

Chapter:	342	CUSTOMS AND EXCISE SERVICE ORDINANCE	Gazette Number	Version Date
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		Long title		30/06/1997
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To establish a Customs and Excise Service and to make provision as to its duties and powers and as to the discipline of members thereof and to make provision for a welfare fund; and for purposes connected with the matters aforesaid.

(Amended 46 of 1977 s. 2)

[16 October 1963] *L.N. 121 of 1963*

(Originally 25 of 1963)

Section:	1	Short title		30/06/1997
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## PART I

### PRELIMINARY

This Ordinance may be cited as the Customs and Excise Service Ordinance.

(Amended 46 of 1977 s. 3)

Section:	2	Interpretation	L.N. 9 of 2010	31/03/2010
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In this Ordinance, unless the context otherwise requires-

"Assistant Commissioner" (助理關長) means an Assistant Commissioner of Customs and Excise; (Added 40 of 1985 s. 2. Amended 76 of 1999 s. 3)

"civil service provident fund scheme" (公務員公積金計劃) means the Civil Service Provident Fund Scheme referred to in the government regulations; (Added 6 of 2009 s. 16)

"Commissioner" (關長) means the Commissioner of Customs and Excise; (Replaced 40 of 1985 s. 2. Amended 76 of 1999 s. 3)

"Customs and Excise Service" (香港海關) means the service established by section 3; (Added 46 of 1977 s. 4)

"customs officer" (關員級人員) means a member holding any office specified in Part IV of Schedule 1; (Added 40 of 1985 s. 2)

"Deputy Commissioner" (副關長) means a Deputy Commissioner of Customs and Excise; (Added 40 of 1985 s. 2. Amended 76 of 1999 s. 3)

"disciplinary offence" (違紀行為) means a disciplinary offence prescribed by rules made under section 16; (Added 46 of 1977 s. 4)

"government regulations" (政府規例) means the administrative rules known as the Government Regulations and any other administrative rules or instruments regulating the public service; (Added 76 of 1999 s. 3)

"member" (海關人員) means a person holding an office specified in the Schedule 1;

"Public Service (Administration) Order" (《公務人員(管理)命令》) means-

- (a) the Public Service (Administration) Order 1997 (Executive Order No. 1 of 1997);
- (b) the Public Service (Disciplinary) Regulation made under section 21 of that Order (and together with that Order published as S.S. No. 5 to Gazette No. 2/1997); and
- (c) any other regulation made or any direction given under that Order, as amended from time to time; (Added 76 of 1999 s. 3)

"retirement benefits" (退休福利), in relation to a person, means-

- (a) the pension, gratuity or other allowance of that person as provided for under the Pensions Ordinance (Cap 89);
- (b) the pension benefits of that person as provided for under the Pension Benefits Ordinance (Cap 99); or
- (c) the part of that person's beneficial interests in the civil service provident fund scheme that is

attributable to sums derived from the voluntary contributions made by the Government, as employer, in respect of that person under section 11(4) of the Mandatory Provident Fund Schemes Ordinance (Cap 485), together with the income, profits or losses arising from any investment of those sums and of such income or profits; (Added 6 of 2009 s. 16)

"senior officer" (海關高級人員) means a member holding any office specified in Part I or II of Schedule 1; (Added 46 of 1977 s. 4)

"subordinate officer" (海關部屬人員) means a member holding any office specified in Part III or IV of Schedule 1. (Added 46 of 1977 s. 4)

"travel document" (旅行證件) means a passport furnished with a photograph of the holder or some similar document establishing to the satisfaction of a member the identity of the holder and his nationality, domicile or place of permanent residence. (Added 66 of 1989 s. 2)

(Amended 76 of 1999 s. 3)

Section:	3	Establishment and function		30/06/1997
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## PART II

### CONSTITUTION, DUTIES AND POWERS

There shall be established a Customs and Excise Service which shall perform the functions hitherto performed by the revenue officers appointed under the Dutiable Commodities Ordinance 1931 (36 of 1931), and shall take lawful measure for the enforcement of the laws of Hong Kong pertaining to dutiable commodities, importation and exportation and smuggling and do such other things as may be required of it by law.

(Amended 46 of 1977 s. 3; 40 of 1985 s. 3)

Section:	4	Direction and administration		30/06/1997
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Subject to section 4A, the Commissioner shall be charged with the direction and administration of the Customs and Excise Service.

(Replaced 40 of 1985 s. 4)

Section:	4A	Commissioner and other public officers to be subject to the Chief Executive's directions	76 of 1999	01/07/1997
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#### Remarks:

Adaptation amendments retroactively made - see 76 of 1999 s. 3

(1) The Chief Executive may give such directions as he thinks fit, either generally or in any particular case, with respect to the exercise or performance by the Commissioner or any other public officer, other than a judge, a District Judge or a magistrate, of any powers, functions or duties under this Ordinance.

(2) The Commissioner and every public officer shall, in the exercise or performance of any powers, functions and duties under this Ordinance, comply with any directions given by the Chief Executive under subsection (1).

(Added 18 of 1980 s. 3. Amended L.N. 294 of 1982; 76 of 1999 s. 3)

Section:	5	Constitution		30/06/1997
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The Customs and Excise Service shall consist of the offices specified in Schedule 1.

