

立法會
Legislative Council

LC Paper No. LS41/01-02

**Paper for the House Committee Meeting
of the Legislative Council
on 4 January 2002**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 14 December 2001**

Date of Tabling in LegCo : 19 December 2001

Amendment to be made by : 16 January 2002 (or 23 January 2002 if extended by resolution)

Part I ***Miscellaneous Amendments (Legal Notices No. 266 and 268 - 270)***

Film Censorship Ordinance (Cap. 392)

Film Censorship (Amendment) Regulation 2001 (L.N. 266)

By this Regulation made under section 29 of the Film Censorship Ordinance (Cap. 392) and section 29A of the Interpretation and General Clauses Ordinance (Cap. 1), the Secretary for the Treasury has amended Schedule 3 to the Film Censorship Regulation (Cap. 392 sub. leg.) in the following manner:-

Part	item	column	repealing	substituting
I	2	3	\$78	\$72
II	-	2	\$170	\$140
III	1	3	\$34	\$33
IV	-	2	\$440	\$425
V	-	2	\$670	\$150

The reduction in fees is the result of a costing exercise conducted recently. The new fees are at full cost recovery level. Members may refer to the LegCo Brief Ref: ITBB/FS 254/4(01) II issued by the Information Technology and Broadcasting Bureau and dated 12 December 2001 for further and background information.

The Regulation will come into operation on 25 January 2002.

Electronic Transactions Ordinance (Cap. 553)

Electronic Transactions (Exclusion) (Amendment) Order 2001 (L.N. 268)

By this Amendment Order made under section 11(1) of the Electronic Transactions Ordinance (Cap. 553) ("the Ordinance") by the Secretary for Information Technology and Broadcasting, the Schedules to the Electronic Transactions (Exclusion) Order (Cap. 553 sub. leg.) are amended in the following manner :-

Schedule 1 (Provisions excluded from application of section 5 of the Ordinance)

item	column	repealing	substituting/adding
55	2	Electoral Affairs Commission (Registration) (Electors for Functional Constituencies) (Voters for Subsectors) (Members of Election Committee) (Legislative Council) Regulation (Cap. 541 sub. leg.)	Electoral Affairs Commission (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) Regulation (Cap. 541 sub. leg.)
57	3	and Schedule 1, sections 19(5) and (9), 21(3), (9) and (12), 38(8) and (10) and 59(7) and (10)	-
59A	-	-	Electoral Affairs Commission (Nominations Advisory Committees (election Committee)) Regulation (L.N. 208 of 2001) Section 6(13) and 9(2)
59B	-	-	Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation (L.N. 210 of 2001) Sections 23(5) and (9), 25(2), 42(8) and (10) and 64(8) and (10)
62	-	the whole item	-

66	-	-	Election Committee (Appeals) Regulation (L.N. 196 of 2001)	Sections 4(1) and 5(1) and (2)(c)
67	-	-	Election Committee Registration)(Voters for Subsectors)(Members of Election Committee) (Appeals) Regulation (L.N. 197 of 2001)	Section 3(1) and (2)(c)

Schedule 2 (Provisions excluded from application of section 6 of the Ordinance)

item	column	repealing	substituting/adding
14	2	Electoral Affairs Commission (Registration) (Electors for Functional Constituencies) (Voters for Subsectors) (Members of Election Committee) (Legislative Council) Regulation (Cap. 541 sub. leg.)	Electoral Affairs Commission (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) Regulation (Cap. 541 sub. leg.)
14	3	and 33(9)	, 31A(2) and 33(9)
16	3	20(2)(b)	20(2)
		and Schedule 1, sections 6(4), 7(6) and (7), 16(2), 19(6) and (9), 21(5) and (12), 38(8) and (10), 59(7) and (10) and 92(4)	-

18A	-	-	Electoral Affairs Commission (Nominations Advisory Committees (Election Committee)) Regulation (L.N. 208 of 2001)	Section 6(4)
18B	-	-	Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation (L.N. 210 of 2001)	Sections 7(4), 8(6) and (7), 17(2), 23(6) and (9), 25(4) and (9), 42(8) and (10) and 64(8) and (10), 99(2)(b) and 100(4)
23	-	-	Election Committee (Appeals) Regulation (L.N. 196 of 2001)	Section 3(2)

The Amendment Order is necessary as some of the subsidiary legislation referred to in the existing Order have been replaced or repealed. Also several pieces of new subsidiary legislation made under Chief Executive Election Ordinance and Electoral Affairs Commission Ordinance need to be exempted. Members may wish to refer to the LegCo Brief Ref: ITBB/IT 107/4/1 (00) Pt. XI issued by the Information technology and Broadcasting Bureau and dated 12 December 2001 for further and background information.

