

《港口管制 (货物装卸区) 条例》

(第 81 章)

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PORT CONTROL (CARGO WORKING AREAS)
ORDINANCE

(Cap. 81)

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本条例旨在就管制人、车辆及船只使用海旁范围的事宜订定条文，以及就管制在海旁范围处理货物的事宜订定一般条文。

[1974 年 7 月 26 日] 1974 年第 154 号法律公告

1. 简称

本条例可引称为《港口管制 (货物装卸区) 条例》。

2. 释义

在本条例中，除文意另有所指外——

“公众海旁” (public water-front) 指根据第 3 条宣布为公众海旁的范围；

“公众货物装卸区” (public cargo working area) 指根据第 3 条宣布为公众货物装卸区的范围；

“车辆” (vehicle) 指任何拟供在道路上使用或经改装以供在道路上使用的车辆；

“例外的海旁” (excluded water-front) 指根据第 3 条宣布为例外的海旁的范围；

“停泊” (berth) 指停泊、系泊、锚泊或稳固任何船只；

“处长” (Director) 指海事处处长；

“货物” (cargo) 指用任何船只或车辆运载或拟用任何船只或车辆运载的任何货品，亦指船舶物料；

“船只” (vessel) 包括任何船舶、船艇、中式帆船或西式中国帆船，以及用于航行的任何其他类型船只，亦包括任何浮动码头、跳板、浮趸或登岸处；

To provide for control of the use of water-front areas by persons, vehicles and vessels and generally for control of the handling of cargo in such areas.

[26 July 1974] L.N. 154 of 1974

1. Short title

This Ordinance may be cited as the Port Control (Cargo Working Areas) Ordinance.

2. Interpretation

In this Ordinance, unless the context otherwise requires—

“berth” (停泊) means to berth, moor, anchor or secure any vessel;

“cargo” (货物) means any freight carried, or intended to be carried, in or on any vessel or vehicle and means also ships' stores;

“cargo container” (货柜) includes an empty container of any kind used, or intended to be used, for the carriage of cargo and includes also any packing material used, or intended to be used, for or in connexion with the carriage of cargo;

“Director” (处长) means the Director of Marine;

“excluded water-front” (例外的海旁) means an area declared under section 3 to be an excluded water-front;

“owner” (拥有人)—

- (a) in relation to any cargo or cargo container, means any person being or holding himself out to be the owner, importer, exporter, consignee, agent or person in possession of, or beneficially interested in, or having any control of, or power of disposition over, the cargo or cargo container;

“货柜” (cargo container) 包括用作或拟用作运载货物的任何种类的空柜，亦包括用作或拟用作运载货物或与运载货物有关的任何包装材料；

“拥有人” (owner) ——

- (a) 就任何货物或货柜而言，指任何身为或显示自己是该货物或货柜的拥有人、进口商、出口商、收货人、代理人或管有该货物或货柜者或对该货物或货柜享有实益权益或拥有任何控制权或处置权者的人；
- (b) 就任何车辆而言，包括以其名义登记该车辆的人，以及保管和使用该车辆的人，而就任何属租车协议或租购协议标的之车辆而言，指根据该协议而管有该车辆的人；
- (c) 就任何船只而言，包括该船只的登记或持牌拥有人，而就任何属租船协议标的之船只而言，指根据该协议而管有该船只的人。（由 1982 年第 56 号第 2 条增补）

3. 宣布某些范围为公众货物装卸区、公众海旁及例外的海旁

- (1) 运输及物流局局长可藉在宪报刊登的命令，宣布未批租政府土地（包括任何道路）的任何范围及与任何该等范围毗连的任何水域为 ——（由 1995 年第 4 号第 2 条修订；由 1997 年第 362 号法律公告修订；由 1998 年第 29 号第 105 条修订；由 2002 年第 106 号法律公告修订；由 2007 年第 130 号法律公告修订；由 2022 年第 144 号法律公告修订）
 - (a) 公众货物装卸区；
 - (b) 公众海旁；或

