

L.N. 55 of 2019

United Nations Sanctions (Somalia) Regulation 2019

Contents

Section	Page
Part 1	
Preliminary	
1. Interpretation	B1201
Part 2	
Prohibitions	
2. Supply of goods prohibited	B1211
3. Carriage of goods prohibited	B1215
4. Provision of assistance prohibited	B1221
5. Importation of charcoal prohibited	B1223
6. Making available or dealing with economic assets prohibited	B1225
7. Entry or transit of persons prohibited	B1229
8. Acts done outside HKSAR with permission granted outside HKSAR not prohibited	B1229
Part 3	
Licences	
9. Licence for supply or carriage of goods	B1231

Section	Page
10.	Licence for provision of assistanceB1237
11.	Licence for making available or dealing with economic assetsB1239
12.	Provision of false or misleading information or documents for purpose of obtaining licencesB1243

Part 4

Enforcement

13.	Application of Part 4B1247
14.	Power to board and search modes of transportB1247
15.	Power to require information and production of document, cargo or articleB1247
16.	Power to direct movementB1249
17.	Failure to comply with direction or requirementB1251
18.	Provision of false or misleading information or documentsB1253
19.	Power to enter and detain modes of transportB1253
20.	Production of proof of identityB1255

Part 5

Evidence

21.	Interpretation of Part 5B1257
22.	Power of magistrate or judge to grant warrantB1257
23.	Detention of seized propertyB1259

Section Page

Part 6

Disclosure of Information or Documents

24. Disclosure of information or documents B1261

Part 7

Other Offences and Miscellaneous Matters

25. Liability of persons other than principal offenders B1265

26. Offences in relation to obstruction of authorized persons
etc. B1265

27. Offences in relation to evasion of this Regulation B1267

28. Consent and deadline for prosecution B1267

29. Publication of list of individuals and entities by
Secretary B1267

30. Exercise of powers of Chief Executive B1269

31. Exercise of powers of Secretary B1271

United Nations Sanctions (Somalia) Regulation 2019

(Made by the Chief Executive under section 3 of the United Nations Sanctions Ordinance (Cap. 537) on the instruction of the Ministry of Foreign Affairs of the People's Republic of China and after consultation with the Executive Council)

Part 1

Preliminary

1. Interpretation

In this Regulation—

AMISOM (非索特派團) means the African Union Mission in Somalia;

assistance (協助) means technical advice, financial or other assistance, or training;

authorized officer (獲授權人員) means—

- (a) a police officer;
- (b) a member of the Customs and Excise Service holding an office specified in Schedule 1 to the Customs and Excise Service Ordinance (Cap. 342); or
- (c) a public officer employed in the Customs and Excise Department in the Trade Controls Officer Grade;

Commissioner (關長) means the Commissioner of Customs and Excise, any Deputy Commissioner of Customs and Excise or any Assistant Commissioner of Customs and Excise;

Committee (委員會) means the Committee of the Security Council established under paragraph 11 of Resolution 751;

connected person (有關連人士) means—

- (a) the Government of Somalia;
- (b) any person in, or resident in, Somalia;
- (c) any body incorporated or constituted under the law of Somalia;
- (d) any body, wherever incorporated or constituted, which is controlled by—
 - (i) the Government mentioned in paragraph (a);
 - (ii) a person mentioned in paragraph (b); or
 - (iii) a body mentioned in paragraph (c); or
- (e) any person acting on behalf of—
 - (i) the Government mentioned in paragraph (a);
 - (ii) a person mentioned in paragraph (b); or
 - (iii) a body mentioned in paragraph (c) or (d),

but does not include a designated person;

designated person (指認人士) means a person or an entity designated by the Committee for the purposes of paragraph 7 of Resolution 1844;

economic assets (經濟資產) means any funds or other financial assets or economic resources;

economic resources (經濟資源) means assets of every kind, whether tangible or intangible, movable or immovable, which are not funds but can be used to obtain funds, goods or services;

funds (資金) includes—

- (a) gold coin, gold bullion, cash, cheques, claims on money, drafts, money orders and other payment instruments;

- (b) deposits with financial institutions or other entities, balances on accounts, debts and debt obligations;
- (c) securities and debt instruments (including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures, debenture stock and derivatives contracts);
- (d) interest, dividends or other income on or value accruing from or generated by property;
- (e) credit, rights of set-off, guarantees, performance bonds or other financial commitments;
- (f) letters of credit, bills of lading and bills of sale;
- (g) documents evidencing an interest in funds or financial resources; and
- (h) any other instrument of export financing;