Commodities Trading Ordinance (Cap. 250)
Commodities Trading (Trading Limits and Position Limits) (Amendment) (No. 4) Rules 2001 (L.N. 269)

By these Rules made under section 59 of the Commodities Trading Ordinance (Cap. 250) by the Securities and Futures Commission, the Schedule to the Commodities Trading (Trading Limits and Position Limits) Rules (Cap. 250 sub. leg.) is amended by adding 42 items as items 67 to 108.

The 42 items comprise the following :-

Trading Limits	Position Limits	Nature of Futures Contracts	Name of Corporations/Index
50,000 open contracts for any one contract month	10,000 open contracts for any one contract month	stocks futures contract	Cisco System Inc., IBM Corp., Intel Corp., Microsoft Corp., Oracle Corp., NTT DoCoMo Inc., Sony Corp., Nippon Telegraph & Telephone Corp., Fujitsu Ltd., Toyota Motor Corp.
		Options on stocks futures contract	
5,000 open contracts for any one contract month	1,000 open contracts for any one contract month	stocks futures contract	Korea Electric Power Corp., Korea Telecom Corp., Samsung Electronics Co. Ltd., SK Telecom Co. Ltd., Kookmin Bank, Mosel Vitelic Inc., Ritek Corp., Taiwan Semiconductor Manufacturing Co. Ltd., United Micro Electronics Corp., Winbond Electronics Corp.
		Options on stocks futures contract	
20,000 open contracts for any one contract month	1,000 open contracts for any one contract month	futures contract	Dow Jones Industrial Average
		options contract	

These Rules fix the trading limits and position limits of the 42 new products. Members may wish to refer to the LegCo Brief on the subject issued by the Securities and Futures Commission and dated 13 December 2001 for further information.

These Rules will come into operation on 25 January 2002.

Matrimonial Causes Ordinance (Cap. 179)
Matrimonial Causes (Amendment) Rules 2001 (L.N. 270)

By these Rules made under section 54 of the Matrimonial Causes Ordinance (Cap. 179) by the Chief Justice, the following rules and the Appendix of the Matrimonial Causes Rules (Cap. 179 sub. leg.) are amended :-

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Reference	Effect
Rule 33(2A)	Removal of the existing requirements for the special procedure list. All undefended petitions for divorce or judicial separation would fall under the special procedure list regardless of the grounds of divorce or judicial separation and whether or not the family has children. Joint applications for divorce or judicial separation are included in the list.
Rule 47A(1)(a)	Corresponding consequential amendments to achieve the above described effect.
Rule 133	The requirement for an application for extension of time to be made before the expiration of time limit is removed. The District Court may grant an extension of time after the expiration of the time for making such application.
Appendix	Forms 21(1) to (6) are amended and Form 21(7) is added to accommodate the changes occasioned by the amendments to rules 33(2A) and 47A(1)(a).

These Rules will come into operation on a date to be appointed by the Secretary for Home Affairs by notice in the Gazette.

Members may wish to refer to the LegCo Brief Ref: HAB/II/4/5 Part V issued by the Home Affairs Bureau and dated 12 November 2001 for further and background information.

The Administration will move amendments to Questions 3 and 10 in Form 21(1), Questions 3 and 11 in Forms 21(2), 21(3), 21(4) and 21(5), Questions 3 and 7 in Form 21(6) and Questions 3 and 8 in Form 21(7) to remove an inconsistency between the Chinese and the English version. A draft of the proposed resolution is attached as Annex A.

Part II ***New Rules (Legal Notice No. 271)***

Merchant Shipping (Local Vessels) Ordinance (Cap. 548)
Merchant Shipping (Local Vessels) (Conduct of Inquiries) Rules (L.N. 271)

The Merchant Shipping (Local Vessels) Ordinance (Cap. 548) was passed into law in 1999. Implementation of the Ordinance entails the introduction of a number of subsidiary legislation. Section 17 of the Ordinance prescribes that the Director of Marine may cause an inquiry into the fitness or conduct of a holder of local certificate of competency. The inquiry may be held by one or more persons appointed by the Chief Justice and shall be assisted by one or more assessors.

