vehicles and vehicle parts; precursor chemicals; smokeless tobacco products and specified food materials; dangerous drugs; infectious goods; hazardous waste; sand; and dangerous goods (including explosives).

The existing licensing control on these articles and details of the proposed relaxation measures are set out at Annex B.

B

Implementation of review conclusions

6. The Bill will implement the relaxation measures in respect of nine of the 13 categories of articles listed in paragraph 5(c) above. Relaxation measures for the remaining four categories, namely, strategic commodities; pesticides; radioactive substances and irradiating apparatus; and firearms and ammunition, will be pursued separately³.

THE BILL

7. The Bill is in the form of an omnibus bill and seeks to give effect to the proposed relaxation measures by amending three Ordinances and seven regulations as set out in Schedules 1 to 5 to the Bill.

Provisions to remove licensing requirements

8. The import, export and carriage licences (as appropriate) for television sets, video cassette recorders and video cassette players; air conditioners and refrigerators; left hand drive vehicles; and outboard engines exceeding 111.9 kilowatts are repealed by **Sections 8, 9, 12 and 13 of Schedule 1** to the Bill (ref. Paragraphs 5(c)(i), 5(c)(ii), 5(c)(iv) and 5(c)(v))

³ For strategic commodities, a system of general licences to provide broad approval to traders in respect of specified shipments of less sensitive strategic commodities is being considered.

For pesticides, legislation to give effect to a new international convention which governs the international movement of hazardous substances (including pesticides) is being considered and transshipment facilitation will be considered in that context.

For radioactive substances and irradiating apparatus, the removal of import licence requirement for air-to-air transshipment is being considered. However, given the potential public health and safety risks, it is necessary to ensure that any streamlined procedure to facilitate the trade will not create loopholes for illegally shipped cargoes. Due to other high priority matters occurring recently, the legislative amendments relating to such relaxation (which will benefit only a very small number of transactions) and the necessary safeguard measures to be put in place would have to be given a lower priority for the time being. The matter will be pursued separately by the Health, Welfare and Food Bureau when ready.

For firearms and ammunition, an extension of the notification system currently provided for air and sea transshipment to land transshipment has been considered. Since relaxation of licensing control needs to be accompanied by storage and movement controls, thus bringing little benefit to traders, and there is currently no land transshipment of such articles, legislative amendments, if needed, will be considered by the Security Bureau later.

above).

9. The certification requirement for the export of poultry carcasses and poultry products is repealed by **Schedule 3** to the Bill (ref. Paragraph 5(c)(iii) above).

Provisions to combine import and export licences or remove licensing requirements for transshipment cargoes

10. The introduction of a licence for the import and export of ozone depleting substances (ref. Paragraph 5(c)(vi) above) is provided for by **Schedule 5** to the Bill which empowers the Director of Environmental Protection to issue a licence for the import and export of the substances and prescribe the licence fee for such licence. Consequential amendments to the Import and Export Ordinance and its subsidiary legislation are provided for in **Sections 1 and 11 of Schedule 1** to the Bill.

11. The requirements to submit notifications for the export of marine fish and the requirement to obtain landing, transportation and export permits for the transit or transshipment of marine fish are removed by **Schedule 4** to the Bill (ref. Paragraph 5(c)(vii) above).

Provisions to introduce a transshipment notification system

12. A transshipment notification system for optical disc mastering and replication equipment (ODMRE) (ref. Paragraph 5(c)(x) above) is introduced by **Sections 2, 3, 4, 6 and 10 of Schedule 1** to the Bill. **Sections 2, 3 and 10** provide that the import and export licensing requirement will not apply to ODMRE as transshipment cargo if a transshipment notification has been endorsed by the Commissioner for Customs and Excise for the equipment concerned and the endorsement remains in effect. The operation of the transshipment notification system for ODMRE is set out in **Section 4**. **Section 6** extends the offence of giving false or misleading information in trade documents to the commission of such offence in relation to a transshipment notification form for ODMRE.

13. For radiocommunications transmitting apparatus (ref. Paragraph 5(c)(xi) above), **Schedule 2** to the Bill extends the import and export permit exemption currently provided for air transit cargoes and air transshipment cargoes to radiocommunications transmitting apparatus that are articles in transit. In addition, it introduces a notification system for the transshipment of radiocommunications transmitting apparatus in lieu of the current import

and export permit requirement.

14. The existing provisions being amended are at Annex C.

C

LEGISLATIVE TIMETABLE

15. The legislative timetable will be –

| | |
|--|----------------|
| Publication in the Gazette | 13 June 2003 |
| First Reading and commencement of Second Reading debate | 25 June 2003 |
| Resumption of Second Reading debate, committee stage and Third Reading | to be notified |

IMPLICATIONS OF THE PROPOSAL

D
16. The proposal has economic, financial and civil service implications as set out at Annex D. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It will not affect the current binding effect of the relevant Ordinances. It has no sustainability implications.

PUBLIC CONSULTATION

17. We have consulted the Trade and Industry Advisory Board, the Small and Medium Enterprises Committee, the Business Advisory Group, the Advisory Council on the Environment, the Legislative Council Panel on Commerce and Industry as well as over 50 relevant trading and transport associations and companies. They all welcome the relaxation measures⁴.

PUBLICITY

18. A press release will be issued on 11 June 2003. A spokesman will

⁴ During our consultation, relaxation measures for radioactive substances and irradiating apparatus were planned to be included in the current exercise. Such measures will now be pursued separately as explained in Footnote 3.

be available to handle media enquiries.

ENQUIRY

19. Enquiries on this Legislative Council Brief may be directed to Mr. Gordon Leung, Principal Assistant Secretary for Commerce, Industry and Technology (Commerce and Industry) at telephone no. 2918 7575.

Commerce, Industry and Technology Bureau
11 June 2003

IMPORT AND EXPORT (FACILITATION) BILL 2003

ANNEXES

- Annex A - Import and Export (Facilitation) Bill 2003
- Annex B - List of relaxation measures
- Annex C - Existing provisions being amended
- Annex D - Implications of the proposal

IMPORT AND EXPORT (FACILITATION) BILL 2003

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A BILL

To

Facilitate the import and export of cargo, particularly of transshipment cargo, by amending certain Ordinances to remove or relax restrictions and controls imposed under those Ordinances on the transshipment, transit or carriage of such cargo, and to provide for incidental and connected matters.

Enacted by the Legislative Council.

1. Short title and commencement

(1) This Ordinance may be cited as the Import and Export (Facilitation) Ordinance 2003.

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

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

The Import and Export Ordinance (Cap. 60) and its subsidiary legislation are amended as specified in Schedule 1.

3. Amendment of Telecommunications Ordinance - (Schedule 2)

The Telecommunications Ordinance (Cap. 106) is amended as specified in Schedule 2.

4. Amendment of Poultry (Slaughtering for Export) Regulations - (Schedule 3)

The Poultry (Slaughtering for Export) Regulations (Cap. 139 sub. leg. E) is amended as specified in Schedule 3.

5. Amendment of Marine Fish (Marketing and Exportation) Regulations - (Schedule 4)

The Marine Fish (Marketing and Exportation) Regulations (Cap. 291 sub. leg. A) is amended as specified in Schedule 4.

6. Amendment of Ozone Layer Protection Ordinance and its subsidiary legislation - (Schedule 5)

The Ozone Layer Protection Ordinance (Cap. 403) and its subsidiary legislation are amended as specified in Schedule 5.

SCHEDULE 1

[s. 2]

AMENDMENT OF IMPORT AND EXPORT ORDINANCE
AND ITS SUBSIDIARY LEGISLATION

Import and Export Ordinance

1. Application of this Ordinance to Ozone Layer Protection Ordinance

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

- (a) in paragraph (a), by repealing "8, 9, 11,";
- (b) by adding -

"(aa) in sections 8 and 9 a reference to "import licence" or "licence" is a reference to an import licence or an import and export licence issued under the Ozone Layer Protection Ordinance (Cap. 403);

(ab) in section 11 a reference to "export licence" or "licence" is a reference to an export licence or an import and export licence issued under the Ozone Layer Protection Ordinance (Cap. 403);".

Import and Export (General) Regulations

2. Interpretation

Regulation 2 of the Import and Export (General) Regulations (Cap. 60 sub. leg. A) is amended -

(a) by repealing the definitions of "reference number" and "transhipment notification" and substituting -

"reference number" (編號) -

(a) in relation to an import notification, export notification or transhipment notification under Part VA, means the reference number assigned to it under regulation 6A(2)(a), 6BA(2)(a), 6BC(2)(a) or 6BE(2)(a) (as the case may be);

(b) in relation to a transshipment notification under Part VB, means the reference number assigned to it under regulation 6DAA(2)(a);
"transshipment notification" (轉運通知書) -

(a) in relation to textiles, means a transshipment notification in the form approved by the Director and completed by a registered textiles trader in accordance with the conditions imposed under regulation 6(3B);

(b) in relation to specified articles, means a transshipment notification in the form specified by the Commissioner and completed by a person who intends to rely on an exemption under regulation 6(1)(ba).";

(b) by adding -

"specified article" (指明物品) means an article specified in Schedule 9;".

3. **Application and exemption**

Regulation 6 is amended -

(a) in paragraph (1), by adding -

"(ba) any specified article imported or exported as transshipment cargo, unless otherwise provided in regulation 6AA, being an article in respect of which a transshipment notification has been endorsed by the Commissioner or an authorized officer and the endorsement remains to have effect when the specified article is imported or exported;"

(b) by adding -

"(6)The Commissioner may specify the form of, and the information required to be given in, a transshipment notification in respect of any specified article."