Hong Kong person (香港人) means—

- (a) a person who is both a Hong Kong permanent resident and a Chinese national; or
- (b) a body incorporated or constituted under the law of the HKSAR;

licence (特許) means a licence granted under Part 3;

master (船長), in relation to a ship, includes any person (other than a pilot) for the time being in charge of the ship;

mode of transport (運輸工具) means a ship, aircraft or vehicle;

operator (營運人), in relation to a mode of transport, means the person for the time being having the management of the mode of transport;

pilot in command (機長), in relation to an aircraft, means the pilot designated by the operator or owner, as appropriate, as being—

- (a) in charge of the aircraft (without being under the direction of any other pilot in the aircraft); and
- (b) charged with the safe conduct of a flight;

prohibited goods (禁制物品) means any weapons or military equipment;

relevant entity (有關實體) means—

- (a) an entity named in the list published under section 29(1);
- (b) an entity—
 - (i) acting on behalf of;
 - (ii) acting at the direction of; or
 - (iii) owned or controlled by, an individual or entity named in that list; or
- (c) an entity owned or controlled by an individual or entity—
 - (i) acting on behalf of; or
 - (ii) acting at the direction of, an individual or entity named in that list;

relevant person (有關人士) means—

- (a) an individual named in the list published under section 29(1); or
- (b) an individual—
 - (i) acting on behalf of; or
 - (ii) acting at the direction of, an individual or entity named in that list;

Resolution 751 (《第751號決議》) means Resolution 751 (1992) adopted by the Security Council on 24 April 1992;

Resolution 1844 (《第1844號決議》) means Resolution 1844 (2008) adopted by the Security Council on 20 November 2008;

Resolution 2111 (《第2111號決議》) means Resolution 2111 (2013) adopted by the Security Council on 24 July 2013;

responsible person (負責人) means—

- (a) for a ship—the charterer, operator or master of the ship;
- (b) for an aircraft—the charterer, operator or pilot in command of the aircraft; or
- (c) for a vehicle—the operator or driver of the vehicle;

Secretary (局長) means the Secretary for Commerce and Economic Development;

Security Council (安理會) means the Security Council of the United Nations;

supply (供應) means supply, sale or transfer.

Part 2

Prohibitions

2. Supply of goods prohibited

- (1) This section applies to—
 - (a) a person acting in the HKSAR; and
 - (b) a Hong Kong person acting outside the HKSAR.
- (2) Except under the authority of a licence granted under section 9(1)(a), a person must not supply, or agree to supply, directly or indirectly, or do any act likely to promote the supply of, any prohibited goods—
 - (a) to Somalia;
 - (b) to a connected person or the order of a connected person; or
 - (c) to a destination for the purpose of delivery or transfer, directly or indirectly—
 - (i) to Somalia; or
 - (ii) to a connected person or the order of a connected person.
- (3) A person must not supply, or agree to supply, directly or indirectly, or do any act likely to promote the supply of, any prohibited goods—
 - (a) to a designated person or the order of a designated person; or

- (b) to a destination for the purpose of delivery or transfer, directly or indirectly, to a designated person or the order of a designated person.
- (4) A person who contravenes subsection (2) or (3) commits an offence and is liable—
 - (a) on summary conviction—to a fine at level 6 and to imprisonment for 6 months; or
 - (b) on conviction on indictment—to a fine and to imprisonment for 7 years.
- (5) It is a defence for a person charged with an offence under subsection (4) to prove that the person did not know and had no reason to believe—
 - (a) that the goods concerned were prohibited goods;
 - (b) for a contravention of subsection (2)—that the goods concerned were, or were to be, supplied—
 - (i) to Somalia;
 - (ii) to a connected person or the order of a connected person; or
 - (iii) to a destination for the purpose of delivery or transfer, directly or indirectly—
 - (A) to Somalia; or
 - (B) to a connected person or the order of a connected person; or
 - (c) for a contravention of subsection (3)—that the goods concerned were, or were to be, supplied—
 - (i) to a designated person or the order of a designated person; or
 - (ii) to a destination for the purpose of delivery or transfer, directly or indirectly, to a designated person or the order of a designated person.

