

立法會
Legislative Council

LC Paper No. LS69/02-03

**Paper for the House Committee Meeting
on 7 March 2003**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 28 February 2003**

Date of Tabling in LegCo : 5 March 2003

Amendment to be made by : 2 April 2003 (or 30 April 2003 if extended by resolution)

PART I MISCELLANEOUS AMENDMENTS

Massage Establishments Ordinance (Cap. 266)

Massage Establishments (Amendment) Regulation 2003 (L.N. 51)

Under the Massage Establishments Ordinance ("the Ordinance"), a massage establishment licence ("licence") may be renewed for a period of 12 months at a fee of \$6,410.

2. The Massage Establishments (Amendment) Regulation 2003 ("the Amendment Regulation") amends the Ordinance to facilitate the operation of section 4 of the Massage Establishments (Amendment) Ordinance 2001 (Ordinance No. 28 of 2001), which was passed by the Legislative Council on 14 November 2001 to enable the licensing authority to renew a licence for a period of 24 months if the licensee has not been in breach of any conditions of the licence.

3. The Amendment Regulation amends:

- (a) Schedule 1 to the Ordinance to provide for the renewal of a licence for either a period of 12 months or 24 months; and
- (b) Schedule 2 to the Ordinance to reduce the fee for the renewal of a licence for a period of 12 months or 24 months to \$2,730.

4. Members may refer to the LegCo Brief issued by the Security Bureau in February 2003 (File Ref.: SBCR 9/2801/83) for background information. An information paper on the proposed revision of massage establishment license fees was issued to the Panel on Security in March 2002. Members have not raised any queries on the proposal.

5. The Amendment Regulation shall come into operation on a day to be appointed by the Secretary for Security by notice published in the Gazette.

Probate and Administration Ordinance (Cap. 10)

Probate and Administration Ordinance (Amendment of Schedule 2) Order 2003 (L.N. 52)

6. This Order amends Schedule 2 to the Probate and Administration Ordinance ("the Ordinance") to designate New Zealand as one of the countries for the purpose of recognition and enforcement of grants of probate and letters of administration between Hong Kong and countries or places outside Hong Kong. This Order is made by the Chief Executive in Council under section 49A(1) of the Ordinance following the recognition by New Zealand of probate or letters of administration granted by a court in Hong Kong.

7. The effect of the amendment is to empower the High Court to reseal grants of probate or letters of administration granted by the court of probate in New Zealand. Under section 49 of the Ordinance, grants of probate or letters of Administration so resealed shall be of the like force and effect and have the same operation in Hong Kong as if granted by the High Court.

8. Members may refer to LegCo Brief (File Ref. : CSO/ADM CR 6/3231/96(02)) dated 26 February 2003 issued by the Chief Secretary for Administration's Office for details. This Order has not been discussed by the Panel on Administration of Justice and Legal Services. As this is considered to be a technical exercise by the Administration, no public consultation has been carried out.

PART II COMMENCEMENT NOTICE

Chinese Medicine Ordinance (Cap. 549)

Chinese Medicine Ordinance (Cap. 549) (Commencement) Notice 2003 (L.N. 53)

Chinese Medicines Regulation (Cap. 549 sub. leg.) (Commencement) Notice 2003 (L.N. 54)

Chinese Medicine (Fees) Regulation (Cap 549 sub. leg.) (Commencement) Notice 2003 (L.N. 55)

Chinese Medicines Traders (Regulatory) Regulation (Cap. 549 sub. leg.) (Commencement) Notice 2003 (L.N. 56)

9. The Chinese Medicine Ordinance ("the Ordinance") was enacted by the Legislative Council in July 1999 to provide a statutory framework for the regulation of the practice, use, trading and manufacture of Chinese medicine in Hong Kong. Provisions of the Ordinance have come into operation in several batches. The first batch relating to the setting up of the Chinese Medicine Council of Hong Kong ("CMC") for the development and implementation of regulatory measures became effective on 6 August 1999. The second batch came into operation on 16 August 2000 to implement the statutory regime of registration and listing of Chinese medical practitioners. The third batch governing the use of the title of Chinese medicine practitioner registered or listed under the Ordinance became effective on 1 March 2002.

