

L.N. 75 of 2021

Telecommunications (Registration of SIM Cards) Regulation

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Telecommunications (Registration of SIM Cards) Regulation

(Made by the Chief Executive in Council under section 37 of the
Telecommunications Ordinance (Cap. 106))

Part 1

Preliminary

1. Commencement

- (1) Subject to subsection (2), this Regulation comes into operation on 1 September 2021.
- (2) Parts 2, 3 and 4, section 15, Part 6 and the Schedule come into operation on 1 March 2022.

2. Interpretation

- (1) In this Regulation—

active (生效狀態), in relation to a SIM card, means that the person to whom a service is supplied through the SIM card is for the time being able to access the service through the SIM card;

body (團體) means a body of persons, corporate or unincorporate, whether or not established in Hong Kong;

correct (改正), in relation to any information, means to make a correction (as defined by section 2(1) of the Personal Data (Privacy) Ordinance (Cap. 486)), in compliance with a data correction request, to any personal data comprising the information;

current specified information (現有指明資料), in relation to an eligible person, means the specified information of the person provided for the registration of a SIM card for the person under section 6 (as the information may be corrected from time to time);

data correction request (改正資料要求) has the meaning given by section 2(1) of the Personal Data (Privacy) Ordinance (Cap. 486);

eligible person (合資格人士)—see section 4;

guidelines (指引) means the guidelines issued under section 14;

law enforcement officer (執法人員) means an officer of—

- (a) the Customs and Excise Department;
- (b) the Hong Kong Police Force;
- (c) the Immigration Department; or
- (d) the Independent Commission Against Corruption;

mobile device (流動裝置) means a piece of electronic equipment that can be used for accessing a mobile telecommunications service provided by a specified licensee, such as a mobile phone or tablet computer;

personal data (個人資料) has the meaning given by section 2(1) of the Personal Data (Privacy) Ordinance (Cap. 486);

pre-paid SIM card (儲值卡) means a SIM card that is not a service plan SIM card;

service agreement (服務協議)—see section 3(3);

service plan SIM card (服務計劃卡) means a SIM card, that is provided by a specified licensee to a person, through which a service is supplied or to be supplied where—

- (a) the person may make payment (or part of the payment) for the service after the service is used in full or in part; and

- (b) the person has arranged with the licensee to pay an amount or amounts notified by the licensee, or to make payments at regular intervals, for the service;

SIM card (用戶識別卡) means a subscriber identification module provided by a specified licensee that—

- (a) forms part of a mobile device, or is a hardware or software component for insertion into or integration with a mobile device;
- (b) is represented or held out by the licensee to be used primarily for communications between persons and persons; and
- (c) identifies and authenticates a subscriber for the subscriber's access to a telecommunications service provided in Hong Kong by any specified licensee;

SIM card record (用戶識別卡紀錄)—

- (a) means a record that is kept by a specified licensee in respect of a SIM card under section 11; and
- (b) includes a record that is taken to be a SIM card record under section 18(5);

specified information (指明資料), in relation to an eligible person, means the information specified in the Schedule for that person;

specified licensee (指明持牌人) means—

- (a) the holder of a unified carrier licence, or mobile carrier licence, as defined by section 2(1) of the Telecommunications (Carrier Licences) Regulation (Cap. 106 sub. leg. V);
- (b) the holder of a services-based operator licence issued under section 7(5) of the Ordinance; or

- (c) a person given the right under a class licence created under section 7B(2) of the Ordinance to offer in the course of business a telecommunications service;

valid branch registration certificate (有效分行登記證) has the meaning given by section 2(1) of the Business Registration Ordinance (Cap. 310), but excludes a duplicate branch registration certificate within the meaning of that Ordinance;

valid business registration certificate (有效商業登記證) has the meaning given by section 2(1) of the Business Registration Ordinance (Cap. 310), but excludes a duplicate business registration certificate within the meaning of that Ordinance.

- (2) For the purposes of this Regulation, a SIM card is currently registered with a specified licensee for an eligible person if the SIM card—
 - (a) has been registered under section 6 with the licensee for the person; and
 - (b) has not been deregistered under Part 3 afterwards.

