

Circular 17 Wine & Liquor Related Laws and Regulations

Exhibitors are requested to read through sections 3.24 of the Exhibitor's Manual and ensure complete compliance with all the stated laws, regulations and conditions.

3.24.1 Attention

As Exhibitors are solely responsible for any complaint/legal action in relation to their activities and participation in the Exhibition, they must comply with all the relevant laws and regulations during the Exhibition on their own account. In particular, attention should be drawn to any sale or supply of liquor on the fair ground which can only be lawful if

- (i) the person being sold, gifted and/or supplied the liquor (including but not limited to any Exhibitor, visitor, buyer and/or consumer) is aged 18 or above; and
- (ii) no onsite consumption of liquor is allowed after the liquor sales transaction unless a liquor license has been obtained by the individual Exhibitor. In any event, no onsite consumption of liquor is permitted for any persons under the age of 18.
- (iii) wine tasting subsequent to a liquor sales transaction in booth area or the designated wine tasting areas on the fair ground is not considered as onsite consumption of liquor. In any event, no wine tasting is permitted for any persons under the age of 18.

3.24.2 Liquor Licence

In accordance with the laws of Hong Kong, any person who intends to sell liquor at any premises for consumption on the premises must obtain a liquor licence before commencement of such business.

A liquor licence can be obtained from the Liquor Licensing Board using the prescribed application form (downloadable at <http://www.fehd.gov.hk/english/forms/fehb106.pdf>). Details on the application and procedural requirements can be found in "A Guide to Application for Liquor Licences and Club Liquor Licences" published by the Food and Environmental Hygiene Department downloadable at www.fehd.gov.hk/english/licensing/ll-cll-appguide.doc. For detailed information, Exhibitors may contact the Licensing Section of the Food and Environmental Hygiene Department at www.fehd.gov.hk/ and their inquiry hotlines (Hong Kong and Islands: Tel: (852) 2879 5728; Kowloon: Tel: (852) 2729 1237 and New Territories: Tel: (852) 3183 9255).

A holder of a liquor licence is required to personally supervise the sale or consumption of liquor at the premises specified in the liquor licence. Each holder of a liquor licence has to be a natural person and can only obtain no more than one liquor licence. On any occasion where sale or supply of liquor for consumption is intended to be conducted at additional premises or in some events in public, an existing liquor licence holder must apply for a temporary liquor licence at the Police Licensing Office, The Hong Kong Police Force, 12-13/F, Arsenal House, Police Headquarters, 1 Arsenal Street, Wan Chai, Hong Kong (Tel: (852) 2860 6524). A temporary liquor licence may be granted subject to payment of a prescribed fee and any conditions that may be imposed by the Commissioner of Police. Only holder of a liquor licence can apply for a temporary liquor licence.

In view of the rigid licensing conditions for liquor licence stipulated by the Liquor Licensing Board (listed on the Annex VI of the above-mentioned “A Guide to Application for Liquor Licences and Club Liquor Licences” as attached), it may not be possible for Exhibitors from overseas to obtain liquor licences.

3.24.3 Dutiable Commodities Ordinance

Exhibitors must pay attention to the provisions of the Dutiable Commodities Ordinance (Cap. 109 of the Laws of Hong Kong) and its subordinate legislation including but not limited to the Dutiable Commodities (Liquor) Regulations (Cap. 109B of the Laws of Hong Kong) which set forth the rules and regulations relating to the taxation, manufacturing/import/export, sale, supply, gift, dealing and control of liquors in Hong Kong.

The Ordinance defines “liquor” as any liquid which contains more than 1.2% of ethyl alcohol by volume except (a) denatured spirits; (b) any such liquid that is an ingredient in any goods, if that liquid cannot be converted to pure ethyl alcohol or to an intoxicating liquor or if such a conversion would not be economical. Under the Ordinance, “intoxicating liquors” includes spirits, liqueurs, wines, beer and all other liquors fit or intended for use as a beverage.