4. **Part VB added**

The following is added after Part VA -

"PART VB

IMPORT OR EXPORT OF SPECIFIED ARTICLES AS TRANSHIPMENT
CARGO EXEMPTED FROM LICENSING REQUIREMENTS

**Endorsement by the Commissioner, etc. on
transshipment notification**

6DAA. Endorsement on transshipment

notification

(1) A person who intends to rely on an exemption under regulation 6(1)(ba) in respect of a specified article to be imported or exported as transshipment cargo shall -

- (a) complete a transshipment notification in respect of the specified article; and
- (b) deliver the completed notification to the Commissioner for endorsement.

(2) On receipt of a completed notification, the Commissioner or an authorized officer shall as soon as reasonably practicable -

- (a) assign a reference number to the notification for the purpose of identifying the notification;
- (b) endorse on the notification if -
 - (i) all information required to be given in the notification has been given; and
 - (ii) the Commissioner or authorized officer is satisfied that the specified article is transshipment cargo; and
- (c) return the notification endorsed under subparagraph (b) to the person referred to in paragraph (1).

Import of specified articles as transshipment cargo

6DAB. Import carrier not to release transshipment cargo without transshipment notification

(1) This regulation applies where a specified article is imported as transshipment cargo in or on any vessel, aircraft or vehicle in reliance on an exemption under regulation 6(1)(ba).

(2) An import carrier shall retain possession of a specified article until he has received a transshipment notification endorsed under regulation 6DAA(2) in respect of the specified article.

(3) Any person who contravenes paragraph (2) commits an offence and is liable on conviction to a fine of \$500,000 and to imprisonment for 1 year.

6DAC. Delivery of transshipment notification and manifest to the Director

(1) A person who receives a transshipment notification endorsed under regulation 6DAA(2) shall, within 7 days after the day on which the specified article to which the notification relates is imported, present the endorsed notification to an import carrier.

(2) The import carrier, on receiving the endorsed notification pursuant to paragraph (1) -

(a) may release the specified article to the consignee; and

(b) shall, within 7 days after receiving the endorsed notification -

- (i) deliver it 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 importing vessel, aircraft or vehicle, which copy or extract shall contain, in addition to the particulars required to be contained in a manifest under paragraph 2 of the Import and Export Manifests Notice (Cap. 60 sub. leg. C), the reference number.

(3) Any person who contravenes paragraph (1) or (2)(b) commits an offence and is liable on conviction to a fine at level 2.

Export of specified articles as transshipment cargo

6DAD. Export carrier not to accept transshipment cargo without transshipment notification

(1) This regulation applies where a specified article is exported as transshipment cargo in or on any vessel, aircraft or vehicle in reliance on an exemption under regulation 6(1)(ba).

(2) An export carrier shall not accept a specified article for export on an exporting vessel, aircraft or vehicle until he has received a transshipment notification endorsed under regulation 6DAA(2) in respect of the specified article.

(3) Any person who contravenes paragraph (2) commits an offence and is liable on conviction to a fine of \$500,000 and to imprisonment for 1 year.

6DAE. Delivery of transshipment notification and manifest to the Director

(1) A person who receives a transshipment notification endorsed under regulation 6DAA(2) shall, before the specified article to which the notification relates is exported, present the endorsed notification to an export carrier.

(2) The export carrier, on receiving the endorsed notification pursuant to paragraph (1), shall within 14 days after the day on which the article is exported -

- (a) deliver the endorsed 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 exporting vessel, aircraft or vehicle, which copy or extract shall contain, in addition to the particulars required to be contained in a manifest under paragraph 3 of the Import and Export Manifests Notice (Cap. 60 sub. leg. C), the reference number.

(3) Any person who contravenes paragraph (1) or (2) commits an offence and is liable on conviction to a fine at level 2.

6DAF. Endorsement on transshipment notification ceases to have effect

(1) If a transshipment notification has been endorsed under regulation 6DAA(2) and any information in the endorsed notification relating to the consignment of the transshipment cargo is rendered inaccurate in a material particular by any change of circumstances, the endorsement on the notification shall cease to have any effect.

(2) Where the endorsement of a transshipment notification ceases to have effect at any time before the specified article to which the notification relates is imported or exported, section 6C or 6D of the Ordinance shall respectively apply.

6DAG. Certain requirements deemed complied with if manifest lodged with Commissioner using services provided by a specified body

The requirements under regulation 6DAC(2)(b)(ii) or 6DAE(2)(b) are deemed to have been complied with if -

- (a) regulation 11 or 12 (as the case may be) of the Import and Export (Registration) Regulations (Cap. 60 sub. leg. E) has been complied with in relation to the importing vessel, aircraft or vehicle or exporting vessel, aircraft or vehicle (as the case may be) by the manifest having been lodged with the Commissioner, or with an officer appointed by the Commissioner, using services provided by a specified body; and
- (b) the manifest contains the reference number.

6DAH. Transitional

(1) For the purposes of this Part, any provision of regulations 6DAC and 6DAE requiring that a copy or extract of a manifest delivered under those regulations be delivered by using services provided by a specified body shall, in respect of the period specified in paragraph (3), but subject to any determination made under section 32A(2)(a) of the Ordinance or notice published under section 32B(2) of the Ordinance, be construed as requiring that the copy or extract be delivered either in paper form or by using services provided by a specified body.

(2) Where a copy or extract of a manifest is delivered in paper form during the period specified in paragraph (3), the import carrier or export carrier (as the case may be) shall, in addition to complying with other requirements under regulation 6DAC or 6DAE, deliver to the Director such copy or extract duly certified by the import carrier or export carrier (as the case may be) as a true copy or extract of the manifest, failing which the requirements under regulation 6DAC(2)(b)(ii) or 6DAE(2)(b) shall not be regarded as having been complied with.

(3) The period specified for the purposes of paragraphs (1) and (2) is the period beginning with the commencement of section 4 of Schedule 1 to the Import and Export (Facilitation) Ordinance 2003 (of 2003) 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."

5. Defence of reasonable diligence

Regulation 6E(1) is amended by repealing "or 6BF(4)" and substituting ", 6BF(4), 6DAB(3) or 6DAD(3)".

6. Offences

Regulation 6F(1) is amended -

- (a) in subparagraph (f), by repealing "or" at the end;
- (b) in subparagraph (g), by repealing the comma at the end and substituting "; or";
- (c) by adding -

"(h) gives or causes to be given any information, which he knows or has reason to believe to be false or misleading in a material particular, in a transshipment notification under regulation 6DAA(1),".

7. Amendment of Schedules

Regulation 7(2) is amended -

- (a) in subparagraph (b), by repealing the full stop and substituting "; or";
- (b) by adding -
 - "(c) amend Schedule 9."

8. **First Schedule amended**

The First Schedule is amended, in Part II, by repealing items 1 and 2.

9. **Second Schedule amended**

The Second Schedule is amended, in Part II, by repealing items 1 and 2.

10. **Schedule 9 added**

The following is added -

"SCHEDULE 9 [regs. 2 & 7]

SPECIFIED ARTICLES

Item

1. Optical disc mastering and replication equipment."

Import and Export Manifests Notice

11. **Paragraph added**

The Import and Export Manifests Notice (Cap. 60 sub. leg. C) is amended by adding -

**"1A. Application of this notice to
Ozone Layer Protection
Ordinance**

In this notice, a reference to -

- (a) "import licence" is a reference to an import licence or an import and export licence issued under the Ozone Layer Protection Ordinance (Cap. 403); and
- (b) "export licence" is a reference to an export licence or an import and export licence issued under the Ozone Layer Protection Ordinance (Cap. 403).".

Export (Prescribed Articles) Regulations

12. Prescribed Articles

The Schedule to the Export (Prescribed Articles) Regulations (Cap. 60 sub. leg. D) is amended by repealing items 1, 2 and 3.

Import and Export (Carriage of Articles) Regulations

13. Prescribed Articles

The Schedule to the Import and Export (Carriage of Articles) Regulations (Cap. 60 sub. leg. I) is amended by repealing items 1, 2, 3, 4 and 5.

1. **Interpretation**

Section 2(1) of the Telecommunications Ordinance (Cap. 106) is amended by adding -

"air transshipment cargo" (航空轉運貨物) has the meaning assigned to it in section 2 of the Import and Export Ordinance (Cap. 60);

"air transit cargo" (航空過境貨物) means any article in transit that is both imported and consigned for export in an aircraft;

"article in transit" (過境物品) has the meaning assigned to it in section 2 of the Import and Export Ordinance (Cap. 60);

"cargo transshipment area of Hong Kong International Airport" (機場貨物轉運區) has the meaning assigned to it in section 2 of the Import and Export Ordinance (Cap. 60);

"radiocommunications transmitting apparatus" (無線電通訊發送器具) means any apparatus or any component part of any apparatus for transmission by radio waves;

"transshipment cargo" (轉運貨物) has the meaning assigned to it in section 2 of the Import and Export Ordinance (Cap. 60);

"vehicle" (車輛) has the meaning assigned to it in section 2 of the Import and Export Ordinance (Cap. 60);".

2. **Prohibition of establishment and maintenance of means of telecommunications, etc., except under licence**

Section 8 is amended by adding -

"(5) Notwithstanding anything contained in subsection (1)(b), no licence shall be required for possession of radiocommunications transmitting apparatus if such apparatus is an article the import or export of which is exempted under section 9A, 9B or 9C."

