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**LEGISLATIVE COUNCIL BRIEF**

Import and Export Ordinance  
(Chapter 60)

Dutiable Commodities Ordinance  
(Chapter 109)

Reserved Commodities Ordinance  
(Chapter 296)

**IMPORT AND EXPORT (GENERAL)  
(AMENDMENT) REGULATION 2003**

**IMPORT AND EXPORT (REGISTRATION)  
(AMENDMENT) REGULATION 2003**

**IMPORT AND EXPORT (REMOVAL OF ARTICLES)  
(AMENDMENT) REGULATION 2003**

**RESERVED COMMODITIES (CONTROL OF  
IMPORTS, EXPORTS AND RESERVE STOCKS)  
(AMENDMENT) REGULATION 2003**

**IMPORT AND EXPORT (ELECTRONIC TRANSACTIONS)  
ORDINANCE 2002 (24 OF 2002) (COMMENCEMENT) NOTICE  
2003**

**DUTIABLE COMMODITIES (AMENDMENT) ORDINANCE 2001  
(19 OF 2001) (COMMENCEMENT) NOTICE 2003**

## INTRODUCTION

A  
B  
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D

At the meeting of the Executive Council on 28 January 2003, the Council ADVISED and the Chief Executive ORDERED that the Import and Export (General) (Amendment) Regulation 2003 (at Annex A), the Import and Export (Registration) (Amendment) Regulation 2003 (at Annex B) and the Import and Export (Removal of Articles) (Amendment) Regulation 2003 (at Annex C) under the Import and Export Ordinance and the Reserved Commodities (Control of Imports, Exports and Reserve Stocks) (Amendment) Regulation 2003 (at Annex D) under the Reserved Commodities Ordinance should be made to provide for the use of electronic services for processing cargo manifests. This brief explains the four proposed Regulations.

E  
F

2. This brief also explains the Import and Export (Electronic Transactions) Ordinance 2002 (24 of 2002) (Commencement) Notice 2003 (at Annex E) and the Dutiable Commodities (Amendment) Ordinance 2001 (19 of 2001) (Commencement) Notice 2003 (at Annex F).

## BACKGROUND

### **The four proposed Regulations**

3. On 22 May 2001, the Council ADVISED and the Chief Executive ORDERED that the Import and Export (Electronic Transactions) Bill 2001 (the Bill) should be introduced into the Legislative Council, and that the four proposed Regulations referred to in paragraph 1 above, should be approved in principle, to be referred back to the Council to be made after the Bill had passed into law. The Bill, together with the four proposed Regulations, provide for the use of an electronic service provided by a particular electronic services provider in the submission of cargo manifests by cargo carriers to the Government.

4. The Legislative Council passed the Bill on 10 July 2002 with some technical amendments. The Import and Export (Electronic Transactions) Ordinance 2002 was signed by the Chief Executive on 18 July 2002 and promulgated on 19 July 2002. It has not been brought into

operation pending the making of the four proposed Regulations.

5. The proposed Regulations at Annexes A to D of this brief are the same as the ones attached to the brief issued to Members on 30 May 2001 on the Bill and the proposed Regulations, except for the following modifications -

- (a) the incorporation of amendments consequential to the ones made to the Bill (see paragraph 4 above), notably -
  - (i) the Bill originally contained a provision to create a new obligation for carriers to submit manifests to the Director-General of Trade and Industry ("the Director"). At committee stage, we moved amendments to delete that provision and to empower the Director to have access to information contained in a manifest lodged with the Commissioner of Customs and Excise ("the Commissioner"). The proposed Regulations are therefore amended in a similar manner;
  - (ii) a technical amendment was made to the transitional provision in the Bill to make clear that any determination made or any notice published under the principal Ordinance (that mandates submission of manifests in paper form under exceptional circumstances or for the road mode of transport) should prevail over the transitional provisions (that allow either paper or electronic submission). The proposed Regulations are therefore amended in a similar manner; and
  - (iii) a definition of "manifest" was added to the Reserved Commodities Ordinance at committee stage. Accordingly, such a definition under the Reserved Commodities (Control of Imports, Exports and Reserved Stocks) Regulations is deleted;
- (b) the introduction of an amendment to address a specific point suggested by the Bills Committee established to examine the Bill. That is, to avoid duplication, submission of a full and complete

G manifest on demand using services provided by a specified body under section 15 of the Import and Export Ordinance (at Annex G) will be deemed to constitute compliance with the requirement for lodgment of a manifest under the Import and Export (Registration) Regulations; and

- (c) some improvement in drafting, e.g. renumbering, simplifying the presentation and tidying up some minor loose ends.

6. The Import and Export (Registration) (Amendment) Regulation 2003 at Annex B provides, inter alia, for an extension of the statutory time limit, from seven days to 14 days, within which a cargo manifest must be lodged after the cargo is imported or exported. We are mindful that this extension, while welcomed by the industry, may need reviewing in the future having regard to an increasing international concern about cargo security after the 11 September 2001 tragedy. In particular, the United States have proposed a Container Security Initiative ("CSI") to prevent terrorists and weapons of mass destruction from entering their border through ocean-going containers. The implementation of CSI hinges on availability of advance cargo information. In addition, the United States have introduced a new requirement for carriers to submit cargo manifest information to the United States Customs 24 hours before cargo bound for the United States is laden at the exporting port. In view of these developments and the global trend towards earlier submission of cargo information by carriers, we have considered retaining the current statutory time limit of seven days. However, since we have secured the industry's goodwill in voluntary co-operation on the CSI, it would be inadvisable to upset the industry by withdrawing a benefit that has been promised to them. On balance, we recommend to extend the statutory time limit.

