

立法會
Legislative Council

LC Paper No. LS 35/00-01

**Paper for the House Committee Meeting
of the Legislative Council
on 8 December 2000**

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

Date of Tabling in LegCo : 6 December 2000

Amendment to be made by : 20 December 2000 (or 10 January 2001 if extended by resolution)

Part I ***Revision of fees***

L.N. 345 is an item of subsidiary legislation relating to revision of fees. Rule 31(1) of the Rules of Procedure would apply if Members wish to amend the subsidiary legislation by proposing fees below the existing level, i.e. the amendment would probably be to dispose of or charge any part of the revenue or other public moneys of Hong Kong and the written consent of the Chief Executive to the proposal is required. Members may repeal the proposed subsidiary legislation to preserve the existing level of fees without any implications of charging effect. The item of subsidiary legislation is made by the Secretary for the Treasury under section 29A of the Interpretation and General Clauses Ordinance (Cap. 1) to increase the relevant prescribed fees. Under section 29A of Cap. 1, where the amount of any fee is for the time being specified in, or otherwise fixed or determined by, subsidiary legislation made by the Chief Executive in Council, the Financial Secretary may by similar subsidiary legislation vary the amount of fees. By virtue of section 3 of Cap. 1 the Financial Secretary is defined to include the Secretary for the Treasury.

Money Lenders Ordinance (Cap. 163)

Money Lenders (Amendment) Regulation 2000 **(L.N. 345)**

2. This Regulation amends Part B of Schedule 1 to the Money Lenders Regulations (Cap. 163 sub. leg.) to increase the fees payable to the licensing court under the Money Lenders Ordinance (Cap. 163) ("the Ordinance") as follows—

Item	Reference to the Ordinance	Matter in respect of which fee is payable	Existing fee	Proposed fee
1	Section 11(7)	For issue of a licence	\$1,760	\$1,910
2	Sections 11(7) and 13(4)	For renewal of a licence	\$1,760	\$1,910
3	Section 15(8)	For endorsement— (a) of the name of a widow, widower or family member, etc of a deceased licensed money lender on the relevant licence (b) of the additional business premises on a licence (c) of the substituted business premises on a licence	\$88 \$88 \$88	\$95 \$95 \$95

3. Members may refer to LegCo Brief File Ref: C1/5/5(2000)Pt.6 of 29 November 2000 issued by Financial Services Bureau for background information. According to the Brief, the Administration has consulted the LegCo Panel on Financial Affairs on 15 June 2000 on the proposals. Members of the Panel did not raise objection to the proposals.

4. The fees were last revised in 1994. The proposed revision increase of about 8.5% is based on full-cost recovery.

5. The legal and drafting aspects of the Regulation are in order.

6. The Regulation will come into operation on 12 January 2001.

Part II Commencement Notice

Mass Transit Railway Ordinance (Cap. 556)

Mass Transit Railway Ordinance (Cap. 556) (Commencement) (No. 2) Notice 2000 (L.N. 348)

7. The Secretary for Transport appoints 12 January 2001 as the day on which section 13 (which relates to the power of Chief Executive in Council to give directions) and Schedule 6 (which relates to consequential amendments) to the Mass Transit Railway Ordinance (Cap. 556) shall come into operation. The other provisions of the Ordinance have already come into operation on 30 June 2000.

8. The legal and drafting aspects of the Commencement Notice are in order.

Part III **Others**

Securities Ordinance (Cap. 333)

Securities (Miscellaneous) (Amendment) (No. 2) Rules 2000 **(L.N. 346)**

9. The definition of "specified instrument" in the Securities (Miscellaneous) Rules (Cap. 333 sub. leg.) specifies the various corporations under the note issuance programmes arranged by the Monetary Authority to issue notes. These Rules amend the definition of "specified instrument" by adding reference to notes issued by the Kowloon-Canton Railway Corporation. The legal effect of which is that section 80(1) of the Securities Ordinance (Cap. 333) will not apply to a sale of a "specified instrument", if carried out by a Monetary Authority-appointed market maker. Section 80(1) provides that a person shall not sell securities through the Stock Exchange of Hong Kong unless at the time he sells them, he has or he reasonably and honestly believes that he has a presently exercisable and unconditional right to vest the securities in the purchaser of them.

10. Members may refer to LegCo Brief (without File Reference on it) on 30 November 2000 issued by Securities and Futures Commission.

11. The legal and drafting aspects of the Rules are in order.

12. The Rules will come into operation on 3 January 2001.

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

Tax Reserve Certificates (Rate of Interest) (No. 11) Notice 2000 **(L.N. 347)**

13. This Notice fixes at 4.8625% per annum the rate of interest payable on tax reserve certificates issued on or after 4 December 2000.

14. The legal and drafting aspects of the Notice are in order.

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