

立法會

Legislative Council

LC Paper No. LS 1/00-01

Paper for the House Committee Meeting of the Legislative Council on 4 October 2000

Legal Service Division Reports on Subsidiary Legislation tabled in the Legislative Council from 7 June to 26 June and on 4 October 2000

Purpose of Paper

The purpose of this paper is to explain to Members the reason for the large volume of subsidiary legislation which is now presented to Members for consideration, and the role of this Council in respect of the scrutiny of subsidiary legislation.

Background

2. All items of subsidiary legislation currently submitted to Members are subject to section 34 of the Interpretation and General Clauses Ordinance (Cap. 1) ("the Ordinance"). The section empowers the Council to amend an item of subsidiary legislation within certain limits. The subsidiary legislation currently submitted may be divided into two main groups:

- (i) Items tabled between 7 June and 26 June 2000 (Appendix I)

Under section 34(2) and (3) of the Ordinance, the scrutiny period of these items is deemed to extend to and expire on the day after the second meeting of this Council (i.e. 11 October 2000 will be the last day of the normal scrutiny period). The scrutiny period could be further extended under the Ordinance by resolution of this Council to the next meeting (i.e. 18 October 2000).

- (ii) Items made and gazetted after the last meeting of the Legislative Council on 26 June 2000 (Appendix II)

These items have not been tabled as there has been no meeting of the Legislative Council since they were gazetted. These items will be tabled at the meeting on 4 October 2000, and this Council may by resolution amend them at the meeting to be held on 1 November 2000 or the next meeting after that date if extended by resolution.

3. Members may obtain the gazette version of these items through the Research & Library Information System ("RLIS"). Where a Legislative Council Brief was issued by the Administration on a particular item, the Brief is appended to the report on the relevant item.

Suggested method of approach

4. In scrutinizing subsidiary legislation the principal tests are:
- (a) lawfulness - are the provisions within the limits of the authority entrusted to the executive by the legislature in the principal ordinance?
 - (b) fairness/reasonableness - even if lawful, are the provisions acceptable on their merits?
 - (c) clarity - even if lawful, fair and reasonable, can improvements be made to the drafting to help citizens understand them?

5. It is the Legal Service Division's responsibility to advise Members on (a) and (c) above since legal issues are involved. Hence the Division scrutinizes all items when they are gazetted, normally on a Friday. A written report is then produced for the next House Committee meeting, held usually on the following Friday. The weekly report enables Members to monitor all items. Those which are of interest or concern to one or more Members will then be followed up, either by the Legal Service Division or the Secretariat, on request. If Members find there are issues that need to be further pursued, a subcommittee may be formed to study a particular item in detail. Alternatively, a subcommittee may be set up at the outset, if necessary.

Amendment of subsidiary legislation by LegCo resolution

6. If as a result of the scrutiny of an item of subsidiary legislation it is found that changes should be made, Members may amend it by passing a resolution in this Council within the prescribed time limits.

7. Any such amendment to a piece of subsidiary legislation by resolution takes effect only from the date of gazettal of the resolution. Therefore the amendment does not affect anything done before then under the subsidiary legislation although it might have already taken effect.

8. Members may wish to note that section 34 also specifies a limit in which amendments could be made by the Legislative Council, that is, the subsidiary legislation must be amended in such a manner consistent with the power to make such subsidiary legislation.

Encl

Prepared by

Lam Ping-man, Stephen
Assistant Legal Adviser
Legislative Council Secretariat
30 September 2000

***Legal Service Division Reports on
Subsidiary Legislation tabled from 7 June to 26 June 2000***

<u>L.N. No</u>	<u>Item</u>
200	Securities and Futures Commission (Levy) (Securities) (Amendment) (No. 2) Order 2000
201	Immigration (Vietnamese Refugee Centres) (Designation) Order 2000
202	Immigration (Vietnamese Refugee Centres) (Open Centre) (Amendment) Rules 2000
203	Tax Reserve Certificates (Rate of Interest) (No. 5) Notice 2000
207	Road Traffic (Traffic Control) (Designation of Prohibited and Restricted Zones) (Amendment) Notice 2000
208	Security and Guarding Services (Amendment) Ordinance 2000 (25 of 2000) (Commencement) Notice 2000
209	Security and Guarding Services (Fees) (Amendment) Regulation 2000 (L.N. 134 of 2000) (Commencement) Notice 2000
210	Security and Guarding Services (Licensing) (Amendment) Regulation 2000 (L.N. 135 of 2000) (Commencement) Notice 2000
215	Financial Resources Rules (Exemption) Notice 2000
230	Legal Aid (Amendment) Ordinance 2000 (26 of 2000) (Commencement) Notice 2000

立法會
Legislative Council

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 2 June 2000**

Date of Tabling in LegCo : 7 June 2000

Amendment to be made by : 11 October 2000 (or 18 October 2000 if extended by resolution)

**Securities and Futures Commission Ordinance (Cap. 24)
Securities and Futures Commission (Levy) (Securities) (Amendment) (No. 2)
Order 2000 (L.N. 200)**

This Order provides that a Pilot Programme Market Maker does not need to pay a levy on the purchase or sale of securities in his capacity as such Maker on the Unified Exchange.

The Order shall come into operation on 3 July 2000.

LegCo Brief SU D10 (2000) X dated 2 June 2000, issued by the Financial Services Bureau, is relevant.

**Immigration Ordinance (Cap. 115)
Immigration (Vietnamese Refugee Centres) (Designation) Order 2000
(L.N. 201)**

This Order cancels the designation of the Pillar Point Vietnamese Refugee Centre under the principal ordinance.