7. When considering the Bill, some Members expressed concern about the disagreement between some users and the franchised electronic services provider, Tradelink Electronic Commerce Limited ("Tradelink") over the fees to be charged for the electronic services for processing cargo manifests ("EMAN"). According to Tradelink, it has since secured the acceptance by air, rail and river carriers of its proposed fee. As regards ocean carriers, some are content with the proposed fee and are prepared to

adopt EMAN. Some claim that they will incur additional cost to adopt EMAN because they may occasionally need to input into their computer system additional cargo information now provided in paper form by shippers or forwarders to meet EMAN requirements. Tradelink is still in dialogue with these ocean carriers and we are monitoring the situation closely. Despite this, we believe that the progress made provides a solid foundation for the launch of EMAN. All carriers, including ocean carriers, may continue to submit cargo manifests in paper form during an open-ended transitional period in which both paper and electronic submission of cargo manifests are allowed. The proposed Regulations allow us to provide for different transitional periods for carriers of different transport modes. We will, as always, have due regard to the industry's take-up rate and the smooth operation of the system before making electronic submission of manifests mandatory. When a decision to end a transitional period is made, we will specify the end date by notice in the Gazette. Such a notice is subsidiary legislation subject to negative vetting by the Legislative Council.

#### **The two commencement notices**

8. We need two commencement notices to bring –
  - (a) the Import and Export (Electronic Transactions) Ordinance 2002 (see paragraph 4 above); and
  - (b) section 9 of the Dutiable Commodities (Amendment) Ordinance 2001

into operation on 11 April 2003, in sync with the commencement of the four proposed Regulations.

9. The Dutiable Commodities (Amendment) Ordinance 2001 (the amendment Ordinance) was passed by the Legislative Council on 4 July 2001. It provides the legal basis for traders to use services provided by Tradelink to process applications for dutiable commodities permits electronically. The amendment Ordinance, except section 9, commenced operation on 10 January 2002.

10. Section 9 of the amendment Ordinance amends the Dutiable

Commodities Ordinance so that the requirement for a carrier to submit an import and export statement<sup>1</sup> to the Commissioner under section 22(1) is deemed to be complied with, if a manifest containing particulars of the dutiable commodities has already been submitted using services provided by a specified body under the Import and Export (Registration) Regulations (one of the four Regulations being amended). Section 9 of the amendment Ordinance should therefore commence operation in sync with the commencement of the Import and Export (Registration) (Amendment) Regulation 2003.

## **THE REGULATIONS**

### **Import and Export (General) (Amendment) Regulation 2003**

11. **Sections 2, 3 and 4** amend regulations 6A, 6B and 6D of the Import and Export (General) Regulations respectively to require that manifests to be delivered to the Director under those regulations shall be delivered using services provided by a specified body, and further to provide that this requirement shall be deemed to have been complied with if the same has been lodged with the Commissioner using the same means under regulation 11 or 12 of the Import and Export (Registration) Regulations.

12. **Section 5** adds a **new regulation 6H** to provide for a transitional period during which manifests may be furnished to the Director under regulations 6A, 6B or 6D either in paper form or by using services provided by a specified body.

### **Import and Export (Registration) (Amendment) Regulation 2003**

13. **Sections 4 and 5** amend regulations 11 and 12 of the Import and Export (Registration) Regulations respectively to provide for the use of services provided by a specified body in lodging manifests with the Commissioner and to extend the timeframe for lodging manifests under the

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<sup>1</sup> Section 22 of the Dutiable Commodities Ordinance requires carriers of dutiable commodities to submit a statement of the dutiable commodities imported or exported.

regulations from seven to 14 days. The existing penalties for failure or neglect to lodge a manifest will apply to contravention of the requirement.

14. **Section 6** amends regulation 12A to provide that the requirement under regulations 11 and 12 to lodge a manifest with the Commissioner shall be deemed to have been complied with if a complete manifest has previously been provided to the Commissioner under section 15 of the Import and Export Ordinance (at Annex G) using services provided by a specified body.

15. **Section 8** adds a **new regulation 15** to provide for a transitional period during which manifests may be furnished to the Commissioner under regulation 11 or 12 either in paper form or by using services provided by a specified body.

16. **Sections 2 and 3** amend regulations 4 and 5 respectively to make it clear that the existing penalties for failure or neglect to lodge declarations apply to contravention of the requirement for the use of services provided by a specified body in lodging declarations under those regulations.

### **Import and Export (Removal of Articles) (Amendment) Regulation 2003**

17. **Sections 2, 3 and 4** repeal existing regulations 2, 3, 4 and 5 of the Import and Export (Removal of Articles) Regulations and substitute new regulations 3 and 4. **Section 6** replaces the existing Schedule to the Regulations with new Schedules 1 and 2. New regulations 3 and 4 provide that certain notices, notifications or information given under sections 20A and 20B of the Import and Export Ordinance shall contain the information specified in the new Schedules 1 and 2, with such variations as the circumstances of the case may require.

18. **Section 5(1)** amends regulation 6(1) to provide that, in addition to the paper form, notices may be served by using services provided by a specified body.

### **Reserved Commodities (Control of Imports, Exports and Reserve Stocks) (Amendment) Regulation 2003**

19. **Section 2** repeals the definition of “manifest” in the Reserved Commodities (Control of Imports, Exports and Reserve Stocks) Regulations consequent upon the addition of such a definition to the Reserved Commodities Ordinance via the Import and Export (Electronic Transactions) Ordinance 2002 (24 of 2002).

