

立法會

Legislative Council

LC Paper No. LS172/02-03

**Paper for the House Committee Meeting
on 3 October 2003**

**Legal Service Division Report on
Subsidiary Legislation gazetted from 11 July 2003 to 27 September 2003**

This paper annexes eight Legal Service Division's reports on items of subsidiary legislation gazetted from 11 July 2003 to 27 September 2003. The items of subsidiary legislation included in these reports have not been tabled as there has been no meeting of the Legislative Council since they were gazetted. The items will be tabled at the Council meeting on 8 October 2003. Under section 34 of the Interpretation and General Clauses Ordinance (Cap. 1), the Legislative Council may amend them by 5 November 2003, or by 26 November 2003 if extended by resolution.

2. Six out of the eight reports (except the reports on subsidiary legislation gazetted on 19 and 27 September 2003) have separately been submitted to Members during the summer recess to enable Members to consider the relevant subsidiary legislation as soon as possible. The six reports are submitted again in this bundle to facilitate consideration by the House Committee.

3. Members may wish to note that the Airport Authority Ordinance (Map of Restricted Area) Order (Cap. 483 sub. leg. G) (Commencement) Notice 2003 (L.N. 207) gazetted on 19 September 2003 and Air Passenger Departure Tax Ordinance (Amendment of Second Schedule) Order 2003 (L.N. 208) gazetted on 27 September 2003 are related. L.N. 207 specifies 25 September 2003 as the date on which section 2(c) of the Airport Authority Ordinance (Map of Restricted Area) Order ("the Order") would come into operation. Section 2(c) of the Order expands the boundaries of the Restricted Area to include the existing ferry terminal and the connecting road for the purpose of facilitating cross-boundary ferry services between the Airport and selected ports in the Pearl River Delta for transit passengers. L.N. 208 amends the Second Schedule to the Air Passenger Departure Tax Ordinance (Cap. 140) to exempt passengers arriving by cross-boundary ferry service for onward departure by air from liability to pay air passenger departure tax provided that they remain at all times within the Restricted Area (its delineation is as modified by section 2(c) of the Order).

4. The Secretariat has circulated to Members the Gazettes which contain the subsidiary legislation covered by these eight reports in the usual manner. Members may also view the relevant Gazettes at the following website : <http://www.info.gov.hk/pd/egazette>.

5. No difficulties relating to the legal and drafting aspects of the items covered by the eight reports have been identified.

6. Members may consider whether it is necessary to set up a subcommittee to study any of the items of subsidiary legislation covered by these eight reports.

Encl

Prepared by

Legal Service Division
Legislative Council Secretariat
30 September 2003

LS/S/48/02-03

立法會

Legislative Council

Legal Service Division Report on Subsidiary Legislation Gazetted on 11 July 2003

Date of tabling in LegCo : 8 October 2003

Amendment to be made by : 5 November 2003 (or 26 November 2003 if extended by resolution)

PART I REGULATIONS MADE UNDER THE ROAD TRAFFIC ORDINANCE (Cap. 374)

Road Traffic Ordinance (Cap. 374)

Road Traffic (Temporary Reduction of New Territories Taxi Fares) Regulation 2003 (Repeal) Regulation (L.N. 187)

Road Traffic (Temporary Reduction of New Territories Taxi Fares) (No. 2) Regulation 2003 (Repeal) Regulation (L.N. 188)

The Subcommittee on Road Traffic (Temporary Reduction of New Territories Taxi Fares) Regulation 2003 (L.N. 146 of 2003) and Road Traffic (Temporary Reduction of New Territories Taxi Fares) (No.2) Regulation 2003 (L.N. 147 of 2003) received a briefing by the Administration on 7 July 2003 on the findings of the surveys to review the effectiveness of the New Territories (NT) taxi temporary fare concession and the plan of the Administration on the way forward. Noting that about 80% of the respondents objected to the continuation of the temporary fare concession, the Subcommittee agrees with the Administration and the NT taxi trade that the temporary fare concession should be terminated as soon as possible.

2. The Subcommittee also agreed to the Administration's suggestion that the temporary fare concession should be terminated the day following the gazettal of the relevant subsidiary legislation.

3. Regarding enforcement actions against illegal practices of individual NT taxi operators and measures to improve viability of the taxi trade, the Subcommittee has referred the matters to the Panel on Transport for follow-up.