3. Carriage of goods prohibited

- (1) This section applies to—
 - (a) a ship that is registered in the HKSAR, or is in the HKSAR;
 - (b) an aircraft that is registered in the HKSAR, or is in the HKSAR;
 - (c) any other ship or aircraft that is for the time being chartered to a person who is—
 - (i) a Hong Kong person; or
 - (ii) in the HKSAR; and
 - (d) a vehicle in the HKSAR.
- (2) Without limiting section 2, except under the authority of a licence granted under section 9(1)(b), a mode of transport must not be used for the carriage of any prohibited goods if the carriage is, or forms part of, a carriage—
 - (a) from a place outside Somalia to a place in Somalia;
 - (b) to a connected person or the order of a connected person; or
 - (c) to a destination for the purpose of delivery or transfer, directly or indirectly—
 - (i) to Somalia; or
 - (ii) to a connected person or the order of a connected person.
- (3) Subsection (2) does not apply if—
 - (a) the carriage of the prohibited goods is performed in the course of the supply of the prohibited goods; and

- (b) the supply is authorized by a licence granted under section 9(1)(a).
- (4) Without limiting section 2, a mode of transport must not be used for the carriage of any prohibited goods if the carriage is, or forms part of, a carriage—
 - (a) to a designated person or the order of a designated person; or
 - (b) to a destination for the purpose of delivery or transfer, directly or indirectly, to a designated person or the order of a designated person.
- (5) If a mode of transport is used in contravention of subsection (2) or (4), each of the following persons commits an offence—
 - (a) for a ship registered in the HKSAR—the responsible persons for the ship;
 - (b) for any other ship—
 - (i) the charterer of the ship if the charterer is a Hong Kong person, or is in the HKSAR;
 - (ii) the operator of the ship if the operator is a Hong Kong person, or is in the HKSAR; and
 - (iii) the master of the ship if the master is both a Hong Kong permanent resident and a Chinese national, or is in the HKSAR;
 - (c) for an aircraft registered in the HKSAR—the responsible persons for the aircraft;
 - (d) for any other aircraft—
 - (i) the charterer of the aircraft if the charterer is a Hong Kong person, or is in the HKSAR;

- (ii) the operator of the aircraft if the operator is a Hong Kong person, or is in the HKSAR; and
 - (iii) the pilot in command of the aircraft if the pilot in command is both a Hong Kong permanent resident and a Chinese national, or is in the HKSAR;
- (e) for a vehicle—the responsible persons for the vehicle.
- (6) A person who commits an offence under subsection (5) is liable—
 - (a) on summary conviction—to a fine at level 6 and to imprisonment for 6 months; or
 - (b) on conviction on indictment—to a fine and to imprisonment for 7 years.
- (7) It is a defence for a person charged with an offence under subsection (5) to prove that the person did not know and had no reason to believe—
 - (a) that the goods concerned were prohibited goods;
 - (b) for a contravention of subsection (2)—that the carriage of the goods concerned was, or formed part of, a carriage—
 - (i) from a place outside Somalia to a place in Somalia;
 - (ii) to a connected person or the order of a connected person; or
 - (iii) to a destination for the purpose of delivery or transfer, directly or indirectly—
 - (A) to Somalia; or
 - (B) to a connected person or the order of a connected person; or

- (c) for a contravention of subsection (4)—that the carriage of the goods concerned was, or formed part of, a carriage—
 - (i) to a designated person or the order of a designated person; or
 - (ii) to a destination for the purpose of delivery or transfer, directly or indirectly, to a designated person or the order of a designated person.

4. Provision of assistance prohibited

- (1) This section applies to—
 - (a) a person acting in the HKSAR; and
 - (b) a Hong Kong person acting outside the HKSAR.
- (2) Except under the authority of a licence granted under section 10(1), a person must not directly or indirectly provide to a connected person any assistance related to military activities.
- (3) A person must not directly or indirectly provide to a designated person any assistance, including investment, brokering or other financial services, related to military activities or to the supply, manufacture, maintenance or use of any prohibited goods.
- (4) A person who contravenes subsection (2) or (3) commits an offence and is liable—
 - (a) on summary conviction—to a fine at level 6 and to imprisonment for 6 months; or
 - (b) on conviction on indictment—to a fine and to imprisonment for 7 years.

- (5) It is a defence for a person charged with an offence under subsection (4) to prove that the person did not know and had no reason to believe—
- (a) for a contravention of subsection (2)—
 - (i) that the assistance was, or was to be, provided to a connected person; or
 - (ii) that the assistance related to military activities; or
 - (b) for a contravention of subsection (3)—
 - (i) that the assistance was, or was to be, provided to a designated person; or
 - (ii) that the assistance related to military activities or to the supply, manufacture, maintenance or use of any prohibited goods.

5. Importation of charcoal prohibited

- (1) A person must not directly or indirectly import any charcoal from Somalia into the HKSAR.
- (2) Subsection (1) applies whether or not the charcoal concerned was originated in Somalia.
- (3) A person who contravenes subsection (1) commits an offence and is liable—
 - (a) on summary conviction—to a fine at level 6 and to imprisonment for 6 months; or
 - (b) on conviction on indictment—to a fine and to imprisonment for 2 years.
- (4) It is a defence for a person charged with an offence under subsection (3) to prove that the person did not know and had no reason to believe that the charcoal concerned was, or was to be, imported from Somalia into the HKSAR.