(Amended 46 of 1977 s. 3)

Section:	6	Payment		30/06/1997
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Provision for the payment and maintenance of the Customs and Excise Service shall be by charges on the general revenues of Hong Kong, to such amount and in such proportion as may from time to time by annual vote or otherwise be voted by the Legislative Council.

(Amended 46 of 1977 s. 3; 40 of 1985 s. 5)

Section:	7	Powers of delegation		30/06/1997
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(1) Save where the contrary intention appears from the context of this or any other Ordinance and subject to any special instructions of the Commissioner, a Deputy Commissioner and an Assistant Commissioner may exercise and perform any of the powers, functions and duties which are conferred or imposed upon the Commissioner by this or any other Ordinance except any power to dismiss or compel the retirement of a customs officer which may be conferred on the Commissioner by or under this Ordinance.

(2) Save where the contrary intention appears from the context of this or any other Ordinance, the Commissioner may authorize any senior officer by name, office or appointment, to exercise and perform any of the powers, functions and duties which are conferred or imposed upon the Commissioner by this or any other Ordinance except any power to dismiss or compel the retirement of a customs officer which may be conferred on the Commissioner by or under this Ordinance.

(Replaced 46 of 1977 s. 6. Amended 40 of 1985 s. 6)

Section:	8	Warrant cards		30/06/1997
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(1) The Commissioner shall issue to every other member a warrant card bearing the name and photograph of the member to whom it is issued and a statement signed by the Commissioner certifying that such person is a member of the Customs and Excise Service, which certificate shall be conclusive evidence of the person's membership.

(2) Every member to whom a warrant card has been issued shall carry it on his person and, if reasonably practicable, produce it for inspection by any person who questions his authority to exercise or perform any power, function or duty conferred or imposed upon the member by this or any other Ordinance. (Amended 66 of 1989 s. 3)

(Replaced 46 of 1977 s. 6)

Section:	9	Terms of service of members	76 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 76 of 1999 s. 3

(1) The Pensions Ordinance (Cap 89), the Pension Benefits Ordinance (Cap 99), the Public Service Commission Ordinance (Cap 93), Public Service (Administration) Order and government regulations for the time being in force, save in so far as is otherwise provided therein or in this Ordinance or in any regulations made under this Ordinance, shall apply to all members.

(2) Save as is otherwise provided in this Ordinance, the conditions of service of members, including conditions as to appointment, promotion, transfer, discipline and termination of appointment, and the grant of benefits upon retirement, shall be in accordance with the provisions of the Public Service Commission Ordinance (Cap 93), Public Service (Administration) Order, government regulations, the Pensions Ordinance (Cap 89) and the Pension Benefits Ordinance (Cap 99).

(3) A member may resign from the Customs and Excise Service-

- (a) if he is on month to month terms of employment, by giving 1 month's notice in writing to the Commissioner of his intention to resign;
- (b) if he is on permanent terms of employment, by giving 3 months' notice in writing to the Commissioner of his intention to resign; or
- (c) with the prior consent of the Commissioner, by paying to the Government 1 month's salary instead of giving notice. (Added 66 of 1989 s. 4)

(Amended 15 of 1979 s. 8; 36 of 1987 s. 47; 76 of 1999 s. 3)

Section:	10	Offences against discipline generally		30/06/1997
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PART III

DISCIPLINE

Any member who commits a disciplinary offence shall be liable to be dismissed or otherwise dealt with as provided by or under this Ordinance.

Section:	11	Senior officers	76 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 76 of 1999 s. 3

Whenever it is alleged that a senior officer has committed a disciplinary offence or whenever an investigation is being undertaken into any conduct which may amount to the commission of a disciplinary offence by a senior officer-

- (a) the provisions of Public Service (Administration) Order and government regulations which relate to interdiction and the payment of emoluments thereafter shall apply;
- (b) the matter shall be investigated and the officer concerned dealt with in the appropriate manner provided for in the Public Service (Administration) Order and government regulations for allegations of misconduct made against a public officer.

(Amended 76 of 1999 s. 3)

Section:	12	Subordinate officers	76 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 76 of 1999 s. 3

- (1) Whenever a subordinate officer is charged with a disciplinary offence-

- (a) the Commissioner may interdict him from duty;
- (b) the matter shall be investigated and the officer concerned dealt with in the appropriate manner prescribed by rules made under section 16.

(2) Whenever an investigation is being undertaken into any conduct which may amount to the commission of a disciplinary offence by a subordinate officer and the Commissioner considers that it is contrary to the public interest for the officer to continue to exercise the powers and functions of his office, the Commissioner may interdict him from duty but the officer shall be entitled, until such time as he is charged with a disciplinary offence to the full amount of the emoluments which he would have received if he had not been interdicted.

(3) An officer interdicted under subsection (1), and an officer interdicted under subsection (2) who is charged with a disciplinary offence, shall receive such proportion of the emoluments of his office, not being less than one-half, as the Commissioner may direct.

(4) If the proceedings against such officer do not result in the imposition of any punishment, he shall be entitled to the full amount of the emoluments which he would have received if he had not been interdicted.

(5) If a punishment other than dismissal is imposed the officer may be paid such proportion of the emoluments withheld as a result of his interdiction as the Chief Executive may direct, where the punishment is imposed by the Chief Executive or, as the Commissioner may direct, in every other case. (Amended 76 of 1999 s. 3)

(6) An officer interdicted under subsection (1) or (2) may not, without the permission of the Commissioner, leave Hong Kong while under interdiction.