1. Taxation

With the coming into operation of the Duty Commodities (Amendment) Ordinance (2008) on 27 February 2008, duty shall be payable on the following types of liquor at the rates, expressed as a percentage of the value (calculated in accordance with section 26A of the Dutiable Commodities Ordinance), set out opposite to each type of liquor :

Type of Liquor :	Rate
Liquor with an alcoholic strength of more than 30% by volume measured at a temperature of 20 °C	100%
Liquor, other than wine, with an alcoholic strength of not more than 30% by volume measured at a temperature of 20 °C (e.g. beer, cider, perry, etc)	0%
Wine (e.g. red and white table wines, champagne, sherry, etc)	0%
Where there is no or insufficient information available from which the Commissioner of Customs and Excise (or any officer authorized by him in that behalf) is able to determine the value of any quantity of liquor of less than 12 litres, imported at any time in one consignment, duty payable on such liquor is assessed at a fixed rate.	HK\$160 per litre

2. Manufacturing / Import / Export

Licence is required for the importation, exportation and manufacturing of dutiable liquors including wine and liquor with an alcoholic strength of not more than 30% which are classified as zero-rated goods. Exhibitors should check with their own legal advisors or the Customs and Excise Department (“Customs”) on the current licensing and permit control arrangements which may be amended from time to time. Updates of news regarding the arrangements can be obtained from the Customs and Excise Department at www.customs.gov.hk/en/home/index.html.

For the time being, Exhibitors should take note of the following:

- (1) Customs may require any imported intoxicating liquor (for which a standard of quality is prescribed to be accompanied by a certificate of origin from the place where the liquor was made) to be certified as to the type, nature and quality of that liquor. Certificates of origin for brandy, whisky and rum shall contain such analytical and other particulars as will enable the liquor to be readily identified.
- (2) The name of the place of origin of port not produced in the Alto Douro district in Portugal, or sherry not produced in Jerez de la Frontera in Spain, shall be clearly marked on every container thereof.
- (3) For zero-rated goods imported in a single shipment for commercial purpose, no licence or permit is required if the value of the goods is less than \$5,000 but for goods with a value at \$5,000 or above, Customs will detain the goods and inform the owner to apply for an import licence and removal permit with the Department's Office of the Dutiable Commodities Administration.
- (4) The existing licence and permit control arrangements continues to apply on (i) zero-rated goods if imported by companies for commercial purpose under a regular annual licence goods and (ii) the removal of zero-rated goods from one warehouse to another, or for export.
- (5) For zero-rated goods for release to the local market, Customs will still issue a Removal Permit for Duty-paid Goods (despite zero duty) but with a special endorsement specifying that the duty on the subject goods is 0% of the value of the goods, and the goods will be regarded as duty-paid goods for the purpose of the Dutiable Commodities Ordinance. Zero-rated goods without such endorsement on the permits will be regarded as dutiable goods and subject to control under the Ordinance.

3. Sale or Supply

Pursuant to the Dutiable Commodities (Liquor) Regulations (Cap. 109B of the Laws of Hong Kong), the sale of liquor is prohibited:-

- (i) at any premises for consumption on those premises; or
- (ii) at a place of public entertainment or a public occasion for consumption at the place or occasion except on the authority of a liquor licence or a temporary liquor licence.

Any person who contravenes the above regulation shall be guilty of an offence and shall be liable on conviction to a fine of \$1,000,000 and imprisonment for 2 years.

Pursuant to the Dutiable Commodities (Liquor) Regulations (Cap. 109B of the Laws of Hong Kong), the sale of intoxicating liquor from a vending machine is prohibited.

Any person who contravenes the above regulation shall be guilty of an offence and shall be liable on conviction to a fine of \$50,000.

4. Control

4.1. Legal age of consumption of intoxicating liquor

Pursuant to the Dutiable Commodities (Liquor) Regulations (Cap. 109B of the Laws of Hong Kong), it is an offence:-

- (i) for a liquor licensee to permit any person under the age of 18 years to drink any intoxicating liquor on any licensed premises. Any person who contravenes this regulation shall be guilty of an offence and shall be liable on conviction to a fine at level 5 (\$50,000) and to imprisonment for 6 months; and
- (ii) for any person to, in the course of business, sell or supply (including but not limited to giving as a gift) intoxicating liquor to any person under the age of 18. Any person who contravenes this regulation shall be guilty of an offence and shall be liable on conviction to a fine at level 5 (\$50,000). on conviction to a fine at level 5 (\$50,000) and to imprisonment for 6 months.

4.2. Employment

Pursuant to the Dutiable Commodities (Liquor) Regulations (Cap. 109B of the Laws of Hong Kong), it is an offence:--

- (i) at any time any person under the age of 15 years; or
- (ii) between the hours of 10 p.m. and 6 a.m. any person under the age of 18 years; or
- (iii) between the hours of 6 a.m. and 10 p.m. any person under the age of 18 years except with the written permission of the Liquor Licensing Board.