The Chief Justice has now made the Merchant Shipping (Local Vessels) (Conduct of Inquiries) Rules. The Rules are based on the Merchant Shipping (Seafarers) (Conduct of Inquiries) Rules (Cap. 478 sub. leg.). They prescribe the procedure to be followed at an inquiry under section 17 of the Ordinance. The inquiry is to be held in public. At the conclusion of the inquiry, the person appointed to hold the inquiry is required to announce his decision in public whether to cancel or suspend the certificate or censure the holder and to make a report to the Director of Marine.

Members may refer to the LegCo Brief (Ref. No.: MA 70/19(2001) Pt. 1 dated 14 December 2001 issued by the Economic Services Bureau for background information. The Rules will come into operation on a day to be appointed by the Secretary for Economic Services by notice in the Gazette.

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

Part III **Designation & Declaration Notices (Legal Notices No. 267 and 272)**

Public Health and Municipal Services Ordinance (Cap. 132)
Designation of Libraries (No. 4) Order 2001 (L.N. 267)

By this Order made under section 105K of the Public Health and Municipal Services Ordinance (Cap. 132), the Director for Leisure and Cultural Services has stipulated that the second floor of Yue Wan Market building, Yue Wan Estate, Chai Wan, Hong Kong shall cease to be designated as a library and has designated the fourth, fifth and eighth floors, Chai Wan Municipal Services Building, 338 Chai wan Road, Hong Kong ("the Library") as a library. Consequentially, the Order also amends the Schedule to the Designation of Libraries (Urban Council Area) Order (Cap.132 sub. leg.) repealing item 10 and substituting the Library as item 10.

Antiquities and Monuments Ordinance (Cap. 53)
Antiquities and Monuments (Declaration of Historical Buildings) Notice 2001
(L.N. 272)

By this Declaration made under section 3(1) of the Antiquities and Monuments Ordinance (Cap. 53) after consultation with the Antiquities Advisory Board and with the approval of the Chief Executive, the Acting Secretary for Home Affairs has declared the following places to be historical buildings :-

- (a) the Tang Ancestral Hall at Ping Shan Hang Mei Lot No. 1 in D.D. 122, Yuen Long, New Territories;

- (b) the Yu Kiu Ancestral Hall at Ping Shan Hang Mei Lot No. 2 in D.D. 122, Yuen Long, New Territories;
- (c) Tsui Sing Lau Pagoda at Lot No. 384 in D.D. 122, Yuen Long, New Territories.

Part IV **Commencement Notices (Legal Notices No. 273 - 278)**

The Ombudsman Ordinance (Cap. 397)

The Ombudsman (Amendment) Ordinance 2001 (30 of 2001) (Commencement) Notice 2001 (L.N. 273)

By this Notice made under section 1(2) of The Ombudsman (Amendment) Ordinance 2001 ("the Amendment Ordinance"), the acting Director of Administration has appointed 19 December 2001 as the date on which the Amendment Ordinance is to come into effect.

The Amendment Ordinance makes provisions for establishing The Ombudsman as a corporation sole and other matters such as enabling The Ombudsman to deal with complaints by way of mediation.

Public Health (Animals and Birds) Ordinance (Cap. 139)

Public Health (Animals and Birds) (Chemical Residues) Regulation (L.N. 146 of 2001) (Commencement) Notice 2001 (L.N. 274)

This Notice appoints 31 December 2001 as the day on which the following provisions of the Public Health (Animals and Birds) (Chemical Residues) Regulation (L.N. 146 of 2001) shall come into operation -

- (a) sections 1 to 20 (regulatory control over the feeding of specified chemicals to animals and birds commonly kept for human consumption (food animals));
- (b) Schedule 1 (list of prohibited chemicals);
- (c) items 1, 2, 4, 7, 8, 11, 14, 28, 32 and 33 of Schedule 2 (maximum residue limits of 10 agricultural and veterinary chemicals in the tissues of food animals);
- (d) items 1, 2, 4, 6, 7, 9, 16, 19 and 20 of Schedule 3 (maximum residue limits of agricultural and veterinary chemicals in the milk of food animals); and

- (e) Schedule 4 (identification of 3 types of food animals).

According to the Administration, second phase implementation of the control over the use of the remaining 27 agricultural and veterinary chemicals will come into effect in about one year's time.