4. L.N. 187 repeals the Road Traffic (Temporary Reduction of New Territories Taxi Fares) Regulation 2003 (L.N. 146 of 2003) with effect from 12 July 2003. The effect is to bring an end to the temporary measure to reduce the scale of fares for the hiring of New Territories Taxis that was implemented by that Regulation.

5. L.N. 188 repeals the Road Traffic (Temporary Reduction of New Territories taxi Fares) (No. 2) Regulation 2003 (L.N. 147 of 2003) with effect from 12 July 2003. The latter relates to a temporary measure to reduce the scale of fares for the hiring of New Territories taxis by requiring drivers of such taxis to display a conversion table and

to mark appropriate fares on fare receipts. As the measure to reduce the scale of fares has come to an end, this Regulation cancels those requirements.

6. Members may also refer to the LegCo Brief (without file reference on it) issued by the Environment, Transport and Works Bureau dated 8 July 2003 for background information.

7. No difficulties relating to the legal and drafting aspects of these two items of subsidiary legislation have been identified.

PART II COMMENCEMENT NOTICE

Legislative Council Ordinance (Cap. 542)

Legislative Council (Amendment) Ordinance 2003 (25 of 2003) (Commencement) Notice 2003 (L.N.189)

The Notice appoints the following dates for the commencement of different provisions of the Legislative Council (Amendment) Ordinance 2003, which was passed by LegCo on 3 July 2003 :-

Commencement Date	Section(s)	Brief description of the section(s)
(a) 11 July 2003	Section 7	This section amends provisions in the Legislative Council Ordinance (LCO) which relate to the establishment of functional constituencies (FCs) for LegCo from the third term onwards.
	Sections 4, 17, 22, 36(3)	These sections amend provisions in the LCO which relate to the disqualification criteria to take into account recent changes in the Mental Health Ordinance and the Bankruptcy Ordinance.
	Sections 21, 25(1) (b) and (3)(b), 26, 29(1)(a) and (2)(a), 32, 33, 34	At present, the Returning Officer (RO) has to take certain steps in relation to the nomination of candidates and the conduct of an election, if the death or disqualification of a candidate comes to his knowledge. These sections contain amendments to the LCO to require the RO to take those steps only when proof is given to his satisfaction of the death or disqualification.
	Sections 2(3) and (4), 18 and 41	These sections contain minor technical amendments to the LCO.

Commencement Date	Section(s)	Brief description of the section(s)
(b) 11 July 2003	Sections 2(1) and (2), 3, 5, 6, 19, 20, 23, 24, 25(1)(a), (2), (3)(a) and (4), 27(2), 28, 29(1)(b), (2)(b) and (3), 30, 31, 35, 36(1) and (2), 37 and 40 (for the purpose only of registering electors and enabling arrangements to be made for the holding of the third general LegCo elections in 2004)	These sections amend provisions which relate to the establishment of geographical constituencies (GCs), and repeal those relating to the election of LegCo Members by the Election Committee (EC) from the third term LegCo onwards.
(c) 1 August 2003	Sections 8, 9, 10, 11, 12, 13, 14, 16, 43, 44, 45, 46, 47 and 48	These sections amend provisions relating to the composition of various FCs by adding new electors, deleting existing electors that have ceased to exist, or updating the names of existing electors.
	Section 56	This section amends the Schedule to the Chief Executive Election Ordinance to reflect, in the composition of the subsectors, the changes to the FCs mentioned above.
(d) 15 July 2004	Sections 27(1) and (3), 38, 42, 49, 51, 52 and 55	These sections provide for the new financial assistance scheme by introducing a new part to the LCO; reducing the number of letters that can be sent by a candidate, free of charge, from two to one; amending the Electoral Affairs Commission Ordinance (EACO) to authorize the Electoral Affairs Commission to make regulations to implement the financial assistance scheme; and extending the period prescribed under the Elections (Corrupt and Illegal Conduct) Ordinance (ECICO) within which election returns from LegCo elections are to be lodged.

Commencement Date	Section(s)	Brief description of the section(s)
	Sections 1 to 7 and 10 of the Schedule (with section 50 of the Ordinance)	These are consequential amendments to the Post Office Regulations, the LegCo (Subscribers and Election Deposit for Nomination) Regulation and the Electronic Transactions (Exclusion) Order. These amendments relate to the number of letters that can be sent by a candidate free of postage, and the repeal of spent provisions concerning the EC and references to that Committee.
(e) 1 October 2004	Sections referred to in item (b) (for all other purposes)	These sections amend provisions which relate to the establishment of GCs, and repeal those relating to the election of LegCo Members by the EC from the third LegCo term onwards.
	Section 15	This section repeals the provisions in the LCO which provide for the election of LegCo Members by the EC for the second term of office of the LegCo.
	Section 39 and sections 8 and 9 of the Schedule	This section repeals the provision providing for the lodging of election petition in respect of an election by the EC. Consequential amendments are also made to the LegCo (Election Petition) Rules.
	Sections 53 and 54	These sections amend provisions in the EACO and the ECICO which relate to the LegCo elections and which refer to the EC.