6. Making available or dealing with economic assets prohibited

- (1) This section applies to—
 - (a) a person acting in the HKSAR; and
 - (b) a Hong Kong person acting outside the HKSAR.
- (2) Except under the authority of a licence granted under section 11(1)—
 - (a) a person must not directly or indirectly make available any economic assets to, or for the benefit of, a relevant person or a relevant entity; and
 - (b) a person must not directly or indirectly deal with any economic assets belonging to, or directly or indirectly owned or controlled by, a relevant person or a relevant entity (including, if the person is a relevant person or a relevant entity, the economic assets belonging to, or directly or indirectly owned or controlled by, the person).
- (3) A person who contravenes subsection (2) commits an offence and is liable—
 - (a) on summary conviction—to a fine at level 6 and to imprisonment for 6 months; or
 - (b) on conviction on indictment—to a fine and to imprisonment for 7 years.
- (4) It is a defence for a person charged with an offence under subsection (3) to prove that the person did not know and had no reason to believe—
 - (a) for a contravention of subsection (2)(a)—that the economic assets were, or were to be, made available to, or for the benefit of, a relevant person or a relevant entity; or

- (b) for a contravention of subsection (2)(b)—that the person was dealing with economic assets belonging to, or directly or indirectly owned or controlled by, a relevant person or a relevant entity.
- (5) A person is not to be regarded as having contravened subsection (2) by reason only of having credited an account belonging to, or directly or indirectly owned or controlled by, a relevant person or a relevant entity with—
 - (a) interest or other earnings due on that account; or
 - (b) payment due under contracts, agreements or obligations that arose before the date on which the person or entity became a relevant person or a relevant entity.
- (6) In this section—

deal with (處理) means—

 - (a) in respect of funds—
 - (i) use, alter, move, allow access to or transfer;
 - (ii) deal with in any other way that would result in any change in volume, amount, location, ownership, possession, character or destination; or
 - (iii) make any other change that would enable use, including portfolio management; and
 - (b) in respect of other financial assets or economic resources—use to obtain funds, goods or services in any way, including by selling, hiring or mortgaging the assets or resources.

7. Entry or transit of persons prohibited

- (1) A designated person must not enter or transit through the HKSAR.
- (2) However, subsection (1) does not apply to a case in respect of which—
 - (a) the Committee has determined that the relevant entry or transit is justified on the ground of humanitarian need, including religious obligation; or
 - (b) the Committee has determined that the relevant entry or transit would further the objectives of peace and national reconciliation in Somalia and stability in the region.
- (3) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine at level 4 and to imprisonment for 2 years.
- (4) This section does not apply to a person having the right of abode or the right to land in the HKSAR.

8. Acts done outside HKSAR with permission granted outside HKSAR not prohibited

This Part does not apply if—

- (a) it otherwise prohibits a person from doing an act in a place outside the HKSAR except under the authority of a licence; and
 - (b) the person does the act in the place with permission granted in accordance with a law in force in the place (being a law substantially corresponding to the relevant provisions of this Regulation).
-

Part 3

Licences

9. Licence for supply or carriage of goods

- (1) If, on application, the Chief Executive is satisfied that one or more of the requirements in subsection (2) are met, the Chief Executive must grant, as appropriate—
 - (a) a licence for the supply of, or the doing of an act likely to promote the supply of, prohibited goods—
 - (i) to Somalia;
 - (ii) to a connected person or the order of a connected person; or
 - (iii) to a destination for the purpose of delivery or transfer, directly or indirectly—
 - (A) to Somalia; or
 - (B) to a connected person or the order of a connected person; or
 - (b) a licence for the carriage of prohibited goods that is, or forms part of, a carriage—
 - (i) from a place outside Somalia to a place in Somalia;
 - (ii) to a connected person or the order of a connected person; or
 - (iii) to a destination for the purpose of delivery or transfer, directly or indirectly—
 - (A) to Somalia; or
 - (B) to a connected person or the order of a connected person.