- (b) in relation to a vehicle, includes the person in whose name the vehicle is registered and the person by whom the vehicle is kept and used and, in relation to a vehicle which is the subject of a hiring agreement or hire purchase agreement, means the person in possession of the vehicle under that agreement;
- (c) in relation to a vessel, includes the registered or licensed owner of the vessel and, in relation to a vessel which is the subject of a hiring agreement, means the person in possession of the vessel under that agreement; (*Added 56 of 1982 s. 2*)

“public cargo working area” (公众货物装卸区) means an area declared under section 3 to be a public cargo working area;

“public water-front” (公众海旁) means an area declared under section 3 to be a public water-front;

“vehicle” (车辆) means any vehicle intended or adapted for use on roads;

“vessel” (船只) includes any ship, boat, junk or lorcha and any other description of vessel used in navigation and includes also any floating wharf, ramp, pontoon or landing place.

3. Declaration of areas to be public cargo working areas, public water-fronts and excluded water-fronts

- (1) The Secretary for Transport and Logistics may, by order published in the Gazette, declare any area of unleased Government land (including any road), and any area of water adjoining any such area, to be— (*Amended 4 of 1995 s. 2; 29 of 1998 s. 105; L.N. 106 of 2002; L.N. 130 of 2007; L.N. 144 of 2022*)
 - (a) a public cargo working area;
 - (b) a public water-front; or

- (c) 例外的海旁。
- (2) 在根据第(1)款作出的命令中，任何范围可参照存放在土地注册处的任何图则而予以界定，而任何该等图则的副本，如看来是经处长核证为该图则的真正副本，则在任何法庭或裁判官席前审理的刑事或民事法律程序中，可获接纳为该图则的证据，无须再加证明。(由 1982 年第 56 号第 3 条代替。由 1993 年第 8 号第 2 条修订)
- (3) 根据在紧接《1982 年港口管制(货物装卸区)(修订)条例》*(1982 年第 56 号)生效日期*前有效的本条条文而作出的任何命令以及拟备与存放的任何图则，就各方面而言，须当作已根据经该条例修订的本条而作出或拟备与存放(视属何情况而定)。(由 1982 年第 56 号第 3 条代替)

编辑附注：

* 于 1983 年 1 月 10 日实施。

“《1982 年港口管制(货物装卸区)(修订)条例》”乃“Port Control (Cargo Working Areas) (Amendment) Ordinance 1982”之译名。

4. 公众货物装卸区等须当作为公众地方

就《简易程序治罪条例》(第 228 章)而言，每一公众货物装卸区、公众海旁或例外的海旁均属公众地方。

5. 处长就被弃置的货物等而行使的权力

- (1) 在以不损害本条例有关在公众货物装卸区或公众海旁存放货物或货柜的任何其他条文为原则下，处长如信纳任何货物或货柜遭遗弃下或弃置在公众货物装卸区或公众海旁，则可藉在该等货物或货柜的显眼位置张贴格式由他指明的通告，检取该等货物或货柜。
- (2) 处长须安排在公众货物装卸区或公众海旁(视属何情况而定)内的显眼地方，展示根据第(1)款张贴的通告的副本。

- (c) an excluded water-front.
- (2) In any order made under subsection (1) an area may be defined by reference to a plan deposited in the Land Registry, and a copy of any such plan purporting to be certified by the Director as a true copy thereof may be admitted as evidence of the plan without further proof in any criminal or civil proceedings before any court or magistrate. (Replaced 56 of 1982 s. 3. Amended 8 of 1993 s. 2)
- (3) Any order made and any plan prepared and deposited under the provisions of this section in force immediately before the commencement* of the Port Control (Cargo Working Areas) (Amendment) Ordinance 1982 (56 of 1982) shall be deemed for all purposes to have been made, or prepared and deposited, as the case may be, under this section as amended by that Ordinance. (Replaced 56 of 1982 s. 3)

Editorial Note:

* In operation on 10.1.1983.