Section:	13	Interdiction in the case of criminal proceedings	76 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 76 of 1999 s. 3

(1) If criminal proceedings have been, or are likely to be, instituted against any member or an investigation is being undertaken into any conduct which may amount to the commission of a criminal offence by a member, he may be interdicted from duty and paid emoluments as follows-

- (a) if a senior officer, in accordance with Public Service (Administration) Order and government regulations; (Amended 76 of 1999 s. 3)
- (b) if a subordinate officer, in accordance with section 12 which shall apply, with all necessary modifications, to an interdiction under this paragraph.

- (2) A subordinate officer who is found guilty of or pleads guilty to any criminal offence which in the opinion of

the Commissioner is serious enough to warrant his dismissal shall not, as from that time when he is found or pleads guilty as aforesaid, be paid any emoluments of his office pending the consideration of the case in accordance with rules made under section 16.

Section:	14	Punishment of officer guilty of criminal offence	76 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 76 of 1999 s. 3

(1) If in criminal proceedings before any court a member is found guilty of or pleads guilty to any criminal offence and any appeal or other application for review of those proceedings is dismissed or abandoned or withdrawn, the member concerned may be punished- (Amended L.N. 446 of 1994)

- (a) if a senior officer, in accordance with Public Service (Administration) Order and government regulations; (Amended 76 of 1999 s. 3)
- (b) if a subordinate officer, in the appropriate manner prescribed by rules made under section 16.

(2) In section 13 and in subsection (1) of this section, "criminal proceedings" (刑事法律程序) and "criminal offence" (刑事罪行) include, respectively-

- (a) criminal proceedings in, and
- (b) a criminal offence against the law of,

any place outside Hong Kong.

Section:	15	Saving in respect of Public Service (Administration) Order and government regulations	76 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 76 of 1999 s. 3

Nothing in this Part shall be construed to preclude-

- (a) the summary dismissal of any member in accordance with Public Service (Administration) Order and government regulations;
- (b) the termination of the employment in accordance with Public Service (Administration) Order of any member on the grounds that, having regard to the conditions of the public service, the usefulness of the member thereto and all other circumstances of the case, such termination is desirable in the public interest.

(Amended 76 of 1999 s. 3)

Section:	16	Disciplinary rules	76 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 76 of 1999 s. 3

(1) The Chief Executive may make rules for all or any of the following matters-

- (a) the acts and omissions which shall be disciplinary offences on the part of any member;
- (b) the procedure to be followed where-
  - (i) a disciplinary offence is alleged to have been committed by any subordinate officer;
  - (ii) a subordinate officer is found guilty of or pleads guilty to a criminal offence as defined in section 14(2);
- (c) the punishment of a subordinate officer for any disciplinary offence or where he is found guilty of or pleads guilty to a criminal offence as defined in section 14(2);
- (d) the rights of appeal of a subordinate officer-
  - (i) found guilty of a disciplinary offence; or
  - (ii) punished,
under rules made under this section and the review by the Commissioner of findings made and punishments awarded.

(2) Rules made under paragraph (d) of subsection (1) may authorize the Chief Executive to delegate to the

Secretary for the Civil Service, or to a public officer not below the rank of Director of Bureau, the determination of an appeal referred to in that paragraph.

(Part III replaced 46 of 1977 s. 7. Amended 76 of 1999 s. 3)

Section:	17	When members to be deemed on duty		30/06/1997
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### PART IIIA

#### GENERAL POWERS AND DUTIES OF MEMBERS

A member who is off duty shall be deemed to be on duty whenever he encounters circumstances which would require him, if actually on duty, to act in enforcing this Ordinance or any of the Ordinances specified in Schedule 2.

(Amended 66 of 1989 s. 5)

Section:	17A	General powers of arrest and search		30/06/1997
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(1) A member may, without warrant, stop and search and arrest any person whom he may reasonably suspect of having committed an offence against this Ordinance or an Ordinance specified in Schedule 2. (Amended 66 of 1989 s.

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(2) If any person resists, or attempts to evade, search or arrest by a member, whether effected under this Ordinance or any other power, the member may use such force as is reasonably necessary to effect the search or arrest.

(3) Where a member has arrested any person the member may search for and take possession of any thing found on his person or in or about the place at which the person has been arrested and which the member may reasonably suspect is related to or connected with the offence for which the person has been arrested or may throw light on the character or activities of that person or any associate of his.

(4) A person may be searched only by a member who is of the same sex.

Section:	17B	Power to enter and search for suspects	L.N. 307 of 1998	04/09/1998
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(1) If a member reasonably believes that-

(a) a person whom he intends to arrest has entered into or is in any premises; and

(b) in order to effect the arrest it is necessary to enter and search those premises,

he may request any person having apparent control of such premises or residing therein to allow him and any person acting in his aid free entry thereto and to take all reasonable measures to facilitate the search.

(2) If-

(a) paragraphs (a) and (b) of subsection (1) apply; and

(b) entry to the premises cannot be obtained under subsection (1); and

(c) the offence for which the member intends to effect the arrest is an arrestable offence and a person having apparent control of the premises or residing therein has been so informed if it is possible and practicable in the circumstances to do so,

the member and any person acting in his aid may enter the premises and search for the suspect.