- (2) The requirements are as follows—
- (a) the prohibited goods are protective clothing (including flak jackets and military helmets) to be temporarily exported to Somalia by United Nations personnel, representatives of the media, humanitarian or development workers or associated personnel, for their personal use only;
 - (b) the prohibited goods are non-lethal military equipment intended solely for humanitarian or protective use;
 - (c) the prohibited goods are intended solely for the support of or use by AMISOM;
 - (d) the prohibited goods are intended solely for the purposes of helping develop Somali security sector institutions;
 - (e) the prohibited goods are intended solely for the support of or use by AMISOM's strategic partners, operating solely under the African Union Strategic Concept of 5 January 2012 (or subsequent African Union strategic concepts), and in co-operation and co-ordination with AMISOM;
 - (f) the prohibited goods are intended solely for the support of or use by United Nations personnel, including the United Nations Assistance Mission in Somalia;
 - (g) the prohibited goods are any of the items covered by the Annex to Resolution 2111 and to be supplied to the Federal Government of Somalia, as approved in advance by the Committee on a case-by-case basis;
 - (h) the prohibited goods are intended solely for the support of or use by the European Union Training Mission in Somalia;

-
- (i) the prohibited goods are intended solely for the undertaking of measures that are consistent with applicable international humanitarian and human rights law to suppress acts of piracy and armed robbery at sea off the coast of Somalia, on the request of Somali authorities for which they have notified the Secretary-General of the United Nations;
 - (j) the prohibited goods are intended for defensive purposes and are—
 - (i) to be carried by a ship that enters a Somali port for a temporary visit; and
 - (ii) to remain aboard the ship at all times while the ship is in Somalia;
 - (k) until midnight on 15 November 2019—the prohibited goods do not include any item covered by the Annex to Resolution 2111, and are intended solely for the development of the Somali National Security Forces, and to provide security for the Somali people.
- (3) However, if the Chief Executive is satisfied that the requirement in subsection (2)(b) is met, the Chief Executive must cause the Committee to be notified of the intention to grant a licence under subsection (1) 5 days before granting it.
- (4) Also, if the Chief Executive is satisfied that the requirement in subsection (2)(d) is met, the Chief Executive—
- (a) must cause the Committee to be notified of the intention to grant a licence under subsection (1); and
 - (b) must grant the licence in the absence of a negative decision by the Committee within 5 working days of the notification.

10. Licence for provision of assistance

- (1) If, on application, the Chief Executive is satisfied that one or more of the requirements in subsection (2) are met, the Chief Executive must grant a licence for the provision, to a connected person, of assistance related to military activities.
- (2) The requirements are as follows—
 - (a) the assistance is technical training or assistance intended solely for the support of or use by AMISOM;
 - (b) the assistance is technical assistance or training intended solely for the purposes of helping develop Somali security sector institutions;
 - (c) the assistance is intended solely for the support of or use by AMISOM's strategic partners, operating solely under the African Union Strategic Concept of 5 January 2012 (or subsequent African Union strategic concepts), and in co-operation and co-ordination with AMISOM;
 - (d) the assistance is intended solely for the support of or use by United Nations personnel, including the United Nations Assistance Mission in Somalia;
 - (e) the assistance is technical training or assistance intended solely for the support of or use by the European Union Training Mission in Somalia;
 - (f) the assistance is intended solely for the undertaking of measures that are consistent with applicable international humanitarian and human rights law to suppress acts of piracy and armed robbery at sea off the coast of Somalia, on the request of Somali authorities for which they have notified the Secretary-General of the United Nations;

- (g) until midnight on 15 November 2019—the assistance is intended solely for the development of the Somali National Security Forces, and to provide security for the Somali people.
- (3) However, if the Chief Executive is satisfied that the requirement in subsection (2)(b) is met, the Chief Executive—
 - (a) must cause the Committee to be notified of the intention to grant a licence under subsection (1); and
 - (b) must grant the licence in the absence of a negative decision by the Committee within 5 working days of the notification.

11. Licence for making available or dealing with economic assets

- (1) If, on application, the Chief Executive is satisfied that one or more of the requirements in subsection (2) are met, the Chief Executive must grant, as appropriate, a licence for—
 - (a) making available economic assets to, or for the benefit of, a relevant person or a relevant entity; or
 - (b) dealing with economic assets belonging to, or directly or indirectly owned or controlled by, a relevant person or a relevant entity.
- (2) The requirements are as follows—
 - (a) the economic assets are—
 - (i) necessary for basic expenses, including payment for foodstuffs, rents, mortgages, medicines, medical treatments, taxes, insurance premiums and public utility charges;

- (ii) exclusively for the payment of reasonable professional fees or reimbursement of incurred expenses associated with the provision of legal services under the law of the HKSAR; or
 - (iii) fees or service charges, under the law of the HKSAR, for the routine holding or maintenance of economic assets belonging to, or directly or indirectly owned or controlled by, a relevant person or a relevant entity;
- (b) the economic assets are necessary for extraordinary expenses;
- (c) the economic assets are—
 - (i) the subject of a judicial, administrative or arbitral lien or judgment that was entered before 20 November 2008 and is not for the benefit of a relevant person or a relevant entity; and
 - (ii) to be used to satisfy the lien or judgment;
- (d) until midnight on 15 November 2019—the economic assets are necessary to ensure the timely delivery of urgently needed humanitarian assistance in Somalia by—
 - (i) the United Nations, its specialized agencies or programmes, or humanitarian organizations having observer status with the United Nations General Assembly that provide humanitarian assistance; or
 - (ii) their implementing partners, including bilaterally or multilaterally funded non-governmental organizations participating in the United Nations Humanitarian Response Plan for Somalia.