4. Public cargo working areas, etc. deemed to be public places

Every public cargo working area, public water-front or excluded water-front shall be a public place for the purposes of the Summary Offences Ordinance (Cap. 228).

5. Director's powers in respect of abandoned cargo, etc.

- (1) Without prejudice to any other provisions of this Ordinance relating to the deposit of any cargo or cargo container in a public cargo working area or a public water-front, if the Director is satisfied that any cargo or cargo container has been left or abandoned in a public cargo working area or public water-front, he may, by affixing to such cargo or cargo container in a prominent position a notice in a form specified by him, seize such cargo or cargo container.

- (3) 处长可安排将根据第(1)款检取的任何货物或货柜移至贮存地方。
- (4) 根据第(1)款检取的任何货物或货柜的拥有人，可在检取日期后 14 天内，藉向处长发出书面通知，就该等货物或货柜提出申索。
- (5) 处长——
- (a) 在接获按照第(4)款提出的申索后；及
- (b) 在该款所提述的期间内收到订明费用以及移走与贮存该等货物或货柜的费用(如有的话)后，
- 须将该等货物或货柜发还申索人。
- (6) 凡——
- (a) 无人就根据第(1)款检取的任何货物或货柜而按照第(4)款提出申索；或
- (b) 就根据第(1)款检取的任何货物或货柜而须缴付的订明费用以及移走与贮存该等货物或货柜的费用(如有的话)，在该款所提述的期间内未予缴付，
- 处长可安排出售或按他认为合适的方式处置该等货物或货柜，而出售或处置所得收益(如有的话)，经扣除订明费用及移走、贮存以及出售或处置该等货物或货柜的费用(如有的话)后，如在出售或处置的日期起计 3 个月届满前，未由该等货物或货柜的拥有人提出申索，须在该 3 个月届满时拨归香港政府一般收入。
- (7) 任何人无权就财产的任何损毁而向处长或根据本条执行或行使任何职能、职责或权力的其他人员提出诉讼。
- (8) 任何人干扰或移走根据第(1)款检取的任何货物或货柜，即属犯罪，可处罚款 \$20,000 及监禁 1 年，但如该等行动获处长授权或指示者则属例外。

(由 1982 年第 56 号第 4 条代替)

- (2) The Director shall cause a copy of a notice affixed under subsection (1) to be displayed in a conspicuous place within the public cargo working area or public water-front, as the case may be.
- (3) The Director may cause any cargo or cargo container seized under subsection (1) to be removed to a place of storage.
- (4) The owner of any cargo or cargo container seized under subsection (1) may, within 14 days after the date of seizure, claim the same by notice in writing to the Director.
- (5) The Director shall—
- (a) on receipt of a claim in accordance with subsection (4); and
- (b) on payment to him of the prescribed fees and the costs, if any, of removal and storage within the period referred to in that subsection,
- release the cargo or cargo container to the claimant.
- (6) Where in respect of any cargo or cargo container seized under subsection (1)—
- (a) no claim is made in accordance with subsection (4); or
- (b) the prescribed fees and the costs, if any, of removal and storage are not paid within the period referred to in that subsection,
- the Director may cause such cargo or cargo container to be sold or otherwise disposed of in such manner as he thinks fit and the proceeds, if any, of such sale or disposal, after deduction of the prescribed fees and the costs, if any, of removal and storage, and of the sale or disposal, shall be paid into the general revenue of Hong Kong at the expiry of 3 months from the date of such sale or disposal if not previously claimed by the owner of the cargo or cargo container.

