

立法會
Legislative Council

LC Paper No. LS76/01-02

**Paper for the House Committee Meeting
on 12 April 2002**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 4 April 2002**

Date of Tabling in LegCo : 10 April 2002

Amendment to be made by : 8 May 2002 (or 15 May 2002 if extended by resolution)

Part I: New Regulation

Fixed Penalty (Public Cleanliness Offences) Ordinance (Cap. 570)
Fixed Penalty (Public Cleanliness Offences) Regulation (L.N. 44)

This Regulation is made by the Secretary for the Environment and Food under section 17 of the Fixed Penalty (Public Cleanliness Offences) Ordinance (Cap. 570) (the Ordinance).

2. The Regulation specifies the forms of notices referred to in sections 3(1) and 6(1) of the Ordinance and the form of the certificate referred to in section 9(2) of the Ordinance. It also provides for the methods by which fixed penalty may be paid.

3. The Regulation will come into operation on a date to be appointed by the Secretary for the Environment and Food. Members may wish to refer to the LegCo Brief (Ref.: EFB(CR) 10/9/2) issued by the Environment and Food Bureau on 2 April 2002 for further information.

Part II: Miscellaneous Amendments

Gas Safety Ordinance (Cap. 51)

Gas Safety (Installation and Use and Miscellaneous) (Amendment) Regulation 2002 (L.N. 43)

4. By this Regulation made by the Chief Executive in Council under section 8 of the Gas Safety Ordinance (Cap. 51), amendments are made to the Gas Safety (Installation and Use) Regulations (Cap. 51 sub. leg.) and the Gas Safety (Miscellaneous) Regulations (Cap. 51 sub. leg.).

5. The amendments seek to implement a mandatory approval scheme of domestic gas appliances imported or manufactured for use in Hong Kong. The scheme will not affect consumers as no duty or obligation is imposed on them.

6. According to the Administration, the mandatory scheme is based on the experience of the voluntary approval scheme that has been implemented since June 1998. The mandatory scheme was developed in consultation with the Gas Safety Advisory Committee. The industry has been involved in working out the details of the scheme. 38 companies engaged in the supply and import of domestic gas appliances have already applied for approval of such appliances on a voluntary basis. The mandatory approval scheme under the Gas Safety (Miscellaneous) Regulations will commence on 1 June 2002. The prohibition imposed by the amendments to the Gas Safety (Installation and Use) Regulations will only come into effect on 1 January 2003.

7. The amendments are as follows:-

Gas Safety (Installation and Use) Regulations (Cap. 51 sub. leg.)

Regulation	Repealing	Substituting/Adding
23A	-	a new provision prohibiting installation of domestic gas appliances not complying with regulation 3B(1)(d) of the Gas Safety (Miscellaneous) Regulations (Cap. 51 sub. leg.) except reinstallation of appliances already installed in the premises before 1 January 2003.
37(1)	35	35(2) or (3)
37(1A)	-	a new provision creating the offence for contravening regulation 23A and the penalty of a fine at level 3.
37(2)	of \$5,000	at level 2
37(3)	-	a new provision prescribing contravention of regulation 35(1) as an offence and providing for a fine at level 3.

Gas Safety (Miscellaneous) Regulations (Cap. 51 sub. leg.)

Regulation	Repealing	Substituting/Adding
3A(2)	the existing provision	a new provision prescribing contravention of subregulation (1) as an offence and penalties for first conviction, subsequent convictions and continuing offence.
3B	-	a new provision prohibiting the import or manufacturing in Hong Kong of any domestic gas appliances of a type or model not approved by the Gas Authority and does not bear a mark specified in the Schedule of the Regulations and the sale or supply for use in Hong Kong of any such domestic gas appliances, and prescribing as an offence any contravention of such prohibition and the applicable penalties.
3C	-	a new provision specifying the grounds on which the Gas Authority may withdraw its approval referred to in regulation 3B(1).
3D	-	a new provision prescribing the measures that an importer or manufacturer shall take upon the withdrawal of approval by the Gas Authority on the ground that the domestic gas appliance concerned has been shown to be prejudicial to public safety.
3E	-	a new provision providing a right of appeal for the aggrieved person against the decision of the Gas Authority to withdraw approval.
3F	-	a new provision prohibiting the use in connection with a domestic gas appliance of any mark which is identical to or closely resembles the mark specified in the Schedule to the Ordinance and prescribing as an offence any contravention of such prohibition and the applicable penalties.

8. The Panel for Economic Services was first briefed of the proposal on 19 June 2000 and was informed of its progress on 25 February 2002. The Administration has indicated that issues raised by the Panel members have been addressed. Members may refer to the LegCo Brief (Ref.: ESBCR 5/3231/82(02)) issued by the Economic Services Bureau on 21 March 2002 for further and background information.