- (3) However, if the Chief Executive is satisfied that the requirement in subsection (2)(a) is met, the Chief Executive—
 - (a) must cause the Committee to be notified of the intention to grant a licence under subsection (1); and
 - (b) must grant the licence in the absence of a negative decision by the Committee within 3 working days of the notification.
- (4) Also, if the Chief Executive is satisfied that the requirement in subsection (2)(b) is met, the Chief Executive—
 - (a) must cause the Committee to be notified of the intention to grant a licence under subsection (1); and
 - (b) must not, unless the Committee approves, grant the licence.
- (5) Further, if the Chief Executive is satisfied that the requirement in subsection (2)(c) is met, the Chief Executive must cause the Committee to be notified of the intention to grant a licence under subsection (1) before granting it.

12. Provision of false or misleading information or documents for purpose of obtaining licences

- (1) A person who, for the purpose of obtaining a licence, makes any statement or provides or produces any information or document that the person knows to be false or misleading in a material particular commits an offence and is liable—
 - (a) on summary conviction—to a fine at level 6 and to imprisonment for 6 months; or

- (b) on conviction on indictment—to a fine and to imprisonment for 2 years.
 - (2) A person who, for the purpose of obtaining a licence, recklessly makes any statement or provides or produces any information or document that is false or misleading in a material particular commits an offence and is liable—
 - (a) on summary conviction—to a fine at level 6 and to imprisonment for 6 months; or
 - (b) on conviction on indictment—to a fine and to imprisonment for 2 years.
-

Part 4

Enforcement

13. Application of Part 4

This Part applies if an authorized officer has reason to suspect that a mode of transport to which section 3 applies has been, is being or is about to be used in contravention of section 3(2) or (4).

14. Power to board and search modes of transport

The authorized officer may—

- (a) either alone or accompanied and assisted by any person acting under the officer's authority, board the mode of transport and search it; and
- (b) for the purposes of paragraph (a), use or authorize the use of reasonable force.

15. Power to require information and production of document, cargo or article

- (1) The authorized officer may require a responsible person for the mode of transport to—
 - (a) provide any information, or produce for inspection any document, relating to the mode of transport, that the officer may specify;
 - (b) for a ship or aircraft—provide any information, or produce for inspection any document, relating to its cargo, that the officer may specify;
 - (c) for a vehicle—provide any information, or produce for inspection any document, relating to any article on it, that the officer may specify; or

- (d) produce for inspection any of its cargo or articles that the officer may specify.
- (2) The power under subsection (1) includes a power to—
 - (a) specify whether the information should be provided orally or in writing and in what form; and
 - (b) specify the time by which, and the place at which, the information should be provided or the document, cargo or article should be produced for inspection.

16. Power to direct movement

- (1) If the mode of transport is a ship, the authorized officer may do one or more of the following—
 - (a) direct a responsible person for the ship to refrain, except with the consent of an authorized officer, from landing, at any port specified by the authorized officer, any part of the ship's cargo that is specified;
 - (b) require a responsible person for the ship to take any of the following steps—
 - (i) to cause the ship and any of its cargo not to proceed with the voyage on which the ship is then engaged or about to be engaged until the responsible person is notified by an authorized officer that the ship and its cargo may proceed;
 - (ii) if the ship is in the HKSAR—to cause the ship and any of its cargo to remain in the HKSAR until the responsible person is notified by an authorized officer that the ship and its cargo may depart;
 - (iii) if the ship is in another place—
 - (A) to take the ship and any of its cargo to a port specified by an authorized officer; and

- (B) to cause the ship and its cargo to remain in that place until the responsible person is notified by an authorized officer that the ship and its cargo may depart;
 - (iv) to take the ship and any of its cargo to another destination specified by an authorized officer by agreement with the responsible person.
- (2) If the mode of transport is an aircraft and the aircraft is in the HKSAR, the authorized officer may require a responsible person for the aircraft to cause the aircraft and any of its cargo to remain in the HKSAR until the responsible person is notified by an authorized officer that the aircraft and its cargo may depart.
- (3) If the mode of transport is a vehicle, the authorized officer may require a responsible person for the vehicle to—
 - (a) take the vehicle and any article on it to a place specified by an authorized officer; and
 - (b) cause the vehicle and the article to remain in that place until the responsible person is notified by an authorized officer that the vehicle and the article may depart.