20. **Sections 3, 4 and 5** amend regulations 5, 6 and 8 respectively to require the use of a recognized electronic service in giving manifest information to the Director, and further to provide that the requirement shall be deemed to have been complied with if the same has been lodged with the Commissioner using services provided by a specified body under regulation 11 or 12 of the Import and Export (Registration) Regulations.

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

22. The existing provisions being amended are at Annex G.

### **THE NOTICES**

23. The notices at Annexes E and F will bring the Import and Export (Electronic Transactions) Ordinance 2002 and section 9 of the Dutiable Commodities (Amendment) Ordinance 2001 into operation on 11 April 2003, the same commencement date for the proposed Regulations.

### **LEGISLATIVE TIMETABLE**

24. The proposed Regulations and the notices will be gazetted on 14 February 2003, tabled at the Legislative Council on 19 February 2003,



and take effect on 11 April 2003.

## **IMPLICATIONS OF THE PROPOSAL**

H 25. The proposal has economic, financial and civil service implications as set out at Annex H. 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 Ordinances concerned. It has no major sustainability implications.

## **PUBLIC CONSULTATION**

26. Both the Government and Tradelink have consulted the industry at various stages of preparation for the launch of EMAN. The industry generally supports EMAN although some ocean carriers are still discussing with Tradelink on technical issues and the service fees to be charged by the latter. During the examination of the Bill, the Legislative Council Bills Committee has already addressed the substantive issues in the proposed Regulations.

## **PUBLICITY**

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

28. A press release will be issued on 12 February 2003. A spokesman will be available to handle media enquiries.

## **ENQUIRIES**

29. Enquiries on this brief should be referred to Mr. Gordon Leung, Principal Assistant Secretary for Commerce, Industry and Technology (Commerce and Industry), on telephone number 2918 7575.

Commerce and Industry Branch  
Commerce, Industry and Technology Bureau  
12 February 2003

**IMPORT AND EXPORT (GENERAL) (AMENDMENT)  
REGULATION 2003**

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

**1. Commencement**

This Regulation shall come into operation on 11 April 2003.

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

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

“–

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

(2) Regulation 6A is amended by adding –

“(3A) The requirement under paragraph (3)(b) is deemed to have been complied with if at the time of delivering the import notification under paragraph (3)(a) the manifest has been lodged with the Commissioner, or with an officer appointed by the Commissioner, in compliance with regulation 11 of the Import and Export (Registration) Regulations (Cap. 60 sub. leg.) and was so lodged using services provided by a specified body.”.

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

(1) Regulation 6B(2) is amended by repealing everything after “the textiles are exported” and substituting –

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

(2) Regulation 6B is amended by adding –

“(2A) The requirement under paragraph (2)(b) is deemed to have been complied with if at the time of delivering the export notification under paragraph (2)(a) the manifest has been lodged with the Commissioner, or with an officer appointed by the Commissioner, in compliance with regulation 12 of the Import and Export (Registration) Regulations (Cap. 60 sub. leg.) and was so lodged using services provided by a specified body.”.

**4. Delivery of transshipment notification, manifest, etc., to the Director**

(1) Regulation 6D(2) is amended by repealing everything after “the textiles are imported” and substituting –

“

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

(2) Regulation 6D(4) is amended by repealing everything after “the textiles are exported” and substituting –

“

- (a) deliver the transshipment notification to the Director; and
- (b) deliver to the Director, using services provided by a

specified body, a copy or extract of the manifest of the vessel, aircraft or vehicle in or on which the textiles have been exported.”.

(3) Regulation 6D is amended by adding –

“(4A) The requirement under paragraph (2)(b) or (4)(b) is deemed to have been complied with if at the time of delivering the transshipment notification under paragraph (2)(a) or (4)(a) the manifest has been lodged with the Commissioner, or with an officer appointed by the Commissioner, in compliance with regulation 11 or 12 of the Import and Export (Registration) Regulations (Cap. 60 sub. leg.), and was so lodged using services provided by a specified body.”.

**5. Regulation added**

The following is added –

**“6H. Transitional**

(1) Any provision of regulation 6A, 6B or 6D requiring that information given under those regulations be given by using services provided by a specified body shall, in respect of the period specified in paragraph (2), 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 information be given either in paper form or by using services provided by a specified body.

(2) The period specified for the purposes of paragraph (1) is the period beginning with the commencement of the Import and Export (General) (Amendment) Regulation 2003 (L.N. 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.

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

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

Clerk to the Executive Council

COUNCIL CHAMBER

2003

### **Explanatory Note**

This Regulation amends the Import and Export (General) Regulations (Cap. 60 sub. leg.) (“the principal Regulations”) to provide for the use of services provided by a specified body in delivering manifest information under those regulations to the Director-General of Trade and Industry (“the Director”). This Regulation should be read in conjunction with section 2 of and Schedule 1 to the Import and Export (Electronic Transactions) Ordinance 2002 (24 of 2002), which make related amendments to the Import and Export Ordinance (Cap. 60).

2. Sections 2, 3 and 4 amend regulations 6A, 6B and 6D of the principal Regulations to require that manifest information required under those regulations to be delivered to the Director shall be delivered using services provided by a specified body, and further to provide that this requirement shall be deemed to have been complied with if the same information has previously been provided to the Commissioner of Customs and Excise (“the Commissioner”) in compliance with regulation 11 or 12 of the Import and Export (Registration) Regulations (Cap. 60 sub. leg.) using the same means.