Any person who contravenes the above regulation shall be guilty of an offence and shall be liable on conviction to a fine at level 5 (\$50,000) and to imprisonment for 6 months.

No Exhibitor (or employee of any Exhibitor) under the age of 18 will be admitted.

4.3. Labelling of liquor for local consumption

Regulation 67A of the Dutiable Commodities (Liquor) Regulations (Cap.109B of the Laws of Hong Kong) requires that every container containing liquor that is imported into or manufactured in Hong Kong for local consumption shall bear a label on which is printed the alcoholic strength, or the range of alcoholic strength, of the liquor and the label shall:

- (a) include the information needed which is printed legibly in English letters, Chinese characters, Arabic numerals or the symbol “%”, or any combination of them, unless the Commissioner of Customs and Excise otherwise authorizes in writing to be in other languages;
- (b) be securely affixed to or be part of the container; and
- (c) be so placed as to be clearly visible.

The importer or manufacturer in Hong Kong who contravenes the above regulation shall be guilty of an offence and shall be liable on conviction to a fine at level 5 (\$50,000).

3.24.4 Other Applicable Laws

In addition to the Dutiable Commodities Ordinance, Exhibitors should take note of other relevant laws and regulations including but not limited to the following: -

1. Counterfeit Alcoholic Liquor

Section 52(2) of the Public Health and Municipal Services Ordinance (Cap.132 of the Laws of Hong Kong) makes it an offence for any person who for the purpose of sale keeps in any container any liquid which is not of the nature, or not of the substance, or not of the quality, of the alcoholic liquor (meaning spirits, liqueurs, wines and Chinese type liquor) which, by reason of the labelling or other marking of such container, it appears to be.

2. The Trade Descriptions (Unfair Trade Practices) (Amendment) Ordinance 2012 effective 19 July 2013

In response to strong public demands for enhancing protection of consumers against other commonly seen unfair trade practices in consumer transactions, the Hong Kong Special Administrative Region has completed a review of the existing consumer protection legislation and proposed improvements through amendments to the Trade Descriptions Ordinance. The Trade Descriptions (Unfair Trade Practices) (Amendment) Ordinance 2012 (Amendment Ordinance) was eventually passed on 17 July 2012 by the Legislative Council and its key changes include:

- the expansion of the definition of “trade description” in respect of goods to mean any indication, direct or indirect, and by whatever means given, with respect to any goods or parts of goods such as price indication;
- the extension of the coverage of the Ordinance to prohibit false trade descriptions in respect of services made in consumer transactions, and to define “services” under any consumer contract;
- the creation of new offences on such practices as misleading omissions, aggressive commercial practices, bait advertising, bait-and-switch and wrongly accepting payment; and
- an introduction of a civil compliance-based enforcement mechanism in addition to criminal sanctions to promote adherence to the TDO.

The Amendment Ordinance came into operation on 19 July 2013. Exhibitors are reminded to read the Amendment Ordinance in detail to avoid possible offences, in particular the usage of terms in relation to prices and puffery claims (like “sale”, “original price”, “reduced price”, “lowest price”, “best seller” etc), bait advertising etc. For enquiries on the Trade Descriptions (Unfair Trade Practices) (Amendment) Ordinance 2012, please contact the Customs and Excise Department at (852) 2815 7711 or visit http://www.customs.gov.hk/en/whats_new/tdspg/index.html.

Hong Kong Trade and Development Council

通告 17 葡萄酒及烈酒有關法律和規例

參展商應仔細閱讀「參展商手冊」內第 3.24 項，並確保完全符合所述的有關法律、規例和條件的規定。

3.24.1 注意

由於參展商須就其於展覽會中的活動及參與而招致的投訴 / 訴訟承擔所有 責任，參展商必須於展覽期間自行遵守所有有關法例及規定。參展商須特別注意，如在展覽場地中任何售賣或供應酒類，則僅在下列情況下被視為合法：

- (i) 被售賣、贈送或供應酒類的人（包括但不限於任何參展商、訪客、買家及/或消費者）為十八歲或十八歲以上人士；
- (ii) 除領有酒牌的參展商外，嚴禁在售賣酒類後即場飲用。在任何情況下，任何十八歲以下的人都不允許現場飲酒；及
- (iii) 在展覽場地的攤位或指定的試酒區內試酒將不被視為即場飲用酒類。在任何情況下，任何十八歲以下的人都不允許現場品嚐酒。