(3) Any person having apparent control of premises referred to in subsection (1) or residing therein shall, upon request by a member and being informed that the offence for which the member intends to effect the arrest is an arrestable offence, allow the member and any person acting in his aid free entry thereto and take all reasonable steps to facilitate the search.

(4) A member, and any person acting in his aid, may break open any outer or inner door or window of premises if it is necessary to do so in order to enter or leave any premises which he is authorized to enter by virtue of this section or any other enabling power.

(5) In this section-

"arrestable offence" (可逮捕的罪行) means an offence for which the sentence is fixed by law or for which a person may under or by virtue of any law be sentenced to imprisonment for a term exceeding 12 months, and an attempt to commit any such offence; (Amended L.N. 307 of 1998)

"premises" (處所) means any place on land, and any vehicle, vessel, train, tram or aircraft.

Section:	17BA	Search and examination without warrant		30/06/1997
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- (1) A member may, for the purposes of enforcing this Ordinance or an Ordinance specified in Schedule 2-
- (a) at any point of entry to or exit from Hong Kong or on any ship, other than a ship of war, within the waters of Hong Kong, request permission to examine the baggage and personal belongings accompanying any person which is being imported into, or which is being exported from, Hong Kong;
  - (b) at any point of entry to or exit from Hong Kong or on any ship, other than a ship of war, within the waters of Hong Kong, examine-
    - (i) any cargo, together with any manifest and supporting documents;
    - (ii) any article, other than a postal packet to which section 35 of the Import and Export Ordinance (Cap 60) applies; and
    - (iii) any unaccompanied baggage or unaccompanied personal belongings, which is being imported into, or which is being exported from, Hong Kong;
  - (c) at any place where cargo is stored prior to being exported or after it has been imported and prior to, or at the time of, its collection by the consignee, examine such cargo, together with any manifest and supporting documents; and
  - (d) stop and board any ship, aircraft, train or vehicle, other than a ship of war or military aircraft, which has arrived in or is about to depart from Hong Kong and search it and may remain on it as long as it remains in Hong Kong.

(2) For the purpose of effecting an examination of any thing under subsection (1)(a), (b) or (c) which is unopened, a member may detain the thing until the owner, the person in whose possession the thing is found or any other person claiming to be entitled to open it for examination has opened it for examination.

(3) If the owner, the person in whose possession the thing is found or any other person claiming to be entitled to open it for examination refuses to open it, or, having been given a reasonable time to do so, fails to do so, a member not below the rank of inspector may order that the thing be opened for examination and the member may then break open the thing for examination.

(4) The owner, the person in whose possession the thing is found or any person claiming to be entitled to open it for examination shall be given a reasonable opportunity (having regard to the circumstances) to be present when the thing is opened for examination under subsection (3).

(Added 66 of 1989 s. 7)

Section:	17BB	Inspection of travel documents		30/06/1997
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A member not below the rank of inspector may, in exercising any powers under this Ordinance or any Ordinance specified in Schedule 2, at an entry point to or exit point from Hong Kong or on any ship, other than a ship of war, in the waters of Hong Kong, require any person who has arrived in or is about to depart from Hong Kong to produce his travel document for inspection.

(Added 66 of 1989 s. 7)

Section:	17C	Action after arrest		30/06/1997
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(1) Subject to subsection (2), a member who arrests any person, whether under this Ordinance or any other enabling power, may take him to an office of the Customs and Excise Service for further inquiries and, subject thereto, shall take him to a police station to be dealt with in accordance with the Police Force Ordinance (Cap 232).

(1A) A member who arrests a person may require the person to give his correct name and to produce evidence of identity to the member. (Added 66 of 1989 s. 8)

(2) No person shall be detained for more than 48 hours from the time he is arrested without being charged and brought before a magistrate.

Section:	17D	Saving of other powers		30/06/1997
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(1) The powers conferred upon a member by this Part are additional to those conferred on him by any other law.

(Part IIIA added 46 of 1977 s. 8)

Section:	17E	Making of false reports etc., to member		30/06/1997
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### PART IIIB

#### OFFENCES, PENALTIES AND OTHER ORDERS

Any person who makes or gives or causes to be made or given to a member in the performance of his duty any report, accusation, statement or information which he knows to be false or misleading commits an offence.

Section:	17F	Assault etc. on a member		30/06/1997
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Any person who wilfully assaults, resists or obstructs any member acting in the execution of his duty commits an offence.

Section:	17FA	Failure to give correct name		30/06/1997
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Any person who-

- (a) fails to give his correct name; or
- (b) fails to produce evidence of his identity,

to a member under section 17C(1A) when required after he is arrested commits an offence.