3. Section 5 adds a transitional provision to the principal Regulations in relation to the amendments effected by sections 2, 3 and 4. This provision allows for the manifest information to continue to be sent in paper form (as at

present) as an alternative to using services provided by a specified body, until a date to be specified by the Commissioner.

**IMPORT AND EXPORT (REGISTRATION) (AMENDMENT)  
REGULATION 2003**

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

**1. Commencement**

This Regulation shall come into operation on 11 April 2003.

**2. Import declarations**

Regulation 4(6) of the Import and Export (Registration) Regulations (Cap. 60 sub. leg.) is amended -

- (a) by adding "using services provided by a specified body" after "so";
- (b) by adding "in such manner" after "such declaration";
- (c) by adding "in that manner" after "the declaration".

**3. Export declarations**

Regulation 5(6) is amended -

- (a) by adding "using services provided by a specified body" after "so";
- (b) by adding "in such manner" after "such declaration";
- (c) by adding "in that manner" after "the declaration".

**4. Import manifests and other particulars**

Regulation 11 is amended -

- (a) in paragraph (1) -
  - (i) in subparagraph (b), by repealing "and" at the end;
  - (ii) in subparagraph (c), by repealing the full stop and substituting "; and";
  - (iii) by adding -



“(d) be lodged using services provided by a specified body.”;

- (b) in paragraph (2), by repealing “7” and substituting “14”;
- (c) in paragraph (6) –
  - (i) by adding “in the manner specified in paragraph (1)(d)” after “so”;
  - (ii) by adding “in such manner” after “such manifest”;
  - (iii) by adding “in that manner” after “the manifest”.

**5. Export manifests**

Regulation 12 is amended -

- (a) in paragraph (1) –
  - (i) in subparagraph (b), by repealing “and” at the end;
  - (ii) in subparagraph (c), by repealing the full stop and substituting “; and”;
  - (iii) by adding -

“(d) be lodged using services provided by a specified body.”;
- (b) in paragraph (2), by repealing “not later than 7” and substituting “within 14”;
- (c) in paragraph (5) –
  - (i) by adding “in the manner specified in paragraph (1)(d)” after “so”;
  - (ii) by adding “in such manner” after “such manifest”;
  - (iii) by adding “in that manner” after “the manifest”.

**6. Regulation substituted**

Regulation 12A is repealed and the following substituted –

**“12A. Whether manifest under regulation 11 or 12 is additional to manifest under section 15 of the Ordinance**

(1) The requirement for a manifest to be lodged under regulation 11 or 12 shall be deemed to have been complied with where a manifest has been provided under section 15 of the Ordinance on the occasion of a vessel, aircraft or vehicle entering or leaving Hong Kong, if the manifest provided under section 15 of the Ordinance –

- (a) contains all the particulars prescribed under section 17 of the Ordinance; and
- (b) was sent using services provided by a specified body, as provided in section 15(1B)(c) of the Ordinance.

(2) Where paragraph (1) has effect, it shall also be deemed that –

- (a) the manifest was lodged under regulation 11 or 12 at the time it was provided under section 15 of the Ordinance; and
- (b) the manifest was lodged under regulation 11 or 12 using services provided by a specified body.

(3) Except as provided in paragraph (1), a manifest required to be lodged under regulation 11 or 12 shall be in addition to any manifest required to be provided under section 15 of the Ordinance.”.

**7. Safekeeping of security device**

Regulation 13A(1) is amended by repealing everything after “device –” and substituting –

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

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

**8. Regulation added**

The following is added –

**“15. Transitional**

(1) Any provision of regulation 11 or 12 requiring that information given under those regulations be given by using services provided by a specified body shall, in respect of the period specified in paragraph (2), 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 information be given either in paper form or by using services provided by a specified body.

(2) The period specified for the purposes of paragraph (1) is the period beginning with the commencement of the Import and Export (Registration) (Amendment) Regulation 2003 (L.N. 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.

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

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

Clerk to the Executive Council

COUNCIL CHAMBER

2003

### **Explanatory Note**

This Regulation amends the Import and Export (Registration) Regulations (Cap. 60 sub. leg.) (“the principal Regulations”), and should be read in conjunction with section 2 of and Schedule 1 to the Import and Export (Electronic Transactions) Ordinance 2002 (24 of 2002), which make related amendments to the Import and Export Ordinance (Cap. 60).

2. Sections 4 and 5 amend regulations 11 and 12 of the principal Regulations to require the use of services provided by a specified body in lodging manifests under those regulations, and to extend the period within which a manifest is required to be lodged under those regulations. The existing penalties for failure or neglect to lodge a manifest will apply to contravention of the requirement.

3. Section 6 amends regulation 12A of the principal Regulations to provide that the requirement under regulations 11 and 12 of the principal Regulations to lodge a manifest with the Commissioner of Customs and Excise (“the Commissioner”) shall be deemed to have been complied with if a complete manifest has previously been provided to the Commissioner under section 15 of the Import and Export Ordinance (Cap. 60) using services provided by a specified body.

4. Section 7 amends regulation 13A(1) of the principal Regulations in relation to security devices to make a drafting improvement.
5. Section 8 adds a transitional provision to the principal Regulations in relation to the amendments effected by sections 4 and 5. This provision allows for the manifest information to continue to be sent in paper form (as at present) as an alternative to using services provided by a specified body, until a date to be specified by the Commissioner.
6. Sections 2 and 3 amend regulations 4 and 5 of the principal Regulations to make it clear that the existing penalties for failure or neglect to lodge declarations apply to contravention of the requirement for the use of services provided by a specified body in lodging declarations under those regulations.

