

Chapter 296A Reserved Commodities (Control of Imports, Exports and Reserve Stocks) Regulations 19/03/2020

Reserved Commodities (Control of Imports, Exports and Reserve Stocks) Regulations

(Cap. 296, section 3)

[1 November 1979]

(Format changes—E.R. 2 of 2020)

1. Citation

These regulations may be cited as the Reserved Commodities (Control of Imports, Exports and Reserve Stocks) Regulations.

2. Interpretation

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;

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).

(L.N. 35 of 2003)

3. Prohibition of import of reserved commodities except under licence

- (1) Subject to paragraphs (2) and (3), no person shall import into Hong Kong any reserved commodity except under an import licence issued by the Director. (L.N. 336 of 1981)

- (2) If there is brought into Hong Kong in any ship an amount of any reserved commodity not exceeding that which is reasonably required for consumption or use in the working of such ship then such reserved commodity shall be deemed not to have been imported within the meaning of this regulation so long as it remains on such ship.
- (3) No import licence shall be required in respect of any reserved commodity imported into Hong Kong in the personal luggage of a person solely for his own consumption or as gifts, in an amount not exceeding 15 kg. (*L.N. 336 of 1981; L.N. 143 of 2000*)

4. Prohibition of export of reserved commodities except under licence

- (1) Subject to paragraph (2), no person shall export from Hong Kong any reserved commodity except under an export licence issued by the Director.
- (2) No export licence shall be required in respect of any reserved commodity exported from Hong Kong in the personal luggage of a person solely for his own consumption or as gifts, in an amount not exceeding 15 kg. (*L.N. 336 of 1981*)

(L.N. 336 of 1981)

4A. Application of regulations 3 and 4 to air transhipment cargo

- (1) Regulation 3(1) does not apply in relation to a reserved commodity that is air transhipment cargo; but if at any time between its being brought into and taken out of Hong Kong such reserved commodity is removed from the cargo transhipment area of Hong Kong International Airport then, for the purposes of regulation 3(1)—
 - (a) the reserved commodity is deemed to be imported at the time of such removal; and
 - (b) the person who brought the reserved commodity, or caused it to be brought, into Hong Kong as air transhipment cargo is deemed to be the person who imports the reserved commodity at the time of its removal,and, except to that extent, that regulation has effect as if this paragraph had not been enacted.
- (2) Regulation 4(1) does not apply in relation to a reserved commodity that is air transhipment cargo; but if at any time between its being brought into and taken out of Hong Kong such reserved commodity is removed from the cargo transhipment area of Hong Kong International Airport, regulation 4(1) has effect as if this paragraph had not been enacted.
- (3) (a) For the purpose of the issue of a licence under regulation 11 for the import of a reserved commodity, the import of a reserved commodity that is air transhipment cargo does not take place unless and until the reserved commodity is removed from the cargo transhipment 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 regulation precludes the issue of a licence under regulation 11 for the export of a reserved commodity that is air transshipment cargo only because the reserved commodity has been removed from the cargo transshipment area of Hong Kong International Airport.
- (4) In proceedings against a person for an offence under regulation 25(2)(a) for a contravention of regulation 3(1) or 4(1), being proceedings—
 - (a) in relation to the import or export of a reserved commodity that is 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 reserved commodity 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.
- (5) Where in any proceedings the defence provided by paragraph (4) 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.
- (6) A person is not entitled to rely on the defence provided by paragraph (4) 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. 8)

5. Delivery of import licence and manifest to the Director

- (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—
 - (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. (*L.N. 35 of 2003*)
- (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. E) and was so lodged using services provided by a specified body as specified in regulation 11(1)(d) of those Regulations. (*L.N. 35 of 2003; L.N. 105 of 2003*)

6. Delivery of import licence and manifest in case of part shipment

- (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; (*L.N. 35 of 2003*)
 - (ii) deliver the declaration to the Director; and (*L.N. 35 of 2003*)
 - (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. (*L.N. 35 of 2003*)

- (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. E) and was so lodged using services provided by a specified body as specified in regulation 11(1)(d) of those Regulations. (*L.N. 35 of 2003; L.N. 105 of 2003*)
- (3) The written declaration referred to in paragraph (1) or (2) shall be made in such form as the Director may specify.

