United Nations Sanctions (South Sudan) Regulation 2019

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(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—

*arms or related materiel* (軍火或相關物資) includes—

(a) any weapon, ammunition, military vehicle, military equipment or paramilitary equipment; and

(b) any spare part for any item specified in paragraph (a);

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

*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;
(i) 代表名列該名單的個人或實體而行事；或
(ii) 按名列該名單的個人或實體指示而行事；

局長 (Secretary) 指商務及經濟發展局局長；
供應 (supply) 指供應、售賣或移轉；
協助 (assistance) 指技術協助、訓練、財政援助或其他協助或援助；
委員會 (Committee) 指根據《第 2206 號決議》第 16 段設立的
安全理事會委員會；
負責人 (responsible person)——
(a) 就船舶而言——指該船舶的租用人、營運人或船長；
(b) 就飛機而言——指該飛機的租用人、營運人或機
長；或
(c) 就車輛而言——指該車輛的營運人或駕駛人；
軍火或相關物資 (arms or related materiel) 包括——
(a) 任何武器、彈藥、軍用車輛、軍事裝備或準軍事裝
備；及
(b) (a) 段指明的任何項目的任何零部件；
香港人 (Hong Kong person) 指——
(a) 兼具香港永久性居民及中國公民身份的人；或
(b) 根據特區法律成立為法團或组成的團體；

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 16 of Resolution
2206;
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;
特許 (licence) 指根據第 3 部批予的特許；
《第 2206 號決議》 (Resolution 2206) 指安理會於 2015 年 3 月 3 日通過的第 2206 (2015) 號決議；
船長 (master) 就船舶而言，包括當其時掌管該船舶的人 (領港員除外)；
禁制物品 (prohibited goods) 指任何軍火或相關物資；
經濟資產 (economic assets) 指任何資金或其他財務資產或經濟資源；
經濟資源 (economic resources) 指並非資金的各種資產，不論是有形的或無形的、是動產或不動產，並可用以取得資金、貨物或服務；
資金 (funds) 包括——
(a) 金幣、金錠、現金、支票、金錢的申索、銀票、匯票及其他作付款用的票據；
(b) 存於財務機構或其他實體的存款、帳戶結餘、債項及債務責任；
(c) 證券及債務票據 (包括股額及股份、代表證券的證明書、債券、票據、認購權證、債權證、債權股證及衍生工具合約)；
(d) 財產所孳生的利息、股息或其他收入、自財產累算的價值或財產所產生的價值；
(e) 信貸、抵銷權、保證或擔保、履約保證或其他財務承擔；

Hong Kong person (香港人) 意味——
(a) 一個即為香港永久居民及中國國民的人；或
(b) 一個依照香港特別行政區的法律組成或成立的法團；

licence (特許) 指根據第 3 部批予的特許；

master (船長)，就船舶而言，包括當其時掌管該船舶的人 (領港員除外)；

mode of transport (運輸工具) 指任何船、飛機或車輛；

operator (營運人)，就運輸工具而言，指現時管理該運輸工具的人；

pilot in command (機長)，就飛機而言，指現時管理該飛機的人；

prohibited goods (禁制物品) 指任何武器或相關武裝；

relevant entity (有關實體) 指——
(a) 一個列名於列於第 33(1) 條的名單中之實體；
(b) 一個實體——
   (i) 代表；
   (ii) 在其他人指揮下；或
   (iii) 由一個個人或實體所有或控制；
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(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 33(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;


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.
2. **Limited duration of certain provisions**

Sections 3, 4, 5, 6, 7, 9, 10 and 11 are in force during the period from the commencement of the United Nations Sanctions (South Sudan) Regulation 2019 until midnight on 31 May 2020.
第2部
禁止條文

3. 禁止供應物品

(1) 本條適用於——

(a) 在特區境內行事的人；及

(b) 在特區境外行事的香港人。

(2) 除獲根據第9(1)(a)條批予的特許授權外，任何人不得——

(a) 直接或間接向南蘇丹供應任何禁制物品；或同意直接或間接向南蘇丹供應任何禁制物品；或作出任何可能會促使向南蘇丹供應任何禁制物品的作為；或

(b) 直接或間接向某目的地供應任何禁制物品，以將該等物品直接或間接交付或移轉至南蘇丹；或同意或間接向某目的地供應任何禁制物品，以將該等物品如此直接或間接交付或移轉；或作出任何符合以下描述的作為：可能會促使向某目的地供應任何禁制物品，以將該等物品如此直接或間接交付或移轉。

(3) 任何人違反第(2)款，即屬犯罪——

(a) 一經循簡易程序定罪——可處第6級罰款及監禁6個月；或

(b) 一經循公訴程序定罪——可處罰款及監禁7年。

(4) 被控犯第(3)款所訂罪行的人，如證明自己既不知道亦無理由相信——

(a) 有關的物品屬禁制物品；或

(b) 有關的物品是（或將會是）——

(i) 向南蘇丹供應的；或

(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 South Sudan; or

(b) to a destination for the purpose of delivery or transfer, directly or indirectly, to South Sudan.

