

CONTROL OF CHEMICALS ORDINANCE
- CHAPTER 145

LONG TITLE

Long title VerDate:30/06/1997

To control chemicals related to the manufacture of narcotic drugs or psychotropic substances.
(Amended 64 of 1994 s. 2)

[1 September 1975] L.N. 209 of 1975

(Originally 9 of 1975)

SECT 1

Short title VerDate:30/06/1997

PART I

SHORT TITLE AND INTERPRETATION

This Ordinance may be cited as the Control of Chemicals Ordinance.
(Amended 64 of 1994 s. 3)

SECT 2

Interpretation VerDate:01/07/1997

Adaptation amendments retroactively made - see 14 of 2002 s. 3

(1) In this Ordinance, unless the context otherwise requires-

"acetylating substance" means any substance specified in Schedule 1; (Amended 64 of 1994 s. 4)

"Commissioner" means the Commissioner of Customs and Excise and any Deputy or Assistant Commissioner of Customs and Excise; (Added L.N. 294 of 1982. Amended 14 of 2002 s. 3)

"container" means-

(a) any receptacle or thing whatever containing or enclosing any quantity of any controlled chemical; (Amended 64 of 1994 s. 4)

(b) any receptacle or thing whatever containing or enclosing any container or containers referred to in paragraph (a);

(c) any receptacle or thing whatever containing or enclosing for keeping or storing or for transporting by sea, air or land, in whatever number or size, any containers referred to in paragraph (a) or (b);

"controlled chemical" means any substance specified in Schedule 1, 2 or 3; (Added 64 of 1994 s. 4)

"dangerous drug" means a dangerous drug as defined in section 2 of the Dangerous Drugs Ordinance (Cap 134); (Added 64 of 1994 s. 4)

"licence" means a licence issued by the Commissioner under this Ordinance; (Amended L.N. 294 of 1982)

"manufacture" in relation to a substance specified in Schedule 1, 2 or 3, includes carrying on any process in the manufacture of that substance; (Replaced 64 of 1994 s. 4)

"member of the Customs and Excise Service" means any person holding an office specified in Schedule 1 to the Customs and Excise Service Ordinance (Cap 342); (Amended 46 of 1977 s. 18; 64 of 1994 s. 4;

68 of 1995 s. 2)

"permit" means a permit issued by the Commissioner under this Ordinance.
(Amended L.N. 294 of 1982)

(2)For the purposes of this Ordinance a person-

(a) exports a controlled chemical if, not being a controlled chemical in transit, he takes it or causes it to be taken out of Hong Kong;

(b) imports a controlled chemical if, not being a controlled chemical in transit, he brings it or causes it to be brought into Hong Kong. (Amended 64 of 1994 s. 4)

(3)For the purposes of this Ordinance a controlled chemical is in transit if, but only if- (Amended 64 of 1994 s. 4)

(a) it has been brought into Hong Kong for the sole purpose of being taken out of Hong Kong; and

(b) at all times whilst it is in Hong Kong it remains-

(i) in or on the vessel or aircraft in or on which it arrived in Hong Kong; and (Amended 41 of 1996 s. 2)

(ii) in the container in which it arrived in Hong Kong.

(4)For the purposes of this Ordinance a controlled chemical is in transshipment if it- (Amended 64 of 1994 s. 4)

(a) is brought into Hong Kong for the sole purpose of being taken out of Hong Kong; and

(b) is removed from the vessel, aircraft or vehicle in or on which it arrived in Hong Kong pending its being taken out of Hong Kong in another vessel, aircraft or vehicle.

SECT 2A

Substances useful for manufacture of dangerous drugs VerDate:30/06/1997

PART IA

CONTROL OF POSSESSION, MANUFACTURE, TRANSPORT, DISTRIBUTION, IMPORT, EXPORT, ETC. OF CONTROLLED CHEMICALS

(1)No person shall have in his possession, manufacture, transport or distribute any substance specified in Schedule 2 or 3, knowing or having reasonable grounds for believing that it is to be used in or for the unlawful production of a dangerous drug.

