

立法會
Legislative Council

LC Paper No. LS21/01-02

**Paper for the House Committee Meeting
of the Legislative Council
on 16 November 2001**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 9 November 2001**

Date of Tabling in LegCo : 14 November 2001

Amendment to be made by : 12 December 2001 (or 19 December 2001 if extended by resolution)

Part I ***Electoral Regulations***

**Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554)
Maximum Amount of Election Expenses (Chief Executive Election) Regulation
(L.N. 232)**

This Regulation prescribes the maximum amount of election expenses at \$9.5 million for an election to elect the Chief Executive.

2. Section 24 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) ("the Ordinance") provides that a candidate engages in illegal conduct at an election if the aggregate amount of election expenses incurred at or in connection with the election by or on behalf of the candidate exceeds the maximum amount of election expenses prescribed for a candidate. Section 22 of the Ordinance provides that any person in breach of this restriction is liable on conviction, if tried on indictment, to a fine of \$200,000 and to imprisonment for three years.

3. Members may refer to LegCo Brief File Ref. CAB C5/7/7 issued by the Constitutional Affairs Bureau on 8 November 2001 for background information.

4. This Regulation will come into operation on 21 December 2001.

**Electoral Affairs Commission Ordinance (Cap. 541)
Electoral Procedure (Chief Executive Election) Regulation (L.N. 233)**

5. This Regulation provides for the electoral procedure of Chief Executive election conducted under the Chief Executive Election Ordinance (Cap 569). It

provides for nomination and withdrawal of candidature, appointment of election agents and election expense agents, polling arrangement, voting procedure, counting of votes, disposal of election-related documents, termination, postponement or adjournment of election proceedings and other miscellaneous amendments.

6. Members may refer to LegCo Brief File Ref. REO 14/36/6 issued by the Registration and Electoral Office in November 2001 for background information.
7. This Regulation will come into operation on 21 December 2001.
8. The Legal Service Division is still scrutinising the legal and drafting aspects of L.N. 233.

Part II Air Navigation

**Air Navigation (Hong Kong) Order 1995 (Cap. 448 sub. leg.)
Air Navigation (Hong Kong) (Amendment of Schedule 16) Order 200 (L.N. 234)**

**Dangerous Goods (Consignment by Air) (Safety) Regulations (Cap. 384 sub. leg.)
Dangerous Goods (Consignment by Air) (Safety) Regulations (Amendment of
Schedule) Order 2001 (L.N. 235)**

9. L.N. 234 amends Schedule 16 to the Air Navigation (Hong Kong) Order 1995 (Cap. 448 sub. leg.) and L.N. 235 amends the Schedule to the Dangerous Goods (Consignment by Air) (Safety) Regulations (Cap. 384 sub. leg.) ("the Regulations") to give effect to the 2001-2002 edition of the Technical Instructions for the Safe Transport of Dangerous Goods by Air ("Technical Instructions") approved by the International Civil Aviation Organization ("ICAO"). L.N. 234 also repeals requirements which have been covered by the Regulations.
10. Members may refer to LegCo Brief File Ref. ESB CR 15/951/49 issued by the Economic Services Bureau in November 2001 for background information on the two Orders. According to the Brief, the Technical Instructions contain detailed provisions for the transport of dangerous goods by air to ensure aviation safety. The latest edition of the Technical Instructions came into effect on 1 July 2001, and the changes are highlighted in paragraphs 4 to 9 of the Brief.
11. The two Orders have come into operation on 9 November 2001. According to the Administration, the ICAO had taken into account the views of the industry when preparing the Technical Instructions. The industry have already incorporated the amendments to the Instructions into its handbook in July 2001 and are implementing the new requirements.
12. The two Orders are legally in order.

Part III Animals and Plants (Protection of Endangered Species) Ordinance

Animals and Plants (Protection of Endangered Species) Ordinance (Cap. 187)

Animals and Plants (Protection of Endangered Species) (Exemption)

(Amendment) Order 2001 (L.N. 236)

Animals and Plants (Protection of Endangered Species) Ordinance (Amendment of Schedules) Notice 2001 (L.N. 237)

13. L.N. 236 amends the Animals and Plants (Protection of Endangered Species) (Exemption) Order (Cap. 187 sub. leg.) ("the Order") -

- (a) to exempt the possession or control of five species from the licensing requirement imposed by the Animals and Plants (Protection of Endangered Species) Ordinance (Cap. 187) ("the Ordinance");
- (b) to exempt the import, export, possession or control of certain scheduled plants from the licensing requirements imposed by the Ordinance.

14. L.N. 237 amends the Schedules to the Ordinance to give effect to the changes made to the listings of endangered species in the Appendices the Convention on International Trade in Endangered Species of Wild Fauna and Flora ("CITES").

15. The Ordinance gives effect to CITES which applies to Hong Kong. Members may refer to LegCo Brief File Ref. EFB 9/55/25/01 issued by the Environment and Food Bureau on 7 November 2001 for background information on the Order and Notice. According to the Brief, representatives of the shark fin trade have raised objection to the proposal as they were concerned that more stringent controls would be imposed on their trade in future. The Administration has clarified that basking shark could continue to be traded under export or re-export licences (import licensing requirement is exempted under section 10 of the Order), and that the restriction reflects the changes made to CITES.

16. The Notice shall come into operation on the day to be appointed by the Secretary for the Environment and Food by notice published in the Gazette. The Amendment Order shall come into operation on the same day. The legal and drafting aspects of the Order and the Notice are in order.

Prepared by

Lam Ping-man, Stephen (Legal Notices No. 232 and 233)

Wong Sze-man, Bernice (Legal Notices No. 234 to 237)

Assistant Legal Advisers

Legislative Council Secretariat

14 November 2001