3. **Control of import and export of radiocommunications transmitting apparatus**

Section 9 is amended by repealing "apparatus or any component part of any apparatus for transmission by radio waves" and substituting "radiocommunications transmitting apparatus".

4. **Application of section 9 to air transit or air transshipment cargo**

Section 9A(6) is repealed.

5. **Sections added**

The following are added -

"9B. Application of section 9 to article in transit

Section 9 does not apply in relation to radiocommunications transmitting apparatus that is an article in transit other than air transit cargo exempted under section 9A.

9C. Application of section 9 to transshipment cargo

(1) Subject to subsection (2), section 9 does not apply in relation to radiocommunications transmitting apparatus that is transshipment cargo other than air transshipment cargo exempted under section 9A if -

(a) not later than one working day before the date of arrival of the apparatus, the Authority is given

-

(i) in respect of the apparatus a transshipment notification in such form and containing such information as may be specified by the Authority; and

(ii) such other documents as the Authority may reasonably require in support of the notification; and

(b) the apparatus remains at all times -

(i) in or on the vessel, aircraft or vehicle which carries it into Hong Kong ("the first carrier");

(ii) in or on the vessel, aircraft or vehicle which carries it out of Hong Kong ("the second carrier"); or

(iii) at the place of storage as specified in the transshipment notification ("the place of storage"),

except during the transfer -

- (iv) from the first carrier to the second carrier;
- (v) from the first carrier to the place of storage; or
- (vi) from the place of storage to the second carrier.

(2) Section 9 shall have effect as if subsection (1) had not been enacted if any person -

- (a) gives or causes to be given any information, which he knows or has reason to believe to be false, in a transshipment notification; or
- (b) gives incomplete information in a transshipment notification."

SCHEDULE 3

[s. 4]

AMENDMENT OF POULTRY (SLAUGHTERING FOR EXPORT) REGULATIONS

1. **Name of country**

The First Schedule to the Poultry (Slaughtering for Export) Regulations (Cap. 139 sub. leg. E) is amended by repealing item 1.

SCHEDULE 4

[s. 5]

AMENDMENT OF MARINE FISH (MARKETING AND EXPORTATION) REGULATIONS

1. Interpretation

Regulation 1A of the Marine Fish (Marketing and Exportation) Regulations (Cap. 291 sub. leg. A) is amended -

- (a) by repealing the definitions of "air transshipment cargo", "air transit cargo" and "cargo transshipment area of Hong Kong International Airport";
- (b) in the definition of "specified fish", by repealing the full stop and substituting a semicolon;
- (c) by adding -

"air waybill" (空運提單) has the meaning assigned to it in section 2 of the Import and Export Ordinance (Cap. 60);

"bill of lading" (提單) has the meaning assigned to it in section 2 of the Import and Export Ordinance (Cap. 60);

"transshipment cargo" (轉運貨物) has the meaning assigned to it in section 2 of the Import and Export Ordinance (Cap. 60).".

2. Regulation added

The following is added -

"1B. Power to inspect documents

The Director, any police officer or any manager or public officer authorized by the Director in writing may inspect any document under regulations 2A, 3A and 4BA.".

3. **Landing of marine fish**

Regulation 2(1) is amended by adding "and regulation 2A" after "paragraph (3)".

4. **Regulation added**

The following is added -

"2A. Landing of marine fish as transshipment cargo

Marine fish that is transshipment cargo may be landed in Hong Kong without a permit if -

- (a) the fish is accompanied by a through bill of lading or a through air waybill to indicate that it is transshipment cargo; and
- (b) the document referred to in paragraph (a) is produced for inspection when any person referred to in regulation 1B so requests."

5. **Regulation added**

The following is added -

"3A. Transportation of marine fish as transshipment cargo

Regulation 3 does not apply in relation to any marine fish transported on land or in the waters of Hong Kong that is transshipment cargo if -

- (a) the fish is accompanied during transportation by a through bill of lading or a through air waybill to indicate that it is transshipment cargo; and

(b) the document referred to in paragraph (a) is produced for inspection when any person referred to in regulation 1B so requests."

6. Notification of exports of marine fish

Regulation 4 is repealed.

7. Commencement and discontinuance of regulations 4B to 4G

Regulation 4A is amended -

(a) by repealing paragraph (3);

(b) in paragraph (5), by repealing "or of paragraph (3)".

8. Permits required for the export of specified fish

Regulation 4B(1) is amended by adding "and regulation 4BA" after "paragraph (2)".

9. Regulation substituted

Regulation 4BA is repealed and the following substituted -

"4BA. Application to article in transit or transhipment cargo

Regulation 4B(1) does not apply in relation to any specified fish exported as an article in transit or transhipment cargo if -

(a) the fish is accompanied by a through bill of lading or a through air waybill to indicate that it is an article in transit or transhipment cargo, as the case may be; and

(b) the document referred to in paragraph (a) is produced for inspection when any person referred to in regulation 1B so requests."

10. **Regulation added**

The following is added -

"4BB. Production of document for inspection

Without prejudice to regulation 4E, the holder of any document specified under these regulations shall produce it to any person referred to in regulation 1B for inspection when the person so requests."

11. **Offences**

Regulation 5 is amended -

- (a) in paragraph (a), by adding "or" at the end;
- (b) in paragraph (b), by repealing the semicolon and substituting a comma;
- (c) by repealing paragraphs (c) and (d).

SCHEDULE 5

[s. 6]

AMENDMENT OF OZONE LAYER PROTECTION ORDINANCE AND
ITS SUBSIDIARY LEGISLATION

Ozone Layer Protection Ordinance

1. Licence to import or export scheduled substances

Section 6(1) of the Ozone Layer Protection Ordinance (Cap. 403) is amended by repealing everything after "issue" and substituting -

"in respect of a specified consignment of a scheduled substance -

- (a) an import licence to import the scheduled substance ("import licence");
- (b) an export licence to export the scheduled substance ("export licence"); or
- (c) an import and export licence to import and export the scheduled substance ("import and export licence"),

subject to any conditions that the Director may impose."

Ozone Layer Protection (Fees) Regulations

2. Prescribed fees

Regulation 2 of the Ozone Layer Protection (Fees) Regulations (Cap. 403 sub. leg. A) is repealed and the following substituted -

"2. Prescribed fees

The fees set out in the Schedule shall be the prescribed fees for the purposes of the Ordinance."

3. Schedule added

The following is added -

"SCHEDULE

[reg. 2]

PRESCRIBED FEES

| Item | Section of the Ordinance | Matter in respect of which fee is payable | Fee \$ |
|------|--------------------------|---|---------|
| 1. | Section 5(1) | Registration | 2,805 |
| 2. | Section 6(1) | (a) Issue of an import licence | 940 |
| | | (b) Issue of an export licence | 940 |
| | | (c) Issue of an import and export licence | 1,330". |

Explanatory Memorandum

The purpose of this Bill is to facilitate the import and export of cargo. The Bill seeks to achieve this by amending a number of enactments which contain restrictions and controls on the transshipment, transit or carriage of cargo. (Clauses 2 to 6)

2. Schedule 1 provides for the amendment of the Import and Export Ordinance (Cap. 60) and its subsidiary legislation. Under sections 6C and 6D of the Import and Export Ordinance (Cap. 60) and the Import and Export (General) Regulations (Cap. 60 sub. leg. A) as they currently apply, the import and export of certain articles are prohibited except under and in accordance with a licence issued under section 3 of that Ordinance. Existing legislation provides exemptions for articles in transit and articles that are air transshipment cargo. The proposed amendments would have the effect of further replacing the licensing

requirement with a transshipment notification system in so far as specified articles are concerned. (Sections 2, 3, 4, 6 and 10 of Schedule 1)

3. The import and export licensing requirements for certain prohibited articles are removed entirely. (Sections 8 and 9 of Schedule 1)

4. The export and carriage licensing requirements for certain articles are removed entirely. (Sections 12 and 13 of Schedule 1)

5. As a result of the proposed amendment to empower the Director of Environmental Protection to issue an import and export licence under the Ozone Layer Protection Ordinance (Cap. 403), consequential amendments are effected to the Import and Export Ordinance (Cap. 60) and the Import and Export Manifests Notice (Cap. 60 sub. leg. C) respectively. (Sections 1 and 11 of Schedule 1)

6. Schedule 2 provides for the amendment of the Telecommunications Ordinance (Cap. 106). Under that Ordinance as it currently applies, the import and export of certain radiocommunications transmitting apparatus ("RTA") are prohibited except under and in accordance with a licence issued under that Ordinance or a permit granted by the Telecommunications Authority. The proposed amendments would have the effect of -

- (a) removing any doubt that a licence for the possession of RTA is required at any time in between the import and export of RTA as article in transit or transshipment cargo;
- (b) extending the current exemption in respect of RTA that is air transit cargo or air transshipment cargo to RTA that is article in transit;

- (c) introducing a transshipment notification system for RTA transhipped for cases other than that as covered under the current exemption or as extended under paragraph (b).

7. Schedule 3 provides for the amendment of the Poultry (Slaughtering for Export) Regulations (Cap. 139 sub. leg. E). Under those Regulations as they currently apply, the export of certain carcasses and poultry products to the United States of America are controlled by the issue of an export certificate. The proposed amendment would have the effect of exempting such items from the requirement.