(Added 66 of 1989 s. 10)

Section:	17G	Unauthorized wearing of uniform		30/06/1997
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(1) Any person who, not being a member of the Customs and Excise Service, knowingly wears the uniform of that Service or any dress having the appearance or bearing any of the distinctive marks of such uniform, without the permission of the Commissioner, commits an offence. (Amended 66 of 1989 s. 11)

(2) A court or magistrate may on the application of the Commissioner order a person who has in his possession any uniform or dress referred to in subsection (1) to surrender to the Commissioner the uniform or dress, whether or not that person has been convicted of an offence under that subsection in relation to that uniform or dress. (Added 66 of 1989 s. 11)

(3) In making an order under subsection (2) the court or magistrate may order that, in default of compliance with the order within a specified time, the person shall pay to the Government a sum of money determined by the court or magistrate as the value of the uniform or dress, which sum shall be recoverable as a civil debt. (Added 66 of 1989 s. 11)

Section:	17H	Delivery of Government property on ceasing to be a member		30/06/1997
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(1) Any person who, on ceasing to be a member of the Customs and Excise Service, refuses or neglects forthwith to deliver up to a member authorized to receive them his warrant card, uniform, arms and other accoutrements or Government property which may be in his possession commits an offence.

(2) A court or magistrate may, on the application of the Commissioner, order a person-

- (a) to surrender to the Commissioner any warrant card, uniform, arms and other accoutrements or Government property referred to in subsection (1); and
- (b) to pay a sum determined by the court or magistrate as the value of any warrant card, uniform, arms or other accoutrements or Government property not returned to the Government on the person's ceasing to be a member or pursuant to an order under paragraph (a), which sum shall be recoverable as a civil debt,

whether or not any person has been convicted of an offence under subsection (1) in relation to that warrant card, uniform, arms or other accoutrements or Government property. (Added 66 of 1989 s. 12)

(3) A court or magistrate may on or after convicting a person of an offence under this section order that the convicted person-

- (a) return any warrant card, uniform, arms or other accoutrements or Government property which he may



- have in his possession to the Commissioner; and
- (b) pay the sum determined by the court or magistrate as the value of any warrant card, uniform, arms or other accoutrements or Government property which is not returned or, if any property is returned in a damaged state, the sum so determined by the court or magistrate as the amount of the damage to the property, which sum shall be recoverable as a civil debt. (Added 66 of 1989 s. 12)

Section:	17I	Penalties		30/06/1997
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Any person who commits an offence under section 17E, 17F, 17FA, 17G or 17H is liable to a fine of \$5000 and to imprisonment for 6 months.

(Amended 66 of 1989 s. 13)  
(Part IIIB added 46 of 1977 s. 8)

Section:	18	Definitions: Part IV	L.N. 9 of 2010	31/03/2010
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## PART IV

### CUSTOMS AND EXCISE SERVICE WELFARE FUND

In this Part-

"acquire" (取得) means acquire by purchase or by any other lawful means;

"amenities" (設施活動) means any of the following-

- (a) facilities that are not chargeable to the general revenue, including holiday premises and recreational facilities (whether provided free or for a charge);
- (b) social, educational and recreational activities and performances (whether provided free or for a charge and whether provided for participation or as spectator events);

"beneficiaries" (受益人) means the following persons-

- (a) members of the Service;
- (b) former members of the Service;
- (c) dependants of deceased persons who, at the time of death, were members of the Service;
- (d) dependants of deceased former members of the Service;

"corporation" (法團) means the corporation sole constituted under section 19(1);

"Customs and Excise Staff Purchase Scheme" (海關職員購物計劃) means the scheme (if any) established under section 19E;

"dependant" (受養人) means-

- (a) in relation to a member or a former member of the Service-a person who, in the opinion of the Commissioner, is wholly or partially dependent on the member or former member; and
- (b) in relation to a deceased member or a deceased former member of the Service-a person who, in the opinion of the Commissioner, was, at the time of the death of the member or former member, wholly or partially dependent on the member or former member;

"dispose of" (處置) means dispose of by sale, lease, hiring, mortgage or any other lawful means;

"former member of the Service" (前海關人員) means a person who was formerly a member of the Service and-

- (a) who has retired from the Service with retirement benefits; or (Amended 6 of 2009 s. 26)
- (b) whose contract of service as a member of the Service has expired on or after the person reached 55 years of age without the contract being renewed;

"function" (職能) includes a power, an authority and a duty;

"Fund" (基金) means the Customs and Excise Service Welfare Fund continued by section 19A;

"Service" (海關) means the Customs and Excise Service;

"this Part" (本部) includes regulations made under section 22(a).

(Part IV replaced 58 of 1999 s. 6)

Section:	19	Commissioner to be corporation sole for purposes of this Part	L.N. 289 of 1999	19/11/1999
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(1) The Commissioner is constituted as a corporation sole for the purposes of this Part with the corporate name of "Commissioner of Customs and Excise Incorporated".

(2) The corporation-

- (a) has perpetual succession; and
- (b) for the purposes of this Part, may acquire, hold and dispose of real and personal property; and
- (c) may take legal proceedings and be proceeded against in its corporate name; and
- (d) is required to have a corporate seal; and
- (e) for the purposes of this Part, has the capacity to do and be subjected to all other things that bodies corporate may, by law, do and be subjected to.

(3) A document requiring authentication by the corporation is sufficiently authenticated if it is signed by the Commissioner or by any member of the Service authorized to do so by the Commissioner.

(4) The affixing of the corporate seal to a document executed by the corporation is not valid unless authenticated by the Commissioner or a member of the Service designated for the purpose by the Commissioner.

(5) The corporation is not a trustee for the beneficiaries, but, subject to subsection (6), nothing in this Part limits a right conferred by law to bring legal proceedings against the corporation for a contravention of this Part or a failure to perform a duty imposed by this Part.