Prepared by

Lam Ping-man, Stephen (Legal Notices No. 187 & 188)

Assistant Legal Adviser

Arthur CHEUNG Ping-kam (Legal Notice No. 189)

Senior Assistant Legal Adviser

Legislative Council Secretariat

1 August 2003

立法會

Legislative Council

Legal Service Division Report on Subsidiary Legislation gazetted on 18 July 2003

Date of tabling in LegCo : 8 October 2003

Amendment to be made by : 5 November 2003 (26 November 2003 if extended by resolution)

Interpretation and General Clauses Ordinance (Cap. 1) Specification of Public Office (L.N. 192)

This Notice specifies the Secretary for Home Affairs (SHA) as the public officer for the purposes of the provisions of Ordinances listed in the Schedule to the Notice, namely, the New Territories Ordinance (Cap. 97), Hotel and Guesthouse Accommodation Ordinance (Cap. 349), New Territories Land (Exemption) Ordinance (Cap. 452), Sex Discrimination Ordinance (Cap. 480), Personal Data (Privacy) Ordinance (Cap. 486) and Heung Yee Kuk Ordinance (Cap. 1097). The relevant provisions of those Ordinances confer or impose on SHA various statutory powers and duties relating to, amongst others, community and rural matters, the financial supervision of the Equal Opportunities Commission and the Privacy Commissioner for Personal Data, and the regulation of hotels and guesthouses. Details of the nature of powers/functions vested in SHA in those provisions are set out at Annex B to the LegCo Brief (File Ref.: HAB/CR/1/7/35) issued by the Home Affairs Bureau in July 2003. Members may refer to the LegCo Brief for details.

2. The effect of this Notice is to enable SHA to delegate the exercise of his powers and performance of duties under the provisions of the above Ordinances to any other public officer, or to the person for the time being holding any office designated by SHA to exercise such powers and perform such duties on his behalf.

Legal Practitioners Ordinance (Cap. 159) Practising Certificate (Solicitors) (Amendment) Rules 2003 (L.N. 193)

3. Section 6(1) of the Legal Practitioners Ordinance (Cap. 159) (the Ordinance) provides for the application for a practising certificate as a solicitor made in November in any year. Under section 6(4) of the Ordinance, the Law Society may permit such applications made at any time of the year.

4. These Rules amend the form of practising certificate for a solicitor (Form 2 in the Schedule to the Practising Certificate (Solicitors) Rules (Cap. 159 sub.

leg. L)) to allow the form to be used as the practising certificate issued upon an application made at any time of the year instead of in November in any year only. A copy of the English version of the Rules has been circulated to members of the Panel on Administration of Justice and Legal Services for reference.

Fire Services Ordinance (Cap. 95)

Fire Services (Amendment) Ordinance 2003 (7 of 2003) (Commencement) Notice 2003 (L.N. 194)

5. This Notice appoints 1 January 2004 as the day on which the Fire Services (Amendment) Ordinance 2003 (7 of 2003) will come into operation.

6. The main purpose of the Amendment Ordinance is to amend the Fire Services Ordinance (Cap. 95) (FSO) to: (a) provide for the powers of the Director of Fire Services to investigate matters relating to a fire, and for the abatement and prevention of fire hazards; (b) empower the Chief Executive in Council to make regulations providing for the regulation of new types of fire hazards and for applications for court orders concerning fire hazards; and (c) amend the level of fines for offences under the FSO and its subsidiary legislation. Following the enactment of the Amendment Ordinance in March 2003, the Chief Executive in Council has made the Fire Services (Fire Hazard Abatement) Regulation (L.N. 113 of 2003) (the Regulation), which was tabled in the Legislative Council on 14 May 2003 and has been examined by a subcommittee. The Regulation deals with all matters relating to abatement of fire hazards, including new forms of fire hazards, namely, illegal refuelling and improper stowage or conveyance of parts of motor vehicles containing residual fuel in an enclosed freight container. The Regulation will come into operation on the same day as the Amendment Ordinance.