The Administration has been asked to clarify whether the description in the Schedule that copies of the plan of the Centre "are deposited in the offices of the Security Branch of the Government Secretariat, Central Government Offices" ("中區政府合署布政司署保安科" in Chinese) is appropriate, considering the name changes since 1997.

**Immigration Ordinance (Cap. 115)
Immigration (Vietnamese Refugee Centres) (Open Centre) (Amendment) Rules
2000 (L.N. 202)**

These Rules remove the Pillar Point Vietnamese Refugee Centre from the list of specified Vietnamese Refugee Centres to which the Immigration (Vietnamese Refugee Centres)(Open Centre) Rules apply.

**Tax Reserve Certificates (Fourth Series) Rules (Cap. 289 sub. leg.)
Tax Reserve Certificates (Rate of Interest) (No. 5) Notice 2000 (L.N. 203)**

This Notice fixes the rate of interest payable on tax reserve certificates issued on or after 5 June 2000 at 5.5208% per annum, the current rate being 5.0625%.

Prepared by

Arthur CHEUNG
Assistant Legal Adviser
Legislative Council Secretariat
2 June 2000

LS/S/37/99-00
2869 9283
2877 5029

Secretary for Security
Room A608, 6/F
CGO, Ming Wing
Lower Albert Road
Central, Hong Kong

By Fax (2810 2261) & By Post

2 June 2000

Dear Madam,

**Immigration (Vietnamese Refugee Centres)
(Designation) Order 2000**

With reference to the Order gazetted as L.N. 201 today, I shall be grateful if you could clarify whether the description in the Schedule thereto that copies of the plan of the Pillar Point Vietnamese Refugee Centre "are deposited in the offices of the Security Branch of the Government Secretariat, Central Government Offices" ("中區政府合署布政司署保安科" in Chinese) is appropriate, considering the name changes since 1997.

Yours faithfully,

(Arthur CHEUNG)
Assistant Legal Adviser

立法會
Legislative Council

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 9 June 2000**

Date of Tabling in LegCo : 14 June 2000

Amendment to be made by : 11 October 2000 (or 18 October 2000 if extended by resolution)

**Road Traffic (Traffic Control) Regulations (Cap. 374 sub. leg.)
Road Traffic (Traffic Control) (Designation of Prohibited and Restricted Zones)
(Amendment) Notice 2000 (L.N. 207)**

This Notice is made by the Airport Authority ("the Authority") with the approval of the Commissioner for Transport under regulation 14(1) of the Road Traffic (Traffic Control) Regulations (Cap. 374 sub. leg.), as modified by section 1 of Part V of Schedule 2 to the Airport Authority Bylaw (Cap. 483 sub. leg.).

This Notice amends Schedule 2 to the Road Traffic (Traffic Control) (Designation of Prohibited and Restricted Zones) Notice (Cap. 374 sub. leg.) by adding as item 6 to the list of restricted areas Tung Fai Road and as item 7 the road intersecting the south end of Tung Fai Road, being the area delineated by hatching on a plan numbered AMD/LOD/GZ/008A and deposited in the head office of the Authority ("the new restricted areas"). Drivers of all motor vehicles without a valid restricted zone permit except franchised buses are thereby prohibited absolutely from picking up or setting down passengers or loading or unloading goods in the new restricted areas.

**Security and Guarding Services Ordinance (Cap. 460)
Security and Guarding Services (Amendment) Ordinance 2000 (25 of 2000)
(Commencement) Notice 2000 (L.N. 208)**

By this Notice made under section 1(2) of the Security and Guarding Services (Amendment) Ordinance 2000 (25 of 2000) ("the Amendment Ordinance"), the Secretary for Security has appointed 15 June 2000 as the date on which the Amendment Ordinance is to come into operation.

The Amendment Ordinance amends the definition of "security work" and "security devise" so that the scope of activities regulated by the Security and Guarding Services Ordinance (Cap. 460) ("the Ordinance") is made clearer. Provisions are also added to increase the membership of the Security and Guarding Services Authority, to facilitate the transaction of its business by circulation of papers, to give protection against personal liabilities to persons performing functions under the Ordinance, to extend the Commissioner of Police's power of investigation to cover an application by a licensee to vary the conditions of his licence and the time within which the Commissioner is to complete his investigation, and to provide for aspects of the collection and payment of fees.

Members may wish to refer to the Report and Further Report of the Legal Service Division respectively dated 12 February (LC paper No. LS86/99-00) and 1 March 2000 (LC paper No. LS100/99-00) for further information.

**Security and Guarding Services Ordinance (Cap. 460)
Security and Guarding Services (Fees) (Amendment) Regulation 2000 (L.N. 134
of 2000) (Commencement) Notice 2000 (L.N. 209)**

By this Notice made under section 1 of the Security and Guarding Services (Fees) (Amendment) Regulation 2000 (L.N. 134 of 2000) ("the Regulation"), the Secretary for Security has appointed 15 June 2000 as the date on which the Regulation is to come into operation.

The Regulation repeals provisions relating to payment of licence fees by instalment. The two new Schedules of fees replace the old ones to accommodate the relevant amendments introduced by the Security and Guarding Services (Amendment) Ordinance 2000 (25 of 2000).

**Security and Guarding Services Ordinance (Cap. 460)
Security and Guarding Services (Licensing) (Amendment) Regulation 2000 (L.N.
135 of 2000) (Commencement) Notice 2000 (L.N. 210)**

By this Notice made under section 1 of the Security and Guarding Services (Licensing) (Amendment) Regulation 2000 (L.N. 135 of 2000) ("the Regulation"), the Secretary for Security has appointed 15 June 2000 as the date on which the Regulation is to come into operation.

The Regulation prescribes new forms for the security personnel permit and provides for amendments consequential upon the amendments introduced by the Security and Guarding Services (Amendment) Ordinance 2000 (25 of 2000).