3. **Meaning of certain expressions relating to telecommunications service**

- (1) For the purposes of this Regulation, a specified licensee is to be regarded as offering a telecommunications service if—
 - (a) the licensee makes an offer which, if accepted, would give rise to an agreement, arrangement or understanding for the provision of a telecommunications service by—
 - (i) the licensee; or

- (ii) another person with whom the licensee has made an arrangement for the provision of the telecommunications service; or
 - (b) the licensee invites a person to make an offer of the kind referred to in paragraph (a).
- (2) For the purposes of this Regulation, a specified licensee is to be regarded as supplying a service through a SIM card if—
 - (a) the licensee has offered a telecommunications service; and
 - (b) under the agreement, arrangement or understanding mentioned in subsection (1)(a) arising from the offering of the service, the service is provided through the SIM card by—
 - (i) the licensee; or
 - (ii) the other person mentioned in subsection (1)(a)(ii).
- (3) For the purposes of this Regulation, a reference to a service agreement in relation to a SIM card is a reference to the agreement, arrangement or understanding mentioned in subsection (2)(b).

4. **Meaning of *eligible person***

- (1) For the purposes of this Regulation, each of the following is taken to be an eligible person—
 - (a) an individual acting in his or her individual capacity;
 - (b) an individual acting in the capacity as the holder of a relevant certificate;
 - (c) a body acting in the capacity as the holder of a relevant certificate;

- (d) a body that does not hold a relevant certificate.
- (2) For subsection (1)(a) and (b), if an individual has more than one of the following capacities—
- (a) his or her individual capacity;
 - (b) the capacity as the holder of a relevant certificate or (if the individual holds more than one relevant certificate) of each relevant certificate,
- then in respect of each capacity in which the individual is acting, the individual is taken to be a separate eligible person.
- (3) For subsection (1)(c), if a body holds more than one relevant certificate, then in respect of each capacity in which the body is acting as the holder of a relevant certificate, the body is taken to be a separate eligible person.
- (4) In this section—
- relevant certificate*** (有關登記證) means a valid business registration certificate or valid branch registration certificate.
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Part 2

Registration

- 5. Specified licensee to ensure that SIM card is not active unless currently registered**
- (1) A specified licensee who supplies, or is to supply, a service through a SIM card must ensure that the SIM card is not active unless the SIM card is currently registered with the licensee.
 - (2) Subsection (1) does not apply if the SIM card is active solely for the purpose of facilitating registration of the SIM card under section 6.
- 6. Registration of SIM card for eligible person**
- (1) Subject to subsection (2), a specified licensee—
 - (a) may register a service plan SIM card for any eligible person; and
 - (b) may register a pre-paid SIM card for any eligible person mentioned in section 4(1)(a), (b) or (c).
 - (2) A specified licensee may register a SIM card for an eligible person only if—
 - (a) the person has provided the licensee with all the specified information of the person;
 - (b) the licensee has no reasonable cause to believe that the specified information is—
 - (i) incomplete or contradictory; or
 - (ii) false or misleading in a material respect; and
 - (c) for a pre-paid SIM card—the registration will not result in a contravention of section 7.

- (3) The eligible person's specified information must be provided in a way that is specified by the specified licensee in accordance with the guidelines.

7. Maximum number of pre-paid SIM cards for eligible person

A specified licensee must ensure that—

- (a) for each eligible person mentioned in section 4(1)(a)—the person has no more than 10 pre-paid SIM cards that are currently registered with the licensee; and
 - (b) for each eligible person mentioned in section 4(1)(b) or (c)—the person has no more than 25 pre-paid SIM cards that are currently registered with the licensee.
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Part 3

Deregistration

8. Deregistration of SIM card on cessation of service

A specified licensee may deregister a SIM card that is currently registered with the licensee if the licensee has ceased to supply any service through the SIM card.

9. Deregistration of SIM card in case of irregularity

- (1) A specified licensee must deregister a SIM card that is currently registered with the licensee for an eligible person if the licensee has reasonable cause to believe that—
 - (a) the current specified information of the eligible person contained in the SIM card record is—
 - (i) incomplete or contradictory; or
 - (ii) false or misleading in a material respect; or
 - (b) for a pre-paid SIM card—the registration of the SIM card has contravened section 7.
- (2) However, before the specified licensee deregisters a SIM card under subsection (1)(a) or (b)—
 - (a) the licensee must take reasonable steps to allow the eligible person to rectify the circumstance mentioned in that subsection; and
 - (b) the licensee is not required to deregister the SIM card if the person rectifies the circumstance within a reasonable time.

- (3) Without limiting subsection (1)(a)(i), the current specified information of an eligible person becomes incomplete for the purposes of that subsection if, at the time immediately after a correction is made to the information, the information as corrected does not cover all the specified information pertaining to the person at that time.

