

**立法會**  
***Legislative Council***

LC Paper No. LS90/02-03

**Paper for the House Committee Meeting  
on 11 April 2003**

**Legal Service Division Report on  
Subsidiary Legislation Gazetted on 4 April 2003**

**Date of Tabling in LegCo** : 9 April 2003

**Amendment to be made by** : 7 May 2003 (or 28 May 2003 if extended by resolution)

**PART I AMENDMENTS TO SUBSIDIARY LEGISLATION**

**Import and Export Ordinance (Cap. 60)**

**Import and Export (General) (Amendment) (No. 2) Regulation 2003 (L.N. 93)**

By this Amendment Regulation made by the Chief Executive in Council under section 31 of the Import and Export Ordinance (Cap. 60), the Import and Export (General) Regulations (Cap. 60 sub. leg. A) (the Regulation) is amended. Regulations 6A, 6B, 6C, 6D and 6H are repealed. A new Part VA is added to provide for the delivery of import, export and transshipment notifications by electronic means in relation to the import or export of textiles whether as transshipment or otherwise in reliance on an exemption issued under regulation 6(3A) of the Regulation. New definitions are also added in regulation 2 to accommodate the new provisions. Provisions for the transitional period are to be found in the new Eighth Schedule.

2. Only persons registered as textiles traders (registered textiles traders) may be granted exemption under regulation 6(3A) from licensing requirements to import or export textiles (exemption). The import or export of textiles whether as transshipment or otherwise by registered textiles traders in reliance upon an exemption has to comply with certain procedural requirements. The new Part VA seeks to prescribe such procedural requirements anew by requiring the necessary notifications to the Director-General of Trade and Industry (the Director) to be made by electronic means through the Tradelink only.

3. Each import, export or transshipment notification received by the Director will be assigned a reference number and the relevant trader will only be informed of the number through the Tradelink. A registered textiles trader doing the

import, export or transshipment has to deliver that reference number to the carrier of the relevant textiles together with all particulars contained in his import, export or transshipment notification. An importing trader may not take possession of the textiles before he has delivered the reference number and requisite particulars to the relevant carrier. A carrier must not release or export the textiles unless he has received the reference number and the requisite particulars. He must then deliver through the Tradelink to the Director within 14 days after his receipt of the reference number a copy or extract of the manifest of his vessel including that reference number. Non-compliance of the requirements by a trader or carrier will attract criminal penalties up to \$500,000 in fine and 2 years imprisonment.

4. The Administration intends to introduce an open-ended transitional period during which traders may submit notifications either by electronic means or in paper. The transitional period will begin with the commencement of the Amendment Regulation on 30 May 2003 and end on a date to be specified by the Commissioner of Custom and Excise (proposed new regulation 6H) by notice published in the Gazette. The notice is subsidiary legislation and will be subject to the scrutiny of the Council. During this period the provisions contained in the new Eighth Schedule allowing the traders to choose between two modes of submitting notification will apply. After the expiration of the transitional period, no notification may be submitted in paper.

5. Members may wish to refer to the LegCo Brief (Ref: CIB 89/62/5) dated 2 April 2003 and issued by the Commerce and Industry Branch of the Commerce, Industry and Technology Bureau for background and further information. According to the Administration, the Textiles Advisory Board, registrants under the Textiles Traders Registration Scheme (TTRS), carrier associations and the LegCo Panel on Commerce and Industry have been consulted. The minutes of the meeting of the Panel on Commerce and Industry held on 18 December 2001 show that it was consulted on the proposal for engaging the Tradelink Electronic Commerce Limited to provide electronic data interchange services for TTRS.

6. The Legal Service Division is seeking clarification from the Administration on certain drafting matters and is studying its reply. A further report will be issued if necessary.

#### **Immigration Ordinance (Cap. 115)**

#### **Immigration (Anchorage and Landing Places) (Amendment) (No. 2) Order 2003 (L.N. 94)**

7. By this Amendment Order made by the Secretary for Security under section 60 of the Immigration Ordinance (Cap. 115), the Immigration (Anchorage and Landing Places) Order (Cap. 115 sub. leg. C) is amended by repealing paragraph 2 and substituting a new paragraph.

