

REGULATORY OVERVIEW

THE LAWS AND REGULATIONS OF HONG KONG

This section summarises the principal laws and regulations of Hong Kong which are relevant to our business. As this is a summary, it does not contain detailed analysis of all the laws of Hong Kong which may be relevant to our business. As at the Latest Practicable Date, apart from the licensing requirement under the Dangerous Goods Ordinance, we were not subject to any requirement to obtain any particular approval or permit for carrying out our business in Hong Kong.

Construction Industry Council Ordinance (Chapter 587 of the Laws of Hong Kong)

According to section 32 of the Construction Industry Council Ordinance, a levy known as the “Construction Industry Levy” is to be assessed and paid by a contractor of any construction operations which are subject to the payment of a levy under this ordinance. Construction operations which do not have a total contract value in relation to construction operations of HK\$1,000,000 each are not liable to the levy. A levy at the rate of 0.5% of the value of the construction operations concerned is to be imposed in respect of construction operations carried out in Hong Kong. The levy is payable by a contractor of any construction operations.

According to section 35, within 14 days after any construction operations have commenced, the contractor and the authorised person in respect of the construction operations shall each inform the Council, by a notice, that he is such contractor or authorised person. A notice shall be in a form specified by the Council and shall state the estimated total value of the construction operations.

A notice is required to be given under this section only if:

- a) the construction operations are carried out under a term contract; or
- b) it is reasonably estimated that the total value of the construction operations exceeds HK\$1,000,000.

A person who, without reasonable excuse, fails to give a notice as required by this ordinance commits an offence and is liable on conviction to a fine at level 1.

According to section 46 of this ordinance, a contractor who is given a notice of assessment or a notice of surcharge shall pay to the Council the amount of the levy or surcharge specified in the notice given to him, within 28 days. If the amount of the levy or surcharge is not fully paid within 28 days, the contractor is liable to pay a penalty of 5% of the unpaid amount. If the amount of the levy or surcharge, including any penalty imposed, is not fully paid within 3 months after the expiry of 28 days, the contractor is liable to pay a further penalty of 5% of the unpaid amount. A penalty or further penalty is payable in addition to the levy or surcharge for the non-payment of which is imposed.

Construction Workers Registration Ordinance (Chapter 583 of the Laws of Hong Kong)

The Construction Workers Registration Ordinance provides among others, for registration and regulation of construction workers. The main objective of the Construction Workers Registration Ordinance is to establish a system for registration of construction workers, to set out the levy to be paid by contractors in respect of construction operations and to regulate construction workers who personally carry out construction work on construction site.

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According to sections 3(1) & 5 of the Construction Workers Registration Ordinance, the principal contractors/subcontractors/employers/controllers of construction sites are required to employ only registered construction workers to personally carry out construction work on construction sites.

According to section 58(7)(a) of the Construction Workers Registration Ordinance, a principal contractor/controller of a construction site is required to establish and maintain a site daily record in the specified form that contains information on registered construction workers employed by him or, if he is the principal contractor, his subcontractor.

According to section 58(7)(b) of the Construction Workers Registration Ordinance, a principal contractor/controller of a construction site is required to furnish the Registrar of Construction Workers in such manner as directed by the Registrar of Construction Workers with a copy of the report for the period of seven days after any construction work begins on the site and for each successive period of seven days, within two business days following the last day of the period concerned.

Pneumoconiosis and Mesothelioma (Compensation) Ordinance (Chapter 360 of the Laws of Hong Kong)

The Pneumoconiosis and Mesothelioma (Compensation) Ordinance establishes a scheme for compensating persons or their family members in respect of incapacity or death resulting from pneumoconiosis or mesothelioma (or both).

According to the section 4 of the Pneumoconiosis and Mesothelioma (Compensation) Ordinance, compensation shall be payable to:

- a) any person suffering from pneumoconiosis or mesothelioma (or both), in respect of any incapacity resulting from the above disease or diseases and any pain, suffering and loss of amenities arising from the above disease or disease;
- b) for a person suffering from pneumoconiosis (whether or not he is also suffering from mesothelioma), compensation in respect of his pneumoconiosis shall be payable only where the date of diagnosis of his pneumoconiosis occurs on or after 1 January 1981;
- c) for a person suffering from mesothelioma (whether or not he is also suffering from pneumoconiosis), compensation in respect of his mesothelioma shall be payable only where the date of diagnosis of his mesothelioma occurs on or after 18 April 2008; and
- d) a person resident in Hong Kong for 5 years or more at the date of the notification of the claim, or resident in Hong Kong for less than 5 years at such date if he contracted pneumoconiosis or mesothelioma (or both) in Hong Kong.

For construction operations the total contract value each of which exceeds the amount of HK\$1,000,000, such operations are liable to pay a levy under the Pneumoconiosis and Mesothelioma (Compensation) Ordinance. A levy of 0.15% of the value of the construction operations concerned is to be imposed in respect of construction operations carried out in Hong Kong.

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If the amount of the levy or surcharge is not fully paid within such time as may be prescribed, the contractor shall be liable to pay, in addition, a penalty of 5 per cent of the amount unpaid. If the amount of the levy or surcharge including any penalty payable is not fully paid within 3 months after the expiry of such period, the contractor shall be liable to pay, in addition, a further penalty of \$1,000 or 5% of the amount unpaid, whichever is the greater.

Any person who is knowingly concerned in, or in the taking of steps with a view to, the fraudulent evasion of the payment of a levy, whether due from him or from any other person, commits an offence and is liable to a fine of \$10,000 or 20 times the amount of levy that was or was intended to be evaded by his conduct, whichever is the greater.

Dangerous Goods Ordinance (Chapter 295 of the Laws of Hong Kong)

The Dangerous Goods Ordinance controls the usage, storage, manufacturing and conveyance of the dangerous goods under the ordinance and sets out the relevant licensing requirements in relation to these activities.

According to section 3 of the Dangerous Goods Ordinance, dangerous goods include all explosives, compressed gases, petroleum and other substance giving off inflammable vapours, substances giving off poisonous gas or vapour, corrosive substances, substances which become dangerous by interactions with water or air, substances liable to spontaneous combustion or of a readily combustible nature.

According to Section 6 of the Dangerous Goods Ordinance, no person shall store any dangerous goods in excess of exempted quantity in any premises or places without a licence issued by the director of the Fire Services Department.

According to section 14 of the Dangerous Goods Ordinance, any person who contravenes section 6 of the Dangerous Goods Ordinance shall be guilty of an offence and shall be liable to a fine of HK\$25,000 and to an imprisonment of 6 months.

The Dangerous Goods (General) Regulations (Chapter 295B of the Laws of Hong Kong) provides the exempted categories and quantity of the dangerous goods for which a licence is not required for the transport, storage and usage of the dangerous goods.