Noise Control Ordinance (Cap. 400)

Noise Control (Motor Vehicles) (Amendment) Regulation 2002 (L.N. 45)

9. This Amendment Regulation is made by the Secretary for the Environment and Food under section 27 of the Noise Control Ordinance (Cap. 400) after consultation with the Advisory Council on the Environment.

10. The Amendment Regulation seeks to update the motor vehicle noise emission standards by adopting the latest noise standards adopted by the European Union and Japan. This is accomplished by amending Parts I and II of the Schedule of the Noise Control (Motor Vehicles) Regulation (Cap. 400 sub. leg.) (the Regulation). The references to earlier Council Directives of the European Union and the Japanese Ministry of Transport Ordinances are replaced by updated ones. The amendments made to sections 2 and 4 of the Regulation are minor textual amendments.

11. The Amendment Regulation will come into operation on 1 June 2002. Since the new standards will only apply to motor vehicles first registered on or after that date, vehicles already registered will not be affected.

12. According to the Administration, two rounds of consultation has been conducted with the trades concerned, including major transport operators, the Japan Automobile Manufacturers Association and local motors associations representing dealers of new and used motor vehicles. In response to the requests made by the trades, the Environmental Protection Department (the Department) has decided to grant one year grace periods or exemptions to different classes of vehicles as may be appropriate. The decision of the Department has been conveyed to the trades. Members may refer to the LegCo Brief issued by the Environment and Food Bureau in April 2002 for background and further information.

Business Registration Ordinance (Cap. 310)*

Business Registration Ordinance (Amendment of Schedule 2) Order 2002 (L.N. 46)

13. By this Order made under section 18(2) of the Business Registration Ordinance (Cap. 310) (the Ordinance) by the Financial Secretary, Schedule 2 to the Ordinance is amended in the following manner:-

Item	Repealing	Substituting
3(a)	250	600
3(b)	750	1800

* Levy increase.

14. The Order increases the levy payable on the registration of a business or a branch, issue of a further business registration certificate or a further branch registration certificate under the Ordinance. The increase is necessitated by the need to ensure the financial viability of the Protection of Wages on Insolvency Fund. At the meeting of the Panel for Manpower on 21 March 2002, the Administration explained the reasons for the proposed increase of the levy from the annual rate of \$250 to \$600. Members may refer to LC Paper No. CB(2)1358/01-02(06) for further information.

15. The Order will come into operation on 16 May 2002.

Patents Ordinance (Cap. 514)
Patents (General) (Amendment) Rules 2002 (L.N. 48)

16. These Amendment Rules are made under section 149 of the Patents Ordinance (Cap. 514) by the Registrar of Patents, who is the Director of Intellectual Property.

17. These Amendment Rules seek to amend sections 8(2)(c)(iv) and 58(2) of the Patents (General) Rules (Cap. 514 sub. leg.). The gist of the amendments to section 8(2)(c)(iv) is the addition of "(if any)" after the publication number and the date of publication of the designated patent application. Thus, the provision will also cover cases where the designated patent application has no publication number or date of publication. The amendment to section 58(2) removes the requirement for stating the title of invention, description, claims and drawings in a particular order in an application for a short-term patent.

18. These Amendment Rules will come into operation on 1 June 2002, the date appointed for the commencement of section 5 of the Intellectual Property (Miscellaneous Amendments) Ordinance 2001 (2 of 2001). Members may refer to the LegCo Brief (Ref.: CIB 06/08/5) issued by the Commerce and Industry Bureau in March 2002 for further information.

Part III: Commencement Notice

Intellectual Property (Miscellaneous Amendments) Ordinance 2001
Intellectual Property (Miscellaneous Amendments) Ordinance 2001 (2 of 2001)
(Commencement) Notice 2002 (L.N. 47)

19. By this Notice made under section 1(2) of the Intellectual Property (Miscellaneous Amendments) Ordinance 2001 (2 of 2001) (the Ordinance), the Secretary for Commerce and Industry has appointed 1 June 2002 as the day on which

sections 1, 2(a), (b) and (c), 3 to 11, 13, 15 to 18, 21 to 24 and 28 of the Ordinance are to come into operation.

20. The provisions inaugurated are mainly technical and minor amendments to the Patents Ordinance (Cap. 514) and the Registered Designs Ordinance (Cap. 522) and their relevant subsidiary legislation. They include simplifying patent application procedure (sections 3 and 4), enhancing priority right to a patent (section 7), and empowering the Chief Executive to amend Schedule 1 of the Patents Ordinance when an existing Paris Convention country or WTO member changes its name (section 11). The remaining yet to be commenced provisions relate to the use of electronic means for publishing notifications and advertisements for patents and designs. They will be commenced when the new computer system in the Intellectual Property Department becomes operational. Members may refer to the LegCo Brief (Ref.: CIB 06/08/5) issued by the Commerce and Industry Bureau in March 2002 for further information.

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