(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) that the goods concerned were prohibited goods; or

(b) that the goods concerned were, or were to be, supplied—

(i) to South Sudan; or
4. 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 Hong Kong person or a person who is in the HKSAR; and

(d) a vehicle in the HKSAR.

(2) Without limiting section 3, 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 South Sudan to a place in South Sudan; or

(b) to a destination for the purpose of delivery or transfer, directly or indirectly, to South Sudan.

(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) 如任何運輸工具在違反第 (2) 款的情況下使用，則每一具下述人士均屬犯罪——

(a) 就於特區註冊的船舶而言——該船舶的負責人；
(b) 就任何其他船舶而言——
   (i) 如該船舶的租用人是香港人，或處於特區境內——該租用人；
   (ii) 如該船舶的營運人是香港人，或處於特區境內——該營運人；及
   (iii) 如該船舶的船長是兼具香港永久性居民及中國公民身分的人，或處於特區境內——該船長；
(c) 就於特區註冊的飛機而言——該飛機的負責人；
(d) 就任何其他飛機而言——
   (i) 如該飛機的租用人是香港人，或處於特區境內——該租用人；
   (ii) 如該飛機的營運人是香港人，或處於特區境內——該營運人；及
   (iii) 如該飛機的機長是兼具香港永久性居民及中國公民身分的人，或處於特區境內——該機長；
(e) 就車輛而言——該車輛的負責人。

(5) 任何人犯第 (4) 款所訂罪行——

(a) 一經循簡易程序定罪——可處第 6 級罰款及監禁 6 個月；或

(4) If a mode of transport is used in contravention of subsection (2), 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.

(5) A person who commits an offence under subsection (4) is liable—

(a) on summary conviction—to a fine at level 6 and to imprisonment for 6 months; or
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(b) on conviction on indictment—to a fine and to imprisonment for 7 years.

(6) 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; or
(b) that the carriage of the goods concerned was, or formed part of, a carriage—
(i) from a place outside South Sudan to a place in South Sudan; or
(ii) to a destination for the purpose of delivery or transfer, directly or indirectly, to South Sudan.

5. 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 person in South Sudan any assistance (including the provision of armed mercenary personnel) related to—
(a) military activities; or
(b) the provision, maintenance or use of any prohibited goods.

(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
6. 禁止提供或處理經濟資產

(1) 本條適用於——

(a) 在特區境內行事的人；及
(b) 在特區境外行事的香港人。

(2) 除獲根據第 11(1) 條批准的特許授權外——

(a) 任何人不得直接或間接向有關人士或有關實體，提供任何經濟資產，亦不得為有關人士或有關實體的利益，而直接或間接提供任何經濟資產；及
(b) 任何人 (該人) 不得直接或間接處理屬於有關人士或有關實體的任何經濟資產，亦不得直接或間接處理以有關人士或有關實體直接或間接擁有或控制的任何經濟資產；而如該人屬有關人士或有關實體，則包括屬於該人的經濟資產，以及由該人直接或間接擁有或控制的經濟資產。

(3) 任何人違反第 (2) 款，即屬犯罪——

(b) 一經循公訴程序定罪 —— 可處罰款及監禁 7 年。

(4) 被控犯第 (3) 款所訂罪行的人，如證明自己既不知道亦無理由相信——

(a) 有關的協助是向 (或將會向) 處於南蘇丹境內的人提供的；或
(b) 有關的協助是關於以下事宜的——

(i) 軍事活動；或
(ii) 提供、維修或使用任何禁制物品，即為免責辯護。

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—

(b) on conviction on indictment—to a fine and to imprisonment for 7 years.
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(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;
7. 禁止入境或過境

(1) 指明人士不得在特區入境或經特區過境。

(2) 然而，如就任何個案而言，有以下情況，則第 (1) 款不適用——

(a) 有關的入境或過境，是為完成某司法程序而必需的；

(b) 委員會認定，有關的入境或過境，是具有出於人道主義需要 (包括宗教義務) 的正當理由的；或

(c) 委員會認定，有關的入境或過境，將會推進南蘇丹的和平及民族和解以及該區域的穩定的目標。

(3) 任何人違反第 (1) 款，即屬犯罪，一經定罪，可處第 4 級罰款及監禁 2 年。

(4) 本條不適用於有特區居留權或特區入境權的人。

(5) 在本條中——

(ii) 以將會導致任何以下方面有所改變的任何其他方式，予以處理：規模、數額、地點、擁有權、管有權、性質或目的地；或

(iii) 作出任何令到資金可予使用的任何其他改變，包括資金組合管理；及

(b) 就其他財務資產或經濟資源而言，指使用該等資產或資源，以任何方式，取得資金、貨物或服務，包括將該等資產或資源出售、出租或作抵押。

7. Entry or transit of persons prohibited

(1) A specified 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 relevant entry or transit is necessary for the fulfilment of a judicial process;

(b) the Committee has determined that the relevant entry or transit is justified on the ground of humanitarian need, including religious obligation; or

(c) the Committee has determined that the relevant entry or transit would further the objectives of peace and national reconciliation in South Sudan 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.