**IMPORT AND EXPORT (REMOVAL OF ARTICLES) (AMENDMENT)  
REGULATION 2003**

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

**1. Commencement**

This Regulation shall come into operation on 11 April 2003.

**2. Interpretation**

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

**3. Regulations substituted**

Regulations 3 and 4 are repealed and the following substituted –

**“3. Notice, etc. under section 20A**

Any –

(a) notice given under section 20A(2) of the Ordinance;  
or

(b) notification of permission given under section  
20A(4)(a) of the Ordinance,

shall contain the information specified in Schedule 1, with such variations  
as the circumstances of the case may require.

**4. Notice, etc. under section 20B**

Any –

(a) notice given under section 20B(1) of the Ordinance;  
or

(b) information given under section 20B(3)(b) of the  
Ordinance,

shall contain the information specified in Schedule 2, with such variations as the circumstances of the case may require.”.

**4. Use of forms**

Regulation 5 is repealed.

**5. Service of notice**

(1) Regulation 6(1) is amended by adding –  
“(ba) by sending it to him using services provided by a specified body;”.

(2) Regulation 6 is amended by adding –

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

**6. Schedule substituted**

The Schedule is repealed and the following substituted –

“SCHEDULE 1

[reg. 3]

INFORMATION TO BE CONTAINED IN NOTICE OR NOTIFICATION  
GIVEN UNDER SECTION 20A OF THE ORDINANCE

1. In relation to the vessel, aircraft or vehicle that the article is upon –
  - (a) the name of the owner;
  - (b) the following identifying particulars –
    - (i) in the case of a vessel, the name and the voyage number (if any);
    - (ii) in the case of an aircraft, the flight number;
    - (iii) in the case of a vehicle, the registration or identification number and, if the vehicle is a train, also the wagon number (if any);
  - (c) the date of its arrival in Hong Kong.
2. The description and quantity of the article, and any identification

mark it bears.

3. If the article is in a container, the number of the container (if any).
4. The place at which the article was loaded onto the vessel, aircraft or vehicle.
5. The number of the bill of lading, air waybill or delivery order relating to the article.
6. The place designated by the owner for the purposes of section 20A(2)(a) of the Ordinance, and the name of the occupier of that place.
7. The name and rank of the officer giving the notice or notification (as the case may be), and the date on which and time at which the notice or notification is given.

SCHEDULE 2

[reg. 4]

INFORMATION TO BE CONTAINED IN NOTICE OR INFORMATION  
GIVEN UNDER SECTION 20B OF THE ORDINANCE

1. In relation to the vessel, aircraft or vehicle that the article is upon –
  - (a) the name of the owner;
  - (b) the following identifying particulars –
    - (i) in the case of a vessel, the name and the voyage number (if any);
    - (ii) in the case of an aircraft, the flight number;
    - (iii) in the case of a vehicle, the registration or identification number and, if the vehicle is a train, also the wagon number (if any);
  - (c) the date of its arrival in Hong Kong.



2. The name of the consignee of the article.
3. The description and quantity of the article, and any identification mark it bears.
4. If the article is in a container, the number of the container (if any).
5. The place at which the article was loaded onto the vessel, aircraft or vehicle.
6. The number of the bill of lading, air waybill or delivery order relating to the article.
7. The premises nominated by the consignee or the owner for the purposes of section 20B(1) of the Ordinance, and the name of the occupier of those premises.
8. Any condition imposed under section 20B(5) of the Ordinance.
9. The name and rank of the officer giving the notice or information (as the case may be), and the date on which and time at which the notice or information is given.”.

Clerk to the Executive Council

COUNCIL CHAMBER

2003

### **Explanatory Note**

This Regulation amends the Import and Export (Removal of Articles) Regulations (Cap. 60 sub. leg.) to specify the information to be contained in notices issued under sections 20A and 20B of the Import and Export Ordinance (Cap. 60) (sections 3 and 6), and to provide for the use of services provided by a specified body in serving such notices (section 5).

**RESERVED COMMODITIES (CONTROL OF IMPORTS,  
EXPORTS AND RESERVE STOCKS) (AMENDMENT)  
REGULATION 2003**

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

**1. Commencement**

This Regulation shall come into operation on 11 April 2003.

**2. Interpretation**

Regulation 2 of the Reserved Commodities (Control of Imports, Exports and Reserve Stocks) Regulations (Cap. 296 sub. leg.) is amended by repealing the definition of “manifest”.

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

(1) Regulation 5(2)(b) is repealed and the following substituted –

“(b) shall, within 7 days after receiving the import licence –

- (i) deliver the import licence to the Director; and
- (ii) deliver to the Director, using a recognized electronic service, a copy or extract of the manifest of the vessel, aircraft or vehicle in or on which the reserved commodity was imported.”.

(2) Regulation 5 is amended by adding –

“(3) The requirement under paragraph (2)(b)(ii) is deemed to have been complied with if at the time of delivering the import licence under paragraph (2)(b)(i) the manifest has been lodged with the Commissioner, or with an officer appointed by the Commissioner, in compliance with regulation 11 of the Import and Export (Registration) Regulations (Cap. 60 sub. leg.) and was so lodged using services provided

by a specified body as specified in regulation 11(2)(b) of those Regulations.”.

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

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

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

(3) Regulation 6(2)(b) is amended by repealing everything after “declaration –” and substituting –

“(i) endorse the licence and return it to the person to whom it was issued;

(ii) deliver the declaration to the Director; and

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

(4) Regulation 6 is amended by adding –

“(2A) The requirement under paragraph (2)(b)(iii) is deemed to have been complied with if at the time of delivering the declaration under paragraph (2)(b)(ii) the manifest has been lodged with the Commissioner, or with an officer appointed by the Commissioner, in compliance with regulation 11 of the Import and Export (Registration) Regulations (Cap. 60 sub. leg.) and was so lodged using services provided by a specified body as specified in regulation 11(2)(b) of those Regulations.”.