8. The new paragraph reproduces the existing provisions but adds

provisions specifying immigration anchorage for ships which are approved by the Airport Authority to berth at the Hong Kong International Airport and which regularly convey transit passengers between it and other parts of China outside Hong Kong. Such passengers are those who -

- (a) arrive at the airport by air or by sea for the purpose of onward travel only;
- (b) before their onward journey remain at all times within the restricted area of the airport;
- (c) hold valid entry documents for the country or territory of their destination; and
- (d) have valid tickets for onward travel by air or by sea from the airport within 24 hours of arrival.

The technical specifications of the locations of the immigration anchorage are set out in Schedule 1A to the Order.

9. No difficulties have been observed in the legal or drafting aspects of the Amendment Order. No consultation with the public or any LegCo Panel has been made. It will come into operation on 29 May 2003.

## **PART II LEGAL NOTICES NOT REQUIRED TO BE TABLED**

### **United Nations Sanctions Ordinance (Cap. 537)**

#### **United Nations Sanctions (Angola) (Repeal) Regulation 2003 (L.N. 95)**

10. By this Regulation made under section 3 of the United Nations Sanctions Ordinance (Cap. 537) by the Chief Executive on the instruction of the Ministry of Foreign Affairs of the People's Republic of China and after consultation with the Executive Council, the United Nations Sanctions (Angola) Regulation (Cap. 537 sub. leg. F) (Angola Regulation) and the United Nations Sanctions (Angola) (Suspension of Operation) Regulation 2002 (L.N. 151 of 2002) (Suspension of Operation Regulation) are repealed.

11. The Regulation gives effect to the instruction of the Ministry of Foreign Affairs in relation to the United Nations Security Council Resolution (UNSCR) 1448. It repeals the measures in UNSCR 864, 1127 and 1173 from which the Angola Regulation originates. The Suspension of Operation Regulation originates from certain provisions of UNSCR 1412, which effect is now spent. Neither the public nor any LegCo Panel has been consulted on the Regulation.

12. No difficulties in the legal or drafting aspects of the Regulation have been observed.

**United Nations Sanctions Ordinance (Cap. 537)**

**United Nations Sanctions (Sierra Leone) (Prohibition Against Importation Of Diamonds) Regulation 2003 (L.N. 96)**

13. By this Regulation made under section 3 of the United Nations Sanctions Ordinance (Cap. 537) by the Chief Executive on the instruction of the Ministry of Foreign Affairs of the People's Republic of China and after consultation with the Executive Council, effect is given to United Nations Security Council Resolution (UNSCR) 1466, which decides inter alia that the measures imposed by paragraph 1 of UNSCR 1306 shall remain in force for a new period of 6 months from 5 December 2002. Paragraph 1 of UNSCR 1306 calls upon all states to take the necessary measures to prohibit the direct or indirect import of all rough diamond from Sierra Leone to their territories. Rough Diamonds controlled by the government of Sierra Leone through the certificate of origin regime is exempted from the prohibition. UNSCR 1306 has been implemented in Hong Kong SAR by the United Nations Sanctions (Sierra Leone) (Prohibition Against Importation of Diamonds) Regulation (Cap. 537 sub. leg. P), which has ceased to have effect after 4 December 2002.

14. The Regulation prohibits the import of rough diamonds directly or indirectly from Sierra Leone except under the authority of a licence granted by the Chief Executive. It also prescribes the procedure for licence application. Contravention of the prohibition or non-compliance with any conditions of a licence will attract criminal penalties including fine and imprisonment for 2 years. The Chief Executive is empowered to authorize in writing persons to be authorized officers to request people entering Hong Kong SAR to make declarations in relation to rough diamonds directly or indirectly exported from Sierra Leone. Authorized officers are also empowered to obtain evidence and information .

15. The Regulation reproduces substantially the expired United Nations Sanctions (Sierra Leone) (Prohibition Against Importation of Diamonds) Regulation (Cap. 537 sub. leg. P) except the expiry date in section 17.

14. The Regulation will cease to have effect on 5 June 2003. Neither the public nor any LegCo Panel has been consulted on the Regulation.

Prepared by

KAU Kin-wah  
Assistant Legal Adviser  
Legislative Council Secretariat  
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