Public Health and Municipal Services Ordinance (Cap. 132)
Harmful Substances in Food (Amendment) Regulation 2001 (L.N. 148 of 2001)
(Commencement) Notice 2001 (L.N. 275)

This Notice appoints 31 December 2001 as the day on which the following provisions of the Harmful Substances in Food (Amendment) Regulation 2001 (L.N. 148 of 2001) shall come into operation -

- (a) sections 1, 2, 3, 4, 5 and 7;
- (b) section 6 (but the new First Schedule is substituted only insofar as it relates to items 1, 2, 3, 5, 8, 9, 12, 15, 17, 30, 34 and 35 of that Schedule).

To ensure a consistent standard of chemical residues in the food chain with that prescribed in the Public Health (Animals and Birds) (Chemical Residues) Regulation (L.N. 146 of 2001), the Amendment Regulation extends the scope of prohibition in respect of the importation and sale of food containing the same prohibited chemicals and the same 37 agricultural and veterinary chemicals in excessive concentrations.

Section 6 relates to the maximum concentration of certain substances present in specified foods. The items of the new First Schedule that would take effect are 10 agricultural and veterinary chemicals referred to in L.N. 274 of 2001 and two chemicals under existing control.

Public Health (Animals and Birds) Ordinance (Cap. 139)
Public Health (Animals and Birds) (Amendment) Regulation 2001 (L.N. 218 of 2001) (Commencement) Notice 2001 (L.N. 276)

This notice appoints 14 December 2001 (gazettal date) as the day on which the amending regulation shall come into operation, with the exception of its section 5 (requiring quails to be transported separately within Hong Kong) and the relevant offence provision, both of which shall come into operation on 12 February 2002.

Public Health (Animals and Birds) Ordinance (Cap. 139)

Public Health (Animals and Birds) (Animal Traders) (Amendment) Regulation 2001 (L.N. 219 of 2001) (Commencement) Notice 2001 (L.N. 277)

This notice appoints 14 December 2001 as the day on which the amending regulation shall come into operation, in line with L.N. 276, with which it is related.

**Public Health and Municipal Services Ordinance (Cap. 132)
Food Business (Amendment) Regulation 2001 (L.N. 220 of 2001)
(Commencement) Notice 2001 (L.N. 278)**

This notice also appoints 14 December 2001 as the day on which the amending regulation shall come into operation, in line with L.N. 276 and 277, with both of which it is related.

***Part V Legal Notices not required to be tabled at the Legislative Council*
*(Legal Notices No. 280 - 281)***

**United Nations Sanctions Ordinance (Cap. 537)
United Nations Sanctions (Liberia) Regulation (L.N. 280)**

This Regulation is made under section 3 of the United Nations Sanctions Ordinance (Cap. 537) by the Chief Executive on the instruction of the Ministry of Foreign Affairs of the People's Republic of China and after consultation with the Executive Council.

This Regulation gives effect to a decision of the Security Council of the United Nations in Resolution 1343 passed on 7 March 2001. It prohibits :-

- (a) the direct or indirect importation of rough diamonds from Liberia into the Hong Kong Special Administrative Region;
- (b) the entry or transit by specified persons of Liberia, including senior members of the Liberian government or armed forces;
- (c) the supply and delivery of arms and related materials as well as the provision of related technical advice, assistance or training, to Liberia.

This Regulation will expire on 6 May 2002.

**United Nations Sanctions Ordinance (Cap. 537)
United Nations Sanctions (Arms Embargoes) (Amendment) Regulation 2001
(L.N. 281)**

The Regulation effects amendments to the United Nations Sanctions (Arms Embargoes) Regulation (Cap. 537 sub. leg.) by excising the references to Liberia. This implements a decision in the United Nations Security Council Resolution (UNSCR) No. 1343 passed on 7 March 2001 as the Government of the Hong Kong Special Administrative Region (HKSAR) was instructed by the Ministry of Foreign Affairs of the People's Republic of China to do so in May 2001.

UNSCR No. 1343 terminates the prohibition imposed by paragraph 8 of the UNSCR No. 788 (1992), which imposes embargoes on deliveries of weapons and military equipment to Liberia. Paragraph 8 of UNSCR No. 788 was being implemented in the HKSAR through the United Nations Sanctions (Arms Embargoes) Regulation. With the introduction of the more comprehensive new Regulation above, it is no longer necessary to retain the embargoes against Liberia under UNSCR No. 788.

Encl

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