Prepared by

KAU Kin-wah
Assistant Legal Adviser
Legislative Council Secretariat
12 June 2000

立法會
Legislative Council

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 20 June 2000**

Date of Tabling in LegCo : 21 June 2000

Amendment to be made by : 11 October 2000 (or 18 October 2000 if extended by resolution)

**Securities and Futures Commission Ordinance (Cap. 24)
Financial Resources Rules (Exemption) Notice 2000 (L.N. 215)**

This Notice exempts dealers registered under the Securities Ordinance (Cap. 333) from the requirement to comply with section 13(7) and (8) of the Financial Resources Rules (L.N. 103 of 2000) ("the Rules") subject to certain conditions specified in the Notice.

Section 13(7) and (8) of the Rules requires a dealer to include in his liquid assets amounts receivable from a registered securities margin financier and net amount receivable from such financier arising from dealing in securities by their common clients. The Notice provides as part of the conditions for exemption that amounts receivable and net amount receivable from a securities margin financier (whether or not registered under the Securities Ordinance) should be included in the liquid assets of a dealer.

Under section 29AA(4) of the Securities and Futures Commission Ordinance (Cap. 24), the Securities and Futures Commission may not grant an exemption unless it is satisfied that -

- (a) compliance with the Rules or the specified provision of the Rules would be unduly burdensome for the person or class of persons having regard to the benefit which compliance would confer on the investing public; and
- (b) the exercise of this power in the particular case is not contrary to the interest of the investing public.

The Commission confirms that it has exercised its power in accordance with the above requirements. It has also clarified that no enforcement action would be taken in respect of failure to comply with section 13(7) and (8) of the Rules on the part of registered securities dealers for the period from the commencement of the Rules on 12 June 2000 to the publication of this Notice on 20 June 2000.

The exemption shall cease to have effect in relation to a dealer -

- (a) in the case where the securities margin financier concerned has not applied to the Securities and Futures Commission to be registered as a securities margin financier on or before 12 July 2000, on 13 July 2000; and
- (b) in the case where the securities margin financier concerned has applied to the Commission to be registered as a securities margin financier on or before 12 July 2000 -
 - (i) on the date when the securities margin financier concerned becomes so registered; or
 - (ii) 14 days after the Commission has notified the securities margin financier the refusal of its application,

whichever is applicable.

The specified period for the exemption to take effect ties in with the period during which a securities margin financier who has been carrying on business of securities margin financing immediately before the commencement of the Securities (Margin Financing) Amendment Ordinance (20 of 2000) may apply to the Commission for registration.

Prepared by

Wong Sze-man, Bernice
Assistant Legal Adviser
Legislative Council Secretariat
21 June 2000

立法會
Legislative Council

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 24 June 2000**

Date of Tabling in LegCo : 26 June 2000

Amendment to be made by : 11 October 2000 (or 18 October 2000 if extended by resolution)

Legal Aid Ordinance (Cap. 91)

Legal Aid (Amendment) Ordinance 2000 (26 of 2000) (Commencement) Notice 2000 (L.N. 230)

By this Notice, the Director of Administration has appointed 3 July 2000 as the day on which the Legal Aid (Amendment) Ordinance 2000 (26 of 2000) is to come into operation. A Bills Committee was formed to study the Bill and the Bill was passed by this Council on 3 May 2000.

The purpose of the Amendment Ordinance is to implement some of the final recommendations of the Legal Aid Policy Review 1997.

The Legal Aid (Amendment) Regulation 2000 and the Legal Aid (Assessment of Resources and Contributions) (Amendment) Regulation 2000 will also come into operation on 3 July 2000 (see L.N. Nos. 147 and 148 of 2000).

Prepared by

Ho Ying-chu, Anita
Assistant Legal Adviser
Legislative Council Secretariat
28 June 2000

***Legal Service Division Reports on
Subsidiary Legislation tabled on 4 October 2000***

<u>L.N. No</u>	<u>Item</u>
231	Solicitors' Accounts (Amendment) Rules 2000
232	Tax Reserve Certificates (Rate of Interest) (No. 6) Notice 2000
239	Legal Practitioners (Amendment) Ordinance 2000 (42 of 2000) (Commencement) Notice 2000
240	Designation of Museums (Amendment) Order 2000
241	Customs and Excise Service Children's Education Trust Fund Ordinance (Cap. 551) (Commencement) Notice 2000
242	Building Management (Amendment) Ordinance 2000 (69 of 2000) (Commencement) Notice 2000
243	Dutiable Commodities (Amendment) Ordinance 2000 (57 of 2000) (Commencement) Notice 2000
244	Dutiable Commodities (Exempted Quantities) Notice
245	Employees' Compensation (Amendment) (No. 2) Ordinance 2000 (52 of 2000) (Commencement) Notice 2000
246	Tax Reserve Certificates (Rate of Interest) (No. 7) Notice 2000
247	District Court (Amendment) Ordinance 2000 (28 of 2000) (Commencement) Notice 2000
248	Rules of the District Court (L.N. 186 of 2000) (Commencement) Notice 2000

