

立法會
Legislative Council

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**Paper for the House Committee Meeting
on 24 May 2002**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 17 May 2002**

Date of Tabling in LegCo : 22 May 2002

Amendment to be made by : 19 June 2002 (or 10 July 2002 if extended by resolution)

PART I INTELLECTUAL PROPERTY

Registered Designs Ordinance (Cap. 522)

Registered Designs Ordinance (Amendment of Schedule) Regulation 2002 (L.N. 65)

Patents Ordinance (Cap. 514)

Patents Ordinance (Amendment of Schedule 1) Order 2002 (L.N. 66)

Layout-design (Topography) of Integrated Circuits Ordinance (Cap. 445)

Layout-design (Topography) of Integrated Circuits (Designation of Qualifying Countries, Territories or Areas) Regulation (L.N. 67)

Trade Marks Ordinance (Cap. 43)

Trade Marks Ordinance (Amendment of Schedule) Order 2002 (L.N. 68)

Under the Paris Convention for the Protection of Industrial Property ("Paris Convention"), HKSAR is obliged to grant to a person who has filed an application for registration of a patent, industrial design or trade mark in a Paris Convention country a right of priority during a prescribed period for the purpose of filing the same application in HKSAR. A similar requirement is also provided by the Agreement on Trade-Related Aspects of Intellectual Property Rights ("TRIPS Agreement") under the WTO whereby the same treatment shall be given in respect of an application filed in a World Trade Organisation ("WTO") member country, territory or area.

2. Specific provisions have been made in the Patents Ordinance (Cap. 514), the Trade Marks Ordinance (Cap. 43) and the Registered Designs Ordinance (Cap. 522) to the effect that a person who has filed an application in a Paris Convention country or

WTO member country, territory or area will enjoy a right of priority. Pursuant to the TRIPS Agreement, the same level of intellectual property protection for layout-designs (topographies) is also granted to citizens of other WTO member countries, territories or areas as to citizens of HKSAR in the Layout-design (Topography) of Integrated Circuits Ordinance (Cap. 445).

3. L.N. 65, 66 and 68 are made to update the lists of countries which have acceded to the Paris Convention and countries, territories and areas which have acceded to the WTO. L.N. 67 designates certain countries, territories or areas, being countries, territories and areas which have acceded to the WTO Agreement, as qualifying countries, territories or areas for the purposes of the Layout-design (Topography) of Integrated Circuits Ordinance.

4. Members may refer to the LegCo Brief (CIB 80/18/2) issued by the Commerce and Industry Bureau in May 2002 for the background to these pieces of subsidiary legislation. They will come into operation on 11 July 2002.

PART II REHABILITATION CENTRES, ETC.

Rehabilitation Centres Ordinance (Cap. 567)

Rehabilitation Centres (Appointment) Order (L.N. 69)

Drug Addiction Treatment Centres Ordinance (Cap. 244)

Drug Addiction Treatment Centre (Chi Ma Wan Drug Addiction Treatment Centre) (Amendment) Order 2002 (L.N. 70)

Prisons Ordinance (Cap. 234)

Prisons (Amendment) (No. 2) Order 2002 (L.N. 71)

Prisons Ordinance (Cap. 234)

Prisons (Hostel) (Amendment) Order 2002 (L.N. 72)

Detention Centres Ordinance (Cap. 239)

Detention Centre (Consolidation) (Amendment) Order 2002 (L.N. 73)

5. L.N. 69 is made for the appointment of rehabilitation centres for young offenders who (a) may be detained in custody; and (b) may be required to reside after studying, working or engaging in other approved activities. L.N. 70, 71, 72 and 73 are amendments to the relevant subsidiary legislation as a consequence of the appointment of the rehabilitation centres under L.N. 69.

6. The above subsidiary legislation shall come into operation on 11 July 2002.

Rehabilitation Centres Ordinance (Cap. 567)

Rehabilitation Centres Ordinance (Cap. 567) (Commencement) Notice 2002 (L.N. 74)

Rehabilitation Centres Regulation (Cap. 567 sub. leg.)

Rehabilitation Centres Regulation (Cap. 567 sub. leg.) (Commencement) Notice 2002 (L.N. 75)

7. L.N. 74 and 75 appoint 11 July 2002 as the day on which the Rehabilitation Centres Ordinance and Rehabilitation Centres Regulation respectively shall come into operation. The Ordinance provides for the appointment of rehabilitation centres for the reformation and training of offenders of or over 14 and under 21 years of age. The Regulation provides for the operation and management of rehabilitation centres and the treatment and welfare of the young offenders detained therein.

PART III OTHERS

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

Public Health (Animals and Birds) (Animal Traders) (Amendment) Regulation 2002 (L.N. 76)

8. This Regulation adjusts the fee payable for a licence of an animal trader from \$3,235 (which was fixed in 1997) to \$2,670 due to the reduction of cost of processing of the licence.

9. Members may refer to the LegCo Brief issued by the Environment and Food Bureau in May 2002 for background information. The LegCo Panel on Food Safety and Environment has been consulted on the proposed licence fee reduction on 18 March 2002 and members of the Panel welcomed the proposal.

