

Hong Kong Legal Provisions

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1. GENERAL REMARKS

The British administration of Hong Kong ended at midnight on 30th June 1997 and Hong Kong became a Special Administrative Region (SAR) of the People's Republic of China (PRC) on 1st July 1997. The **Basic Law, constitutional document** of the Hong Kong Special Administrative Region (HKSAR) came into effect on the same day. The Basic Law sets out the basic policies of the PRC regarding Hong Kong and the way in which the HKSAR is to be administered for 50 years beyond 1997. Under the Basic Law, the HKSAR enjoys a high degree of autonomy except in defence and foreign affairs. The HKSAR exercises executive, legislative and independent judicial power including that of final adjudication. The HKSAR remains a free port, a separate customs territory and may - on its own - using "Hong Kong, China", maintain, develop relations, conclude and implement agreements with foreign states, regions and international organisations in appropriate fields. Under the principle of "**One Country, Two Systems**", the capitalist system and way of life shall remain unchanged. Hong Kong maintains a free and open market economy with a free flow of capital, goods, information and services and a freely convertible currency. The socialist system and policies are not practised in Hong Kong.

2. CUSTOMS

Hong Kong is a free port and there is no tariff on general imports except duty on strong liquors, tobacco, hydrocarbon oil and methyl alcohol. For details, please consult the website of the Customs and Excise Department. www.customs.gov.hk

3. IMPORT AND EXPORT REGULATIONS

Under the Import and Export (Registration) Regulations, Chapter 60, every person who imports or exports any article, other than an exempted article, is required to lodge with the Commissioner of Customs and Excise an accurate and complete import/export declaration within 14 days after the importation/exportation of the article. Otherwise, a penalty charge is required to be paid.

As a free port, Hong Kong maintains minimal import and export documentation requirements. **Most products do not need licences to enter or leave Hong Kong.** Licenses or notifications are only required if Hong Kong needs to fulfil its international obligations, protect public health, safety,

environment, or intellectual property rights, or ensure Hong Kong's unrestricted access to high technologies and hi-tech products.

Please refer to the website of the Customs and Excise Department: www.customs.gov.hk and the Trade and Industry Department www.tid.gov.hk for more details.

A free trade agreement is in force between EFTA States (including Switzerland) and Hong Kong since 1st October 2012. Switzerland also enjoys a double taxation agreement with Hong Kong since January 2013.

4. CURRENCY REGULATIONS

The Hong Kong dollar (HK\$) has been pegged to the US dollar at HK\$7.80 to US\$1 since October 1983. There are **no foreign exchange controls** and **no restrictions on the trading of gold, securities, futures** and the like. Hong Kong retains its own currency and monetary system after the return to China.

5. REGISTRATATION PROCEDURE FOR PRODUCTS

The Intellectual Property Department (IPD) is responsible for operating Trade Marks, Patents and Registered Designs Registries in Hong Kong. For registration procedure of trademarks, patents and designs, please visit the web page of the IPD at www.ipd.gov.hk.

6. STANDARDS, TECHNICAL RULES, LABELLING REGULATIONS

In line with the World Trade Organisation (WTO) Agreement on Technical Barriers to Trade, Hong Kong's policy is to use international standards as far as possible and align domestic standards with international standards where appropriate.

Hong Kong does not have a central standards body developing and issuing domestic standards. Their regulatory agencies use standards as and when necessary, and avoid the position where the setting of standards dictates market development or becomes a means of protecting certain sectors of the industry. More information on standards used in Hong Kong is available on Standards, Regulations and Conformity Assessment Database at www.itc.gov.hk/en/quality/psis/srca/db.htm.

As far as labelling regulations about food and drugs are concerned, please read labelling guidelines on food allergens, food additives and date format at the website of the Food and Environmental Hygiene Department (www.fehd.gov.hk).

7. TAXES

The tax regime is simple and predictable. The profits tax rate for corporations and unincorporated business is 16.5% and 15% respectively, the same for foreign and local companies. There is no sales tax or VAT, capital gains tax, inheritance tax, withholding tax on dividends and interest or collection of social security benefits.