<u>L.N. No</u>	<u>Item</u>
249	District Court Civil Procedure (Fees) (Amendment) Rules 2000 (L.N. 187 of 2000) (Commencement) Notice 2000
250	Chinese Medicine Ordinance (Cap. 549) (Commencement) Notice 2000
251	Chinese Medicine Practitioners (Fees) Regulation (L.N. 153 of 2000) (Commencement) Notice 2000
252	Chinese Medicine Practitioners (Registration) Regulation (L.N. 154 of 2000) (Commencement) Notice 2000
253	Chinese Medicine Practitioners (Discipline) Regulation (L.N. 155 of 2000) (Commencement) Notice 2000
254	Financial Resources Rules (Exemption) (No. 2) Notice 2000
255	Antiquities and Monuments (Declaration of Historical Buildings) Notice 2000
256	Public Health and Municipal Services Ordinance (Civil Centres) (Amendment of Thirteenth Schedule) (No. 2) Order 2000
257	Statutes of the Chinese University of Hong Kong (Amendment) Statutes 2000
258	Tax Reserve Certificates (Rate of Interest) (No. 8) Notice 2000
259	Buildings (Amendment) Ordinance 2000 (39 of 2000) (Commencement) Notice 2000
260	Employees Retraining Ordinance (Amendment of Schedule 2) Notice 2000
261	Electronic Transactions (Exclusion) (Amendment) (No. 2) Order 2000
262	Public Health and Municipal Services Ordinance (Public Markets) (Designation and Amendment of Tenth Schedule) Order 2000

<u>L.N. No</u>	<u>Item</u>
263	Declaration of Markets Notice (Amendment) Declaration 2000
264	Foreign Lawyers Practice (Amendment) Rules 2000
265	Solicitors' Practice (Amendment) (No. 2) Rules 2000
266	Solicitors' Practice (Amendment) (No. 3) Rules 2000
267	Banking Ordinance (Declaration under section 2(14)(d)) (No. 2) Notice 1997 (Repeal) Notice 2000
268	Tax Reserve Certificates (Rate of Interest) (No. 9) Notice 2000
269	Witness Protection Ordinance (67 of 2000) (Commencement) Notice 2000

立法會

Legislative Council

Legal Service Division Report on Subsidiary Legislation Gazetted on 30 June 2000

Date of Tabling in LegCo : 4 October 2000

Amendment to be made by : 1 November 2000 (or 8 November 2000 if extended by resolution)

Legal Practitioners Ordinance (Cap. 159) Solicitors' Accounts (Amendment) Rules 2000 (L.N. 231)

These Rules amend the Solicitors' Accounts Rules (Cap. 159 sub. leg.) to provide that except for the transfer of money from one client account to another client account at the same bank, the written authorization of the following persons is required for drawing money from a solicitor's client account -

- (a) the solicitor in whose name the client account is kept or where the client account is kept in the name of a firm, any solicitor, partner, consultant or foreign lawyer in the firm;
- (b) a certified public accountant as defined in the Professional Accountants Ordinance (Cap. 50); or
- (c) a person approved by the Council of the Law Society of Hong Kong upon application by the client's solicitor or firm and subject to such conditions as the Council may think fit.

Tax Reserve Certificates Ordinance (Cap. 289)

**Tax Reserve Certificates (Rate of Interest) (No. 6) Notice 2000
(L.N. 232)**

This Notice fixes at 5.4533% per annum the rate of interest payable on tax reserve certificates issued on or after 3 July 2000.

Prepared by

Fung Sau-kuen, Connie
Assistant Legal Adviser
Legislative Council Secretariat
10 August 2000

立法會
Legislative Council

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 7 July 2000**

Date of Tabling in LegCo : 4 October 2000

Amendment to be made by : 1 November 2000 (or 8 November 2000 if extended by resolution)

Legal Practitioners (Amendment) Ordinance 2000 (42 of 2000)
Legal Practitioners (Amendment) Ordinance 2000 (42 of 2000) (Commencement) Notice 2000 (L.N. 239)

This Notice specifies 7 July 2000 as the date on which -

- (a) section 2 (amends the definition of "Hong Kong firm" to clarify that all the partners must be enrolled on the roll of solicitors, not just those resident in Hong Kong),
- (b) section 3 (establishes a position of "inspector" to assist the Council of the Law Society in its investigations),
- (c) section 4 (doubles the number of solicitors and lay persons who can be appointed to the Solicitors Disciplinary Tribunal Panel),
- (d) section 5 (gives the Council of the Law Society power to appeal against a decision of a Solicitors Disciplinary Tribunal),
- (e) section 6 (gives a Solicitors Disciplinary Tribunal power to publish a summary of its findings and order in any publication produced by the Law Society) and
- (f) section 14 (offences in relation to foreign lawyers, foreign firms and Associations),

are to come into operation.

Prepared by

Lam Ping-man, Stephen
Assistant Legal Adviser
Legislative Council Secretariat
7 July 2000

立法會
Legislative Council

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 21 July 2000**

Date of Tabling in LegCo : 4 October 2000

Amendment to be made by : 1 November 2000 (or 8 November 2000 if extended by resolution)

**Public Health and Municipal Services Ordinance (Cap. 132)
Designation of Museums (Amendment) Order 2000 (L.N. 240)**

This Order designates the Hong Kong Film Archive at 50 Lei King Road, Sai Wan Ho as a museum for the purposes of the Public Health and Municipal Services Ordinance (Cap. 132).

**Customs and Excise Service Children's Education Trust Fund Ordinance (Cap. 551)
Customs and Excise Service Children's Education Trust Fund Ordinance (Cap. 551) (Commencement) Notice 2000 (L.N. 241)**

This Notice appoints 21 July 2000 as the day the Ordinance comes into operation.

The Ordinance, which was enacted towards the end of 1999, establishes a fund to provide financial assistance for post-primary education for children of customs officers and for the education and training for handicapped children of such officers.

**Building Management Ordinance (Cap. 344)
Building Management (Amendment) Ordinance 2000 (69 of 2000) (Commencement) Notice 2000 (L.N. 242)**

This Notice appoints 1 August 2000 as the day on which the amending Ordinance (except section 10(a) (relating to the duties and powers of corporation) and 12 (substitution by a new section on obligations regarding insurance)) comes into operation.