5A. 就罪行而提供某些资料的责任

- (1) 凡掌管任何船只的人或任何车辆的驾驶人被怀疑犯了本条例所订罪行，任何人(包括在该指控罪行发生时该船只或该车辆的拥有人以及掌管该船只的人或该车辆的驾驶人(视属何情况而定))须应处长或主管在该指控罪行发生日期后 3 个月内提出的要求，按本条所订明的方式，向处长或主管提供在该指控罪行发生时掌管该船只的人或该车辆的驾驶人(视属何情况而定)的姓名及地址。
- (2) 第(1)款所指的要求可以口头提出或藉通知书形式提出，而该通知书须以面交送达或以邮递方式送达被要求提供资料的人。
- (3) 凡第(1)款所指的要求以口头向任何人提出，该人——
 - (a) 如在该指控罪行发生时是掌管该船只的人或该车辆的驾驶人，则须立即提供其本人的姓名及地址；或
 - (b) 如在该指控罪行发生时并非掌管该船只的人或该车辆的驾驶人，则须在该要求提出的日期后 21 天内，以口头或书面向处长或指明的主管提供根据第(1)款须提供的资料。
- (4) 根据第(2)款送达的通知书须规定收件人——
 - (a) 在该通知书日期后 21 天内，按该通知书内指明的格式，向处长提交一份书面陈述，藉此提供在该指控

- (7) No action in respect of any damage to property shall lie against the Director or any other officer performing or exercising any function, duty or power under this section.
- (8) Any person who interferes with or removes any cargo or cargo container seized under subsection (1), unless authorized or directed to do so by the Director, commits an offence and is liable to a fine of \$20,000 and to imprisonment for 1 year.

(Replaced 56 of 1982 s. 4)

5A. Obligation to give certain information in respect of offences

- (1) Where the person in charge of a vessel or the driver of a vehicle is suspected of having committed an offence under this Ordinance, any person (including the owner of the vessel or vehicle, and the person in charge of the vessel or driver of the vehicle, as the case may be, at the time of the alleged offence) shall, on demand made by the Director or a supervisor within 3 months after the date of the alleged offence, give to the Director or a supervisor in the manner prescribed in this section the name and address of the person in charge of the vessel or driver of the vehicle, as the case may be, at the time of the alleged offence.
- (2) A demand under subsection (1) may be made orally or by means of a notice served personally or by post on the person to whom it is made.
- (3) Where a demand under subsection (1) is made orally to any person he shall—
 - (a) if he was the person in charge of the vessel or driver of the vehicle at the time of the alleged offence, give immediately his name and address; or
 - (b) if he was not the person in charge of the vessel or driver of the vehicle at the time of the alleged offence, give the information required under subsection (1) to the Director

罪行发生时掌管该船只的人或该车辆的驾驶人(视属何情况而定)的姓名及地址;及

- (b) 签署该陈述书。
- (5) 除第(6)款另有规定外,任何人违反第(1)款,即属犯罪,可处罚款 \$5,000 及监禁 3 个月。
- (6) 在就第(5)款所订罪行而进行的法律程序中,如能证明被控人并不知道及即使作出合理的努力仍不可能确定在指控罪行发生时,掌管有关船只的人或有关车辆的驾驶人(视属何情况而定)的姓名或地址,则可以此为免责辩护。
(由 2020 年第 21 号第 8 条修订)
- (7) 在本条中——

“主管”(supervisor)指根据在本条例下订立的规例而获委任为公众货物装卸区或公众海旁的主管的人;

“指控罪行”(alleged offence)指第(1)款所提述的怀疑犯有的罪行。

(由 1982 年第 56 号第 4 条增补)

5B. 在简易程序中驾驶人身分的证明

如在任何就本条例所订罪行而进行的简易程序中,有一份陈述书向裁判官出示,而该份陈述书——

or to a specified supervisor either orally or in writing within 21 days after the date of the demand.