17. Failure to comply with direction or requirement

- (1) A responsible person for a mode of transport commits an offence if, without reasonable excuse, the person—
 - (a) disobeys a direction given under section 16(1)(a); or
 - (b) refuses or fails to comply with a requirement made under section 15(1) or 16(1)(b), (2) or (3)—

- (i) within the time specified by an authorized officer; or
 - (ii) if no time is specified—within a reasonable time.
- (2) A person who commits an offence under subsection (1) is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

18. Provision of false or misleading information or documents

- (1) A responsible person for a mode of transport commits an offence if the person, in response to a requirement made under section 15(1)—
 - (a) provides or produces to an authorized officer any information or document that the person knows to be false or misleading in a material particular; or
 - (b) recklessly provides or produces to an authorized officer any information or document that is false or misleading in a material particular.
- (2) A person who commits an offence under subsection (1) is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

19. Power to enter and detain modes of transport

- (1) Without limiting sections 17 and 18, this section applies if an authorized officer has reason to suspect that a requirement made under section 16(1)(b), (2) or (3) may not be complied with.
- (2) The officer may take any steps that appear to the officer to be necessary to secure compliance with that requirement including, in particular, steps to—

- (a) enter or authorize the entry on any land or the mode of transport concerned;
 - (b) detain or authorize the detention of the mode of transport, or of (for a ship or aircraft) any of its cargo or (for a vehicle) any article on it; or
 - (c) use or authorize the use of reasonable force.
- (3) Subject to subsections (4) and (5), subsection (2) does not authorize the detention of a ship or vehicle for more than 12 hours, or of an aircraft for more than 6 hours.
- (4) The Chief Secretary for Administration may, by order in writing, authorize the detention of a ship for further periods of not more than 12 hours each, or of an aircraft for further periods of not more than 6 hours each.
- (5) The Commissioner may, by order in writing, authorize the detention of a vehicle for further periods of not more than 12 hours each.
- (6) An order under subsection (4) or (5) must state the time from which, and period for which, the order is effective.

20. Production of proof of identity

Before or on exercising a power conferred by this Part, an authorized officer must, if requested by any person, produce proof of the officer's identity to the person for inspection.

Part 5

Evidence

21. Interpretation of Part 5

In this Part—

premises (處所) includes any place and, in particular, includes—

- (a) any mode of transport or offshore structure; and
- (b) any tent or movable structure;

seized property (被檢取財產) means anything seized under section 22(3).

22. Power of magistrate or judge to grant warrant

- (1) A magistrate or judge may grant a warrant if satisfied by information on oath given by an authorized officer that there are reasonable grounds for suspecting that—
 - (a) an offence under this Regulation has been committed or is being committed; and
 - (b) there is, on any premises specified in the information, evidence in relation to the commission of the offence.
- (2) A warrant granted under subsection (1) may authorize an authorized officer, together with any other person named in the warrant, at any time within 1 month from the date of the warrant, to—
 - (a) enter the premises specified in the information; and
 - (b) search the premises.
- (3) A person authorized by a warrant to search any premises may exercise any or all of the following powers—

- (a) the power to search any person who is found on, or whom the authorized person has reasonable grounds to believe to have recently left or to be about to enter, the premises;
 - (b) the power to seize and detain anything found—
 - (i) on the premises; or
 - (ii) on any person referred to in paragraph (a), that the authorized person has reasonable grounds to believe to be evidence in relation to the commission of an offence under this Regulation;
 - (c) the power to take in relation to anything seized under paragraph (b) any other steps that may appear necessary for preserving the thing and preventing interference with it.
- (4) A person may only be searched under this section by a person who is of the same sex.
 - (5) If a person is empowered under this section to enter any premises, the person may use any force that is reasonably necessary for the purpose.

23. Detention of seized property

- (1) Seized property may not be detained for more than 3 months.
 - (2) However, if seized property is relevant to an offence under this Regulation, and proceedings for the offence have begun, it may be detained until the completion of those proceedings.
-

Part 6

Disclosure of Information or Documents

24. Disclosure of information or documents

- (1) Any information or document provided, produced or seized under this Regulation may be disclosed only if—
 - (a) the person who provided or produced the information or document or from whom the document was seized has given consent to the disclosure;
 - (b) the information or document is disclosed to a person who would have been empowered under this Regulation to require that it be provided or produced;
 - (c) the information or document is disclosed on the authority of the Chief Executive, subject to the information or document being transmitted through and with the approval of the instructing authority, to—
 - (i) any organ of the United Nations;
 - (ii) any person in the service of the United Nations; or
 - (iii) the Government of any place outside the People's Republic of China,
for the purpose of assisting the United Nations or that Government in securing compliance with, or detecting evasion of, measures in relation to Somalia decided on by the Security Council; or
 - (d) the information or document is disclosed with a view to the institution of, or otherwise for the purposes of, any proceedings for an offence under this Regulation.