**5. Delivery of export licence and manifest to the Director**

(1) Regulation 8(2) is amended by repealing everything after “the reserved commodity is exported” and substituting –

“–

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

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

(2) Regulation 8 is amended by adding –

“(3) The requirement under paragraph (2)(b) is deemed to have been complied with if at the time of delivering the export licence under paragraph (2)(a) the manifest has been lodged with the Commissioner, or with an officer appointed by the Commissioner, in compliance with regulation 12 of the Import and Export (Registration) Regulations (Cap. 60 sub. leg.) and was so lodged using services provided by a specified body as specified in regulation 12(2)(b) of those Regulations.”.

#### **6. Transitional**

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

(2) Regulation 26 is amended by adding –

“(2) Any provision of regulation 5, 6 or 8 requiring that information given under those regulations be given by using a recognized electronic service shall, in respect of the period specified in paragraph (3), but subject to any determination made under section 14(2)(a) of the Ordinance or notice published under section 15(2) of the Ordinance, be construed as requiring that the information be given either in paper form or by using a recognized electronic service.

(3) The period specified for the purposes of paragraph (2) is the period beginning with the commencement of the Reserved Commodities (Control of Imports, Exports and Reserve Stocks) (Amendment) Regulation 2003 (L.N. 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.”.

Clerk to the Executive Council

COUNCIL CHAMBER

2003

### **Explanatory Note**

This Regulation amends the Reserved Commodities (Control of Imports, Exports and Reserve Stocks) Regulations (Cap. 296 sub. leg.) (“the principal Regulations”), and should be read in conjunction with section 3 of and Schedule 2 to the Import and Export (Electronic Transactions) Ordinance 2002 (24 of 2002), which make related amendments to the Reserved Commodities Ordinance (Cap. 296).

2. Section 2 makes a minor amendment to the principal Regulations consequent on an amendment made to the Reserved Commodities Ordinance (Cap. 296) by section 3 of and Schedule 2 to the Import and Export (Electronic Transactions) Ordinance 2002 (24 of 2002).

3. Sections 3, 4 and 5 amend regulations 5, 6 and 8 of the principal Regulations to require the use of a recognized electronic service in giving manifest information to the Director-General of Trade and Industry under those regulations, and further to provide that this requirement shall be deemed to have been complied with if the same information has previously been provided to the Commissioner of Customs and Excise (“the Commissioner”) in compliance with

regulation 11 or 12 of the Import and Export (Registration) Regulations (Cap. 60 sub. leg.) using similar means.

4. Section 6 amends regulation 26 of the principal Regulations to add a transitional provision in relation to the amendments effected by sections 3, 4 and 5. This provision allows for the manifest information to continue to be sent in paper form (as at present) as an alternative to using a recognized electronic service, until a date to be specified by the Commissioner.

**IMPORT AND EXPORT (ELECTRONIC TRANSACTIONS)  
ORDINANCE 2002 (24 OF 2002) (COMMENCEMENT)  
NOTICE 2003**

Under section 1(2) of the Import and Export (Electronic Transactions) Ordinance 2002, I appoint 11 April 2003 as the day on which the Ordinance shall come into operation.

Secretary for Commerce, Industry  
and Technology

2003



**DUTIABLE COMMODITIES (AMENDMENT) ORDINANCE  
2001 (19 OF 2001) (COMMENCEMENT) NOTICE 2003**

Under section 1(2) of the Dutiable Commodities (Amendment) Ordinance 2001, I appoint 11 April 2003 as the day on which section 9 of the Ordinance shall come into operation.

Secretary for Commerce, Industry  
and Technology

2003

## Section 15 of the Import and Export Ordinance

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

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

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

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

Amendments made to section 15 of the Import and Export Ordinance in the Import and Export (Electronic Transactions) Ordinance 2002

8. Duty to provide particulars of all cargo

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

(2) Section 15 is amended by adding—

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

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

(1B) For the purpose of any requirement under subsection (1)(a) to furnish a member of the Customs and Excise Service with a manifest, the manifest may—

- (a) be given to the member of the Customs and Excise Service in paper form;
- (b) be given or sent to the member of the Customs and Excise Service in the form of an electronic record, but only if the manner and format in which the information is given or sent comply with any requirements specified under section 11(2) of the Electronic Transactions Ordinance (Cap. 553) in relation to this Ordinance; or
- (c) be sent to the member of the Customs and Excise Service using services provided by a specified body.

(1C) In this section, "manifest" (總單) means a record prepared as a manifest and containing such of the particulars prescribed under section 17 as the member of the Customs and Excise Service considers sufficient for his purposes."

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

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

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

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

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

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

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

(L.N. 111 of 1993)

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

(1) When a registered textiles trader is to rely on the exemption issued to him under regulation 6(3A) to export textiles, the registered textiles trader shall, before the textiles are exported, deliver an

export notification to the owner of the vessel, aircraft or vehicle in or on which he intends to export them.