10. Deregistration of SIM card on eligible person's request

- (1) An eligible person for whom a SIM card is currently registered with a specified licensee may request the licensee to deregister it.
 - (2) The request must be made in a way that is specified by the specified licensee in accordance with the guidelines.
 - (3) The specified licensee must deregister the SIM card as soon as practicable after receiving the request.
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Part 4

Record Keeping

11. Keeping of SIM card record

- (1) A specified licensee must keep a record in respect of a SIM card during—
 - (a) the period in which the SIM card is currently registered with the licensee for an eligible person; and
 - (b) the period of 1 year after the end of the period mentioned in paragraph (a).
- (2) The record must contain—
 - (a) an identifier of the SIM card (such as the mobile phone number assigned to the SIM card); and
 - (b) the current specified information of the eligible person.
- (3) The record must be kept in hard copy form or in electronic form (or in both) in accordance with the guidelines.

12. Provision of SIM card record to law enforcement officer under warrant

- (1) If a magistrate is satisfied by information on oath that—
 - (a) there is reasonable cause to suspect that an offence has been, is being, or is about to be committed, and it is necessary to obtain a SIM card record for the purpose of investigating or preventing the offence; or
 - (b) it is necessary to obtain a SIM card record for the purpose of preventing loss of life of, or serious bodily harm to, any person,

the magistrate may issue a warrant authorizing any law enforcement officer to require the specified licensee that keeps the record to provide the record.

- (2) The specified licensee must provide the SIM card record in compliance with the warrant.

13. Provision of SIM card record to law enforcement officer not under warrant

- (1) If a law enforcement officer of a senior rank is satisfied—
 - (a) that—
 - (i) there is reasonable cause to suspect that a serious offence has been, is being, or is about to be committed, and it is necessary to obtain a SIM card record for the purpose of investigating or preventing the offence; or
 - (ii) it is necessary to obtain a SIM card record for the purpose of preventing loss of life of, or serious bodily harm to, any person; and
 - (b) that—
 - (i) a delay caused by an application for a warrant under section 12(1) is likely to defeat the purpose of obtaining the record mentioned in paragraph (a); or
 - (ii) for any reason it is not reasonably practicable to make such an application,

the officer may authorize in writing any law enforcement officer to require the specified licensee that keeps the record to provide the record.

- (2) The specified licensee must provide the SIM card record as soon as practicable after being required to do so by a law enforcement officer authorized under subsection (1).

(3) In this section—

senior rank (高級) means a rank not below the rank of—

- (a) in relation to an officer of the Customs and Excise Department—Superintendent of the Customs and Excise Service or Principal Trade Controls Officer;
- (b) in relation to an officer of the Hong Kong Police Force—Superintendent of Police;
- (c) in relation to an officer of the Immigration Department—Assistant Principal Immigration Officer; or
- (d) in relation to an officer of the Independent Commission Against Corruption—Commission Against Corruption Officer (Upper);

serious offence (嚴重罪行) means an offence punishable by a maximum penalty that is or includes—

- (a) a term of imprisonment of not less than 3 years; or
 - (b) a fine of not less than \$1,000,000.
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Part 5

Miscellaneous

14. Guidelines

Without limiting section 6D of the Ordinance, the Authority may issue guidelines on how specified licensees—

- (a) collect and verify an eligible person's specified information;
- (b) register or deregister a SIM card;
- (c) keep or provide a SIM card record under Part 4; and
- (d) carry out the transitional arrangements provided for in Part 6.

15. Inspection

- (1) The Authority may, on giving reasonable prior written notice to a specified licensee, enter and inspect any office, premises or place in Hong Kong that is or are used by the licensee in any way (including by installing a facility in it or them) for the purpose of compliance with this Regulation, to verify that the licensee is complying with this Regulation.
 - (2) The specified licensee must provide any assistance reasonably required by the Authority for the inspection.
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Part 6

Transitional Arrangements

16. Interpretation of Part 6

In this Part—

commencement date (生效日期) means 1 March 2022;

existing information (原有資料), in relation to an existing user, means—

- (a) all the specified information of the existing user that was kept by the specified licensee concerned immediately before the commencement date; or
- (b) if the specified licensee only kept part of the specified information of the existing user immediately before the commencement date—that part of the specified information;

existing pre-paid SIM card (原有儲值卡) means a pre-paid SIM card where the specified licensee concerned has provided or given (whether or not by way of sale) the SIM card, or the right to use the SIM card, to another person immediately before the commencement date;

existing service plan SIM card (原有服務計劃卡)—

- (a) means a service plan SIM card provided by a specified licensee where the service agreement relating to the SIM card was in force immediately before the commencement date; and
- (b) includes a service plan SIM card provided by the licensee for replacing the SIM card falling within paragraph (a) in circumstances specified in the guidelines;

existing user (原有用戶), in relation to an existing service plan SIM card, means the person to whom a specified licensee supplied, or agreed to supply, a service through the SIM card under the service agreement as in force immediately before the commencement date;

specified information (指明資料), in relation to an existing user, has a meaning that is the same as its meaning in relation to an eligible person.