The salaries tax rate is at a maximum rate of 15%, imposed only on all salary income of individuals derived in or from Hong Kong. Taxpayers are entitled to basic allowance and eligible to claim additional allowance such as child allowance, if any. The salaries tax is demanded on a yearly basis.

The property tax applies to owners of land or buildings situated in Hong Kong. It is charged at 15% of the rental income from the land or buildings. A deduction of 20% of the balance of the rental income

after deducting the rates paid by owners and the irrecoverable rent will be automatically granted to owners for repairs and maintenance every year.

For more information on taxes in Hong Kong, please see the website of the Inland Revenue Department www.ird.gov.hk/

8. SETTING UP COMPANIES

The Business Registration Ordinance requires every person who carries on a business in Hong Kong to apply for business registration within 1 month from the date of commencement of the business, and to display a valid Business Registration Certificate at the place of business.

The type of structure that is most appropriate will depend on tax issues, strategic plans, financial aspects and willingness to take on ongoing obligations. Owing to the complex and long term impact of this decision, it is advisable to seek professional advice.

The most common forms of business vehicles foreign investors choose are:

- Private limited companies
- Branch offices of overseas companies
- Representative offices
- Partnerships/sole proprietorships
- Joint ventures

For more information, please see the website of the InvestHK (www.investhk.gov.hk).

9. COMMERCIAL LAW

The laws previously in force in Hong Kong (that is, the common law, rules of equity, ordinances, subordinate legislation and customary law) are maintained, except for any that contravene the Basic Law, and subject to subsequent amendment by the HKSAR Legislature.

The legal system of Hong Kong is separate from that of Mainland China, and English common law prevails. Cases are heard in English and/or Chinese.

There are various ordinances related to business and commercial law such as Companies Ordinance, Sale of Goods Ordinance, Trade Description Ordinance and etc. In addition, some ordinances are made for specific industries such as banking, insurance, broadcasting and etc.

For information on specific topics of the Hong Kong Laws, please consult the website of the Department of Justice (www.doj.gov.hk).

10. PROMOTION OF INVESTMENTS

The Commerce and Economic Development Bureau (www.cedb.gov.hk) of the HKSAR Government is responsible for policy formulation and co-ordination of work to promote foreign direct investments. It is assisted by Invest Hong Kong and a network of economic and trade offices outside Hong Kong. The Hong Kong Economic and Trade Office in Berlin is responsible to promote HK's economic and trade interests in Switzerland.

11. ENTRY CONDITIONS, WORK PERMITS

A valid passport is required for all visitors to Hong Kong. **Swiss national does not need a visa if the stay in Hong Kong is not exceeding 90 days.** However, if a Swiss national wishes to continue his or

her trip to other destinations such as Mainland China after his or her stay in Hong Kong, he or she has to check about visa requirements with competent visa authorities in question. In case of visa requirements in China, please consult the Embassy of China in Bern (www.china-embassy.ch) or the Visa Office of the Commissioner's Office of China's Foreign Ministry in Hong Kong (www.fmcoprc.gov.hk).

As a general rule, foreign nationals including Swiss nationals must obtain a visa before coming to Hong Kong for the purpose of education, taking up employment, training, investment or residence.

For detailed information on entry conditions, employment visa, residence permits, Capital Investment Entrant Scheme and Quality Migrant Admission Scheme, please contact the Immigration Department, HKSAR Government (address: Immigration Department, Immigration Tower, 7 Gloucester Road, Wan Chai, Hong Kong. Website: www.immd.gov.hk tel.: +852 2824 6111 e-mail: enquiry@immd.gov.hk).

The above information intends to give readers a general overview regarding legal provisions. Only the mentioned authorities of the HKSAR Government are competent for binding information. Interested parties are therefore kindly advised to consult the mentioned authorities (website) or seek legal advice from competent professionals before taking any decision.

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