

Consumer Goods Safety Ordinance

消費品安全條例



Consumer Goods Safety Ordinance

INTRODUCTION

The Consumer Goods Safety Ordinance was enacted on 20 October 1994 and came into force on 20 October 1995. The Ordinance imposes a statutory duty on manufacturers, importers and suppliers of consumer goods to ensure that the consumer goods are safe. It is an offence for any person to manufacture, import or supply consumer goods which fail to comply with the general safety requirement or any prescribed safety standards. The Ordinance also imposes control on the advertising of unsafe consumer goods.

2. The Ordinance does not apply to goods in transit, consumer goods in the course of transshipment or consumer goods manufactured for export.

GENERAL SAFETY REQUIREMENT

3. Under section 4 of the Ordinance, a general safety requirement is introduced to impose a duty on manufacturers, importers and suppliers of consumer goods to ensure that the consumer goods are reasonably safe, having regard to the following circumstances —

- (a) the manner in which and the purposes for which the goods are sold;
- (b) the use of marks, instructions or warnings on the goods in connection with its keeping, use or consumption;
- (c) compliance with reasonable safety standards published by a standards institute; and
- (d) the existence of reasonable means to make the goods safer.

If there are approved standards which apply to certain consumer goods, the consumer goods will be taken to comply with the general safety requirement if the approved standards are met.

4. Section 6 provides that a person shall not supply, manufacture or import into Hong Kong, consumer goods unless the consumer goods comply with —

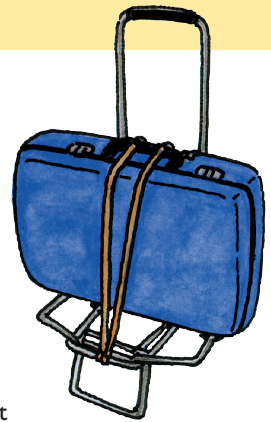
- (a) the general safety requirement for consumer goods; or
- (b) where an approved standard applies to consumer goods, the approved standard of the particular consumer goods.

REGULATIONS

5. The Ordinance enables Secretary for Commerce and Economic Development to make regulations to approve safety standards or safety specifications applicable to particular consumer goods. Such regulations may be made when dangerous consumer goods are found in the market which fall outside any specific control schemes and



require clearly stipulated safety standards for speedy and effective enforcement. The Ordinance also empowers the Secretary for Commerce and Economic Development to ban certain products in Hong Kong. This is to cater for the emergence of new products, or the discovery of existing products, which are found to be exceedingly dangerous.



LABORATORY TESTING

6. A person may, at his own expense, have consumer goods tested by an approved laboratory to determine whether or not they comply with reasonable safety standards.

Test certificates issued by approved laboratories may be accepted as evidence in court for demonstrating compliance with the relevant standard.

7. Approved laboratories are those laboratories approved in writing by the Commissioner for Innovation and Technology, namely all laboratories accredited under the Hong Kong Laboratory Accreditation Scheme (HOKLAS) and all laboratories accredited under those Schemes which have concluded mutual recognition agreements (MRA) with HOKLAS. The approval is confined to those tests in respect of which the laboratories are accredited and the results of which are issued on test reports or certificates bearing the logo or accreditation mark of the Scheme granting the accreditation.

ENFORCEMENT

8. The Commissioner of Customs and Excise (CCE) will enforce the legislation. Customs officers will act on complaint and conduct spot check. He may resort to remedial measures by serving on any person the following notices —

Notice to warn — To require that person, at his own expense and by his own arrangements, to publish a warning that a product may be unsafe unless certain steps are taken;

Prohibition notice — To prohibit that person from supplying certain consumer goods which are found to be unsafe for a specified period of time;

Recall notice — To require the immediate removal of unsafe goods from sale and the retrieval of those goods (e.g. by an offer to buy-back or exchange) already supplied.

Requirement notice — To require —

- (a) the manufacturer, importer or supplier of consumer goods to have them tested in the form and manner specified by CCE;
- (b) the manufacturer, importer or supplier of consumer goods to modify them or their labelling, packaging or advertising so that they comply with the general safety requirement, an approved standard or a safety standard/specification established by regulation; and
- (c) a person who advertises specified consumer goods to include warning notices in the advertisements or to cease the advertising.

CHANNEL OF APPEAL

9. A person who is aggrieved by a decision or action of CCE may appeal to an Appeal Board which comprises members from the general public and the consumer goods industry, legal practitioners and professionals in product safety, to be appointed by the Secretary for Commerce and Economic Development. Within 14 days after the decision or action of CCE, the appellant shall deliver to him a notice of appeal stating the substance of the matter and reasons for the appeal.

DEFENCE OF DUE DILIGENCE

10. Section 22 of the Ordinance provides for the general offences under the Ordinance. These offences include manufacture, import or supply of unsafe consumer goods, non-compliance with the notice issued or requirement imposed by CCE, and non-compliance with the order of the Appeal Board. In proceedings against a person for an offence under section 22 or a regulation, it is a defence for that person to show that he took all reasonable steps and exercised all due diligence to avoid committing the offence. A court, in making a decision on such a defence, may take into consideration any certificate issued by an approved laboratory showing that the samples of consumer goods which are the subject of the prosecution had been tested before being sold and had complied with the safety standard or safety specification set out in the certificate.

RECOVERY OF EXPENSES OF ENFORCEMENT

11. A person convicted under the Ordinance may be ordered by the court to reimburse the Government Chemist for any costs associated with testing the goods and CCE for any expenditure which has been or may be incurred by him.

PENALTIES

12. The penalty provisions of the Ordinance are sections 28 and 30(2). They provide, among other things, that any person who contravenes section 6, or fails or refuses to comply with a notice served by CCE commits an offence and is liable —

- (a) on first conviction, to a fine of \$100,000 and to imprisonment for 1 year;
- (b) on subsequent conviction, to a fine of \$500,000 and to imprisonment for 2 years.



ENQUIRIES

13. For general enquiries regarding the policy intent of the Ordinance, please write to Commerce and Economic Development Bureau, 23/F, West Wing, Central Government Offices, 2 Tim Mei Avenue, Tamar, Hong Kong.

14. The Product Standards Information Bureau (PSIB) of the Innovation and Technology Commission operates a library with a collection of documents and publications on standards. Those interested are welcome to visit the library. The PSIB is located on 36/F, Immigration Tower, 7 Gloucester Road, Wan Chai, Hong Kong. Its telephone and fax numbers are 2829 4820 and 2824 1302 respectively. For information on approved laboratories, those interested may approach Hong Kong Accreditation Service (HKAS) at the same address and fax number as PSIB's. Its telephone number is 2829 4840.

15. For unsafe consumer goods complaints, please call Customs hotline 2545 6182. For general enquiries, please call 2815 7711, or write to Consumer Protection Bureau, Customs & Excise Department, 14/F, Customs Headquarters Building, 222 Java Road, North Point, Hong Kong, or e-mail to customsenquiry@customs.gov.hk

PUBLICATION

16. The Ordinance can be ordered through the following channels:

- Visit the online Government Bookstore at www.bookstore.gov.hk
- Download the order form from the Information Services Department website at www.isd.gov.hk/eng/bookorder.htm and submit the order direct online or by fax to 2523 7195
- By e-mail to puborder@isd.gov.hk

For enquiries, please call the Publications Sales Unit at 2537 1910.

This pamphlet is not a legal document. It is only a brief introduction to the Consumer Goods Safety Ordinance. You must read the Ordinance itself and, if necessary, seek independent legal advice for full and accurate understanding of the Ordinance.

Commerce and Economic
Development Bureau

