

立法會
Legislative Council

LC Paper No. LS 88/00-01

**Paper for the House Committee Meeting of the
Legislative Council
on 4 May 2001**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 27 April 2001 and 29 April 2001**

Date of Tabling in LegCo : 2 May 2001

Amendment to be made by : 30 May 2001 (or 6 June 2001 if extended by resolution)

Part A **Legal Notices No. 85 to 91 Gazetted on 27 April 2001**

Employees Compensation Assistance Ordinance (Cap. 365)
Employees Compensation Assistance (Notice of Insolvency of Insurer)
Regulation (L.N. 85)

This Regulation prescribes the form of the notice of insolvency of insurer to be given by the Employees Compensation Assistance Fund Board ("the Board") for the purpose of section 20 of the Employees Compensation Assistance Ordinance (Cap. 365) ("the Ordinance").

2. Under the Ordinance, an employer who has taken out an insurance policy from an insurer to cover his liabilities for compensation or damages for employment-related injuries may apply for payment from the Employees Compensation Assistance Fund ("the Fund") to meet such liabilities in the event that the insurer has become insolvent and has failed to indemnify the employer in respect of such liabilities. The meaning of "insolvent" is set out in Schedule 2 to the Ordinance. The Ordinance, however, imposes a limit on such applications by employers. Section 19(1)(b) of the Ordinance provides that no application shall be made by an employer for payment from the Fund if, at the date of the employment-related accident, a notice of insolvency in respect of the insurer concerned was in effect and had been in effect for not less than one month.

3. On 10 April 2001, the Insurance Authority advised the Board that for the purpose of paragraph (a)(iii) of Schedule 2 to the Ordinance, it was satisfied that three Hong Kong insurers, namely, HHH Insurance (Asia) Limited, HHH Casualty and General Insurance (Asia) Limited and FAI First Pacific Insurance Company Limited were unable or unlikely to pay in full claims in respect of liabilities under policies of

insurance as they fall due. Accordingly, the three insurers shall be regarded as insolvent for the purposes of the Ordinance. To put into effect the limitation under section 19(1)(b) of the Ordinance on applications by employers for payment from the Fund, it is necessary for the Board to publish notices of insolvency in the Gazette the names of the three insolvent insurers. Pursuant to the Regulation being made by the Chief Executive in Council on 24 April 2001, the Board has since given notices of insolvency of the three insurers in the Gazette on 27 April 2001 (G.Ns. 2596 to 2598 of 2001). The notices remain in effect until cancelled by the Board.

4. The effect of the notices of insolvency of the three insurers is that applications for payment from the Fund may still be made to the Board if the employment-related accident occurs within one month from 27 April 2001 but not beyond. This would mean that employers would need to take out alternative insurance cover to indemnify themselves in respect of their liability for compensation for employment-related injuries; otherwise they may become personally liable for such compensation and hence be exposed to serious personal financial risks. According to the Administration, the provisional liquidators of the three insurers concerned have written to policyholders to arrange for policy cancellations in accordance with the contractual terms of the policy documents or by mutual agreement with the policyholders. Although the insurance policies remain in force until cancelled, the provisional liquidators have advised the policyholders to arrange alternative insurance cover immediately to protect themselves and other members of the public given that the ability of the three insurers to pay on any claim is seriously impaired and payment of all claims has been suspended until further notice.

5. Members may refer to the LegCo Brief (Ref.: EMB CR 4/4/3231/77) issued by the Education and Manpower Bureau in April 2001 for background information.

6. This Regulation has taken effect on the date of publication in the Gazette. The legal and drafting aspects of the Regulation are in order.

Road Traffic Ordinance (Cap. 374)

Road Traffic (Traffic Control) (Amendment) Regulation 2001 (L.N. 86)

7. The Regulation amends the Road Traffic (Traffic Control) Regulations (Cap. 374 sub. leg.)("the Regulations") to -

- (a) add the definitions of "Lantau taxi", "N T taxi" and "Urban taxi" to facilitate flexibility in implementing traffic control measures to a particular kind of taxi;
- (b) specify the traffic signs or plates that could be used in conjunction with other signs and plates in Schedule 1 to the Regulations for traffic management purposes; and

- (c) specify further traffic signs in Schedule 1 to the Regulations.

8. According to the LegCo Brief (Ref.: TRAN 3/11/67) dated 25 April 2001 issued by the Transport Bureau, the proposed amendments were presented to the Transport Advisory Committee and circulated to the LegCo Panel on Transport on 19 September 2000 and 24 November 2000 respectively. There were no objections to the proposals.