7. Carrier not to accept reserved commodity for export unless licence produced

- (1) Except in amounts and in the circumstances specified in regulation 4(2), the owner of a vessel, aircraft or vehicle shall not accept a reserved commodity for export on the vessel, aircraft or vehicle until there is produced to him an export licence for that reserved commodity. (*L.N. 336 of 1981; 29 of 2000 s. 8*)
- (2) Paragraph (1) does not apply in relation to a reserved commodity that is air transhipment cargo. (*29 of 2000 s. 8*)

7A. Retention of possession of reserved commodity after import

- (1) Except in the amounts and in the circumstances specified in regulation 3(3), the owner of a vessel, aircraft or vehicle in which any reserved commodity is imported shall retain possession of the reserved commodity— (*29 of 2000 s. 8*)
- (a) until there is produced to him an import licence for that reserved commodity; or
- (b) the Commissioner gives to the owner of the vessel, aircraft or vehicle written directions in respect of the removal or storage of the reserved commodity. (*L.N. 294 of 1982*)
- (2) Paragraph (1) does not apply in relation to a reserved commodity that is air transhipment cargo. (*29 of 2000 s. 8*)

(*L.N. 336 of 1981*)

8. Delivery of export licence and manifest to the Director

- (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—
- (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. (*L.N. 35 of 2003*)

- (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. E) and was so lodged using services provided by a specified body as specified in regulation 12(1)(d) of those Regulations. (*L.N. 35 of 2003; L.N. 105 of 2003*)

9. Storage of reserved commodities on importation

- (1) A person to whom a licence to import a reserved commodity is issued shall upon its importation store the reserved commodity in a reserved commodity storage place if required to do so by the licence.
- (2) No person shall take or give delivery of any reserved commodity except in accordance with the written authority of the Commissioner:
Provided that—
- (a) the owner or agent of the owner of any vessel, aircraft or vehicle by which a reserved commodity has been imported may deliver such reserved commodity to a reserved commodity storage place and delivery of such reserved commodity at such reserved commodity storage place may be taken without any written authority from the Commissioner; and
- (b) an export licence granted in accordance with regulation 4 shall be deemed to be a sufficient authority for the purpose of this paragraph. (*L.N. 294 of 1982*)

10. Approved reserved commodity storage places

The Director may approve any godown, store or other place as a reserved commodity storage place either generally or limited to a specified period, a specified reserved commodity or a specified quantity of a reserved commodity and may attach to such approval such conditions as he thinks fit.

11. Application for and conditions of licence to import or export

- (1) The Director may issue a licence to any person to import or export any reserved commodity.
- (2) An application for a licence shall be made in writing to the Director.
- (3) A licence issued by the Director may be subject to such conditions as the Director thinks fit as to—
- (a) the amount of the reserved commodity comprised in such licence;
- (b) the period of time within which and the means by which such reserved commodity may be imported or exported;
- (c) in the case of an import licence, the period of time within which the said reserved commodity or any part thereof shall be sold or exported;
- (d) in the case of an import licence, whether the reserved commodity is to be stored in a reserved commodity storage place upon importation.

11A. Power to exempt from licensing requirements

- (1) 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 reserved commodity specified in that exemption, that person from the licensing requirements under these regulations.
- (2) The Director may impose such conditions as he thinks fit upon any exemption made under paragraph (1) and any person exempted under paragraph (1) shall comply with any condition imposed under this paragraph.
- (3) If a person contravenes or fails to comply with any condition imposed under paragraph (2)—
 - (a) he shall be guilty of an offence and shall be liable on conviction to a fine at level 5 and to imprisonment for 1 year; and (*E.R. 2 of 2020*)
 - (b) the Director may by notice in writing revoke or suspend any exemption granted to that person or amend any condition.

(L.N. 257 of 1984)

12. Application to be registered as a stockholder

- (1) Any person may apply to the Director to be registered as a stockholder of a reserved commodity.
- (2) An application for registration as a stockholder of a reserved commodity shall be in writing in a form approved by the Director and shall include—
 - (a) the reserved commodity in respect of which the applicant wishes to be registered as a stockholder; and
 - (b) the amount of such reserved commodity which the applicant is prepared to hold as a stockholder.
- (3) A separate application shall be made in respect of each reserved commodity.

13. Registration as a stockholder

- (1) Within 14 days of the receipt by him of an application under regulation 12 for registration as a stockholder of a reserved commodity, the Director may—
 - (a) register the applicant as a stockholder of the reserved commodity in respect of which the application was made; or
 - (b) give notice in writing to the applicant of his refusal so to register the applicant.
- (2) The registration of a stockholder shall be subject to such conditions as the Director may impose.