8. Schedule 4 provides for the amendment of the Marine Fish (Marketing and Exportation) Regulations (Cap. 291 sub. leg. A). Under those Regulations as they currently apply, the import of marine fish and export of specified fish are subject to permit requirements. The requirements include a landing permit and a transportation permit issued for marine fish and an export permit issued for specified fish. The proposed amendments introduce the definition of "transshipment cargo" which, couples with other amendments, would have the effect of removing the permit requirements for marine fish imported as transshipment cargo and for specified fish exported as article in transit or transshipment cargo.

9. Schedule 5 provides for the amendment of the Ozone Layer Protection Ordinance (Cap. 403) and its subsidiary legislation. Under that Ordinance as it currently applies, the import and export of ozone depleting substances are prohibited except under or in accordance with a licence issued under that Ordinance. In order to streamline relevant procedures, the Director of Environmental Protection is empowered

under this Ordinance to issue an import and export licence in respect of the substances. The proposed amendments would have the effect of relaxing the licensing system by reducing the number of licences required and prescribing a lower fee for an import and export licence.

List of Relaxation Measures

| Categories of articles | Existing Licensing Control | Relaxation Measures |
|--|---|---|
| <i>I. Removing licensing or export certification requirement entirely</i> | | |
| Television sets, video cassette recorders and video cassette players | Export Licence Carriage Licence (if carried on board by vessel less than 250 gross tons) | Licensing requirements were imposed for anti-smuggling reasons. Since these articles are no longer popular items of smuggling, licensing requirements will be removed entirely for all export and carriage. |
| Air conditioners and refrigerators | Carriage Licence (if carried on board by vessel less than 250 gross tons) | Licensing requirements were imposed for anti-smuggling reasons. Since these articles are no longer popular items of smuggling, licensing requirements will be removed entirely for all carriage. |
| Poultry carcasses and poultry products | Export Certificate | <p>The export certification requirement was imposed to facilitate our poultry exports by putting into place a legislative framework and licensing system to assure the importing authorities of the proper production and quality of our poultry exports.</p> <p>At present, Hong Kong is not exporting any poultry products and we do not foresee such a prospect in the near future. As such, the export certification requirement for USA will be removed. However, the legislative framework for the certification system will be retained in case there is a need for certification in future.</p> |

| Categories of articles | Existing Licensing Control | Relaxation Measures |
|--|---|---|
| <i>II. Combining import and export licences or removing licences for all or specified mode of transshipment</i> | | |
| Left hand drive vehicles | Import Licence Export Licence Carriage Licence (if carried on board by vessel less than 250 gross tons) | Import and Export Licences will be removed entirely for all import and export. Carriage Licence has to be retained to deter smuggling by speedboats. |
| Outboard engines exceeding 111.9 kilowatts (150 horsepower) | Import Licence Export Licence Carriage Licence (if carried on board by vessel less than 250 gross tons) | Import and Export Licences will be removed entirely for all import and export. High-powered outboard engines are essential for using speedboats to smuggle. Carriage Licence, which applies only when such engines are carried on a small vessel (e.g. speedboats), has to be retained to deter smuggling activities at sea. |
| Marine fish | Landing Permit Transportation Permit Export Permit Notification of Exports | Landing Permit, Transportation Permit and Export Permit will be removed for transshipment cargoes. Notification of Exports is used for trade statistics purpose. Since there are already other means to collect such export data, the notification of exports will be removed entirely. |
| Ozone depleting substances | Import Licence Export Licence | An Import and Export Licence will be introduced for transshipment cargoes. |

| Categories of articles | Existing Licensing Control | Relaxation Measures |
|--|--------------------------------------|--|
| Radiocommunications transmitting apparatus | Import Permit Export Permit | For air-to-air transshipment, the licensing requirement has already been exempted. The current proposal is to exempt the licensing control on articles in transit. For other modes of transshipment, the import and export licensing control will be replaced by a new pre-shipment notification system. |
| Firearms and ammunition | Exemption Permit Dealer's Licence | For air-to-air transshipment, the licensing requirement has already been fully exempted. For inter-modal transshipment involving air and sea, the licensing requirement has been replaced by a pre-shipment notification system. The proposal is to extend coverage of the notification system to land transshipment*. |
| Pesticides | Import Licence Export Licence | For transshipment cargoes, the import and export licensing control will be replaced by a new pre-shipment notification system*. |

* Legislative changes for the relaxation measures will not be pursued in this exercise.

| | | | | |
|----------|----|--|-------------------|-----------------|
| Chapter: | 60 | IMPORT AND EXPORT ORDINANCE | Gazette Number | Version Date |
| Section: | 2A | Application of this Ordinance to Ozone Layer Protection Ordinance | | 30/06/1997 |

In applying the following provisions of this Ordinance to anything in respect of which a licence may be issued or the import or export of which is prohibited, under the Ozone Layer Protection Ordinance (Cap 403)- (Amended 26 of 1993 s. 6)

- (a) in sections 8, 9, 11, 20, 21, 33, 34 and 36 a reference to "licence" is a reference to a licence issued under the Ozone Layer Protection Ordinance (Cap 403);
- (b) in sections 8, 9, 11 and 36 (1)(b) a reference to "Ordinance" is a reference to the Ozone Layer Protection Ordinance (Cap 403); and
- (c) in sections 5, 20 (except the first reference in subsection (1)(a)), 20A, 21, 23, to 28, 33, 34, 36(1)(c) and 37 a reference to "Ordinance" includes a reference to the Ozone Layer Protection Ordinance (Cap 403).

(Added 24 of 1989 s. 18)

| | | | | |
|-------------|-----|--|-------------------|-----------------|
| Chapter: | 60A | IMPORT AND EXPORT (GENERAL) REGULATIONS | Gazette Number | Version Date |
| Regulation: | 2 | Interpretation | L.N. 93 of 2003 | 30/05/2003 |

In these regulations, unless the context otherwise requires-

"export carrier" (出口承運人) means the owner of any exporting vessel, aircraft or vehicle; (L.N. 93 of 2003)

"export notification" (出口通知書) means an export notification in the form approved by the Director and completed by a registered textiles trader in accordance with the conditions imposed under regulation 6(3B); (L.N. 111 of 1993)

"exporting vessel, aircraft or vehicle" (出口船隻、飛機或車輛), in relation to goods that are, are to be or have been exported, means any vessel, aircraft or vehicle in or on which they are, are to be or have been exported (as the case may be); (L.N. 93 of 2003)

"import carrier" (進口承運人) means the owner of any importing vessel, aircraft or vehicle; (L.N. 93 of 2003)

"import notification" (進口通知書) means an import notification in the form approved by the Director and completed by a registered textiles trader in accordance with the conditions imposed under regulation 6(3B); (L.N. 111 of 1993)

"importing vessel, aircraft or vehicle" (進口船隻、飛機或車輛), in relation to goods that are, are to be or have been imported, means any vessel, aircraft or vehicle in or on which they are, are to be or have been imported (as the case may be); (L.N. 93 of 2003)

"in electronic form" (以電子形式) means in the form of an electronic record, whether or not it is sent using services provided by a specified body; (L.N. 93 of 2003)

"licence" (許可證) means a licence issued under section 3 of the Ordinance;

"pesticide" (除害劑) has the meaning assigned to it in section 2 of the Pesticides Ordinance (Cap 133); (79 of 1990 s. 21)

"reference number" (編號), in relation to an import notification, export notification or transshipment notification, means the reference number assigned to it under regulation 6A(2)(a), 6BA(2)(a), 6BC(2)(a) or 6BE(2)(a) (as the case may be); (L.N. 93 of 2003)

"registered textiles trader" (登記紡織商) means a person registered as a textiles trader under regulation 5A; (L.N. 111 of 1993)

"textiles" (紡織品) includes any natural or artificial fibre products and any combination of natural and artificial fibre products in the form of yarn, fabrics, garments or other manufactured articles;

"transshipment notification" (轉運通知書) means a transshipment notification in the form approved by the Director and completed by a registered textiles trader in accordance with the conditions imposed under regulation 6(3B). (L.N. 111 of 1993)

(L.N. 255 of 1984; 29 of 2000 s. 2)

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|-------------|---|---------------------------|------------------|------------|
| Regulation: | 6 | Application and exemption | L.N. 251 of 2002 | 02/01/2003 |
|-------------|---|---------------------------|------------------|------------|

PART V

APPLICATION OF, AND EXEMPTION FROM, LICENSING REQUIREMENTS

(L.N. 179 of 2002)

- (1) Sections 6C(1) and 6D(1) of the Ordinance shall not apply to- (L.N. 136 of 1994)
- (a) any article in transit, unless otherwise provided in regulation 6DF; (L.N. 440 of 1990; L.N. 179 of 2002)
 - (b) transshipment cargo imported or exported by a person to whom an exemption relating to that transshipment cargo has been granted under paragraph (2); (L.N. 440 of 1990)
 - (c) any article specified in-
 - (i) item 1 of the Third Schedule, imported or exported in the accompanied personal baggage of a person entering or leaving Hong Kong and which is for his personal use;
 - (ii) item 2 of the Third Schedule-
 - (A) imported by any person and which is for his personal use or is a gift; or
 - (B) exported in the accompanied personal baggage of a person leaving Hong Kong and which is for his personal use;
 - (iii) the Third Schedule, imported or exported as part of the provisions required for consumption or use by the crew or passengers of the vessel, aircraft or vehicle on which the article is carried,
and is in each case in a quantity which is reasonable having regard to the purpose for which it is imported or exported as the case may be; (L.N. 440 of 1990)
 - (ca) any article specified in the Sixth Schedule which is-
 - (i) imported in the accompanied personal baggage of a person entering Hong Kong;
 - (ii) for the personal use of that person or is a gift;
 - (iii) in an amount not exceeding 15 kg; and
 - (iv) accompanied by an official certificate as defined in the Imported Game, Meat and Poultry Regulations (Cap 132 sub. leg. AK); (L.N. 142 of 2000)
 - (d) any article in respect of the import or export of which a person has been granted an exemption under paragraph (5). (L.N. 440 of 1990)

(2) If the Director is satisfied that a person is engaged in the business of dealing in transshipment cargo he may exempt in writing, with respect to the transshipment of any of the items set out in the First and Second Schedules and specified in the exemption, that person from the licensing requirements under sections 6C(1) and 6D(1) of the Ordinance. (L.N. 136 of 1994)

(3) The Director may impose such conditions as he thinks fit upon any exemption made under paragraph (2) and any person exempted under paragraph (2) shall comply with any condition imposed under this paragraph.