17. Transitional arrangement—existing pre-paid SIM cards

Until 23 February 2023 (inclusive of that date), section 5 does not apply to a specified licensee in respect of an existing pre-paid SIM card provided by the licensee.

18. Transitional arrangement—existing service plan SIM cards

- (1) Section 5 does not apply to a specified licensee in respect of an existing service plan SIM card provided by the licensee during the period (*service period*)—
 - (a) beginning with the commencement date; and
 - (b) ending when the licensee ceases to supply any service through the SIM card to the existing user.
- (2) If the existing service plan SIM card is active at any time during the service period (but is not currently registered with the specified licensee by virtue of subsection (1)), the licensee must keep a record that contains—
 - (a) an identifier of the SIM card (such as the mobile phone number assigned to the SIM card); and
 - (b) the existing information of the existing user (as it may be corrected from time to time),until the expiry of 1 year after the end of the service period.

- (3) The record mentioned in subsection (2) must be kept in hard copy form or in electronic form (or in both) in accordance with the guidelines.
 - (4) If the specified licensee receives, during the service period, any part of the specified information of the existing user that has not yet been included in the record kept under subsection (2) (***additional information***), the additional information must be included in the record.
 - (5) The record kept under subsection (2), including any additional information, is taken to be a SIM card record for the purposes of this Regulation.
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Schedule

[ss. 1 & 2]

Specified Information of Eligible Persons

1. Individual aged 16 or above

- (1) If the eligible person is an individual acting in his or her individual capacity who is aged 16 or above and holds an identity card, the information specified for the person is as follows—
 - (a) the following information as shown on the identity card—
 - (i) the number of the identity card;
 - (ii) the person's full name in English;
 - (iii) (if applicable) the person's full name in Chinese; and
 - (iv) the person's date of birth; and
 - (b) a copy of the identity card.
- (2) If the eligible person is an individual acting in his or her individual capacity who is aged 16 or above and does not hold an identity card, the information specified for the person is as follows—
 - (a) the following information as shown on a valid identification document of the person—
 - (i) the number of the identification document;
 - (ii) the person's full name in English;

- (iii) (if applicable) the person's full name in Chinese;
and
- (iv) the person's date of birth;
- (b) a copy of the identification document, or the data page of the identification document showing the information mentioned in paragraph (a); and
- (c) a statement to the effect that the person does not hold an identity card.

2. Individual aged below 16

If the eligible person is an individual acting in his or her individual capacity who is aged below 16, the information specified for the person is as follows—

- (a) if the person holds an identity card—the information mentioned in section 1(1)(a) and (b) of this Schedule in respect of the person;
- (b) if the person does not hold an identity card—the information mentioned in section 1(2)(a), (b) and (c) of this Schedule in respect of the person; and
- (c) the following information in respect of an individual who is aged 18 or above (*adult*)—
 - (i) if the adult holds an identity card—the information mentioned in section 1(1)(a) and (b) of this Schedule in respect of the adult;
 - (ii) if the adult does not hold an identity card—the information mentioned in section 1(2)(a), (b) and (c) of this Schedule in respect of the adult; and
 - (iii) a statement of the relationship between the adult and the eligible person.

3. Business or branch of business

If the eligible person is an individual or a body acting in the capacity of the holder of a valid business registration certificate or valid branch registration certificate, the information specified for the person is as follows—

- (a) the following information as shown on the certificate—
 - (i) the number of the certificate;
 - (ii) (if applicable) the name of business or corporation in English;
 - (iii) (if applicable) the name of business or corporation in Chinese;
 - (iv) (if applicable) the business or branch name in English; and
 - (v) (if applicable) the business or branch name in Chinese;
- (b) a copy of the certificate or of a duplicate of the certificate (within the meaning of the Business Registration Ordinance (Cap. 310)); and
- (c) the following information in respect of an individual aged 18 or above named as the responsible person of the eligible person—
 - (i) if the individual holds an identity card—the information mentioned in section 1(1)(a) and (b) of this Schedule in respect of the individual; or
 - (ii) if the individual does not hold an identity card—the information mentioned in section 1(2)(a), (b) and (c) of this Schedule in respect of the individual.