(6) Neither the Commissioner nor any delegate of the corporation is personally liable in any legal proceedings arising out of an act done or omitted to be done in relation to the Fund if the act was done or omitted to be done in good faith for the purpose of giving effect to this Part.

(Part IV replaced 58 of 1999 s. 6)

Section:	19A	Continuance of Customs and Excise Service Welfare Fund	L.N. 289 of 1999	19/11/1999
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(1) The fund called the "Customs and Excise Service Welfare Fund" in English and "香港海關福利基金" in Chinese is continued by this section.

(2) The Fund and the property derived from the application of the Fund are vested in the corporation.

(Part IV replaced 58 of 1999 s. 6)

Section:	19B	What the Fund consists of	10 of 2005	08/07/2005
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The Fund consists of the following-

- (a) any donations made to the Fund;
- (b) if a Customs and Excise Staff Purchase Scheme is established under section 19E, proceeds derived from transactions under the Scheme;
- (c) proceeds from the sale of souvenirs and the disposal of other property held for the purposes of the Fund;
- (d) all money received from the letting of holiday premises, or the hire of recreational facilities, held for the purposes of the Fund;
- (e) all fees collected from social, educational and recreational activities organized by or on behalf of the Commissioner for the purposes of the Fund;
- (f) money derived from the investment of the Fund;
- (g) money accruing as interest on loans made from the Fund;
- (h) gifts of money required under the Acceptance of Advantages (Chief Executive's Permission) Notice 2004\* to be disposed of by being paid into the Fund; (Amended 10 of 2005 s. 219)
- (i) any money voted to the Fund by the Legislative Council;
- (j) money held in the Fund immediately before the commencement of Schedule 5 to the Disciplined Services Welfare Funds Legislation (Amendment) Ordinance 1999 (58 of 1999) and money which was, immediately before that commencement, recoverable for the Fund and which is subsequently paid to, or recovered for, the Fund after that commencement;
- (k) money paid or payable to the credit of the Fund from any other lawful source.

(Part IV replaced 58 of 1999 s. 6)

**Note:**

\* **The Acceptance of Advantages (Chief Executive's Permission) Notice 2004 was published as G.N. 252 in the Government of the HKSAR Gazette (No. 2 Vol. 8) on 9 January 2004.**

Section:	19C	Functions of corporation	L.N. 289 of 1999	19/11/1999
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- (1) Subject to this Part, the principal function of the corporation is to administer the Fund, and the property derived from the application of the Fund, for the benefit of beneficiaries and others as provided by this Part.
- (2) The corporation has such ancillary functions as are necessary to enable it to perform its principal function.
- (3) The corporation is required-
  - (a) to act honestly in all matters relating to its principal function; and
  - (b) to exercise in relation to all matters relating to the administration of the Fund the same degree of care, skill and diligence as an ordinary prudent person would exercise in dealing with property of another person for whom the person felt morally bound to provide; and
  - (c) to ensure that its functions relating to the Fund are performed or exercised in the best interests of beneficiaries.

(Part IV replaced 58 of 1999 s. 6)

Section:	19D	What the Fund may be used for	L.N. 289 of 1999	19/11/1999
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- (1) The Fund may be used for any of the following purposes-
  - (a) providing and maintaining amenities for the use and enjoyment of the beneficiaries;
  - (b) acquiring real and personal property for the purpose specified in paragraph (a);
  - (c) making payments to the corporation's employees in respect of their employment;
  - (d) making payments for the services of the corporation's agents;
  - (e) compensating members of the Service for extra services provided by them;
  - (f) making loans to beneficiaries;
  - (g) granting financial assistance to dependants of deceased members and deceased former members of the Service in order to meet the funeral expenses of those deceased members and deceased former members;
  - (h) making grants, allowances and gifts to beneficiaries for purposes other than the purpose mentioned in paragraph (g);
  - (i) making or acquiring souvenirs for sale to beneficiaries and others;
  - (j) if a Customs and Excise Staff Purchase Scheme is established under section 19E, undertaking transactions for the purpose of giving effect to the Scheme;
  - (k) making donations to charitable or community organizations;
  - (l) paying interest that is payable on loans made to the corporation or the Fund.
- (2) The corporation-
  - (a) may dispose of property derived from the application of the Fund that is, in its opinion, no longer required for the purposes of the Fund; and
  - (b) may pay from the Fund the expenses incurred in disposing of the property.
- (3) Loans to beneficiaries may, at the discretion of the corporation, be granted free of interest or subject to the payment of interest.

(4) Whenever the Commissioner considers it appropriate to do so, the Commissioner may permit persons who are not beneficiaries to enjoy the use of amenities derived from the application of the Fund. Permission may be granted subject to such conditions as the Commissioner considers appropriate.

(Part IV replaced 58 of 1999 s. 6)

Section:	19E	Corporation may establish Customs and Excise Staff Purchase Scheme	L.N. 289 of 1999	19/11/1999
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- (1) The corporation may establish and maintain a scheme, to be known as the Customs and Excise Staff Purchase Scheme, under which-
  - (a) the Fund may be used to acquire goods or services for resupply to beneficiaries, or to finance arrangements for the supply of goods or services to beneficiaries; and

(b) payment by beneficiaries for the goods or services may be made either in a single cash sum or by instalments.

(2) If a Customs and Excise Staff Purchase Scheme is established, the corporation must ensure that the proceeds derived from transactions under the Scheme are credited to the Fund.