9. This Regulation will come into effect on 1 July 2001. The legal and drafting aspects of the Regulation are in order.

Clubs (Safety of Premises) Ordinance (Cap. 376)

Clubs (Safety of Premises) (Exclusion) (Amendment) Order 2001 (L.N. 87)

10. This Order amends the Schedule to the Clubs (Safety of Premises) (Exclusion) Order (Cap. 376 sub. leg.) in order to update the name of one clubhouse situated in Government premises and add 25 club-houses situated in Government premises. The effect of the Order is that the newly added clubhouses will be excluded from the application of the Clubs (Safety of Premises) Ordinance (Cap. 376).

11. This Order has taken effect on the date of publication in the Gazette. The legal and drafting aspects of the Order are in order.

Shipping and Port Control Ordinance (Cap. 313)

Shipping and Port Control (Closure of Waters) Notice 2001 (L.N. 88)

12. This Notice specifies the areas of the waters of Hong Kong, namely, the waters off the Phase II Hong Kong Convention and Exhibition Centre and the waters off the Harbour Plaza Hotel, to be closed to certain class of vessel for the period between 7:00 a.m. on 7 May 2001 and 10:00 p.m. on 10 May 2001. Under the Shipping and Port Control Ordinance (Cap. 313), if without reasonable excuse a vessel within the class of vessel specified in the Notice enters the specified closed areas in contravention of the Notice, the master of the vessel commits an offence and is liable to a fine at level 3 (\$10,000) and to imprisonment for 6 months.

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

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

Tax Reserve Certificates (Rate of Interest) (No. 5) Notice 2001 (L.N. 89)

14. This Notice fixes at 2.9708% per annum the rate of interest payable on tax reserve certificates issued on or after 2 May 2001. The legal and drafting aspects of the Notice are in order.

Education Ordinance 2001 (Cap. 279)

Education (Amendment) Ordinance 2001 (8 of 2001) (Commencement) Notice 2001 (L.N. 90)

15. This Notice appoints 1 June 2001 as the day on which the Education (Amendment) Ordinance 2001 (8 of 2001) will come into operation.

16. The Amendment Ordinance introduces amendments to various aspects of the Education Ordinance (Cap. 279) and the Education Regulations (Cap. 279 sub. leg.). These amendments include empowering the Director of Education to delegate his power to grant exemption, dispensing with the requirement to issue certificates of registration to school managers, enabling a teacher who has been recommended for approval to be a principal to perform the functions of a principal, enabling the Director of Education to suspend operation of a school by public announcement, creating a new offence of publishing advertisements containing false or misleading information about the schools punishable with a fine of \$100,000 and increasing the fine for false advertising by unregistered schools.

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

Hong Kong Science and Technology Parks Corporation Ordinance (5 of 2001)

Hong Kong Science and Technology Parks Corporation Ordinance (5 of 2001) (Commencement) Notice 2001 (L.N. 91)

18. This Notice appoints 7 May 2001 as the day on which the Hong Kong Science and Technology Parks Corporation Ordinance (5 of 2001) will come into operation.

19. The Ordinance establishes a body corporate known as the "Hong Kong Science and Technology Parks Corporation" to take over the duties and powers of three organizations, namely, the Hong Kong Industrial Estates Corporation, the Hong Kong Industrial Technology Centre Corporation and the Provisional Hong Kong Science Park Company Limited in establishing or developing premises in support of technology-based companies and activities, facilitating research and development and application of technologies in industry, and supporting the development, transfer and use of new or advanced technologies in Hong Kong.

20. According to the Administration, the Ordinance is brought into operation on 7 May 2001 for operational reasons as they wish to synchronize the different practices currently adopted by the three organizations concerned as soon as possible.

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

Part B **Legal Notice No. 92 Gazetted on 29 April 2001**

Urban Renewal Authority Ordinance (Cap. 563)

Urban Renewal Authority Ordinance (Cap. 563) (Commencement) Notice 2001 (L.N. 92)

22. This Notice appoints 1 May 2001 as the day on which the Urban Renewal Authority Ordinance (Cap. 563) ("the Ordinance") will come into operation.

23. The Ordinance establishes the Urban Renewal Authority to replace the Land Development Corporation ("LDC") as the statutory body having the responsibility of improving the standard of housing and the built environment of Hong Kong by undertaking, encouraging, promoting and facilitating urban renewal. According to the Administration, the Ordinance is brought into operation on 1 May 2001 to tie in with the expiry of the term of appointment of the LDC members on 30 April 2001.

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

Prepared by
FUNG Sau-kuen, Connie
Assistant Legal Adviser
Legislative Council Secretariat
2 May 2001