(3A) If a person is a registered textiles trader, the Director may exempt, in writing, the registered textiles trader from the licensing requirements under sections 6C(1) and 6D(1) of the Ordinance for the import or export of textiles in accordance with the Fourth Schedule by the registered textiles trader. (L.N. 111 of 1993; L.N. 136 of 1994)

(3B) The Director may impose such conditions as he thinks fit upon any exemption made under paragraph (3A) and any person who relies on an exemption issued under paragraph (3A) shall comply with any condition imposed under this paragraph. (L.N. 111 of 1993)

(3C) The Director may vary the conditions as he thinks fit upon any exemption made under paragraph (3A) and any person who relies on an exemption issued under paragraph (3A) shall comply with any condition varied under this paragraph. (L.N. 111 of 1993)

(3D) The Director may approve the form of an export, import or transshipment notification that a registered textiles trader is required to submit under these regulations. (L.N. 111 of 1993)

(4) If a person contravenes or fails to comply with any condition imposed under paragraph (3), (3B) or (3C)- (L.N. 111 of 1993)

(a) he shall be guilty of an offence and shall be liable on conviction to a fine of \$500000 and to imprisonment for 2 years; and

(b) the Director may by notice in writing revoke or suspend any exemption granted to that person or may amend any condition. (L.N. 255 of 1984)

(5) Without prejudice to paragraphs (2), (3), (3A), (3B), (3C) and (4), the Director may, on application and in respect of any article specified in the First or Second Schedule, exempt in writing any person from any requirement to obtain a licence under sections 6C(1) and 6D(1) of the Ordinance. (L.N. 440 of 1990; L.N. 111 of 1993; L.N. 136 of 1994)

(L.N. 255 of 1984)

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|-------------|----|---------------------------------|-----------------|------------|
| Regulation: | 6E | Defence of reasonable diligence | L.N. 93 of 2003 | 30/05/2003 |
|-------------|----|---------------------------------|-----------------|------------|

PART VII

MISCELLANEOUS

(L.N. 179 of 2002)

(1) In any proceedings against a person for an offence under regulation 6A(4), 6B(4), 6BA(3), 6BB(4), 6BC(4), 6BD(4), 6BE(3) or 6BF(4), it shall be a defence for the person to show that he took all reasonable steps and exercised reasonable diligence to avoid committing the offence. (L.N. 93 of 2003)

(2) Where in any proceedings the defence provided by paragraph (1) involves an allegation that the commission of the offence was due-

(a) to the act or default of another person; or

(b) to reliance on information given by another person,

the defendant shall not, without the leave of the court, be entitled to rely on the defence unless, not less than 10 days before the hearing of the proceedings, he has served a notice in writing on the prosecutor giving all particulars of the person who committed the act or default or gave the information and of the act, default and information of which he is aware at the time he serves notice.

(3) A person shall not be entitled to rely on the defence provided by paragraph (1) by reason of his reliance on information supplied by another person, unless he shows that it was reasonable in all the circumstances for him to have relied on the information, having regard in particular-

- (a) to the steps which he took, and those which might reasonably have been taken, for the purpose of verifying the information; and
- (b) to whether he had any reason to disbelieve the information.

(L.N. 111 of 1993)

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|-------------|----|----------|------------------|------------|
| Regulation: | 6F | Offences | L.N. 251 of 2002 | 02/01/2003 |
|-------------|----|----------|------------------|------------|

(1) Any person who-

- (a) makes or gives or causes to be made or given any statement, which he knows or has reason to believe to be false or misleading in a material particular, in any declaration or any information whether verbal or in writing or otherwise required by the Director or an appointed officer under these regulations;
- (b) makes or gives or causes to be made or given any statement or information, which he knows or has reason to believe to be false or misleading in a material particular, in respect of any document-
 - (i) that is required to be maintained or furnished under regulation 5AC; or
 - (ii) that he knows or has reason to believe may be used in support of an application for registration under regulation 5AC;
- (c) is in breach of an undertaking or part of an undertaking given under regulation 5AC;
- (d) contravenes any requirement under regulation 5AE; (L.N. 179 of 2002)
- (e) makes in any record kept under regulation 5AE(1) any statement that he knows or has reason to believe to be false or misleading in a material particular; (L.N. 179 of 2002)
- (f) gives or causes to be given any information, which he knows or has reason to believe to be false or misleading in a material particular, in support of an application for registration under regulation 6DD; or (L.N. 179 of 2002)
- (g) makes in any record kept, or any return or notification submitted, under regulation 6DG any statement that he knows or has reason to believe to be false or misleading in a material particular, (L.N. 179 of 2002)

commits an offence and is liable on conviction to a fine of \$500000 and to imprisonment for 2 years.

(2) Where a person convicted of an offence under these regulations is a company, every director and every officer concerned in the management of the company shall be guilty of the like offence unless he proves that the act constituting the offence took place without his knowledge or consent.

(3) Where an offence under these regulations committed by a partner in a partnership is proved to have been committed with the consent or connivance of, or to be attributable to any act on the part of, any other partner of the partnership or any person concerned in the management of the partnership, that other partner or the person concerned in the management of the partnership commits the like offence.

(L.N. 193 of 1999)

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|-------------|---|------------------------|------------------|------------|
| Regulation: | 7 | Amendment of Schedules | L.N. 251 of 2002 | 02/01/2003 |
|-------------|---|------------------------|------------------|------------|

(1) The Director-General of Trade and Industry may, by order published in the Gazette, amend Part I of the First or Second Schedule, the Third Schedule, the Fourth Schedule, the Fifth Schedule, or the Sixth Schedule. (L.N. 206 of 1977; L.N. 294 of 1982; L.N. 440 of 1990; L.N. 297 of 1991; L.N. 111 of 1993; L.N. 136 of 1994; L.N. 193 of 1999; L.N. 142 of 2000; L.N. 173 of 2000; L.N. 179 of 2002)

- (2) The Director-General of Trade and Industry may, by notice published in the Gazette-
- (a) add to the Seventh Schedule the name of-
 - (i) a country or place for which the Scheme is effective; or
 - (ii) any other country or place from which the import of rough diamonds into, and to which the export of rough diamonds from, a country or place for which the Scheme is effective is permitted by the Kimberley Process; and
 - (b) delete from the Seventh Schedule the name of a country or place that is not a country or place referred to in subparagraph (a)(i) or (ii). (L.N. 179 of 2002)

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|-----------|---|--|------------------|------------|
| Schedule: | 1 | | L.N. 251 of 2002 | 02/01/2003 |
|-----------|---|--|------------------|------------|

[regulations 3, 6, 6AA & 7]
(29 of 2000 s. 2)

PART I

1. Pesticides.
2. Pharmaceutical products and medicines as defined by section 2 of the Pharmacy and Poisons Ordinance (Cap 138).
3. Textiles, other than woven or knitted fabric swatches and sample yarn imported by air and not exceeding 0.8 m² in size in the case of fabric swatches and 1.2 kg in weight in respect of each type of yarn.
- 4-5. (Repealed L.N. 246 of 1997)
- 5A. Rough diamonds within the meaning of regulation 6DA. (L.N. 179 of 2002)
6. Frozen or chilled beef, mutton, pork, veal or lamb, and the frozen or chilled offal of any animal from which such meat is derived. (L.N. 142 of 2000)
7. The frozen or chilled carcass of a domestic fowl, duck, goose or turkey or any part of such a carcass. (L.N. 142 of 2000)
8. Any frozen or chilled part of a bird mentioned in item 7 which is edible or used in the preparation of food, other than the carcass or a part of the carcass of such a bird. (L.N. 142 of 2000)

PART II

1. Left hand drive vehicles.
 2. Outboard engines exceeding 111.9 kilowatts (150 horsepower).
 3. Optical disc mastering and replication equipment. (L.N. 529 of 1997)
- (L.N. 136 of 1994)

| | | | | |
|-----------|---|--|------------------|------------|
| Schedule: | 2 | | L.N. 251 of 2002 | 02/01/2003 |
|-----------|---|--|------------------|------------|

[regulations 4, 5, 6, 6AA & 7]
(29 of 2000 s. 2)

PART I

| Item | Article | Country or place |
|------|--|---|
| 1. | Textiles. | All countries. |
| 2. | Pesticides. | All countries. |
| 3. | Pharmaceutical products and medicines as defined by section 2 of the Pharmacy and Poisons Ordinance (Cap 138). | All countries. |
| 4-5. | (Repealed L.N. 246 of 1997) | |
| 6. | Rough diamonds within the meaning of regulation 6DA. | Without prejudice to regulation 6DE, any country or place. (L.N. 179 of 2002) |