4. Body not holding valid business registration certificate or valid branch registration certificate

If the eligible person is a body that does not hold any valid business registration certificate or valid branch registration certificate, the information specified for the person is as follows—

- (a) the name of the body in English or Chinese (or both); and
- (b) the following information in respect of an individual aged 18 or above named as the responsible person of the body—
 - (i) if the individual holds an identity card—the information mentioned in section 1(1)(a) and (b) of this Schedule in respect of the individual; or
 - (ii) if the individual does not hold an identity card—the information mentioned in section 1(2)(a), (b) and (c) of this Schedule in respect of the individual.

5. Interpretation

(1) In this Schedule—

Cap. 115 (《第115章》) means the Immigration Ordinance (Cap. 115);

Cap. 177 (《第177章》) means the Registration of Persons Ordinance (Cap. 177);

Commissioner (處長) means—

- (a) the person appointed under section 2 of Cap. 177 to be the Commissioner of Registration;

- (b) a person appointed under that section to be the Deputy Commissioner of Registration; or
- (c) a person appointed under that section to be an assistant commissioner of registration;

identification document (身分證明文件), in relation to a person, means—

- (a) a document issued by the Commissioner acknowledging that the person has applied—
 - (i) to be registered under Cap. 177; or
 - (ii) for a new identity card under regulation 13 or 14 of the Registration of Persons Regulations (Cap. 177 sub. leg. A);
- (b) a travel document (as defined by section 2(1) of Cap. 115) held by the person;
- (c) documentary proof of identity officially issued to the person for the purpose of the person's service in the Chinese People's Liberation Army;
- (d) a Vietnamese refugee card (as defined by section 2(1) of Cap. 115) issued to the person; or
- (e) a document issued under section 36(1) of Cap. 115 acknowledging that the person has entered into a recognizance;

identity card (身分證) has the meaning given by section 1A(1) of Cap. 177.

- (2) In this Schedule, a reference to a name in English includes a name in characters of the Latin alphabet.

Wendy LEUNG
Clerk to the Executive Council

COUNCIL CHAMBER

1 June 2021

Explanatory Note

The object of this Regulation is to require registration of subscriber identification modules (*SIM cards*) provided by persons supplying telecommunications services pursuant to certain licences (*specified licensees*).

Part 1—Preliminary

2. Section 1 provides for the commencement dates of different provisions of the Regulation. While the Regulation first comes into operation on 1 September 2021, the provisions relating to the registration requirement and related matters come into operation on 1 March 2022.
3. Sections 2 to 4 define expressions used in the Regulation. In particular, section 4 provides that each of the following is taken to be an eligible person—
 - (a) an individual acting in his or her individual capacity;
 - (b) an individual or a body of persons acting in the capacity of the holder of a valid business registration certificate or valid branch registration certificate;
 - (c) a body of persons that does not hold such a certificate.

Part 2—Registration

4. Section 5 provides that a specified licensee must ensure that its SIM card is not active unless the SIM card is currently registered with it.

5. Under section 6, a specified licensee may register a service plan SIM card for any eligible person, or a pre-paid SIM card for any eligible person mentioned in paragraph 3(a) or (b), provided that certain conditions are met, including the provision by the eligible person of certain information of the person (*specified information*).
6. Section 7 provides for the maximum number of pre-paid SIM cards that may be currently registered with a specified licensee for an eligible person.

Part 3—Deregistration

7. Sections 8 to 10 provide for the circumstances in which a specified licensee may or must deregister its SIM card. Those circumstances include the cessation of service, irregularity concerning the registration and receipt of the eligible person's request for deregistration.

Part 4—Record Keeping

8. Section 11 requires a specified licensee to keep a record in respect of its SIM card (which must include the specified information of the eligible person) until the expiry of 1 year after the SIM card is deregistered.
9. Sections 12 and 13 require a specified licensee to provide the record to a law enforcement officer in certain circumstances with or without a warrant issued by a magistrate.

Part 5—Miscellaneous

10. Section 14 enables the Communications Authority to issue guidelines. Section 15 allows the Authority to inspect places used by specified licensees for the purpose of compliance with the Regulation.

Part 6—Transitional Arrangements

11. Part 6 provides for transitional arrangements. For an existing pre-paid SIM card, section 5 does not apply until after 23 February 2023 (see section 17). For an existing service plan SIM card, section 5 does not apply so long as the specified licensee continues to supply a service through the SIM card to the existing user (see section 18).

Schedule—Specified Information of Eligible Persons

12. The Schedule provides for the specified information of eligible persons.