(3) For the purposes of this section, "supply" (供應) and "resupply" (重新供應) mean supply and resupply for sale.

(Part IV replaced 58 of 1999 s. 6)

Section:	19F	Corporation may make donations	L.N. 289 of 1999	19/11/1999
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The corporation may, whenever appropriate, donate money from the Fund to charitable or community organizations on such terms and conditions as it thinks fit.

(Part IV replaced 58 of 1999 s. 6)

Section:	19G	Corporation may employ staff	L.N. 289 of 1999	19/11/1999
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(1) The corporation may, for the purposes of this Part-

- (a) employ persons under contracts of employment; or
- (b) use the services of any staff or facilities of the Service.

(2) The corporation may fix the remuneration and other conditions of employment of its staff.

(Part IV replaced 58 of 1999 s. 6)

Section:	19H	Corporation may engage agents	L.N. 289 of 1999	19/11/1999
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The corporation may engage and pay agents to transact any business or do any act (including receiving or paying money) that the corporation is authorized or required to do for the purposes of this Part.

(Part IV replaced 58 of 1999 s. 6)

Section:	19I	Corporation may delegate its functions	L.N. 289 of 1999	19/11/1999
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(1) The corporation may delegate to a specified member, or the holder of a specified office, in the Service any of its functions, other than this power of delegation.

(2) A delegation under this section may-

- (a) be general or limited; and
- (b) be revoked, wholly or partly, by the corporation.

(3) A delegated function is to be performed or exercised only in accordance with any conditions to which the delegation is subject.

(4) A delegate may, in the performance or exercise of a function delegated under this section, exercise any other function that is incidental to the delegated function.

(5) A delegated function that is duly performed or exercised by a delegate is taken to have been performed or exercised by the corporation.

(6) If a function is delegated to the holder of a particular office in the Service-

- (a) the delegation does not cease to have effect merely because the person who was the holder of the office when the function was delegated ceases to be the holder of that office; and
- (b) the function may be exercised, or, in the case of a duty, must be performed, by the person for the time being occupying or acting in the office.

(7) A function that has been delegated may be performed or exercised by the corporation despite the delegation.

(Part IV replaced 58 of 1999 s. 6)

Section:	19J	Corporation may enter into contracts and other transactions	L.N. 289 of 1999	19/11/1999
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(1) The corporation may enter into contracts and other transactions for the purposes of the Fund.

(2) A person who pays money under a contract or other transaction purporting to be entered into under this

section has no obligation to see that the money is paid into the Fund.

(3) A person who enters into a contract or other transaction with another person who purports to be a delegate of the corporation has no obligation to be satisfied that the corporation has delegated to the other person the power to enter into the contract or other transaction.

(Part IV replaced 58 of 1999 s. 6)

Section:	20	Customs and Excise Service Orders	76 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 76 of 1999 s. 3

## PART V

### MISCELLANEOUS

(1) The Commissioner may make orders called "Customs and Excise Service Standing Orders" not inconsistent with the provisions of-

- (a) this Ordinance and any regulations made thereunder;
- (b) the Stores Regulations of the Government;
- (c) Public Service (Administration) Order and government regulations, as modified by this Ordinance and by regulations made thereunder. (Amended 76 of 1999 s. 3)

(2) Such orders may prescribe or provide for-

- (a) the control, direction and information of the Customs and Excise Service;
- (b) discipline;
- (c) training;
- (d) classifications and promotions;
- (e) inspections, drills, exercises and parades;
- (f) welfare;
- (g) departmental finance;
- (h) buildings, grounds, stores, furniture and equipment;
- (i) services to be performed by members;
- (j) the manner and form of reports, correspondence and other records;
- (k) the performance of any act which may be necessary for the proper carrying out of the provisions of this Ordinance or any regulations made thereunder or of any other enactment or for the discharge of any duty imposed by law on the Customs and Excise Service;
- (l) such other matters as may be necessary or expedient for preventing abuse or neglect of duty, for rendering the Customs and Excise Service efficient in the discharge of its duties and for carrying out the objects of this Ordinance.

(Amended 46 of 1977 s. 3)

Section:	21	Protection of members and persons aiding them	76 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 76 of 1999 s. 3

(1) A member shall not be liable for damages for, or in consequence of, any act done or omitted by him while he is exercising in good faith and in the course of his duty any power conferred upon him by law.

(2) Any person may act in aid of a member who appears to be lawfully engaged in the performance of his duty upon being requested by the members so to do and without being bound to inquire whether or not the member is acting lawfully or within the scope of his duty.

(3) A person acting in good faith in aid of a member under subsection (2) shall not be liable for damages for or in consequence of any act which such first-mentioned person does or omits while so doing.

(4) Nothing in subsection (1) shall affect any civil liability of the Government for the wrongful acts of its servants. (Amended 76 of 1999 s. 3)

(Replaced 46 of 1977 s. 11)

Section:	22	Power to make regulations	L.N. 289 of 1999	19/11/1999
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Remarks:

Adaptation amendments retroactively made - see 76 of 1999 s. 3

The Chief Executive in Council may by regulation provide for- (Amended 76 of 1999 s. 3)

- (a) the control, administration and investment of the Customs and Excise Service Welfare Fund; (Amended 58 of 1999 s. 6)
- (b) such other matters as may be necessary or expedient for rendering the Customs and Excise Service efficient in the discharge of its duties;
- (c) generally, for carrying into effect the provisions of this Ordinance.