(5) In this section—

(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.
Part 2
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specified person (指明人士) means an individual designated by the Committee for the purposes of paragraph 9 of Resolution 2206.

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 South Sudan; or

(ii) to a destination for the purpose of delivery or transfer, directly or indirectly, to South Sudan;

or

(b) a licence for the carriage of prohibited goods that is, or forms part of, a carriage—

(i) from a place outside South Sudan to a place in South Sudan; or

(ii) to a destination for the purpose of delivery or transfer, directly or indirectly, to South Sudan.

(2) The requirements are as follows—

(a) the prohibited goods are intended solely for the support of or use by United Nations personnel, including the United Nations Mission in the Republic of South Sudan and the United Nations Interim Security Force for Abyei;

(b) the prohibited goods are non-lethal military equipment intended solely for humanitarian or protective use;
(c) the prohibited goods are protective clothing (including flak jackets and military helmets) to be temporarily exported to South Sudan by United Nations personnel, representatives of the media, humanitarian or development workers or associated personnel, for their personal use only;

(d) the prohibited goods are to be temporarily exported to South Sudan by the forces of a state which is taking action, in accordance with international law, solely and directly to facilitate the protection or evacuation of its nationals and those for whom it has consular responsibility in South Sudan, as notified to the Committee;

(e) the prohibited goods are to be supplied to or in support of the African Union Regional Task Force intended solely for regional operations to counter the Lord’s Resistance Army;

(f) the prohibited goods are to be supplied solely in support of the implementation of the terms of the peace agreement, as approved in advance by the Committee;

(g) the supply of the prohibited goods is approved in advance by the Committee.

(3) However, if the Chief Executive is satisfied that the requirement in subsection (2)(b) or (e) is met, before granting the licence, the Chief Executive must cause the Committee to be notified of the proposed supply or carriage of the prohibited goods to which the application for the licence relates.
10.  提供協助的特許

(1) 行政長官如應申請而信納，第 (2) 款中的一項或多於一項規定獲符合，則須批予特許，准許向處於南蘇丹境內的人，提供關於以下事宜的協助（包括提供武装僱傭軍人員）——

(a) 軍事活動；或
(b) 提供、維修或使用任何禁制物品。

(2) 有關規定如下——

(a) 有關的協助，擬純粹用於支助聯合國人員，包括聯合國南蘇丹共和國特派團及聯合國阿卜耶伊臨時安全部隊，或擬純粹供他們使用；
(b) 有關的協助，是關於非致命軍事裝備的技術協助或訓練，而該等裝備擬純粹作人道主義或防護用途；
(c) 有關的協助，是將會提供予非洲聯盟區域工作隊或用於支助該工作隊的技術協助、技術訓練、財政援助或其他協助或援助，並擬純粹用於採取區域行動以抗衡上帝抵抗軍；
(d) 有關的協助，是將會純粹為支助實行和平協議的條款而提供的技術協助、技術訓練、財政援助或其他協助或援助，而該項提供，是委員會事先核准的；
(e) 提供有關的協助或人員，是委員會事先核准的。

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 person in South Sudan, of assistance (including the provision of armed mercenary personnel) related to—

(a) military activities; or
(b) the provision, maintenance or use of any prohibited goods.

(2) The requirements are as follows—

(a) the assistance is intended solely for the support of or use by United Nations personnel, including the United Nations Mission in the Republic of South Sudan and the United Nations Interim Security Force for Abyei;
(b) the assistance is technical assistance or training related to non-lethal military equipment intended solely for humanitarian or protective use;
(c) the assistance is technical assistance, technical training, financial assistance or other assistance to be provided to or in support of the African Union Regional Task Force intended solely for regional operations to counter the Lord’s Resistance Army;
(d) the assistance is technical assistance, technical training, financial assistance or other assistance to be provided solely in support of the implementation of the terms of the peace agreement, as approved in advance by the Committee;
(e) the provision of assistance or personnel is approved in advance by the Committee.
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;
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(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 3 March 2015 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) the economic assets are to be used for making payment due under a contract entered into by an individual or entity before the date on which the individual or entity became a relevant person or a relevant entity, and the payment is not received, directly or indirectly, by a relevant person or a relevant entity.