- (4) A notice served under subsection (2) shall require the person to whom it is addressed—
- (a) to furnish to the Director, within 21 days after the date of the notice, a written statement, in such form as may be specified in the notice, giving the name and address of the person in charge of the vessel or driver of the vehicle, as the case may be, at the time of the alleged offence; and
- (b) to sign the statement.
- (5) Subject to subsection (6), any person who contravenes subsection (1) commits an offence and is liable to a fine of \$5,000 and to imprisonment for 3 months.
- (6) In proceedings for an offence under subsection (5), it shall be a defence to show that the accused person did not know, and could not with reasonable diligence have ascertained, the name or address of the person in charge of the vessel or driver of the vehicle, as the case may be, at the time of the alleged offence.
- (7) In this section—

“alleged offence”(指控罪行) means the suspected offence referred to in subsection (1);

“supervisor”(主管) means a person appointed under regulations made under this Ordinance to be a supervisor at a public cargo working area or public water-front.

(Added 56 of 1982 s. 4)

5B. Proof in summary proceedings of identity of driver

If, in any summary proceedings for an offence under this Ordinance, there is produced to the magistrate a statement which—

- (a) 看来是经由被控人签署的；
- (b) 是按照一份根据第 5A(2) 条送达被控人的通知书而提交的；及
- (c) 述明被控人在该罪行发生时是掌管有关船只的人或有关车辆的驾驶人(视属何情况而定)，

则裁判官须接纳该份陈述书为被控人在该罪行发生时是掌管有关船只的人或有关车辆的驾驶人的表面证据。

(由 1982 年第 56 号第 4 条增补)

5C. 通告副本可接纳为证据

- (1) 凡根据本条例规定须在任何货物或货柜上张贴或须在任何地方展示任何通告，则一份看来是经处长或处长以书面就此授权的人签署并核证为该通告的真正副本的文件，在任何法庭或裁判官席前审理的刑事或民事法律程序中交出时，须被接纳为原来通告的证据而无须再加证明，且直至相反证明成立为止，该法庭或裁判官须推定——
 - (a) 该份文件上的签署及核证，是处长或他以书面就此授权的人的签署及核证；及
 - (b) 该份文件是原来通告的真正副本。
- (2) 并非根据本条条文而可接纳的证据，其可接纳性不得受本条损害。

(由 1982 年第 56 号第 4 条增补)

6. 规例

- (a) purports to have been signed by the accused person;
- (b) was furnished in accordance with a notice served on him under section 5A(2); and
- (c) states that the accused person was the person in charge of the vessel or driver of the vehicle, as the case may be, at the time of the offence,

the magistrate shall admit the statement as prima facie evidence that the accused person was the person in charge of the vessel or driver of the vehicle at the time of the offence.

(Added 56 of 1982 s. 4)

5C. Copies of notices admissible as evidence

- (1) Where under this Ordinance a notice is required to be affixed to any cargo or cargo container or displayed in any place, a document purporting to be a copy of such notice, signed and certified as a true copy by the Director or by any person authorized by him, in writing, in that behalf, shall be admissible in any criminal or civil proceedings before any court or magistrate on its production without further proof as evidence of the original notice and, until the contrary is proved, the court or magistrate shall presume that—
 - (a) the signature and certification to the document is that of the Director or a person authorized by him, in writing, in that behalf; and
 - (b) the document is a true copy of the original notice.
- (2) Nothing in this section shall prejudice the admissibility of any evidence which would be admissible apart from the provisions of this section.

(Added 56 of 1982 s. 4)