The amending Ordinance was passed by the Legislative Council at the end of the last session. Its purpose is to enact provisions to facilitate better management of buildings.

Prepared by

Arthur CHEUNG
Assistant Legal Adviser
Legislative Council Secretariat
22 September 2000

立法會
Legislative Council

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 28 July 2000**

Date of Tabling in LegCo : 4 October 2000

Amendment to be made by : 1 November 2000 (or 8 November 2000 if extended by resolution)

Dutiable Commodities Ordinance (Cap. 109)

**Dutiable Commodities (Amendment) Ordinance 2000 (57 of 2000)
(Commencement) Notice 2000 (L.N. 243)**

By this Notice made under section 1(2) of the Dutiable Commodities (Amendment) Ordinance ("the Amendment Ordinance"), the Secretary for the Treasury has appointed 28 July 2000 as the date on which the Amendment Ordinance is to come into operation.

The Amendment Ordinance provides for the following matters:-

- (a) replacing the power of the Chief Executive in Council to make regulations dispensing with or relaxing requirements under the Dutiable Commodities Ordinance (Cap. 109) with a similar power in relation to goods generally;
- (b) allowing the exemption from duty and the unlicensed manufacturing in residential premises not for purposes of sale of alcoholic liquor not exceeding a specified quantity;
- (c) extending presumptions to facilitate the enforcement action by the Commissioner of Customs and Excise against the use of prohibited fuel in motor vehicles; and
- (d) increasing the penalty for offences relating to the use of kerosene and marked oil in motor vehicles or pleasure vessels and offences relating to marking and colouring of light diesel oil.

The Amendment Ordinance was enacted after a Bills Committee had scrutinized the bill. Members may wish to refer to the report of the Bills Committee (LC Paper No. CB(1)1839/99-00) for further information.

Dutiable Commodities Ordinance (Cap. 109)
Dutiable Commodities (Exempted Quantities) Notice (L.N. 244)

By this Notice made under regulation 12(1)(ea) of the Dutiable Commodities Regulations (Cap. 109 sub. leg.), the Commissioner of Customs and Excise ("the Commissioner") has specified the quantities of alcoholic liquor and tobacco exempted from duty for the purposes of section 34A of the Dutiable Commodities Ordinance (Cap.109) and the first mentioned regulation 12(1)(ea) as follows:-

for a passenger of the age of 18 or above, holding a Hong Kong identity card and having spent 24 hours or longer outside Hong Kong	(i) 1 litre of still wine; and (ii) 100 cigarettes or 25 cigars or 125 grammes of other manufactured tobacco.
for a passenger of the age of 18 or above not holding a Hong Kong identity card	(i) 1 litre of alcoholic liquor; and (ii) 200 cigarettes or 50 cigars or 250 grammes of other manufactured tobacco.

The exemption in each case only applies to alcoholic liquor and tobacco that is either (a) imported by a passenger of any ship, aircraft, train or vehicle for his own use and in his baggage; or (b) bought for his own use by such passenger at a licensed warehouse located at any place approved by the Commissioner in the arrival area at an entry point in Hong Kong.

This Notice is occasioned by the amendments introduced by the Dutiable Commodities (Amendment) (No. 2) Ordinance 2000 (57 of 2000) for formal compliance with the new statutory provisions. There has been no substantive change in quantities or policy.

Employees' Compensation Ordinance (Cap. 282)
Employees' Compensation (Amendment) (No. 2) Ordinance 2000 (52 of 2000)
(Commencement) Notice 2000 (L.N. 245)

By this Notice made under section 1(2) of the Employees' Compensation (Amendment) (No.2) Ordinance 2000 (52 of 2000) ("the Amendment Ordinance"), the Secretary for Education and Manpower has appointed 1 August 2000 as the date on which the Amendment Ordinance is to come into operation.

The Amendment Ordinance provides for the payment of compensation in the case of the death of an employee to members of his family instead of his dependants; an additional avenue for the settlement of claims to compensation, i.e. in straightforward cases the Commissioner for Labour ("the Commissioner") may determine a claim; the interim payment by an employer to the spouse of a deceased employee pending final determination by the Commissioner; the reimbursement of funeral and medical attendance expenses in all fatal cases by the employer and the revision of the level of fines for offences committed under the Employees' Compensation Ordinance (Cap. 282).

Prior to the enactment of the Amendment Ordinance, the bill had been scrutinized by a Bills Committee. Members may wish to refer to the report of the Bills Committee (LC Paper No. CB(2)2326/99-00) for further information.

Prepared by

KAU Kin-wah
Assistant Legal Adviser
Legislative Council Secretariat
8 August 2000

立法會
Legislative Council

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 4 August 2000**

Date of Tabling in LegCo : 4 October 2000

Amendment to be made by : 1 November 2000 (or 8 November 2000 if extended by resolution)

Tax Reserve Certificates (Fourth Series) Rules (Cap. 298 sub.leg.)
Tax Reserve Certificates (Rate of Interest) (No. 7) Notice 2000 (L.N. 246)

This Notice fixes at 5.1042% per annum the rate of interest payable on tax reserve certificates issued on or after 7 August 2000.

District Court (Amendment) Ordinance 2000 (28 of 2000)
District Court (Amendment) Ordinance 2000 (28 of 2000) (Commencement) Notice 2000 (L.N. 247)

This Notice appoints 1 September 2000 as the day on which the District Court (Amendment) Ordinance 2000 (except sections 1 and 41) shall come into operation.