(2)It shall not be a defence to a person who contravenes subsection (1) in respect of any substance specified in Schedule 2 or 3 to show that the substance is the subject of a licence, permit or any other form of authorization issued or granted under any Ordinance.
(Added 64 of 1994 s. 5)

SECT 3

Import and export of substance specified in Schedule 1 or 2 VerDate:30/06/1997

PART II

CONTROL OF IMPORT, EXPORT, PROCURING, SUPPLY, DEALING IN OR WITH, MANUFACTURE AND POSSESSION OF ACETYLATED SUBSTANCES

Save under and in accordance with a licence, no person shall, on his own behalf or on behalf of any other person-

- (a) import into or cause to be imported into Hong Kong;
 - (b) export from or cause to be exported from Hong Kong; or
 - (c) do any act preparatory to or for the purposes of importing or exporting, any substance specified in Schedule 1 or 2, whether or not the same is ascertained or appropriated or in existence.
- (Amended 64 of 1994 s. 6)

SECT 3A

Export of substance specified in Schedule 3 VerDate:30/06/1997

Save under and in accordance with a licence, no person shall, on his own behalf or on behalf of any other person, export from or cause to be exported from Hong Kong, or do any act preparatory to or for the purposes of exporting, any substance specified in Schedule 3 to any country specified in the same Schedule in respect of that substance, whether or not the same is ascertained or appropriated or in existence.

(Added 64 of 1994 s. 7)

SECT 4

Supplying or dealing in or with acetylating substance VerDate:30/06/1997

(1) Save under and in accordance with a licence, no person shall, on his own behalf or on behalf of any other person, whether or not such other person is in Hong Kong-

- (a) supply or procure or offer to supply or procure;
- (b) in any way deal in or with or purport to deal in or with, any acetylating substance, whether or not the same is in Hong Kong or is ascertained or appropriated or in existence.

(2) No person shall supply or procure or offer to supply or procure, any acetylating substance to or for any person in Hong Kong unless-

- (a) the latter person holds a licence to possess that acetylating substance; and
- (b) the acetylating substance is to be supplied or procured in accordance with the conditions of the licence.

SECT 5

Manufacture of substance specified in Schedule 1 or 2 VerDate:30/06/1997

Save under and in accordance with a licence and on premises specified in such licence, no person shall manufacture any substance specified in Schedule 1 or 2 or do any act preparatory to or for the purpose of such manufacture.

(Amended 64 of 1994 s. 8)

SECT 6

Possession of acetylating substance VerDate:30/06/1997

Save under and in accordance with a licence, no person shall have in his possession any acetylating substance unless the same is in transit.

SECT 7

Substance specified in Schedule 1 or 2 in transshipment VerDate:30/06/1997

(1) Save under and in accordance with a removal permit issued by the Commissioner, no person shall-

(a) remove any substance specified in Schedule 1 or 2 which is in transshipment from the vessel, aircraft or vehicle in or on which it was imported into Hong Kong; or

(b) in any way move any substance specified in Schedule 1 or 2 within Hong Kong after its removal from the vessel, aircraft or vehicle in or on which it was imported into Hong Kong.

(2) Except on the instructions in writing of the Commissioner, no person shall wilfully open or break any container containing a substance specified in Schedule 1 or 2 which is in transit or in transshipment.

(Amended L.N. 294 of 1982; 64 of 1994 s. 9)

SECT 8

Conditions and form of licence or permit VerDate:30/06/1997

(1) A licence or permit shall-

(a) be subject to such conditions; and

(b) be in such form, as the Commissioner may specify.

(2) A licence or permit shall be valid for the period stated in the licence or permit.

(3) The Commissioner may at any time alter the particulars of a licence or permit or cancel or vary any conditions or specify new conditions.

(4) Where the Commissioner-

(a) alters any of the particulars of a licence or permit; or

(b) cancels or varies the conditions of a licence or permit or imposes new conditions, he shall notify the holder of the licence or permit who shall forthwith surrender his licence or permit to the Commissioner.

(5) Where the holder of a licence or permit surrenders his licence or permit to the Commissioner under subsection (4), the Commissioner shall issue him with a new licence or permit.

(Amended L.N. 294 of 1982)

SECT 9

Cancellation or suspension of licence or permit VerDate:30/06/1997

(1)The Commissioner may at any time cancel or suspend a licence or permit-

- (a) at the request of the holder of the licence or permit;
- (b) if any condition of the licence or permit is contravened;
- (c) if the holder of the licence or permit or a person employed by him commits an offence under this Ordinance;
- (d) if the Commissioner is satisfied that the licence was issued by him as a result of a false misrepresentation of any fact or other unlawful act of the applicant; or
- (e) if the Commissioner is of opinion that it is for any reason in the public interest to cancel or suspend the licence or permit and the holder of the licence or permit, having been required to do so in writing by the Commissioner, has failed within 1 month to show good cause why the licence or permit should not be cancelled or suspended.

(2)The Commissioner may cancel a licence or permit on the death of the holder of the licence or permit.