6. Regulations

- (1) 行政长官会同行政会议可就以下所有或任何目的订立规例——(由 1999 年第 64 号第 3 条修订)
- (a) 就根据本条例须订明或可予订明的任何事宜或事物订定条文；
- (b) 对任何公众货物装卸区、公众海旁或例外的海旁的进入与使用加以规管；
- (c) 就以下事宜或事物作出管制或就其管制订定条文——
- (i) 在任何公众货物装卸区、公众海旁或例外的海旁内的货物或货柜的处理、检查或称量；
- (ii) 在任何公众货物装卸区、公众海旁或例外的海旁内的船只及车辆；
- (ca) 赋权处长为规例所指明的目的而在公众货物装卸区、公众海旁或例外的海旁内拨出范围；(由 1982 年第 56 号第 5 条增补)
- (cb) 赋权处长指明在公众货物装卸区、公众海旁或例外的海旁为处长所指明的任何目的而可使用的货物处理机器及设备的类型，并指明规限如此使用该类货物处理机器及设备的条件；(由 1982 年第 56 号第 5 条增补)
- (d) 赋权处长——
- (i) 就指明的事宜作出指示；
- (ii) 采取必需的行动，以执行不获遵从的任何该等指示；
- (iii) 追讨处长采取任何该类行动的费用；
- (e) 赋权处长或他所授权的人规定任何使用任何公众货物装卸区、公众海旁或例外的海旁的人提供其本人的姓名及地址；(由 1982 年第 56 号第 5 条代替)
- (f) 赋权处长规定使用任何公众货物装卸区、公众海旁或例外的海旁的人，以及在其内处理的货物或货柜

- (1) The Chief Executive in Council may make regulations for all or any of the following purposes— (*Amended 64 of 1999 s. 3*)
- (a) providing for any matter or thing which is to be or may be prescribed under this Ordinance;
- (b) regulating entry to and the use of any public cargo working area, public water-front or excluded water-front;
- (c) controlling or providing for the control of—
- (i) the handling, inspection or weighing of cargo or cargo containers in any public cargo working area, public water-front or excluded water-front;
- (ii) vessels and vehicles in any public cargo working area, public water-front or excluded water-front;
- (ca) empowering the Director to set aside areas in a public cargo working area, public water-front or excluded water-front for purposes specified in the regulations; (*Added 56 of 1982 s. 5*)
- (cb) empowering the Director to specify the type of cargo handling machinery and equipment to be used in a public cargo working area, public water-front or excluded water-front for any purpose specified by him and to specify conditions subject to which such cargo handling machinery and equipment may be so used; (*Added 56 of 1982 s. 5*)
- (d) empowering the Director—
- (i) to give directions in relation to such matters as may be specified;
- (ii) to take such action as may be necessary to give effect to any such direction which is not complied with;

- 的拥有人，就该装卸区或海旁的使用或就该等货物或货柜而提供任何指明的资料；
- (g) 订明费用及收费；(由 1982 年第 56 号第 5 条修订)
 - (h) 赋权处长免收任何费用或收费或发还任何已缴付的该等费用或收费；及 (由 1982 年第 56 号第 5 条修订)
 - (i) 概括而言，为更有效施行本条例的目的。
- (2) 根据本条订立的规例可订定违反规例即属犯罪，并可订明任何该等罪行一经定罪，刑罚为罚款不超过 \$20,000 及监禁刑期不超过 1 年。(由 1982 年第 56 号第 5 条修订)

- (iii) to recover the cost of any such action taken by the Director;
 - (e) empowering the Director or any person authorized by him to require any person using any public cargo working area, public water-front or excluded water-front to provide his name and address; (Replaced 56 of 1982 s. 5)
 - (f) empowering the Director to require persons using any public cargo working area, public water-front or excluded water-front, and the owner of any cargo or cargo container handled therein, to give any specified information in respect of the use of such area or water-front or in respect of any such cargo or cargo containers;
 - (g) prescribing fees and charges; (Amended 56 of 1982 s. 5)
 - (h) empowering the Director to waive the payment of any fee or charge or to remit any fee or charge so paid; and (Amended 56 of 1982 s. 5)
 - (i) generally for the better carrying out of the purposes of this Ordinance.
- (2) Regulations made under this section may provide that a contravention thereof shall be an offence and prescribe a penalty on conviction of any such offence not exceeding a fine of \$20,000 and imprisonment for a term not exceeding 1 year. (Amended 56 of 1982 s. 5)