The Amendment Ordinance makes provisions revising :

- (a) the civil jurisdiction of the District Court from \$120,000 to \$600,000;
- (b) the jurisdiction of recovery of land from a rateable value of \$100,000 to \$240,000;
- (c) the jurisdiction where title to land is in question from a rateable value of \$100,000 to \$240,000; and
- (d) various levels in respect of equity jurisdiction.

The Amendment Ordinance enables the District Court to hear and determine any action for personal injuries where the amount of claim does not exceed \$600,000. Other miscellaneous amendments are also introduced.

Sections 1 and 41 came into operation on 19 May 2000, the day on which the Amendment Ordinance was published in the Gazette. Section 1 deals with commencement and section 41 empowers the Rules Committee and the Chief Justice to make rules.

Rules of the District Court (L.N. 186 of 2000)

Rules of the District Court (L.N. 186 of 2000) (Commencement) Notice 2000 (L.N. 248)

District Court Civil Procedure (Fees) (Amendment) Rules 2000 (L.N. 187 of 2000)

District Court Civil Procedure (Fees) (Amendment) Rules 2000 (L.N. 187 of 2000) (Commencement) Notice 2000 (L.N. 249)

By these two Notices, the Chief Justice appoints 1 September 2000 as the day on which the Rules of the District Court and the District Court Civil Procedure (Fees) (Amendment) Rules 2000 shall come into operation.

The Rules of the District Court implement changes to the civil procedure of the District Court consequential to the District Court (Amendment) Ordinance 2000. The majority of the Rules are modelled on the Rules of the High Court (Cap. 4 sub. leg.).

The District Court Civil Procedure (Fees) (Amendment) Rules 2000 incorporate the necessary amendments adapted from the corresponding provisions in the High Court Fees Rules (Cap. 4 sub. leg.) as a result of changes in the civil procedure of the District Court contained in the Rules of the District Court.

Prepared by

Wong Sze-man, Bernice
Assistant Legal Adviser
Legislative Council Secretariat
7 September 2000

立法會
Legislative Council

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 11 August 2000
and 12 August 2000**

Date of Tabling in LegCo : 4 October 2000

Amendment to be made by : 1 November 2000 (or 8 November 2000 if extended by resolution)

Chinese Medicine Ordinance (Cap. 549)

Chinese Medicine Ordinance (Cap. 549) (Commencement) Notice 2000 (L.N. 250)

The Secretary for Health and Welfare appoints 16 August 2000 as the day on which sections 7(a)(ii), 9(a), 18(a)(ii), 20(a), 35(a)(ii), 37(a), 40(2), 51 to 107 (except section 90(8)), 160 and 166 of the Chinese Medicine Ordinance (the Ordinance) shall come into operation. Sections 51 to 107 provide for the registration of Chinese medicine practitioners.

This is the second Commencement Notice of the Ordinance. Sections 1 to 50 and some other provisions have already come into operation in August 1999 (please see L.N. 214 of 1999). The remaining provisions (Parts XIII to XV) that have not yet come into operation relate mainly to proprietary Chinese medicine.

Chinese Medicine Ordinance (Cap. 549)

Chinese Medicine Practitioners (Fees) Regulation (L.N. 153 of 2000) (Commencement) Notice 2000 (L.N. 251)

The Chinese Medicine Practitioners (Fees) Regulation (L.N. 153 of 2000) (the Regulation) prescribes the various fees payable under the principal Ordinance and is made by the Chief Executive in Council.

By this Notice, the Secretary for Health and Welfare appoints 16 August 2000 as the day on which the Regulation is to come into operation.

Chinese Medicine Ordinance (Cap. 549)
Chinese Medicine Practitioners (Registration) Regulation (L.N. 154 of 2000)
(Commencement) Notice 2000 (L.N. 252)

Chinese Medicine Ordinance (Cap. 549)
Chinese Medicine Practitioners (Discipline) Regulation (L.N. 155 of 2000)
(Commencement) Notice 2000 (L.N. 253)

By these two Notices, the Secretary for Health and Welfare appoints 16 August 2000 as the day on which the two Regulations shall come into operation. These two Regulations are made by the Chinese Medical Council of Hong Kong with the approval of the Secretary for Health and Welfare.

Securities and Futures Commission Ordinance (Cap. 24)
Financial Resources Rules (Exemption) (No. 2) Notice 2000 (L.N. 254)

Section 29AA of the Securities and Futures Commission Ordinance (Cap. 24) (the Ordinance) provides that the Commission may by notice in the Gazette exempt a specified person, or persons of a specified class, from the operation of the Financial Resources Rules (the Rules) (L.N. 103 of 2000). Such exemption may not be granted unless it is satisfied that compliance with the Rules would be unduly burdensome for the specified persons and the exercise of this power is not contrary to the interest of the investing public.

For the purposes of calculating liquid assets of a registered dealer or securities margin financier, section 5(2)(b) of the Rules stipulates that any long positions in securities which have been suspended from trading for 3 or more business days shall be stated at nil value unless otherwise stipulated by these Rules. Section 15(a) does not allow any unlisted securities to be included in the liquid assets.

Cable and Wireless HKT Limited (HKT) had a Scheme of Arrangement with Pacific Century CyberWorks Limited (PCCW). HKT shares were suspended from trading on the Stock Exchange of Hong Kong on 9 August 2000 and withdrawn from listing on 17 August 2000. HKT shares would be replaced with cash and/or new PCCW shares on 21 August 2000.

The suspension and withdrawal from listing of the HKT shares would have an adverse effect on the liquid capital position of dealers and securities margin financiers that had HKT shares as their house positions or had extended margin loans secured by HKT shares. A number of dealers might breach the Rules as a result of this nil valuation of HKT shares and would be required to cease dealing in securities during 12 August 2000 to 21 August 2000.