(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 the licence; and
   (b) must grant the licence in the absence of a negative decision by the Committee within 5 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 the licence; and
   (b) must not, unless the Committee approves, grant the licence.
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.

(5) Also, if the Chief Executive is satisfied that the requirement in subsection (2)(c) is met, before granting the licence, the Chief Executive must cause the Committee to be notified of the intention to grant the licence.

(6) Further, if the Chief Executive is satisfied that the requirement in subsection (2)(d) is met, the Chief Executive must cause the Committee to be notified of the intention to grant the licence not less than 10 working days before granting it.
Part 4

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

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
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

(d) produce for inspection any of its cargo or articles that the officer may specify.
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

(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.
(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;
Part 4

Section 20

(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.
第 5 部

證據

21. 第 5 部的釋義
在本部中——
被檢取財產 (seized property) 指根據第 22(3) 條検取的任何物品；
處所 (premises) 包括任何地方，尤其包括——
(a) 任何運輸工具或離岸構築物；及
(b) 任何帳幕或可移動的構築物。

22. 裁判官或法官批出手令的權力
(1) 裁判官或法官如根據獲授權人員經宣誓而作的告發，信納有合理理由懷疑——
(a) 有人已經或正在犯本規例所訂的罪行；及
(b) 在該告發所指明的處所內，有與該罪行有關的證據，
則可批出手令。
(2) 根據第 (1) 款批出的手令，可授權獲授權人員，連同任
何其他在該手令中指名的人，於自該手令的日期起計的1個月內，隨時——
(a) 進入有關的告發所指明的處所；及
(b) 搜查該處所。
(3) 獲手令授權搜查任何處所的人，可行使任何或所有以下權力——

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—
23. Notice of intended forfeiture

(1) This section applies if an authorized officer intends to apply to a magistrate or judge under section 25 for an order for forfeiture of any seized property.

(2) The officer must, within 30 days from the date of the seizure, serve notice of the intention to apply for an order for forfeiture under section 25 on every person who was, to the knowledge of the officer at the time of, or immediately after, the seizure, an owner of the seized property.
24. Notice of objection to intended forfeiture

(1) The following persons may, by serving a notice in writing on the Commissioner, object to a proposed forfeiture of any seized property—

(a) an owner, or the authorized agent of an owner, of the seized property referred to in a notice served under section 23(2);

(b) a person who was in possession of the seized property at the time of seizure;

(c) a person who has a legal or equitable interest in the seized property.

(2) A notice under subsection (1)—

(a) must be served on the Commissioner by a person referred to in subsection (1)(a), (b) or (c) (claimant) within 30 days from—

(i) if the notice under section 23(2) is delivered personally to the person named in the notice—the date of delivery;
25. Application for order for forfeiture

An authorized officer may apply to a magistrate or judge for an order for forfeiture of any seized property in respect of which a notice has been served under section 23(2) after the expiration of the appropriate period of time specified in section 24(2)(a) for the serving of a notice of objection.

26. Power of magistrate or judge to make order for forfeiture and disposal

(1) This section applies if an application is made to a magistrate or judge for an order for forfeiture of any seized property.

(2) If satisfied that—

(a) the seized property is a document relating to the provision, maintenance or use of any prohibited goods; or
27. Detention of seized property

(1) Subject to any order made under section 26, 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

28. 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 South Sudan 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

29. 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,

   then 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,

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

30. 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.
31. **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.

32. **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).

33. **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.
34. 行使行政長官權力
(1) 行政長官可將其根據本規例具有的任何權力或職能，轉授予任何人，或任何類別或種類的人。
(2) 凡任何人獲行政長官轉授權力或職能，行政長官可授權該人，將該等權力或職能再轉授予另一人，或任何類別或種類的人。
(3) 根據第 (1) 或 (2) 款作出的轉授或授權，可受行政長官認為適當的任何限制或條件所規限。

34. 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 subdelegate 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.
35. 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.

Matthew CHEUNG Kin-chung
Acting Chief Executive

22 October 2019
Explanatory Note

This Regulation gives effect to certain decisions in Resolution 2471 (2019) adopted by the Security Council of the United Nations on 30 May 2019 in respect of South Sudan by providing for the prohibition against—

(a) the supply, sale, transfer or carriage of arms or related materiel to South Sudan;

(b) the provision of technical assistance, training or financial or other assistance related to military activities in certain circumstances;

(c) making available to, or for the benefit of, certain persons or entities any funds or other financial assets or economic resources;

(d) dealing with funds or other financial assets or economic resources belonging to, or owned or controlled by, certain persons or entities; and

(e) entry into or transit through the HKSAR by certain persons.