(3)Where the Commissioner cancels or suspends a licence or permit under subsection (1), he shall forthwith notify the holder of the licence or permit and shall state the reason therefore.

(4)Where the Commissioner has notified the holder of a licence or permit under subsection (3) of the cancellation or suspension of his licence or permit, the holder of the licence or permit shall forthwith surrender the licence or permit to the Commissioner.

(5)Where a licence or permit which has been suspended is surrendered, the Commissioner shall on the termination of the period of suspension reissue the licence or permit to the holder of the licence or permit.

(Amended L.N. 294 of 1982)

SECT 10

Presumption of possession and knowledge of nature of a controlled chemical VerDate:30/06/1997

PART III

EVIDENCE, SEARCH, SEIZURE, AND FORFEITURE

(1)Any person who is proved to have had in his physical possession-

- (a) any thing containing a controlled chemical;
- (b) the keys of any baggage, briefcase, box, case, cupboard, drawer, safe-deposit box, safe or other similar container containing a controlled chemical;
- (c) (Repealed 64 of 1994 s. 10)
shall, until the contrary is proved, be presumed to have had the controlled chemical in his possession.

(2) Any person who is proved or presumed to have had a controlled chemical in his possession shall, until the contrary is proved, be presumed to have known the nature of the controlled chemical.

(3) The presumption provided for in this section shall not be rebutted by proof that the defendant never had physical possession of the controlled chemical.

(Replaced 53 of 1992 s. 2. Amended 64 of 1994 s. 10)

SECT 11

(Repealed) VerDate:30/06/1997

(Repealed 53 of 1992 s. 3)

SECT 12

Powers of search and seizure VerDate:30/06/1997

(1) For the purposes of this Ordinance any police officer or any member of the Customs and Excise Service may- (Amended 46 of 1977 s. 18)

(a) stop, board and search any vessel (other than a ship of war), aircraft (other than a military aircraft) or vehicle which has arrived in Hong Kong and remain thereon as long as it remains in Hong Kong;

(b) stop, board and search any vessel (other than a ship of war), aircraft (other than a military aircraft) or vehicle if he has reason to suspect that there is therein an article liable to seizure;

(c) subject to subsection (6), enter and search any place or premises if he has reason to suspect that there is therein an article liable to seizure;

(d) stop and search any person, and search the property of any person if-

(i) he has reason to suspect that such person has in his actual custody an article liable to seizure;

(ii) such person is found in any vessel, aircraft, vehicle, place or premises in which an article liable to seizure is found.

(2) Any public officer may seize, remove and detain anything if he has reason to suspect that such thing is an article liable to seizure.

(3) For the purposes of this Ordinance and subject to subsection

(6), any public officer authorized in writing by the Commissioner may- (Amended L.N. 294 of 1982)

(a) enter, inspect and search any place or premises occupied by a person to whom a licence or permit has been issued under this Ordinance;

(b) require the production of any register, record, book or other document relating to dealings in a controlled chemical; (Amended 64 of 1994 s. 11)

(c) inspect any such register, record, book or other document;

(d) inspect any stocks of a controlled chemical in the possession of such person. (Amended 64 of 1994 s. 11)

(4) Any public officer may-

(a) break open any outer or inner door of or in any place or premises which he is empowered by this section to enter and search;

(b) forcibly board any vessel, aircraft or vehicle which he is empowered by this section to board and search;

(c) remove by force any person or thing who or which obstructs any entry, search, inspection, seizure, removal or detention which he is empowered by this section to make;

(d) detain any person found in any place or premises which he is empowered by this section to search, and prevent any person from approaching or boarding such vessel, aircraft or vehicle until it has been searched.

(5) No person shall be searched under this section except by a person of the same sex and no person shall be searched under this section in a public place if he objects to being so searched. (Amended 67 of 1995 s. 91(2))

(6) No domestic premises shall be entered and searched under this section unless a member of the Customs and Excise Service of or above the rank of Inspector or a police officer of or above the rank of Inspector is present. (Amended 46 of 1977 s. 18; 68 of 1995 s. 2)

(7) In this section, "article liable to seizure" means-

(a) controlled chemical referred to in section 13; (Amended 64 of 1994 s. 11)

(b) any money or thing which is liable to forfeiture under this Ordinance; and

(c) anything which is or contains evidence of an offence under this Ordinance.