PART II

| Item | Article | Country or place |
|------|--|--|
| 1. | Left hand drive vehicles. | All countries. |
| 2. | Outboard engines exceeding 111.9 kilowatts (150 horsepower). | All countries. |
| 3. | Optical disc mastering and replication equipment. | All places outside Hong Kong. (L.N. 529 of 1997) |

(L.N. 136 of 1994)

| | | | | |
|-----------|-----|--|----------------|--------------|
| Chapter: | 60D | EXPORT (PRESCRIBED ARTICLES) REGULATIONS | Gazette Number | Version Date |
| Schedule: | | SCHEDULE | | 30/06/1997 |

[regulations 2 & 4]
(L.N. 134 of 1994)

PRESCRIBED ARTICLES

| Item | Description |
|------|--------------------------|
| 1. | Television sets |
| 2. | Video cassette recorders |
| 3. | Video cassette players |

(L.N. 41 of 1991)

| | | | | |
|----------|-----|--|-------------------|-----------------|
| Chapter: | 60I | IMPORT AND EXPORT (CARRIAGE OF ARTICLES) REGULATIONS | Gazette Number | Version Date |
|----------|-----|--|-------------------|-----------------|

| | | | | |
|-----------|--|----------|--|------------|
| Schedule: | | SCHEDULE | | 30/06/1997 |
|-----------|--|----------|--|------------|

[regulation 2]
(L.N. 135 of 1994)

PRESCRIBED ARTICLES

| Item | Description |
|------|---|
| 1. | Television sets |
| 2. | Video cassette recorders |
| 3. | Video cassette players |
| 4. | Air-conditioners |
| 5. | Refrigerators |
| 6. | Vehicles |
| 7. | Vehicle parts |
| 8. | Outboard engines exceeding 111.9 kilowatts (150 horsepower) |

(L.N. 107 of 1992)

| | | | | |
|----------|-----|---------------------------------|-------------------|-----------------|
| Chapter: | 106 | TELECOMMUNICATIONS ORDINANCE | Gazette Number | Version Date |
|----------|-----|---------------------------------|-------------------|-----------------|

| | | | | |
|----------|---|----------------|------------|------------|
| Section: | 2 | Interpretation | 48 of 2000 | 07/07/2000 |
|----------|---|----------------|------------|------------|

(1) In this Ordinance, unless the context otherwise requires-
"assign" (指配) includes specify;

"associated corporation" (相聯法團), in relation to a licensee, means-

- (a) a corporation over which the licensee has control;
- (b) if the licensee is a corporation-
 - (i) a corporation which has control over the licensee; or
 - (ii) a corporation which is under the same control as is the licensee;

"associated person" (相聯人士) includes-

- (a) where the licensee is a natural person-
 - (i) a relative of the licensee;
 - (ii) a partner of the licensee and a relative of that partner;
 - (iii) a partnership in which the licensee is a partner;
 - (iv) a corporation controlled by the licensee, by a partner of the licensee or by a partnership in which the licensee is a partner;
 - (v) a director or principal officer of a corporation referred to in subparagraph (iv);
- (b) where the licensee is a corporation-
 - (i) an associated corporation;
 - (ii) a person who controls the corporation and where the person is a natural

- person, a relative of the person;
- (iii) a partner of a person who controls the corporation and, where the partner is a natural person, a relative of the person;
- (iv) a director or principal officer of the corporation or an associated corporation and a relative of the director or principal officer;
- (v) a partner of the corporation and, where the partner is a natural person, a relative of the partner;
- (c) where the licensee is a partnership-
 - (i) a partner of the partnership and, where the partner is a natural person, a relative of the partner;
 - (ii) a corporation controlled by the partnership, a partner in the partnership or where a partner is a natural person, a relative of the partner;
 - (iii) a corporation of which a partner is a director or principal officer;
 - (iv) a director or principal officer of a corporation referred to in subparagraph (iii);

"Authority" (局長) means the Telecommunications Authority appointed under section 5;

"basic service" (基本服務) means-

- (a) a public switched telephone service including the service connection, continued provision of connectivity, provision of a dedicated telephone number, an appropriate directory listing (except where the customer otherwise directs), a standard telephone handset without switching capacity (except where the customer elects to provide the handset), standard billing and collection services and relevant ancillary services and facilities necessarily utilized by the licensee;
- (b) a reasonable number of public payphones including payphones located within publicly or privately owned facilities to which the public have access (including intermittent access);
- (c) a reasonable number of public payphones, designed for ease of effective use by the hearing impaired;
- (d) a reasonable number of public payphones, designed for access by the physically disabled, including but not limited to those persons using wheelchairs;
- (e) operator provided directory enquiries, fault reporting, service difficulty and connection services;
- (f) a tropical cyclone warning service;
- (g) a thunderstorm and heavy rain warning service;
- (h) a flood warning service;
- (i) access to a number or numbers for emergency services; and
- (j) such other service, as the Authority may include, under regulations made under section 37;

"carrier licence" (傳送者牌照) means a licence issued for the establishment or maintenance of a telecommunications network for carrying communications to or from the public between fixed locations, between moving locations or between fixed locations and moving locations, within Hong Kong, or between Hong Kong and places outside Hong Kong, on a point-to-point, point-to-multipoint or broadcasting basis, such locations within Hong Kong being separated by unleased Government land, but does not include the licences listed in the Schedule;

"carrier licensee" (傳送者牌照持牌人) means the holder of a carrier licence;

"class licence" (類別牌照) means a licence gazetted by the Authority under section 7B;

"communication" (通訊) includes any communication-

- (a) whether between persons and persons, things and things or persons and things; and
- (b) whether in the form of speech, music or other sounds; or text; or visual images whether or not animated; or signals in any other form or combination of forms;

"control" (控制), in relation to an associated corporation, means having-

- (a) a beneficial interest in or control over the exercise of 15% or more of the voting

- power at a general meeting of the corporation; or
- (b) control over the composition of 15% or more of the directors of the board of the corporation;
- "customer equipment" (顧客設備) means equipment acquired by a customer of a carrier licensee intended to be connected to the network of that licensee;
- "dominant position" (優勢) means dominant position construed in accordance with the provisions of section 7L and the words "dominance" and "dominant" shall also be construed accordingly;
- "exclusive licence" (專利牌照) means any licence issued on an exclusive basis for operation or provision of telecommunications networks, systems, installations or services;
- "external services" (對外服務) means telecommunications services between-
- (a) Hong Kong and one or more places outside Hong Kong; or
- (b) two or more places outside Hong Kong where the services are routed through Hong Kong;
- "fixed carrier licence" (固定傳送者牌照) means a carrier licence issued for communication between fixed locations;
- "fixed carrier licensee" (固定傳送者牌照持牌人) means the holder of a fixed carrier licence;
- "harmful interference" (有害干擾) means interference which endangers the safety of life or property or seriously degrades, obstructs, or repeatedly interrupts a telecommunications service lawfully carried on within or outside Hong Kong;
- "interconnection agreement" (互連協議) means an agreement of a type mentioned in section 36A whether made by mutual agreement or pursuant to a determination under that section;
- "interference" (干擾) means the effect of unwanted energy due to any, or a combination of, emission, radiation or induction upon reception in a telecommunications network, system or installation manifested by any performance degradation, misinterpretation or loss of information which could be extracted from that telecommunications network, system or installation in the absence of such unwanted energy;
- "issue" (發出) includes grant;
- "licensee" (持牌人)-
- (a) means the holder of a licence under this Ordinance;
- (b) includes the holder of a licence (other than a programme service licence)-
- (i) granted under the Ordinance repealed by section 44(1) of the Broadcasting Ordinance (Cap 562);
- (ii) in force immediately before that repeal; and
- (iii) deemed to be a licence granted under this Ordinance by virtue of Schedule 8 to the Broadcasting Ordinance (Cap 562); (Replaced 48 of 2000 s. 44)
- "message" (訊息) means any communication sent or received by telecommunications or given to a telecommunications officer to be sent by telecommunications or to be delivered;
- "network" (網絡) means a telecommunications network;
- "number portability" (號碼可攜性) means the ability for a customer of a telecommunications service to retain the number or code assigned to him when he changes the location of use or the provider of that service;
- "numbering plan" (號碼計劃) means the Hong Kong telecommunications numbering plan which sets out the plan of numbers and codes used or designed for use for or in connection with the establishment, operation and maintenance of any means of telecommunications under-
- (a) a licence; or
- (b) an order made by the Chief Executive in Council under section 39;
- "payphone" (收費電話機) means a telephone connected to a public telecommunications system which cannot be used to make a call (other than specified free calls) unless payment can be collected, or authorized, at the time a call is made;

"public place" (公眾地方) means a place to which the public or a section of the public may or are permitted to have access from time to time, whether by payment or not, but does not include a vessel, aircraft, vehicle or other means of transport;

"public telecommunications service" (公共電訊服務) means a telecommunications service which is offered for use to the general public;

"radiated interference" (輻射干擾) means any interference transmitted other than through a guided medium;

"radio spectrum" (無線電頻譜) means the range of frequencies within which radiocommunications are capable of being carried out;

"radio transmitter" (無線電發射器) means any radiocommunications apparatus designed or intended to transmit or emit radio waves;

"radio waves" (無線電波) means electromagnetic waves of frequency lower than 3000 GHz propagated in space without an artificial guide;

"radiocommunications" (無線電通訊) means telecommunications by means of radio waves;

"radiocommunications installation" (無線電通訊裝置) means a radio transmitter, receiver, aerial, support structure, ancillary equipment or apparatus used or intended for use in connection with radiocommunications;