3.24.2 酒牌

根據香港法律，任何人士如有意在任何地方售賣酒類飲品，以借人在該處所內飲用，必須在經營有關業務前領有酒牌。

參展商可向酒牌局申請酒牌，有關表格可於http://www.fehd.gov.hk/tc_chi/forms/fehb106.pdf網頁內下載。關於酒牌的申請及要求可以在網頁www.fehd.gov.hk/tc_chi/licensing/ll-cll-appguide.doc下載由食物環境衛生署印製的“如何申請酒牌及會社酒牌參考資料”。有關詳情，參展商可聯絡食物環境衛生署的酒牌辦事處，其網址為www.fehd.gov.hk/ 及查詢電話為(香港:(852) 2879-5728; 九龍:(852) 2729-1237 及新界:(852) 3183-9255)。

酒牌持有人必須親自管理在酒牌上批准處所內的酒類隻售賣或飲用。每個酒牌持有人必須為自然人且其最多可獲得一個酒牌，如果想在其他處所或公共地方舉行的一些項目中售賣或供應酒類以供飲用，現有酒牌持有人必須向香港警務處警察牌照課(香港灣仔軍器廠街一號警察總部警政大樓十二樓至十三樓，電話(852) 2860-6524)申請臨時酒牌。在繳付規定費用後，基於警務處處長可能附加的任何條件，方能發出臨時酒牌。只有酒牌持有人才可以申請臨時酒牌。

由於酒牌局規定的嚴格持牌條件(列於上述“如何申請酒牌及會社酒牌參考資料”中)，海外參展商未必可以申請酒牌。

3.24.3 應課稅品條列

參展商必須注意，應課稅品條列(香港法例第 109 章) 及其附屬法例，包括但不限於應課稅品(酒類)規例(香港法例第 109B 章)對於酒類在香港的課稅，製造 / 進口 / 出口，銷售，供應，贈送處理及管制之規定。

應課稅品條例中，將酒類釋義為任何以量計含有多於 1.2%乙醇的液體但不包括(a)變性酒精；(b)作為任何貨品中的一種成分的任何液體(如該液體不可改變為純乙醇或令人醺醉的酒類，或將該液體如此改變是不符合經濟效益的)。本條例適用於酒類時“令人醺醉的酒類”包括酒精、力嬌酒、葡萄酒、啤酒，以及所有其他適合或擬作為飲品飲用的酒類。

1. 課稅

根據於 2008 年 2 月 27 日生效之《應課稅品(修訂)條例》，以下各種酒類須按與之對應的稅率繳稅，稅率以價值（按照《應課稅品條例》第 26A 條計算）的百分率表示：

酒類：	稅率
在攝氏 20 度的溫度下量度所得酒精濃度以量計多於 30% 的酒類	100 %
在攝氏 20 度的溫度下量度所得酒精濃度以量計不多於 30% 的酒類，葡萄酒除外（例如啤酒、蘋果酒、梨酒等等）	0 %
葡萄酒（例如紅餐酒、白餐酒、香檳、雪利酒等等）	0 %
如無可用資料或資料不足，使關長（或關長為評定須繳稅款而授權的任何人員）無法釐定在任何時間以一批托運的形式進口而分量少於 12 升的酒類的價值，須繳於該批酒類之稅款則以定額稅率作出評估。	每升 160 港元

2. 製造/進口/出口

對於應課稅酒類(包括葡萄酒，即酒精濃度以量計不多於 30%)的進口、出口及製造，必須領有牌照。參展商必須向其法律顧問或香港海關查詢關於有可能不時更改的現行牌照及許可證管制的安排。對於有關安排的更新，可以在香港海關的網站www.customs.gov.hk/eng/content_e.htm內取得有關資料。