The Commission considered that such breaches were technical in nature since HKT shares would be replaced with cash and/or new PCCW shares on 21 August 2000, which can be included in the Rules computation. An exemption ought to be made during the takeover period of HKT by PCCW. The HKT shares should be valued based on the Share Alternative or the Combination Alternative as stipulated in the Scheme of Arrangement.

Members may refer to the LegCo Brief issued by the Securities and Futures Commission on 29 September 2000 for details.

Prepared by

Ho Ying-chu, Anita
Assistant Legal Adviser
Legislative Council Secretariat
29 September 2000

立法會
Legislative Council

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 18 August 2000**

Date of Tabling in LegCo : 4 October 2000

Amendment to be made by : 1 November 2000 (or 8 November 2000 if extended by resolution)

**Antiquities and Monuments Ordinance (Cap. 53)
Antiquities and Monuments (Declaration of Historical Buildings) Notice 2000
(L.N. 255)**

This Notice declares the two buildings respectively known as the North Block and the West Block of St. Joseph's College at No. 7 Kennedy Road, Hong Kong to be historical buildings. The effect of this Notice is that certain acts or activities such as excavation, carrying on building or other works, demolition, etc. are prohibited in relation to the said historical buildings except in accordance with a permit granted by the Secretary for Home Affairs.

Prepared by

Fung Sau-kuen, Connie
Assistant Legal Adviser
Legislative Council Secretariat
20 September 2000

立法會
Legislative Council

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 25 August 2000**

Date of Tabling in LegCo : 4 October 2000

Amendment to be made by : 1 November 2000 (or 8 November 2000 if extended by resolution)

**Public Health and Municipal Services Ordinance (Cap. 132)
Public Health and Municipal Services Ordinance (Civil Centres) (Amendment of Thirteenth Schedule) (No. 2) Order 2000 (L.N. 256)**

This Order provides that the Lut Sau Hall in Yuen Long shall cease to be set aside for use as a civic centre.

The order has come into operation on 1 September 2000.

**The Chinese University of Hong Kong Ordinance (Cap. 1109)
Statutes of the Chinese University of Hong Kong (Amendment) Statutes 2000 (L.N. 257)**

These Amendment Statutes provide that should a nominated or elected member of the Council of The Chinese University of Hong Kong die or resign during his period of membership, the body which nominated or elected him shall duly nominate or elect a successor whose membership of the Council shall be for a period not exceeding 3 years instead of the unexpired period of membership of his predecessor.

These Amendment Statutes further add the Director of the School of Continuing Studies as a member of the Senate of The Chinese University of Hong Kong.

Prepared by

Lam Ping-man, Stephen
Assistant Legal Adviser
Legislative Council Secretariat
2 September 2000

立法會
Legislative Council

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 1 September 2000**

Date of Tabling in LegCo : 4 October 2000

Amendment to be made by : 1 November 2000 (or 8 November 2000 if extended by resolution)

Tax Reserve Certificates (Fourth Series) Rules (Cap. 289)

Tax Reserve Certificates (Rate of Interest) (No. 8) Notice 2000 (L.N. 258)

This Notice fixes the rate of interest payable on tax reserve certificates issued on or after 4 September 2000 at 4.9875% per annum, down from 5.1042% set previously.

Buildings Ordinance (Cap. 123)

Buildings (Amendment) Ordinance 2000 (39 of 2000) (Commencement) Notice 2000 (L.N. 259)

This Notice appoints 1 November 2000 as the day on which the Ordinance (except section 6(c), which has already been operational) comes into operation.

The Ordinance was passed towards the end of the last session and made a miscellany of minor amendments to improve the principal ordinance.

Prepared by

Arthur CHEUNG
Assistant Legal Adviser
Legislative Council Secretariat
22 September 2000

立法會
Legislative Council

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 22 September 2000**

Date of Tabling in LegCo : 4 October 2000

Amendment to be made by : 1 November 2000 (or 8 November 2000 if
extended by resolution)

Employees Retraining Ordinance (Cap. 423)

**Employees Retraining Ordinance (Amendment of Schedule 2) Notice 2000
(L.N. 260)**

By this Notice made by the Employees Retraining Board under section 31(2) of the Employees Retraining Ordinance (Cap. 423) ("the Ordinance"), Schedule 2 of the Ordinance is amended by the addition of a new item, namely,

"62. The Boys' and Girls' Clubs Association of Hong Kong".

The amendment adds an organization to the list of training bodies capable of providing or conducting retraining courses for the purpose of the Ordinance.

Prepared by

KAU Kin-wah
Assistant Legal Adviser
Legislative Council Secretariat
22 September 2000

立法會
Legislative Council

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 29 September 2000**

Date of Tabling in LegCo : 4 October 2000

Amendment to be made by : 1 November 2000 (or 8 November 2000 if extended by resolution)

**Electronic Transactions Ordinance (Cap. 553)
Electronic Transactions (Exclusion) (Amendment) (No. 2) Order 2000
(L.N. 261)**

The object of this Order is to amend Schedules 1 and 2 to the Electronic Transactions (Exclusion) Order (L.N. 58 of 2000) that set out the statutory provisions excluded from the operation of sections 5 and 6 respectively of the Electronic Transactions Ordinance (Cap. 553) ("the Ordinance").

The Order removes from Schedule 1 sections 11(1) and 17(1) of the Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Constituencies) Regulation (Cap. 541 sub. leg.) and sections 26(1) and 33(1) of the Electoral Affairs Commission (Registration) (Electors for Functional Constituencies) (Voters for Subsectors) (Members of Election Committee) (Legislative Council) Regulation (Cap. 541 sub. leg.).