"relative" (親屬) means the spouse, parent, child, brother or sister of the relevant person (whether of full blood or half-blood or by affinity);

"Secretary" (政策局局長) means the Secretary of a policy bureau in the Government Secretariat appointed by the Chief Executive for the purposes of the administration of this Ordinance;

"sound broadcast receiving apparatus" (聲音廣播接收器具) means an apparatus which is capable of receiving sound only, transmitted by means of radiocommunications or by wire for reception by the general public;

"space object" (空間物體) has the meaning assigned to it in section 2 of the Outer Space Ordinance (Cap 523);

"telecommunications" (電訊) means any transmission, emission or reception of communication by means of guided or unguided electromagnetic energy or both, other than any transmission or emission intended to be received or perceived directly by the human eye;

"telecommunications industry" (電訊業) means the industry comprising the persons who provide or supply telecommunications networks, systems, installations, customer equipment or services;

"telecommunications installation" (電訊裝置) means apparatus or equipment maintained for or in connection with a telecommunications network, telecommunications system or telecommunications service;

"telecommunications line" (電訊線路) means any wire, cable, duct, optical fibre, filament, line, pipe, pole, post, tube, conduit, support structure, ancillary equipment or apparatus or other physical medium used or intended for use as a continuous artificial guide for or in connection with telecommunications;

"telecommunications market" (電訊市場) means any market for the provision or acquisition of telecommunications networks, telecommunications systems, telecommunications installations, or customer equipment or services;

"telecommunications network" (電訊網絡) means a system, or series of systems, for carrying communications by means of guided or unguided electromagnetic energy or both;

"telecommunications officer" (電訊人員) means any person employed in connection with a telecommunications service;

"telecommunications service" (電訊服務) means a service for the carrying of communication by means of guided or unguided electromagnetic energy or both;

"telecommunications system" (電訊系統) means any telecommunications installation, or series

of installations, for the carrying of communication by means of guided or unguided electromagnetic energy or both;

"universal service obligation" (全面服務責任) means the provision of a good, efficient and continuous basic service by a carrier licensee subject to a universal service obligation to all persons within the areas of Hong Kong covered by that obligation;

"vessel" (船隻) has the same meaning as defined in the Shipping and Port Control Ordinance (Cap 313).

(2) For the avoidance of doubt, it is hereby declared that-

- (a) a notice under section 7C(1) and an order under section 32J(4) are not subsidiary legislation;
- (b) an order under section 32I(1) or 32K(6) is subsidiary legislation.

(Replaced 36 of 2000 s. 2)

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| Section: | 8 | Prohibition of establishment and maintenance of means of telecommunications, etc., except under licence | 48 of 2000 | 07/07/2000 |
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(1) Save under and in accordance with a licence granted by the Governor in Council or with the appropriate licence granted or created by the Authority, no person shall in Hong Kong or on board any ship, aircraft or space object that is registered or licensed in Hong Kong- (Amended 39 of 1990 s. 3; 74 of 1990 s. 104(3); 36 of 2000 s. 5)

- (a) establish or maintain any means of telecommunications; or
- (b) possess or use any apparatus for radiocommunications or any apparatus of any kind that generates and emits radio waves notwithstanding that the apparatus is not intended for radiocommunications; or
- (c) deal in the course of trade or business in apparatus or material for radiocommunications or in any component part of any such apparatus or in apparatus of any kind that generates and emits radio waves whether or not the apparatus is intended, or capable of being used, for radiocommunications; or
- (d) demonstrate, with a view to sale in the course of trade or business, any apparatus or material for radiocommunications. (Amended 36 of 2000 s. 28)

(2) For the avoidance of doubt, it is hereby declared that the fact that the person from whom any apparatus for telecommunications is loaned, leased or hired, or the person maintaining a means of telecommunications of which other apparatus forms part or with which other apparatus is connected, is the holder of a licence granted under this Ordinance, does not exempt the person to whom the apparatus is loaned, leased or hired, or the person maintaining, possessing or using the apparatus forming part of, or connected with, such means of telecommunications, as the case may be, from the necessity to obtain such licence or licences as may be required under this Ordinance. (Amended 36 of 2000 s. 28)

(3) (Repealed 40 of 1995 s. 7)

(4) Notwithstanding anything contained in subsection (1), no licence shall be required under that subsection in respect of-

- (a) any sound broadcast receiving apparatus;
- (b) any material or component part of such sound broadcast receiving apparatus;
- (c) any television receiver;
- (d) any material or component part of a television receiver; (Added 2 of 1968 s. 3. Amended 17 of 1972 s. 2)
- (e) any system which, without a change of frequency, carries from a single aerial, by wire or other material substance which does not cross a public street or unleased Government land, to outlet points in one building or in more than one building if

such buildings are owned by the same person television programmes provided by any company licensed under the Broadcasting Ordinance (Cap 562); or (Added 57 of 1973 s. 2. Amended 29 of 1998 s. 105; 48 of 2000 s. 44)

- (f) any closed circuit television system consisting of a television transmitter unit, with or without an associated audio system, connected to reception units by wire or other material substance which does not cross a public street or unleased Government land, if- (Amended 29 of 1998 s. 105)
- (i) the system is operated solely for internal information or security communication purposes solely within premises occupied by the person operating the system or for private entertainment purposes in domestic premises occupied by such person; and
- (ii) no advertising material is transmitted by means of the system, other than such material advertising only the goods or services sold or provided by the person operating the system or which is transmitted free of charge by such person. (Added 57 of 1973 s. 2. Amended 62 of 1973 s. 2)

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| Section: | 9 | Control of import and export of radiocommunications transmitting apparatus | 36 of 2000 | 16/06/2000 |
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Save under and in accordance with a permit granted by the Authority, no person shall import into Hong Kong or export therefrom any apparatus or any component part of any apparatus for transmission by radio waves unless he is the holder of a licence authorizing him to deal in the course of trade or business in such apparatus.

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| Section: | 9A | Application of section 9 to air transit or air transshipment cargo | 36 of 2000 | 16/06/2000 |
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(1) Section 9 does not apply in relation to radiocommunications transmitting apparatus that is air transit cargo or air transshipment cargo; but if at any time between its being brought into and taken out of Hong Kong such apparatus is removed from the cargo transshipment area of Hong Kong International Airport then, for the purposes of section 9- (Amended 36 of 2000 s. 6)

- (a) the apparatus is deemed to be imported at the time of such removal; and
- (b) the person who brought the apparatus, or caused it to be brought, into Hong Kong as air transit cargo or air transshipment cargo is deemed to be the person who imports the apparatus at the time of its removal,

and, except to that extent, that section has effect as if this subsection had not been enacted.

- (2) (a) For the purpose of the issue of a permit as is mentioned in section 9 for the import of radiocommunications transmitting apparatus, the import of such apparatus that is air transit cargo or air transshipment cargo does not take place unless and until the apparatus is removed from the cargo transshipment area of Hong Kong International Airport other than for the purpose of its being taken out of Hong Kong by air.
- (b) Nothing in this section precludes the issue of a permit as is mentioned in section 9 for the export of radiocommunications transmitting apparatus that is air transit cargo or air transshipment cargo only because the apparatus has been removed from the cargo transshipment area of Hong Kong International Airport. (Amended 36

of 2000 s. 6)

- (3) In proceedings against a person for an offence under section 21, being proceedings-
- (a) in relation to the import or export of radiocommunications transmitting apparatus that is air transit cargo or air transshipment cargo; and (Amended 36 of 2000 s. 6)
 - (b) in which it is necessary for the prosecution to prove that, at any time between its being brought into and taken out of Hong Kong, the apparatus was removed from the cargo transshipment area of Hong Kong International Airport,

it is a defence for the person to show that he took all reasonable steps and exercised reasonable diligence to avoid such removal occurring or that he reasonably believed that such removal had not occurred, as the case may be.

(4) Where in any proceedings the defence provided by subsection (3) involves an allegation that the commission of the offence was due to-

- (a) the act or default of another person; or
- (b) reliance on information given by another person,

the defendant is not, without the leave of the court, entitled to rely on the defence unless, not less than 10 days before the hearing of the proceedings, he has served a notice in writing on the prosecutor giving all particulars of-

- (i) the person who committed the act or default or gave the information; and
- (ii) the act, default or information,

of which he is aware at the time he serves the notice.

(5) A person is not entitled to rely on the defence provided by subsection (3) by reason of his reliance on information supplied by another person, unless he shows that it was reasonable in all the circumstances for him to have relied on the information, having regard in particular to-

- (a) the steps which he took, and those which might reasonably have been taken, for the purpose of verifying the information; and
- (b) whether he had any reason to disbelieve the information.