Betting Duty Ordinance (Cap. 108)

Betting Duty (Amendment) Ordinance 2003 (29 of 2003) (Commencement) Notice 2003 (L.N. 195)

7. This Notice appoints 18 July 2003 as the day on which the Betting Duty (Amendment) Ordinance 2003 (29 of 2003) will come into operation.

8. The main purpose of the Amendment Ordinance is to amend the Betting Duty Ordinance (Cap. 108) to empower the Secretary for Home Affairs (SHA) to grant a licence to a company to conduct betting on football matches, to charge a duty in relation to authorized betting on football matches, to abolish the Hong Kong Lotteries Board and empower SHA to grant a licence to a company to operate lotteries, and to establish the Gaming Commission to advise the Government on matters relating to the regulation of betting on football matches and lotteries. Members may note that the Hong Kong Jockey Club has been granted a licence to conduct football betting in Hong Kong for a period of five years.

Aerial Ropeways (Safety) Ordinance (Cap. 211)
Aerial Ropeways (Operation and Maintenance) (Amendment) Regulation 2003
(L.N. 122 of 2003) (Commencement) Notice 2003 (L.N. 196)

9. This Notice appoints 1 August 2003 as the day on which the Aerial Ropeways (Operation and Maintenance) (Amendment) Regulation 2003 (L.N. 122 of 2003) will come into operation.

10. The main purpose of the Amendment Regulation is to amend the Aerial Ropeways (Operation and Maintenance) Regulations (Cap. 211 sub. leg. A) (the Regulations) so that the Regulations apply to mono-cable ropeways as well as ropeways of other designs, including aerial ropeways with hauling ropes or track ropes. The operation and safety standards of the proposed Tung Chung Cable Car System are to be governed by the Regulations. Other amendments introduced by the Amendment Regulation relate to the safe operation of ropeways. These include empowering the Director of the Electrical and Mechanical Services to specify different wind speed limits for different aerial ropeways and specifying examination requirements for various kinds of ropes for the safe operation of an aerial ropeway.

Prepared by

FUNG Sau-kuen, Connie
Assistant Legal Adviser
Legislative Council Secretariat
4 August 2003

立法會
Legislative Council

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 25 July 2003**

Date of Tabling in LegCo : 8 October 2003

Amendment to be made by : 5 November 2003 (or 26 November 2003 if extended by resolution)

Public Health and Municipal Services Ordinance (Cap. 132)

**Public Health and Municipal Services Ordinance (Public Markets)
(Designation and Amendment of Tenth Schedule) Order 2003 (L.N. 197)**

Declaration of Markets Notice (Amendment) Declaration 2003 (L.N. 198)

Part VI of the Public Health and Municipal Services Ordinance (Cap. 132) ("the Ordinance") regulates markets and hawkers.

2. Section 79(3) of Part VI of the Ordinance provides that the Director of Food and Environmental Hygiene may, by order published in the Gazette, designate as a public market any market to which the Ordinance applies and such markets are specified in the Tenth Schedule. The Director of Food and Environmental Hygiene may also, by order published in the Gazette, amend, add to, or delete from the Tenth Schedule (section 79(5)). L.N. 197 cancels the designation of the Central Market as a public market. It also amends the Tenth Schedule to remove the Central Market from the list of public markets.

3. Section 79(1) of the Ordinance provides that the Ordinance shall apply to every market, being a market in which food is sold, which is declared by the Director of Food and Environmental Hygiene to be a market to which the Ordinance applies. L.N. 198 declares that the Ordinance ceases to apply to the Central Market and Luen Wo Private Market.

4. The Panel on Food Safety and Environmental Hygiene was consulted in 2001 and 2002 on the relocation arrangements for stalls in the Central Market and the amount of ex-gratia payments for the affected stallholders. At the Panel meeting held on 25 February 2002, members generally accepted the revised arrangements proposed by the Administration for stallholders in the Central Market. The Panel has not been consulted on the closure of Luen Wo Private Market.

5. These 2 items of subsidiary legislation have taken effect on the date of their publication in the Gazette, that is, 25 July 2003.

Prepared by
Kitty Cheng
Assistant Legal Adviser
Legislative Council Secretariat
6 August 2003

立法會
Legislative Council

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 1 August 2003**

Date of Tabling in LegCo : 8 October 2003

Amendment to be made by : 5 November 2003 (or 26 November 2003 if extended by resolution)

High Court Ordinance (Cap. 4)

Rules of the High Court (Amendment) Rules 2003 (Repeal) Rules (L.N. 199)

By these Rules made under section 54 of the High Court Ordinance (Cap. 4) by the Rules Committee of the High Court (the Rules Committee), the Rules of the High Court (Amendment) Rules 2003 (the Amendment Rules) are repealed.