14. Certificate of registration of stockholder

- (1) The Director shall issue to a stockholder a certificate of registration.
- (2) Subject to regulation 16, a certificate of registration as a stockholder shall be valid for the period stated in the certificate.

- (3) The certificate of registration shall state—
 - (a) the quantity of the reserved commodity which the stockholder is required to hold in stock; and
 - (b) the conditions imposed by the Director under regulation 13(2).
- (4) The quantity of a reserved commodity which a stockholder is required to hold in stock shall not exceed the amount stated by the stockholder in his application to be registered as a stockholder.
- (5) A certificate of registration shall be in such form as the Director may approve.
- (6) The Director may at any time alter the conditions of registration of a stockholder and the quantity of the reserved commodity which the stockholder is required to hold in stock.
- (7) Where the Director alters the conditions of registration of a stockholder or the quantity of the reserved commodity the stockholder is required to hold in stock the stockholder shall on being required by the Director surrender his certificate to the Director who shall issue a new certificate to the stockholder.

15. Register of stockholders

- (1) The Director shall cause to be maintained a register of stockholders for each reserved commodity.
- (2) Such registers shall be available for inspection by any person at the offices of the Director during office hours on payment of a fee of \$5.

16. Cancellation of registration of stockholder

- (1) The Director may cancel the registration of a stockholder—
 - (a) at the request of the stockholder;
 - (b) on the death, dissolution of partnership or bankruptcy of the stockholder or, in the case of a company, on the winding up of the stockholder;
 - (c) if any condition of his registration in respect of the reserved commodity is contravened;
 - (d) if the registered stockholder or any person employed by him commits an offence under the Ordinance;
 - (e) by giving the stockholder 3 months' notice in writing.
(E.R. 2 of 2020)
- (2) Where the Director cancels the registration of a stockholder under paragraph (1), he shall notify the stockholder and shall state under which subparagraph of paragraph (1) the registration is cancelled.
- (3) Where the Director has notified a stockholder of the cancellation of his registration under paragraph (2), the stockholder shall forthwith surrender his certificate of registration to the Director.
- (4) Where the Director serves a notice on a stockholder of the cancellation under paragraph (1)(e) of his registration, the stockholder shall surrender his certificate of registration to the Director within the period specified in the notice.

17. Disposal of stocks by stockholder on cancellation of registration

Where the Director cancels the registration of a stockholder of a reserved commodity, the stockholder shall dispose of his stocks of that reserved commodity in accordance with the directions of the Director.

18. Duty to maintain stock

- (1) A stockholder shall at all times during the continuance of his certificate of registration maintain as stock not less than the amount of the reserved commodity specified in his certificate, or such lesser amount as the Director may from time to time authorize in writing.
- (2) Such stock shall be maintained in such reserved commodity storage place as the Director may from time to time in writing direct.
- (3) Such stock shall be maintained in good condition to the satisfaction of the Director.

19. Records and returns of stocks

The Director may require a stockholder to—

- (a) keep such records; and
- (b) submit to the Director such returns of stock of and transactions in the reserved commodity in respect of which he is registered, balance sheets, profit and loss accounts and other financial records,

as the Director may specify.

20. Control of stocks

- (1) The Director may by notice in writing to a stockholder order that the stock of a reserved commodity held by such stockholder or any part thereof shall be—
 - (a) removed from any reserved commodity storage place in which it is stored;
 - (b) replaced by other stocks of such reserved commodity; or
 - (c) otherwise dealt with as the Director may direct.
- (2) A stockholder who receives an order from the Director under this regulation shall forthwith carry out such order at the sole expense of such stockholder.

21. Inspection of stocks

- (1) The Commissioner or an authorized officer may at any time enter the premises of a stockholder for the purpose of examining the reserved commodities held by the stockholder and all documents relating thereto.
- (2) A stockholder shall permit the Commissioner or any authorized officer to enter any premises of the stockholder at any time for the purposes of paragraph (1) and to inspect any reserved commodities and any documents relating thereto on the premises.