(6) In this section, "radiocommunications transmitting apparatus" (無線電通訊發送器具) means any apparatus or component part to which section 9 applies. (Amended 36 of 2000 s. 6)

(Added 29 of 2000 s. 3)

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| Chapter: | 139E | POULTRY (SLAUGHTERING FOR EXPORT) REGULATIONS | Gazette Number | Version Date |
| Schedule: | 1 | Name of country | | 30/06/1997 |

[regulations 2 & 3]

1. The United States of America.

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|-------------|------|---|----------------|--------------|
| Chapter: | 291A | MARINE FISH (MARKETING AND EXPORTATION) REGULATIONS | Gazette Number | Version Date |
| Regulation: | 1A | Interpretation | 29 of 2000 | 26/05/2000 |

In these regulations, unless the context otherwise requires-

- "air transshipment cargo" (航空轉運貨物) has the meaning assigned to it in section 2 of the Import and Export Ordinance (Cap 60); (29 of 2000 s. 7)
- "air transit cargo" (航空過境貨物) means any article in transit that is both imported and consigned for export in an aircraft; (29 of 2000 s. 7)
- "article in transit" (過境物品) has the meaning assigned to it in section 2 of the Import and Export Ordinance (Cap 60); (29 of 2000 s. 7)
- "cargo transshipment area of Hong Kong International Airport" (機場貨物轉運區) has the meaning assigned to it in section 2 of the Import and Export Ordinance (Cap 60); (29 of 2000 s. 7)
- "export permit" (輸出許可證) means a permit to export specified fish issued by the Director under regulation 4D(1)(a);
- "owner" (擁有人), in relation to a vessel, aircraft or vehicle, means-
- (a) the owner and any person holding himself out to be the owner;
 - (b) any person to whom the vessel, aircraft or vehicle has been chartered or hired;
 - (c) any person having for the time being the control or management of the vessel, aircraft or vehicle; and
 - (d) any person acting as agent for the owner in connection with the handling of fish carried in or on the vessel, aircraft or vehicle;
- "specified fish" (指明魚類) means fish specified in an order made under regulation 4A(1).
(L.N. 115 of 1976)

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| Regulation: | 2 | Landing of marine fish | | 30/06/1997 |
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- (1) Subject to paragraph (3), marine fish may, without a permit, be landed from a vessel only at a market. (L.N. 72 of 1988)
- (2) (Repealed L.N. 72 of 1988)
- (3) Marine fish that-
 - (a) has been caught for sport or pleasure;
 - (b) has not been sold and is not intended for sale or export; or
 - (c) has been sold retail on the vessel from which such fish was caught,
may be landed, without a permit, anywhere in Hong Kong. (L.N. 72 of 1988)

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| Regulation: | 4 | Notification of exports of marine fish | 29 of 2000 | 26/05/2000 |
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- (1) Every person who exports marine fish shall before exportation furnish to the Director in writing the following information- (29 of 2000 s. 7)
 - (a) the name, including business name, and business address of the exporter;
 - (b) the description of the product and species of fish to be exported;
 - (c) the weight and declared value of the product to be exported;
 - (d) the place of origin of the product to be exported;
 - (e) the method of transport to be used, and, if by sea, the name of the vessel and shipping agent to be employed; and
 - (f) the number and description of any wholesale market bill, wholesale permit, or bill of lading relating to the product to be exported, which may be in the possession of the exporter.
- (2) Paragraph (1) does not apply in relation to any marine fish that is air transit cargo or air

transhipment cargo. (29 of 2000 s. 7)

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| Regulation: | 4A | Commencement and discontinuance of regulations 4B to 4G | 65 of 1999 | 01/07/1997 |
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Remarks:

Adaptation amendments retroactively made - see 65 of 1999 s. 3

- (1) Whenever he considers that-
 - (a) the exportation from Hong Kong of any species of marine fish may adversely affect either the supply or the price of such fish for the local market; or
 - (b) any such exportation would, for any reason, be contrary to the public interest,the Chief Executive in Council may by order published in the Gazette declare that, in respect of the fish specified in the order, regulations 4B, 4C, 4D, 4E, 4F and 4G shall come into operation.
- (2) When an order is made under paragraph (1), regulations 4B, 4C, 4D, 4E, 4F and 4G shall continue in operation in respect of the specified fish until discontinued by order of the Chief Executive in Council published in the Gazette.
- (3) While regulations 4B, 4C, 4D, 4E, 4F and 4G continue in operation, the operation of regulation 4 shall be discontinued in respect of the specified fish.
- (4) An order under paragraph (2) shall not prejudice the power of the Chief Executive in Council to make a further order under paragraph (1).
- (5) Section 23 of the Interpretation and General Clauses Ordinance (Cap 1) shall have the same effect in relation to any regulation the operation of which is discontinued by virtue of an order made under paragraph (2) or of paragraph (3) as if that regulation had been repealed.
(L.N. 115 of 1976; 65 of 1999 s. 3)

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| Regulation: | 4B | Permits required for the export of specified fish | | 30/06/1997 |
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- (1) Subject to paragraph (2), specified fish shall not be exported except under and in accordance with an export permit.
 - (2) An export permit shall not be required for the export of any specified fish which-
 - (a) has been processed otherwise than by freezing or chilling; or
 - (b) is intended for consumption on the vessel, aircraft or vehicle in or on which it is exported.
- (L.N. 115 of 1976)

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| Regulation: | 4BA | Application to air transit or air transhipment cargo | 29 of 2000 | 26/05/2000 |
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- (1) Regulation 4B(1) does not apply in relation to any specified fish that is air transit cargo or air transhipment cargo; but if at any time between its being brought into and taken out of Hong Kong such specified fish is removed from the cargo transhipment area of Hong Kong International

Airport, regulation 4B(1) has effect as if this paragraph had not been enacted.

(2) Nothing in this regulation precludes the issue of a permit under regulation 4D for the export of any specified fish that is air transit cargo or air transshipment cargo only because the specified fish has been removed from the cargo transshipment area of Hong Kong International Airport.

- (3) In proceedings against a person for an offence under regulation 4G, being proceedings-
- (a) in relation to the export of any specified fish that is air transit cargo or air transshipment cargo; and
 - (b) in which it is necessary for the prosecution to prove that, at any time between its being brought into and taken out of Hong Kong, the specified fish was removed from the cargo transshipment area of Hong Kong International Airport,

it shall be a defence for the person to show that he reasonably believed that such removal had not occurred.

(4) Where in any proceedings the defence provided by paragraph (3) involves an allegation that the commission of the offence was due to-

- (a) the act or default of another person; or
- (b) reliance on information given by another person,

the defendant shall not, without the leave of the court, be entitled to rely on the defence unless, not less than 10 days before the hearing of the proceedings, he has served a notice in writing on the prosecutor giving all particulars of-

- (i) the person who committed the act or default or gave the information; and
- (ii) the act, default or information,

of which he is aware at the time he serves the notice.

(5) A person shall not be entitled to rely on the defence provided by paragraph (3) by reason of his reliance on information supplied by another person, unless he shows that it was reasonable in all the circumstances for him to have relied on the information, having regard in particular to-

- (a) the steps which he took, and those which might reasonably have been taken, for the purpose of verifying the information; and
- (b) whether he had any reason to disbelieve the information.

(29 of 2000 s. 7)

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| Regulation: | 5 | Offences | | 30/06/1997 |
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Any person who-

- (a) incites any other person to abstain from selling or purchasing marine fish or intimidates any other person with the intention of causing such person to abstain from selling or purchasing marine fish;
- (b) contravenes regulation 3;
- (c) contravenes regulation 4; or
- (d) knowingly makes any false or incorrect statement in furnishing the Director with the information required under regulation 4,

commits an offence and is liable to a fine of \$10000 and to imprisonment for 6 months.

(L.N. 72 of 1988)

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|----------|-----|-------------------------------------|-------------------|-----------------|
| Chapter: | 403 | OZONE LAYER PROTECTION ORDINANCE | Gazette Number | Version Date |
|----------|-----|-------------------------------------|-------------------|-----------------|

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| Section: | 6 | Licence to import or export scheduled substances | | 30/06/1997 |
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(1) The Director may, on the application of a person registered under section 5 and on payment of the prescribed licence fee, issue a licence to import or to export a specified consignment of a scheduled substance subject to any conditions that the Director may impose.

(2) The Director may, on application to him, vary the conditions of a licence.

(3) The Director may specify the forms of the applications and licence under this section.

(4) In considering whether to issue a licence or vary the conditions of a licence the Director-

(a) shall comply with Hong Kong's obligations under the 1985 Vienna Convention for the Protection of the Ozone Layer, the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer as it may be amended from time to time and any other protocols under the Convention that apply to Hong Kong; and

(b) may impose more stringent measures than are required by the Convention and the protocols referred to in paragraph (a).

(5) If the Director refuses to issue a licence or vary the conditions of a licence as requested by the applicant in his application, the Director shall serve on the applicant, by personal service or by post, a notice stating the reasons for his refusal.

(6) A licensee who contravenes a condition of a licence commits an offence and is liable to a fine of \$1000000 and to imprisonment for 2 years.

(Enacted 1989)

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| Chapter: | 403A | OZONE LAYER PROTECTION (FEES) REGULATIONS | Gazette Number | Version Date |
|----------|------|---|----------------|--------------|

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| Regulation: | 2 | Prescribed fees | L.N. 310 of 2000 | 22/12/2000 |
|-------------|---|-----------------|------------------|------------|

(1) The fee for registration under section 5 is \$2805.

(2) The fee for a licence to import or export issued under section 6(1) is \$940.

(Enacted 1989. L.N. 263 of 1994; L.N. 501 of 1996; L.N. 580 of 1997; L.N. 310 of 2000)

Implications of the Proposal

FINANCIAL AND CIVIL SERVICE IMPLICATIONS

The proposal will result in the deletion of eight posts in the Customs and Excise Department with an annual staff savings of \$5 million. The affected disciplinary staff will be redeployed within the department. The savings in other departments resulting from the relaxation measures are only marginal since the number of licences issued each year is small. The proposed legislative amendments do not have other significant financial and civil service implications for the Government.

ECONOMIC IMPLICATIONS

2. These measures will reduce the burden on the trade in complying with import and export licensing requirements and facilitate the movement of transshipment cargoes currently under licensing control. This will help foster a more business-friendly environment in Hong Kong.