These sections enable a person whose particulars are recorded in a final register or whose name is or is to be recorded in a provisional register maintained under those Regulations to make a written request to the Electoral Registration Officer to alter the entry relating to that person and to supply information as to how it is to be altered. The effect of removing them from Schedule 1 is that a person can make the request electronically subject to section 5 of the Ordinance. Section 5 provides that if a rule of law permits information to be or given in writing, an electronic record satisfies that rule of law if the information contained in the electronic record is accessible as to be usable for subsequent reference.

The Order also removes from Schedule 2 section 4(1) of the Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Constituencies) Regulation (Cap. 541 sub. leg.) and section 19(1)(a) to (d) of the Electoral Affairs Commission (Registration) (Electors

for Functional Constituencies) (Voters for Subsectors) (Members of Election Committee) (Legislative Council) Regulation (Cap. 541 sub. leg.).

These sections explain how to apply for registration in provisional registers. The effect of removing them from Schedule 2 is to permit applications for registration of natural persons in the provisional register maintained under each of those Regulations to be signed with a digital signature subject to section 6 of the Ordinance. Section 6 provides that if a rule of law requires the signature of a person or provides for certain consequences if a document is not signed by a person, a digital signature of the person satisfies the requirement but only if the digital signature is supported by a recognized certificate and is generated within the validity of that certificate.

The Order shall come into operation on 9 November 2000. Members may refer to LegCo Brief File Ref. ITBB/IT 107/4/1(00)XX issued by the Information Technology and Broadcasting Bureau in September 2000 for background information.

Public Health and Municipal Services Ordinance (Cap. 132)

Public Health and Municipal Services Ordinance (Public Markets) (Designation and Amendment of Tenth Schedule) Order 2000 (L.N. 262)

Declaration of Markets Notice (Amendment) Declaration 2000 (L.N. 263)

By this Order, Stanley Market, Wan Chai Temporary Market, Hip Wo Street Temporary Market and Yuen Ling Market cease to be designated as public markets. The effect of the Declaration is that the Public Health and Municipal Services Ordinance (Cap. 132) ceases to apply to the four markets.

Legal Practitioners Ordinance (Cap. 159)

Foreign Lawyers Practice (Amendment) Rules 2000 (L.N. 264)

Solicitors' Practice (Amendment) (No. 2) Rules 2000 (L.N. 265)

These two Amendment Rules -

- (a) provide that a foreign lawyer who commences practice as a foreign lawyer in his own name or under the name of a foreign firm, and a solicitor who commences practice as a solicitor in his own name or under a firm name, where each of them is the sole proprietor of that firm ("sole practitioner") shall ensure that there is in effect a testamentary provision which provides for the management of his practice as a sole practitioner after his death, pending the disposal or cessation of that practice;
- (b) require the sole practitioner to provide The Law Society of Hong Kong certain particulars about the will which contains the testamentary provision; and

- (c) provide for the confidentiality of such particulars furnished to the Law Society.

The two Amendment Rules apply to a foreign lawyer or a solicitor, as the case may be, who is in practice as a sole practitioner immediately before as well as after the commencement of these Amendment Rules.

**Legal Practitioners Ordinance (Cap. 159)
Solicitors' Practice (Amendment) (No. 3) Rules 2000 (L.N. 266)**

Under the Amendment Rules, no firm shall, except with the written approval of the Council of the Law Society, knowingly employ any unqualified person who is in the part-time or full-time employment of another firm. The purpose is to remove the unfairness to the firm which has no knowledge of the double employment of the unqualified person.

**Banking Ordinance (Cap. 155)
Banking Ordinance (Declaration under section 2(14)(d)) (No. 2) Notice 1997
(Repeal) Notice 2000 (L.N. 267)**

This Notice repeals the Banking Ordinance (Declaration under section 2(14)(d)) (No. 2) Notice 1997 (Cap. 155 sub. leg.) ("the repealed Notice"). The repealed Notice declares that the multi-purpose card presently known as "Octopus" is not a stored value card for the purposes of the definition of "multi-purpose card" in the Banking Ordinance (Cap. 155) ("the Ordinance"). The purpose of the repealed Notice is to exempt the issue of the Octopus Card from section 14A of the Ordinance which prohibits a person from issuing or facilitating the issue of a multi-purpose card except an authorized institution which has been approved to do so under section 16(3A)(a).

According to the Administration, the Monetary Authority authorized Creative Star Limited on 20 April 2000 to carry on business as a deposit-taking company to issue the Octopus Card as a multi-purpose card. In view of the authorization, the repealed Notice is no longer relevant.

For background information, Members may refer to LegCo Brief issued by the Financial Services Bureau in September 2000. The Administration confirms that the distinction between the core use and non-core use of the Octopus Card referred to in paragraph 4 of the LegCo Brief is part of the conditions attached to the authorization and is in line with the guideline issued by the Monetary Authority for the authorization of the issue of multi-purpose stored value cards.

Tax Reserve Certificates (Fourth Series) Rules (Cap. 289 sub. leg.)
Tax Reserve Certificates (Rate of Interest) (No. 9) Notice 2000 (L.N. 268)

This Notice fixes at 5.0708% per annum the rate of interest payable on tax reserve certificates issued on or after 3 October 2000.

Witness Protection Ordinance (67 of 2000)
Witness Protection Ordinance (67 of 2000) (Commencement) Notice 2000
(L.N. 269)

This Notice appoints 9 November 2000 as the day on which the Witness Protection Ordinance (67 of 2000) shall come into operation.

The Ordinance provides for the establishment of a witness protection programme, under which protection and other assistance are given to witnesses, including persons associated with them, whose personal safety or well-being may be at risk as a result of being witnesses.

Prepared by

Wong Sze-man, Bernice
Assistant Legal Adviser
Legislative Council Secretariat
29 September 2000