參展商應注意以下內容：

- (1) 海關可規定任何進口的已訂明品質標準的令人醺醉的酒類，須連同一份由配製該等酒類的地方發出的證明書(本規例下文稱為產地來源證)，證明該等酒類的種類、性質和品質。拔蘭地酒、威士忌酒和秣酒的產地來源證，須載明使酒類輕易獲得辨別的分析詳情及其他詳情。
- (2) 並非在葡萄牙 Alto Douro 區生產的砵酒，或並非在西班牙 Jerez de la Frontera 區生產的雪利酒，其每一容器上須清楚地標明來源地的名稱。
- (3) 零稅率貨品以單一次商業付運形式進口作商業用途，如貨品價值少於 5,000 元，便無需申請進口牌照或許可證，但如貨品價值為 5,000 元以上，海關會扣留該批貨物，並通知貨主前往部門的應課稅品科申請進口牌照及搬運許可證。
- (4) 現行牌照及許可證管制將繼續適用於(i)如公司運用正式的一年牌照進口零稅率貨品作商業用途及(ii)將零稅率貨品從一個保稅倉移往另一個保稅倉、或出口往外地。
- (5) 如貨品需運往本地市場銷售時，儘管貨品無須繳稅，海關仍會簽發一張「已完稅貨品移走許可證」，並在證上附有特別批註，標明該貨品的稅款是貨品價值的 0%，就《應課稅品條例》而言，該貨品已被視為已完稅貨品。零稅率貨品的許可證如沒有這項批註會被視作應課稅品處理，並受條例管制。

3. 售賣或供應

根據應課稅品(酒類)規例(香港法例第 109B 章)，除根據酒牌或臨時酒牌外，不得：—

- (i) 在任何處所售賣酒類以供在該處所飲用；或
- (ii) 在任何公眾娛樂場所或公眾場合售賣酒類以供在該場所或場合飲用。任何人違反以上條例，即屬犯罪，一經定罪，可處罰款\$1,000,000 及監禁 2 年。

根據應課稅品(酒類)規例(香港法例第 109B 章)，任何人不得以銷售機售賣令人醺醉的酒類。任何人違反以上條例，即屬犯罪，一經定罪，可處\$50,000 罰款。

4. 限制

4.1 飲用令人醺醉的酒類的法定年齡

根據應課稅品(酒類)規例(香港法例第 109B 章)，

- (i) 任何持牌人不得准許任何未成年人或任何 18 歲以下的人在任何領有牌照處所飲用令人醺醉

的酒類。任何人違反以上條例，即屬犯罪，一經定罪，可處第 5 級罰款(\$50,000)及監禁 6 個月。

(ii) 任何人不得在業務過程中，向任何 18 歲以下的人售賣或供應（包括但不限於贈送）令人醺醉的酒類。任何人違反以上條例，即屬犯罪，一經定罪，可處第 5 級罰款(\$50,000)。

4.2 僱用

根據應課稅品(酒類)規例(香港法例第 109B 章)，持牌人不得在領有牌照處所或其附近，或就在該處所經營的業務而—

- (i) 在任何時間僱用或准許僱用任何 15 歲以下的人；或
 - (ii) 在晚上 10 時至上午 6 時一段期間僱用或准許僱用任何 18 歲以下的人；或
 - (ii) 在上午 6 時至晚上 10 時一段期間僱用或准許僱用任何 18 歲以下的人，除非獲酒牌局書面准許。
- 任何人違反以上條例，即屬犯罪，一經定罪，可處第 5 級罰款(\$50,000)及監禁 6 個月。

4.3 為本地飲用的酒類加上標籤

應課稅品(酒類)規例第 67A 條例(香港法例第 109A 章) 要求每個盛載進口香港或在香港製造以供本地飲用的酒類的容器須附有印上該酒類的酒精濃度或酒精濃度幅度的標籤。標籤須：—

- (a) 載有用英文字母、中文字樣、亞拉伯數字或“%”符號，或其任何組合以清晰可讀方式印上的所需的資料，但已獲關長以書面授權採用其他語文者除外；
- (b) 穩固地加於容器上或屬容器的一部分；及
- (c) 置於清楚可見的位置。

任何香港入口商或製造商違反以上條例，即屬犯罪，一經定罪，可處第 5 級罰款(\$50,000)。

3.24.4 其他適用法例

除了應課稅品條例外，參展商應注意其他有關法例及規定，包括但不限於以下內容:-

假酒類

根據公眾衛生及市政條例的第 52(2)條例(香港法例第 132 章)，任何人如以容器存盛液體作出售用途，而該液體的性質、物質或品質與該液體因容器上標籤或其他標記而看似所屬的酒類(指烈酒、甜酒、葡萄酒及中國酒)所具有者不符，即屬犯罪。

(此中文版本僅供參考，一切以英文版本為準。)

香港貿易發展局