10. This is the fourth batch of the provisions of the Ordinance to come into operation. Such provisions together with the Chinese Medicines Regulation, the Chinese Medicine (Fees) Regulation and the Chinese Medicines Traders (Regulatory) Regulation ("the Regulations") provide for the regulatory framework for Chinese medicines under which all wholesalers and retailers of Chinese herbal medicines as well as wholesalers and manufacturers of proprietary Chinese medicines will be subject to licensing control. All proprietary Chinese medicines manufactured or offered for sale in Hong Kong have to be individually registered with the CMC, having regard to the safety, quality and efficacy of the medicines concerned.

11. A subcommittee has been formed to study the Regulations. Members may refer to our previous reports on the Ordinance (File Ref.: LC Paper No. LS107/98-99) and on the Regulations (File Ref.: LC Paper No. LS13/02-03) and the Report of the Subcommittee on the Regulations (Paper No. CB(2)595/02-03) ("the Report") for further information.

12. According to the Report, the Administration has undertaken to include in the practising guidelines for Chinese medicines traders examples illustrating the application of the licensing/registration condition that "the premises are in all respects suitable" referred to in sections 3(e), 4(d), 5(g) and 6(c) of the Chinese Medicines Regulation. Subsequent to the Report, the Administration has confirmed to the Secretariat that the relevant information has been included in the guidelines for the trade.

Chinese Medicine Ordinance (Cap. 549) (Commencement) Notice 2003 (L.N. 53)

13. By this Notice given under section 1(2) of the Ordinance, the Secretary for Health, Welfare and Food ("the Secretary") appoints 30 April 2003 as the date on which the following provisions of the Ordinance will come into effect:

Section	Nature of provisions
108(3)(a) and (5)(a),114-118	Licensing of retailers and wholesale dealers in Chinese herbal medicines.
132, 133, 135-138	Licensing of manufacturer and wholesale dealers in proprietary Chinese medicines.
139-141, 145 and 153	Power of the Medicines Board to require information from applicants; to suspend, revoke or vary the conditions of the licences issued under the above-mentioned sections; review and appeal of such decisions.
146-147	Power of the Director of Health to authorise entry and inspection of premises for the purpose of enforcing the Ordinance.
148	Protection of informers in proceedings for offences under the Ordinance.
149	Protection of public officers in exercising their functions under the Ordinance.

Chinese Medicines Regulation (Cap. 549 sub. leg.) (Commencement) Notice 2003 (L.N. 54)

14. By this Notice, the Secretary appoints 30 April 2003 as the day on which the Chinese Medicines Regulation which stipulates the licensing requirements and practicing conditions of all Chinese medicines traders as well as the registration and labelling requirements for proprietary Chinese medicines, comes into operation.

Chinese Medicine (Fees) Regulation (Cap 549 sub. leg.) (Commencement) Notice 2003 (L.N. 55)

15. By this Notice, the Secretary appoints 30 April 2003 as the day on which the Chinese Medicines (Fees) Regulation which sets out the various fees payable in respect of licensing of Chinese medicines traders and registration of proprietary Chinese medicines, comes into operation.

Chinese Medicines Traders (Regulatory) Regulation (Cap. 549 sub. leg.) (Commencement) Notice 2003 (L.N. 56)

16. By this Notice, the Secretary appoints 30 April 2003 as the day on which the Chinese Medicines Traders (Regulatory) Regulation which provides for the procedures to be adopted by the Regulatory Committee of Chinese Medicines Traders and the Chinese Medicines Board in dealing with complaints or information against licensed Chinese medicines traders under the Ordinance, comes into operation.

**Shipping and Port Control Regulations (Cap. 313 sub. leg.)
Shipping and Port Control Regulations (Amendment of Third and Seventh
Schedules) Notice 2002 (L.N. 123 of 2002) (Commencement) Notice 2003
(L.N. 57)**

17. By this Notice, the Director of Marine appoints 1 March 2003 as the day on which the Shipping and Port Control Regulations (Amendment of Third and Seventh Schedules) Notice 2002, which re-aligns the existing Northern Fairway, the Western Quarantine Anchorage and the Western Dangerous Goods Anchorage for the increased safety of vessels in using the Fairway or Anchorages, comes into operation.

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