2. The Amendment Rules were gazetted on 20 June 2003. A Subcommittee was established to study them. At the meeting of the Subcommittee on 23 July 2003, members expressed various concerns in respect of the proposed amendments. These concerns were conveyed to the Administration in writing by the clerk to the Subcommittee's letter of 24 July 2003. In view of those concerns, the Rules Committee has decided to repeal the Amendment Rules. Members may wish to refer to the LegCo Brief dated 31 July 2003 and issued by the Judiciary Administration for further information. The clerk's letter has been attached to the LegCo Brief as Annex C. According to the LegCo Brief, the Rules Committee will reconsider the matter in due course and take into account the concerns of the Subcommittee.

Tax Reserve Certificates (Fourth Series) Rules (Cap. 289 sub. leg. A)

Tax Reserve Certificates (Rate of Interest) (No. 3) Notice 2003 (L.N. 200)

3. By this Notice made under rule 7(2)(h) of the Tax Reserve Certificates (Fourth Series) Rules (Cap. 289 sub. leg. A) by the Secretary for Financial Services and the Treasury, the rate of interest payable on tax reserve certificates issued on or after 4 August 2003 is prescribed to be 0.0417% per annum (the new rate).

4. The Schedule to the Tax Reserve Certificates (Rate of Interest)(Consolidation) Notice (Cap. 289 sub. leg. B) is consequentially amended by adding "and before 4 August 2003" at the end of item 134 and a new item 135 specifying the new rate and the period for which it is effective.

Legal Practitioners Ordinance (Cap. 159)

**Foreign Lawyers Practice (Amendment) Rules 2003 (L.N. 111 of 2003)
(Commencement) Notice 2003 (L.N. 201)**

5. By this Notice made under section 1 of the Foreign Lawyers Practice (Amendment) Rules 2003 (L.N. 111 of 2003) (the Amendment Rules), the President of the Council of the Law Society of Hong Kong has appointed 1 November 2003 as the date on which the Amendment Rules are to come into operation.

6. The Amendments Rules impose an obligation on the principal of a foreign firm to ensure that when the name or other description of the firm is stated in more than one language on any business letter issued in connection with the firm's practice, the different versions of the name or description should correspond to each other.

7. No difficulties have been identified in the legal or drafting aspects of all the above subsidiary legislation.

Prepared by
KAU Kin-wah
Assistant Legal Adviser
Legislative Council Secretariat
11 August 2003

立法會
Legislative Council

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 29 August 2003**

Date of Tabling in LegCo : 8 October 2003

Amendment to be made by : 5 November 2003 (or 26 November 2003 if extended by resolution)

Import and Export (General) Regulations (Cap. 60 sub. leg. A)
Import and Export (General) Regulations (Amendment of Seventh Schedule)
(No. 6) Notice 2003 (L.N. 202)

Under section 7(2) of the Import and Export (General) Regulations (Cap. 60 sub. leg. A) ("the Regulations"), the Director-General of Trade and Industry may, by notice published in the Gazette, add to and delete from the Seventh Schedule to the Regulations :-

- (i) the name of a country or place for which the Kimberly Process Certification Scheme (KPCS) is effective; or
 - (ii) the name of any other country or place from which the import of rough diamonds into, and to which the export of diamonds from, a country or place for which the KPCS is effective is permitted by the Kimberly Process.
2. This Notice :-
- (i) adds Croatia to the Seventh Schedule to the Regulation; and
 - (ii) deletes Algeria, Brazil, Burkina Faso, Cameroon, Cyprus, Czech Republic, Gabon, Ghana, Democratic People's Republic of Korea, Malaysia, Mali, Malta, Mexico, Norway, Philippines, Swaziland, Togo, Tunisia, Turkey and Vietnam from the Seventh Schedule to the Regulations.

Tax Reserve Certificates (Fourth Series) Rules (Cap. 289 sub. leg. A)
Tax Reserve Certificates (Rate of Interest) (No. 4) Notice 2003 (L.N. 203)

3. This Notice fixes the rate of interest payable on tax reserve certificates issued on or after 1 September 2003 at 0.0375% per annum. The rate before this Notice was 0.0417% per annum.