(Amended 46 of 1977 s. 3)

Section:	23	(Repealed)		30/06/1997
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(Repealed 46 of 1977 s. 12)

Section:	24	Amendment of Schedule 1 or 2	76 of 1999	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 76 of 1999 s. 3

The Chief Executive may, by order published in the Gazette, amend Schedule 1 or 2.

(Added 14 of 1969 s. 4. Amended 46 of 1977 s. 13; 76 of 1999 s. 3)

Section:	25	Amendment of references to Preventive Service in Ordinances and documents	10 of 2005	08/07/2005
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Every reference in an Ordinance or in any document to the Preventive Service or to the Preventive Service Ordinance or to the Preventive Service (Welfare Fund) Regulations (Cap 342 sub. leg.) or to a member of or office in the Preventive Service shall, unless the context otherwise requires, be read respectively as a reference to the Customs and Excise Service or the Customs and Excise Service Ordinance or the Customs and Excise Service (Welfare Fund) Regulation (Cap 342 sub. leg. C) or a member of or office in the Customs and Excise Service.

(46 of 1977 s. 18 incorporated. Amended 10 of 2005 s. 221)

Section:	26	Transitional		30/06/1997
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In any instrument, contract or legal proceedings made or commenced before the commencement of the Customs and Excise Service (Amendment) Ordinance 1985 (40 of 1985), the title of Commissioner of Customs and Excise shall be substituted for the Commissioner of the Customs and Excise Service.

(40 of 1985 s. 11 incorporated)

Schedule:	1	OFFICES IN THE CUSTOMS AND EXCISE SERVICE		30/06/1997
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[sections 2, 5 & 24]

## PART I

Commissioner.

Deputy Commissioner.

Assistant Commissioner.

## PART II

Chief Superintendent. (Added L.N. 317 of 1993)  
 Senior Superintendent.  
 Superintendent.  
 Assistant Superintendent.

PART III

Senior Inspector.  
 Inspector.

PART IV

Chief Customs Officer.  
 Senior Customs Officer.  
 Customs Officer.

(Replaced 46 of 1977 s. 14. Amended L.N. 203 of 1977; L.N. 317 of 1993)

Schedule:	2	ORDINANCES REFERRED TO IN SECTIONS 17 AND 17A	L.N. 218 of 2007	11/01/2008
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[sections 17 & 17A]

- Import and Export Ordinance (Cap 60)
- Post Office Ordinance (Cap 98)
- Dutiable Commodities Ordinance (Cap 109)
- Pesticides Ordinance (Cap 133) (Added L.N. 143 of 1977. Amended 79 of 1990 s. 21)
- Dangerous Drugs Ordinance (Cap 134)
- Antibiotics Ordinance (Cap 137)
- Pharmacy and Poisons Ordinance (Cap 138)
- Control of Chemicals Ordinance (Cap 145) (Replaced 14 of 2003 s. 24)
- Plant (Importation and Pest Control) Ordinance (Cap 207) (Added L.N. 117 of 1976)
- Weapons Ordinance (Cap 217) (Added L.N. 361 of 1981)
- Firearms and Ammunition Ordinance (Cap 238) (Replaced L.N. 361 of 1981)
- Dangerous Goods Ordinance (Cap 295) (Added L.N. 1 of 1974)
- Reserved Commodities Ordinance (Cap 296) (Added L.N. 73 of 1983)
- Air Pollution Control Ordinance (Cap 311) (Added 13 of 1993 s. 37)
- Trade Descriptions Ordinance (Cap 362) (Replaced 39 of 1980 s. 37)
- Control of Obscene and Indecent Articles Ordinance (Cap 390) (Replaced L.N. 132 of 1987)
- Ozone Layer Protection Ordinance (Cap 403) (Added 24 of 1989 s. 19)
- Drug Trafficking (Recovery of Proceeds) Ordinance (Cap 405) (Added 35 of 1989 s. 33)
- Rabies Ordinance (Cap 421) (Added L.N. 452 of 1995)
- Toys and Children's Products Safety Ordinance (Cap 424) (Added 80 of 1992 s. 36)
- Organized and Serious Crimes Ordinance (Cap 455) (Added 82 of 1994 s. 35)
- Consumer Goods Safety Ordinance (Cap 456) (Added 84 of 1994 s. 36)
- Mutual Legal Assistance in Criminal Matters Ordinance (Cap 525) (Added 87 of 1997 s. 36)
- Copyright Ordinance (Cap 528) (Replaced 92 of 1997 s. 280)
- Prevention of Copyright Piracy Ordinance (Cap 544) (Added 22 of 1998 s. 42)
- Chinese Medicine Ordinance (Cap 549) (Added 47 of 1999 s. 169)
- Chemical Weapons (Convention) Ordinance (Cap 578) (Added 26 of 2003 s. 44)
- Prevention of Child Pornography Ordinance (Cap 579) (Added 31 of 2003 s. 21)
- Protection of Endangered Species of Animals and Plants Ordinance (Cap 586) (Added 3 of 2006 s. 57)  
 (Amended 13 of 1995 s. 2; 3 of 2006 s. 57)