SECT 13

Forfeiture of controlled chemical VerDate:01/07/1997

Amendments retroactively made - see 15 of 1999 s. 3

Any controlled chemical in respect of which an offence under this Ordinance is being or has been committed shall, with effect from the seizure thereof under section 12, be forfeited to the Government. (Amended 64 of 1994 s. 12; 15 of 1999 s. 3)

SECT 14

Forfeiture of articles, etc. used in connection with offence VerDate:01/07/1997

Amendments retroactively made - see 15 of 1999 s. 3

(1) A court may (whether or not any person has been convicted of such offence) order to be forfeited to the Government-

(a) any money or thing (other than premises, a ship exceeding 250 gross tons, an aircraft or a train) which has been used in the commission of or in connection with an offence under this Ordinance; and

(b) any money or other property received or possessed by any person as the result or product of an offence under this Ordinance.

(2) An order under subsection (1) for the forfeiture of a thing may include a term permitting a specified person or persons to redeem such thing on such conditions, including conditions as to the payment of the value or a proportion of the value thereof to the Government, as the court may think fit.

(3) The court may require that notice of an application for forfeiture under subsection (1) shall be given in such manner as it thinks fit.

(4) The Chief Executive in Council may, in his absolute discretion and after any proceedings under this Ordinance are concluded, entertain and give effect to any moral claim to or in respect of any money, thing or other property which has been forfeited to the Government.
(Amended 15 of 1999 s. 3)

CONTROL OF CHEMICALS ORDINANCE - SECT 15 Offences and penalties VerDate:30/06/1997

PART IV

MISCELLANEOUS

(1) Any person who contravenes any of the provisions of section 2A, 3, 3A, 4, 5, 6 or 7 shall be guilty of an offence and shall be liable- (Amended 64 of 1994 s. 13)

(a) on conviction on indictment, to a fine of \$1000000 and to imprisonment for 15 years; and

(b) on summary conviction to a fine of \$500000 and to imprisonment for 3 years.

(2) Any person who, being the holder of a licence or permit or being the person to whom a licence or permit has been issued, fails to surrender his licence or permit when required under section 8(4) or 9(4) shall be guilty of an offence and shall be liable on conviction to a fine of \$10000 and to imprisonment for 1 year. (Amended L.N. 189 of 1975)

(3) Any person who-

(a) fails to comply with a requirement of a public officer under section 12(3)(b); or

(b) obstructs a public officer in the exercise of any power conferred on him under section 12, shall be guilty of an offence and shall be liable on conviction to a fine of \$5000 and to imprisonment for 6 months.

(4) Any person who-

(a) for the purpose of obtaining, whether for himself or for any other person, the issue or renewal of a licence or permit, makes any declaration or statement which is false in a material particular; or

(b) knowingly utters, produces or makes use of any such declaration or statement or a document containing any such declaration or statement, shall be guilty of an offence and shall be liable on conviction to a fine of \$10000 and to imprisonment for 3 years.

SECT 16

Regulations VerDate:01/07/1997

Amendments retroactively made - see 15 of 1999 s. 3

(1)The Chief Executive in Council may make regulations for all or any of the following matters- (Amended 15 of 1999 s. 3)

- (a) the issue of licences and permits for the purposes of this Ordinance;
- (b) the records to be kept, returns to be made and information and particulars to be given by a person holding a licence or permit;
- (c) fees and charges;
- (d) (i)the storage of controlled chemicals;
- (ii) the registration of premises in connection with the importing, exporting, manufacturing, processing, storage, distribution, sale or other dealing in controlled chemicals; and
- (iii) the cancellation, revocation and suspension of any such registration; (Amended 64 of 1994 s. 14)
- (e) the material, colour and markings of packages, bottles and other containers for controlled chemicals; (Amended 64 of 1994 s. 14)
- (f) generally for the better carrying out of the provisions and purposes of this Ordinance.

(2)Regulations under this section may provide that a contravention of any such regulations shall be an offence and shall be punishable on conviction by a fine not exceeding \$100000 and imprisonment for a term not exceeding 2 years. (Amended 44 of 1975 s. 2)

SECT 17

Protection of informers VerDate:30/06/1997

(1)Save as provided in subsection (2)-

- (a) no information for an offence under this Ordinance shall be admitted in evidence in any civil or criminal proceeding; and
- (b) no witness in any civil or criminal proceedings shall be obliged-
 - (i) to disclose the name or address of any informer who has given information to the Customs and Excise Service or police with respect to an offence under this Ordinance or of any person who has assisted the police in any way with respect to such an offence; or (Amended 46 of 1977 s. 18)

(ii) to answer any question if the answer thereto would lead, or could tend to lead, to discovery of the name or address of such informer or person if, in either case, such informer or person is not himself a witness in such proceeding, and, if any books, documents or papers which are in evidence or liable to inspection in any civil or criminal proceedings contain an entry in which any such informer or person is named or described or which might lead to his discovery, the court shall cause all such passages to be concealed from view or to be obliterated so far as may be necessary to protect the informer or such other person from discovery.