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

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

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

(L.N. 111 of 1993)

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

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

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

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

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

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

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

(L.N. 111 of 1993)

Chapter:	60E	Title:	IMPORT AND EXPORT (REGISTRATION) REGULATIONS	Gazette Number:	L.N. 9 of 2000
Regulation:	4	Heading:	Import declarations	Version Date:	01/04/2000

(1) Every person who imports any article other than an exempted article shall lodge with the Commissioner an accurate and complete import declaration relating to such article using services provided by a specified body, in accordance with the requirements that the Commissioner may specify. (L.N. 322 of 1999)

(2) Every declaration required to be lodged under paragraph (1) shall be lodged within 14 days after the importation of the article to which it relates.

(3) Only one declaration is required in respect of imported articles that-

- (a) were imported under one bill of lading or air waybill; or
- (b) (i) have item code numbers with identical first 4 digits;
- (ii) were imported in the same ship, vehicle, train or aircraft; and
- (iii) were consigned from the same country. (L.N. 384 of 1987)

(3A) Notwithstanding paragraph (2), where articles-

- (a) are imported on a frequent and regular basis;
- (b) have a value not exceeding \$1000 for each consignment; (L.N. 46 of 1984)
- (c) have an identical code number; and
- (d) are consigned from the same country,

a monthly declaration may, with the prior approval of the Commissioner, be lodged not later than the 7th day of each month, setting out particulars of every such article imported during the previous month.

(3AA) Notwithstanding paragraph (3), a separate declaration shall be lodged in respect of food items specified in Appendix I of the Imports and Exports Classification List. (L.N. 384 of 1987)

(3B) Subject to paragraphs (3) and (3A), a separate declaration shall be lodged under paragraph (1) in respect of each article imported.

(4) (Repealed L.N. 322 of 1999)

(5) Any person who, in contravention of the provisions of paragraph (1), knowingly or recklessly lodges any declaration with the Commissioner that is inaccurate in any material particular shall be guilty of an offence and shall be liable on summary conviction to a fine of \$10000. (L.N. 260 of 1983)

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

(7) The Commissioner may, on the lodgement of any import declaration that is incomplete in any respect, refuse to accept the declaration until it is completed in every respect and upon such refusal the declaration shall be deemed not to have been lodged with the Commissioner. (L.N. 322 of 1999)

(L.N. 75 of 1970; 5 of 1971 s 13; L.N. 172 of 1971; L.N. 294 of 1982)

Chapter:	60E	Title:	IMPORT AND EXPORT (REGISTRATION) REGULATIONS	Gazette Number:	L.N. 9 of 2000
Regulation:	5	Heading:	Export declarations	Version Date:	01/04/2000

(1) Every person who exports or re-exports any article other than an exempted article shall lodge with the Commissioner an accurate and complete export declaration relating to such article using services provided by a specified body, in accordance with the requirements that the Commissioner may specify. (L.N. 322 of 1999)

(2) Every declaration required to be lodged under paragraph (1) shall be lodged within 14 days after the exportation of the article to which it relates.

(3) Only one declaration is required in respect of exported articles that- (L.N. 297 of 1998; L.N. 90 of 1999 and 44 of 1999 s. 3)

- (a) were exported under one bill of lading or air waybill; or
- (b) (i) have item code numbers with identical first 4 digits;
- (ii) were exported in the same ship, vehicle, train or aircraft; and
- (iii) were consigned to the same country. (L.N. 384 of 1987)

(3A) Notwithstanding paragraph (2), where articles-

- (a) are exported on a frequent and regular basis;
- (b) have a value not exceeding \$1000 for each consignment; (L.N. 46 of 1984)
- (c) have an identical item code number; and
- (d) were consigned to the same country,

a monthly declaration may, with the prior approval of the Commissioner, be lodged not later than the 7th day of each month, setting out the particulars of every such article exported during the previous month. (L.N. 294 of 1982)

(3AA) Notwithstanding paragraph (3), a separate declaration shall be lodged in respect of clothing items exported. (L.N. 23 of 1976)

(3B) Subject to paragraphs (3) and (3A), a separate declaration shall be lodged under paragraph (1) in respect of each article exported.

(4) (Repealed L.N. 322 of 1999)

(5) Any person who, in contravention of the provisions of paragraph (1), knowingly or recklessly lodges any declaration with the Commissioner that is inaccurate in any material particular shall be guilty of an offence and shall be liable on summary conviction to a fine of \$10000. (L.N. 294 of 1982; L.N. 260 of 1983)

(6) Every person who, being required to lodge a declaration under paragraph (1), fails or neglects, without reasonable excuse, to do so within the period specified in paragraph (2), or, where he has such excuse, fails or neglects to lodge such declaration as soon as is practicable after the cessation of such excuse, shall be guilty of an offence and shall be liable on summary conviction to a fine of \$1000 and, commencing on the day following the date of conviction, to a fine of \$100 in respect of every day during which his failure or neglect to lodge the declaration continues. (5 of 1971 s. 13)

(7) The Commissioner may, on the lodgement of any export declaration that is incomplete in any respect, refuse to accept the declaration until it is completed in every respect and upon such refusal the declaration shall be deemed not to have been lodged with the Commissioner. (L.N. 322 of 1999)

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

### PART III

#### MANIFESTS AND OTHER INFORMATION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A manifest required to be lodged under regulation 11 or 12 shall be in addition to any manifest required to be furnished under section 15 of the Ordinance.

(L.N. 260 of 1983)



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

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

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

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

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

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

(L.N. 544 of 1995)

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

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

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

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

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

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

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

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

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

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

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

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

(1) A notice under section 20A or 20B of the Ordinance may be served on any person-

- (a) by delivery to him personally;
- (b) by leaving it at, or by sending it by facsimile transmission to, his usual place of abode or business;
- (c) in the case of a company as defined for the purposes of the Companies Ordinance (Cap 32), by leaving it at, or by sending it by facsimile transmission to, the registered office of the company;
- (d) in the case of any body of persons, corporate or unincorporate, by leaving it at, or by sending it by facsimile transmission to, their principal place of business in Hong Kong.