(L.N. 294 of 1982)

22. Restriction on sales by wholesale by stockholder and price control

- (1) The Director may by notice in writing to a stockholder of a reserved commodity—
 - (a) restrict the sale by wholesale of that reserved commodity by the stockholder to—
 - (i) registered wholesalers; or
 - (ii) specified registered wholesalers, in that reserved commodity; or
 - (b) fix the maximum price at which the stockholder may sell that reserved commodity by wholesale—
 - (i) generally;
 - (ii) to registered wholesalers in that reserved commodity; or
 - (iii) to other classes of persons specified in the notice;
 - (c) require the stockholder to sell such quantity of the reserved commodity to such registered wholesaler or other person, as the Director may specify at a price not exceeding the maximum price fixed under subparagraph (b). (*E.R. 2 of 2020*)
- (2) A notice under paragraph (1) may be addressed to all stockholders or to specified stockholders.
- (3) A notice under paragraph (1) shall be—
 - (a) served on each stockholder to whom it applies; and
 - (b) published in the Gazette.
- (4) A stockholder to whom a notice under paragraph (1) applies shall comply therewith as soon as the notice is—
 - (a) served on him; or
 - (b) published in the Gazette,whichever is the sooner.

23. Prohibition of sales by wholesale to registered wholesaler convicted of offence against the Ordinance

- (1) The Director may by notice in writing to a stockholder of a reserved commodity prohibit the sale by wholesale of that reserved commodity by the stockholder to a registered wholesaler specified in the notice on the ground that such wholesaler has been convicted of an offence under the Ordinance.
- (2) Notice of a prohibition under paragraph (1) shall be served on the stockholder who shall forthwith comply with the prohibition.
- (3) A copy of a notice served on a stockholder under paragraph (2) shall be served on the registered wholesaler specified in the notice.
- (4) A notice under paragraph (1) may specify more than 1 registered wholesaler and be addressed to more than 1 stockholder.

24. Offences in respect of applications, licences, certificates and records

- (1) Any person who—
 - (a) in an application for a licence under regulation 11;
 - (b) in an application for registration as a stockholder under regulation 12; or
 - (c) in any record kept or return made under regulation 19, makes any statement or furnishes any information which he knows or ought to know to be false or misleading in a material particular shall be guilty of an offence and shall be liable on conviction to a fine at level 5 and to imprisonment for 1 year.
- (2) Any person who, without the authority of the Director, alters in a material particular a licence issued under regulation 11 or a certificate issued under regulation 14 shall be guilty of an offence and shall be liable on conviction to a fine at level 6 and to imprisonment for 2 years.

(E.R. 2 of 2020)

25. Other offences

- (1) Any stockholder who fails to comply with regulation 18 shall be guilty of an offence and shall be liable on conviction to a fine at level 6 and to imprisonment for 2 years.
- (2) Any person who—
 - (a) contravenes regulation 3, 4, 9 or 21;
 - (b) fails to comply with regulation 19;
 - (c) fails to comply with a notice under regulation 22(1) in accordance with regulation 22(4); or
 - (d) fails to comply with a notice of prohibition under regulation 23(1) in accordance with regulation 23(2),shall be guilty of an offence and shall be liable on conviction to a fine at level 5 and to imprisonment for 1 year.
- (3) Any person who contravenes regulation 7 or 7A shall, unless he proves that he did not know and could not with reasonable diligence have known that the commodity accepted for export, or imported, as the case may be, was a reserved commodity, be guilty of an offence and shall be liable on conviction to a fine at level 5 and to imprisonment for 1 year. *(L.N. 336 of 1981)*
- (4) Any person who without reasonable excuse, fails to comply with any direction of the Director under regulation 17 or with an order of the Director under regulation 20 shall be guilty of an offence and shall be liable on conviction to a fine at level 5 and to imprisonment for 1 year.
- (5) Any person who fails to surrender his certificate of registration under regulation 14(7) or regulation 16(3) or (4) shall be guilty of an offence and shall be liable on conviction to a fine at level 2 and to imprisonment for 3 months.
- (6) Any person who contravenes regulation 5, 6 or 8 shall be guilty of an offence and shall be liable on conviction to a fine at level 2.

(E.R. 2 of 2020)

26. Transitional

- (1) 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). (*L.N. 35 of 2003*)
- (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. (*L.N. 35 of 2003*)
- (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. 35 of 2003*) and ending at midnight on a date to be specified by the Director for the purposes of this paragraph by notice published in the Gazette**. (*L.N. 35 of 2003; L.N. 207 of 2005*)
- (4) A notice published under paragraph (3) may specify different dates in relation to different classes of persons or information. (*L.N. 35 of 2003*)
- (5) A notice published under paragraph (3) is subsidiary legislation. (*L.N. 35 of 2003*)

Editorial Note:

* Repealed—see 12 of 1978 s. 14.

† Commencement date: 11 April 2003.

** See *L.N. 32 of 2006*.

Schedule

[reg. 2]

Reserved Commodities

1. Rice, with or without husk, and milled or unmilled.
- 2-3. (*Repealed L.N. 143 of 2000*)