- (2) For the purposes of subsection (1)(a)—
- (a) a person may give consent to the disclosure if the person is entitled to the information or to the possession of the document in the person's own right; and
 - (b) a person may not give consent to the disclosure if the person has obtained the information or possessed the document only in the person's capacity as servant or agent of another person.
-

Part 7

Other Offences and Miscellaneous Matters

25. Liability of persons other than principal offenders

- (1) If—
- (a) the person convicted of an offence under this Regulation is a body corporate; and
 - (b) it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate,

the director, manager, secretary or other similar officer is also guilty of the offence.

- (2) If—
- (a) the person convicted of an offence under this Regulation is a firm; and
 - (b) it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of, any partner in the firm or any other person concerned in the management of the firm,

the partner or other person is also guilty of the offence.

26. Offences in relation to obstruction of authorized persons etc.

A person who obstructs another person (including a person acting under the authority of an authorized officer) in the exercise of the powers of that other person under this Regulation commits an offence and is liable on conviction to a fine at level 6 and to imprisonment for 6 months.

27. Offences in relation to evasion of this Regulation

A person who destroys, mutilates, defaces, secretes or removes anything with intent to evade any of the provisions of this Regulation commits an offence and is liable—

- (a) on summary conviction—to a fine at level 6 and to imprisonment for 6 months; or
- (b) on conviction on indictment—to a fine and to imprisonment for 2 years.

28. Consent and deadline for prosecution

- (1) A prosecution for an offence under this Regulation may only be started by or with the consent of the Secretary for Justice.
- (2) A prosecution for a summary offence under this Regulation that is alleged to have been committed by a person outside the HKSAR may only be started before the end of 12 months beginning on the date on which the person first enters the HKSAR after the alleged commission of the offence.

Note—

This replaces the time limit under section 26 of the Magistrates Ordinance (Cap. 227).

- (3) In this section—

summary offence (簡易程序罪行) means an offence triable summarily only.

29. Publication of list of individuals and entities by Secretary

- (1) The Secretary may publish on the website of the Commerce and Economic Development Bureau (***CEDB***) a list of individuals and entities for the purposes of the definitions of ***relevant person*** and ***relevant entity*** in section 1.

- (2) The Secretary may include in the list the name of an individual or entity designated by the Committee for the purposes of paragraph 3 of Resolution 1844.
- (3) The list may also contain other information that the Secretary considers appropriate.
- (4) The Secretary may remove the name of an individual or entity from the list if the individual or entity is no longer designated by the Committee for the purposes of paragraph 3 of Resolution 1844.
- (5) If a list is published under subsection (1), the Secretary is to make a copy of the list available for inspection by the public free of charge at the office of the Secretary during normal office hours.
- (6) In any legal proceedings, a document purporting to be a copy of a list referred to in subsection (1) printed from the website of the CEDB—
 - (a) is admissible in evidence on production without further proof; and
 - (b) unless the contrary is proved, is evidence of the information contained in the list.

30. Exercise of powers of Chief Executive

- (1) The Chief Executive may delegate any of the Chief Executive's powers or functions under this Regulation to any person or class or description of person.
- (2) The Chief Executive may authorize a person to whom a power or function is delegated to sub-delegate it to another person or class or description of person.
- (3) A delegation or authorization under subsection (1) or (2) may be subject to any restriction or condition the Chief Executive considers appropriate.

31. Exercise of powers of Secretary

- (1) The Secretary may delegate any of the Secretary's powers or functions under this Regulation to any person or class or description of person.
- (2) A delegation under subsection (1) may be subject to any restriction or condition the Secretary considers appropriate.

Carrie LAM
Chief Executive

26 March 2019

Explanatory Note

This Regulation gives effect to certain decisions in Resolution 2444 (2018) adopted by the Security Council of the United Nations on 14 November 2018 in respect of Somalia by providing for the prohibition against—

- (a) the supply, sale, transfer or carriage of weapons or military equipment to Somalia;
- (b) the provision of technical advice, financial or other assistance, or training, related to military activities in certain circumstances;
- (c) the importation of charcoal from Somalia;
- (d) making available to, or for the benefit of, certain persons or entities any funds or other financial assets or economic resources;
- (e) dealing with funds or other financial assets or economic resources belonging to, or owned or controlled by, certain persons or entities; and
- (f) entry into or transit through the HKSAR by certain persons.