(2) Any notice served in accordance with subregulation (1) shall, in the absence of evidence to the contrary, be deemed to have been duly served. (L.N. 370 of 1998)

(L.N. 370 of 1998)

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

[regulations 2, 3 & 4]

FORM 1

[regulation 3]

IMPORT AND EXPORT ORDINANCE

(Chapter 60)

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

Serial No. ....

PART I

To: .....  
 (Owner of Vessel/Aircraft/Vehicle\*)

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

Description and Quantity .....

Identification Mark .....

Vessel/Flight No./Vehicle No.\* .....

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

Date of Arrival ..... Port of Loading .....

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

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

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

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

Telephone No. ....

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

on ..... (date) ..... (time)

.....  
Officer's signature

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

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

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

**PART II**

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

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

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

FORM 2 [regulation 4]

**IMPORT AND EXPORT ORDINANCE**

(Chapter 60)

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

Serial No. ....

PART I

To: .....  
(Consignee of the article(s)/Owner of vessel/aircraft/vehicle\*)

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

Description and Quantity .....

Identification Mark .....

Vessel/Flight No./Vehicle No. \* .....

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

Date of Arrival ..... Port of Loading .....

Bill of Lading/Air Waybill/Delivery Order No.\* .....  
from the said vessel/aircraft/vehicle\* to the premises nominated by you, namely, ....., for examination. You and the occupier thereof, namely, ....., are prohibited from removing or permitting the removal of such article(s) from the said nominated premises until the article(s) has/have\* been examined by an officer/or\* such examination is declared unnecessary by an officer.

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

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

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

on ..... (date) ..... (time)

.....  
Officer's signature

- Note:
- (1) It is the duty of the person in control of the premises specified in Part I of this notice to permit an officer to have access to, and to examine, the article(s).
  - (2) If paragraph 2 is applicable an officer may at any time enter upon the premises specified in Part I of this notice and take such measures as are reasonably necessary to protect the article(s) described in Part I of this notice from interference until the completion of examination.
  - (3) It is an offence-

- (a) to fail to comply with this notice;
  - (b) for the consignee of the article(s) or the owner of the vessel, aircraft or vehicle, as the case may be, and, where this notice is served on the occupier of any storage place, for that occupier, to remove or permit the removal of the article(s) from the place specified in this notice until the article(s) is/are examined or an officer has informed such consignee, owner or occupier an examination is unnecessary.
- The maximum penalty is \$10000 and 6 months' imprisonment.

PART II

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

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

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

\* Delete whichever is inapplicable.

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

Chapter:	296A	Title:	RESERVED COMMODITIES (CONTROL OF IMPORTS, EXPORTS AND RESERVE STOCKS) REGULATIONS	Gazette Number:	29 of 2000
Regulation:	2	Heading:	Interpretation	Version Date:	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. 8)

"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. 8)

"licence" (許可證) means a licence issued under these regulations;

"manifest" (艙單) means a document prepared as a manifest containing the particulars prescribed under section 17 of the Import and Export Ordinance (Cap 60) but does not include any document, containing the same or similar particulars, which is not specifically prepared as a manifest; (62 of 1993 s. 17)

"owner" (擁有人), in respect of a vessel, aircraft or vehicle, means-

- (a) the registered owner and any person holding himself out to be the owner;
- (b) any person acting as agent for the owner in connection with the handling of cargo carried in or on the vessel, aircraft or vehicle;
- (c) any person to whom the vessel, aircraft or vehicle has been chartered or hired; and
- (d) any person having for the time being the control or management of the vessel, aircraft or vehicle;

"reserved commodity" (儲備商品) means a commodity specified as a reserved commodity in the Schedule;

"reserved commodity storage place" (儲備商品貯存地方) means any godown, store or other place approved by the Director under regulation 10;

"stockholder" (貯存商) means any person registered as a stockholder with the Director under regulation 13(1)(a).



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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\* Repealed-see 12 of 1978 s. 14.

## **Implications of the Proposal**

### **FINANCIAL AND CIVIL SERVICE IMPLICATIONS**

To support electronic processing of cargo manifests, we have provided \$110 million to upgrade Government's existing electronic data interchange (EDI) computer system and incurred \$15.6 million for 16 time-limited posts to support system development. The upgraded system will require an additional recurrent operating cost of \$29.1 million a year which will be partially offset by a net deletion of 30 posts with an annual staff cost of \$6.7 million. Staff affected are mostly clerical ones. They will be re-deployed within the civil service. We have initiated the staff redeployment process and there has been no adverse reaction from staff. The proposed legislative amendments do not have other financial or civil service implications for Government.

### **ECONOMIC IMPLICATIONS**

2. The proposed Regulations will facilitate the launching of EMAN, which will reduce significantly the time and resources spent by the industry in submitting manifests to Government. It will also promote the wider use of EDI and e-commerce generally, thereby maintaining Hong Kong's position as a leading international trading centre.

3. The carriers have to pay Tradelink, the service provider for EMAN, a service fee for submitting cargo manifests electronically. Most carriers have agreed to the fees, while discussions between Tradelink and the remainder are continuing.

4. The proposal will improve the efficiency and reduce paperwork in handling cargo manifests, thus allowing firms to deploy staff to more productive tasks. We do not envisage that the launching of EMAN will have any significant employment implications since firms still need to comply with requirements on manifest submission, albeit in electronic form.