10. The Regulation shall come into operation on 1 July 2002.

Commodities Trading Ordinance (Cap. 250)

Commodities Trading (Trading Limits and Position Limits) (Amendment) Rules 2002 (L.N. 77)

11. These Rules amend the Schedule to the Commodities (Trading Limits and Position) Limits Rules (Cap. 250 sub. leg.) to revise the position limits for the Three-month Hong Kong Interbank Offered Rates futures contract and the One-month Hong Kong Interbank Offered Rate futures contract from 5,000 contracts to 1,000 contracts for any one contract and from 20,000 to 4,000 contracts for all contracts.

12. Members may refer to the LegCo Brief issued by the Securities and Futures Commission dated 17 May 2002 for the background to these Rules. These Rules shall come into operation on 12 July 2002.

Lands Tribunal Ordinance (Cap. 17)

Lands Tribunal (Amendment) Rules 2002 (L.N. 78)

13. The Rules amends the Lands Tribunal Rules (Cap.17 sub. leg.) to provide for the procedure for lodging an appeal to the Lands Tribunal under the Government Rent (Assessment and Collection) Ordinance (Cap. 515). The said Ordinance was passed in 1997 for the assessment and collection of rents on certain Government leases extending past 30 June 1997. The appeal procedure under these Rules largely models on that concerning appeals under the Rating Ordinance (Cap. 116).

14. Members may refer to the relevant LegCo Brief for more information of the amendment to the Rules. According to the Administration, the Hong Kong Bar Association and the Law Society of Hong Kong have been consulted and they have no comment on the amendment to the Rules.

Banking Ordinance (Cap. 155)

Banking (Specification of Public Sector Entities in Hong Kong) (Amendment) Notice 2002 (L.N. 79)

15. This Notice specifies the Urban Renewal Authority as a "public sector entity in Hong Kong" for the purpose of calculating the risk weighted exposure of an authorized institution referred to in the Third Schedule to the Banking Ordinance (Cap. 155). The effect of such specification is that it will enable the relevant public sector entity in Hong Kong to borrow at a lower cost.

16. Members may refer to LegCo Brief (ref: 29/2002 to G4/16C) for background information on this Notice.

PART IV COMMENCEMENT NOTICES

Dutiable Commodities Regulation (Cap. 109 sub. leg.)

Dutiable Commodities (Amendment) Regulation 2001 (L.N. 248 of 2001) (Commencement) Notice 2002 (L.N. 80)

17. This Commencement Notice appoints 21 July 2002 as the day on which section 5 of the Dutiable Commodities (Amendment) Regulation 2001 (L.N. 248 of 2001) shall come into operation. The relevant section requires stock records kept by warehouse keepers to be sent to the Commissioner using a recognized electronic service.

Factories and Industrial Undertakings (Loadshifting Machinery) Regulation (Cap. 59 sub. leg.)

Factories and Industrial Undertakings (Loadshifting Machinery) Regulation (Cap. 59 sub. leg.) (Commencement) Notice 2002 (L.N. 81)

18. This Commencement Notice appoints 1 September 2002 as the day on

which sections 3, 6 and 8 of the Factories and Industrial Undertakings (Loadshifting Machinery) Regulation (Cap. 59 sub. leg.) insofar as they relate to Part I and paragraphs (a) to (e) in Part II of the Schedule (i.e. fork-lift used in industrial undertakings and bulldozer, loader, excavator, truck and lorry) shall come into operation.

19. Sections 3 of the Regulation provides that the responsible person of a loadshifting machine shall ensure that the machine is only operated by a person who has attained the age of 18 and holds a valid certificate applicable to the type of loadshifting machine to which that machine belongs. Under section 6, the person operating the loadshifting machine shall produce his valid certificate when so required by an occupational safety officer. Section 8 provides that contravention of sections 3 or 6 constitutes an offence.

Medical and Health Care (Miscellaneous Amendments) Ordinance 2002
Medical and Health Care (Miscellaneous Amendments) Ordinance 2002 (9 of 2002)
(Commencement) Notice 2002 (L.N. 82)

20. This Commencement Notice appoints 12 July 2002 as the day on which the Medical and Health Care (Miscellaneous Amendments) Ordinance 2002 (9 of 2002) shall come into operation. The Ordinance made amendments to six Ordinances relating to medical and healthcare professions. It was passed by the LegCo on 24 April 2002.

Travel Agents Ordinance (Cap. 218)
Travel Agents (Amendment) Ordinance 2002 (10 of 2002) (Commencement)
Notice 2002 (L.N. 83)

21. This Commencement Notice appoints 1 November 2002 as the day on which the Travel Agents (Amendment) Ordinance 2002 (10 of 2002) shall come into operation. The object of the Amendment Ordinance is to make regulatory provisions applicable to persons who carry on business as inbound travel agents in Hong Kong. It was passed by the LegCo on 24 April 2002.

Prepared by

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