(2) If in any proceedings before a court for an offence under this Ordinance the court, after full inquiry into the case, is satisfied that an informer wilfully made a material statement which he knew or believed to be false or did not believe to be true, or if in any other proceeding a court is of opinion that justice cannot be fully done between the parties thereto without disclosure of the name of the informer or a person who has assisted the Preventive Service or police, the court may permit inquiry and require full disclosure concerning the informer or such person. (Amended 46 of 1977 s. 18)

SECT 18

Appeals VerDate:30/06/1997

(1) Any person aggrieved by a decision of the Commissioner relating to-

- (a) the issue of a licence or permit;
- (b) the refusal to issue a licence or permit;
- (c) the cancellation or suspension of a licence or permit;

(d) the cancellation or variation of any condition or the specification of a new condition in any licence or permit, may, within 28 days from the date when he was informed of the decision, appeal to the Administrative Appeals Board.

(2) A decision that is appealed against under subsection (1)(a),

(c) or (d) shall be suspended in its operation as from the day on which the appeal is made until such appeal is disposed of, withdrawn or abandoned unless such suspension would, in the opinion of the Commissioner, be contrary to the public interest and the notice of the decision contains a statement to that effect.

(Replaced 6 of 1994 s. 43)

SECT 18A

Power to amend Schedules VerDate:01/07/1997

Amendments retroactively made - see 15 of 1999 s. 3

(1) The Secretary for Security may by order amend Schedules 1 and 2.

(2) The Chief Executive in Council may by order amend Schedule 3.

(Amended 15 of 1999 s. 3)

(Added 64 of 1994 s. 15)

SECT 19

Saving VerDate:30/06/1997

Nothing in this Ordinance shall be taken as affecting the application to any controlled chemical of any of the provisions of the Dangerous Goods Ordinance (Cap 295) and Pharmacy and Poisons Ordinance (Cap 138) which may be applicable thereto.
(Amended 64 of 1994 s. 16)

SCHEDULE 1

VerDate:30/06/1997

[sections 2, 3, 5,7 & 18A]

Item	Substance
1.	Acetic anhydride (*)
2.	Acetyl chloride (*)
3.	Acetyl bromide (*)

(*) Including the salts of these substances whenever the existence of such salts is possible.
(Replaced L.N. 53 of 1997)

SCHEDULE 2

VerDate:01/09/2000

[sections 2, 2A, 3,5, 7 & 18A]

Item	Substance
1.	Ephedrine (*)
2.	Ergotamine (*)
3.	Ergometrine (*)
4.	Pseudoephedrine (*)
5.	Lysergic Acid (*)
6.	1-phenyl-2-propanone (*)
7.	N-Acetylanthranilic acid (*)
8.	3, 4-Methylenedioxy-phenyl-2-propanone (*)
9.	Safrole (*)
10.	Isosafrole (*)
11.	Piperonal (*)
12.	Anthranilic Acid (*)
13.	Phenylacetic Acid (*)
14.	Piperidine (*)
15.	Potassium permanganate (*) (Added L.N. 144 of 1999)
16.	Norephedrine (*) (Added L.N. 165 of 2000)

(*) Including the salts of these substances whenever the existence of such salts is possible.
(Schedule 2 replaced L.N. 53 of 1997)

SCHEDULE 3

VerDate:02/10/1999

[sections 2, 2A, 3A & 18A]

Item	Substance	Country of destination
1.	Methyl ethyl ketone (MEK), toluene and sulphuric acid (*) (Amended L.N. 138 of 1999)	Argentina Bolivia Brazil Chile Colombia Ecuador Guatemala Mexico Panama Peru Venezuela
2.	Acetone, ethyl ether and hydrochloric acid (*)	Afghanistan Argentina Bangladesh Bolivia Brazil Cambodia Chile Colombia Ecuador Guatemala India Iran Laos Lebanon Malaysia Mexico Myanmar Nepal Pakistan Panama Peru Singapore Sri Lanka Thailand Turkey Venezuela Vietnam

(*) Including the salts of these substances, except for sulphuric acid and hydrochloric acid, whenever the existence of such salts is possible.
(Schedule 3 added 64 of 1994 s. 17)