

Smokeless Tobacco Products (Prohibition) Regulations

(Cap. 132 sub. leg. BW)

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Smokeless Tobacco Products (Prohibition) Regulations

(Cap. 132, section 55)

[16 January 1987]

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1. Citation

These regulations may be cited as the Smokeless Tobacco Products (Prohibition) Regulations.

2. Interpretation

For the purposes of these regulations—

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

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

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

cargo transhipment 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);

import (輸入) means import in the course of a trade or business.

(29 of 2000 s. 5)

3. Prohibition of importation, etc., of smokeless tobacco products

- (1) No person shall import, manufacture, sell, possess for sale, offer or expose for sale, consign or deliver any smokeless

tobacco product.

- (2) Any person who contravenes paragraph (1) commits an offence and is liable to a fine at level 5 and to imprisonment for 6 months. (*L.N. 336 of 1987; L.N. 177 of 1996*)

3A. Application to air transit or air transshipment cargo

- (1) Regulation 3(1) does not apply in relation to the import of a smokeless tobacco product that is air transit cargo or air transshipment cargo; but if at any time between its being brought into and taken out of Hong Kong such product is removed from the cargo transshipment area of Hong Kong International Airport then, for the purposes of regulation 3(1)—
- (a) the product is deemed to be imported at the time of such removal; and
 - (b) the person who brought the product, or caused it to be brought, into Hong Kong as air transit cargo or air transshipment cargo is deemed to be the person who imports the product at the time of its removal,
- and, except to that extent, that regulation has effect as if this paragraph had not been enacted.
- (2) In proceedings against a person for an offence under regulation 3(2), being proceedings—
- (a) in relation to the import of a smokeless tobacco product that is air transit cargo or air transshipment cargo; and
 - (b) in which it is necessary for the prosecution to prove that, at any time between its being brought into and taken out of Hong Kong, the product 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.

- (3) Where in any proceedings the defence provided by paragraph (2) 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.

- (4) A person is not entitled to rely on the defence provided by paragraph (2) 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. 5)