Prepared by
LAI Shun-wo, Monna
Assistant Legal Adviser
Legislative Council Secretariat
1 September 2003

立法會
Legislative Council

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 5 September 2003**

Date of Tabling in LegCo : 8 October 2003

Amendment to be made by : 5 November 2003 (or 26 November 2003 if extended by resolution)

**Public Health and Municipal Services Ordinance (Cap. 132)
Public Health and Municipal Services Ordinance (Public Pleasure Grounds)
(Amendment of Fourth Schedule) (No. 3) Order 2003 (L.N. 204)**

The Amendment Order sets aside certain places for use as public pleasure grounds and provides that certain places cease to be set aside for use as public pleasure grounds.

2. The Amendment Order also renames one public pleasure ground and amends the Fourth Schedule to the Public Health and Municipal Services Ordinance (Cap. 132) in order to update the list of public pleasure grounds.

**University of Hong Kong Ordinance (Cap. 1053)
Statutes of the University of Hong Kong (Amendment) (No. 3) Statute 2003
(L.N. 205)**

3. The Amendment Statute amends the Statutes of the University of Hong Kong in the Schedule to the University of Hong Kong Ordinance (Cap. 1053) to add Doctor of Education and Postgraduate Certificate in Advanced Educational Studies respectively to the list of degrees and academic distinctions which may be conferred and awarded by the University of Hong Kong.

4. These two items of subsidiary legislation have taken effect on the date of their publication in the Gazette, that is, 5 September 2003. No difficulties relating to the legal and drafting aspects of the subsidiary legislation have been identified.

Prepared by

Wong Sze-man, Bernice
Assistant Legal Adviser
Legislative Council Secretariat
5 September 2003

立法會
Legislative Council

**Legal Service Division Report on
Subsidiary Legislation gazetted on 19 September 2003**

Date of tabling in LegCo : 8 October 2003

Amendment to be made by : 5 November 2003 (26 November 2003 if extended by resolution)

**Interpretation and General Clauses Ordinance (Cap. 1)
Declaration of Change of Title (The Hong Kong Society of Notaries) Notice
2003 (L.N. 206)**

Under section 55 of the Interpretation and General Clauses Ordinance (Cap.1), the Chief Secretary for Administration may, by notice, (which may be given retrospective effect) in the Gazette, declare a change in title of any person referred to in any Ordinance.

2. This Notice declares a change of the title of The Hong Kong Society of Notaries to Hong Kong Society of Notaries and amends a reference to that title in the Legal Practitioners (Amendment) Ordinance 1998 (27 of 1998). The Notice is deemed to have come into operation on 22 April 2003, being the date from which the change of title has effect under the Companies Ordinance (Cap. 32).

3. The Administration of Justice and Legal Services Panel has not been briefed on the change of title of The Hong Kong Society of Notaries.

4. No difficulties relating to the legal and drafting aspects of the Notice have been identified.

**Airport Authority Ordinance (Cap. 483)
Airport Authority Ordinance (Map of Restricted Area) Order (Cap. 483
sub. leg. G) (Commencement) Notice 2003 (L.N. 207)**

5. This Notice appoints 25 September 2003 as the day on which section 2(c) of the Airport Authority Ordinance (Map of Restricted Area) Order

(Cap. 483 sub. leg. G) is to come into operation. Section 2(c) of the Order relates to the Restricted Area comprising the existing ferry terminal and the connecting road for the purpose of facilitating cross boundary ferry services between the Hong Kong International Airport and selected ports in the Pearl River Delta for transit passengers.

Prepared by

HO Ying-chu, Anita
Assistant Legal Adviser
Legislative Council Secretariat
25 September 2003

LS/S/46/02-03

立法會
Legislative Council

**Legal Service Division Report on
Subsidiary Legislation gazetted on 27 September 2003**

Date of tabling in LegCo : 8 October 2003

Amendment to be made by : 5 November 2003 (26 November 2003 if
extended by resolution)

Air Passenger Departure Tax Ordinance (Cap. 140)

**Air Passenger Departure Tax Ordinance (Amendment of Second Schedule)
Order 2003 (L.N. 208)**

Under the Air Passenger Departure Tax Ordinance (Cap. 140) (the Ordinance), direct transit and connecting airside transfer passengers arriving in and departing from Hong Kong by air without passing through arrival immigration controls are exempted from payment of air passenger departure tax. With the commencement of operation of the cross-boundary ferry terminal by the Hong Kong Airport Authority at the Hong Kong International Airport (the Airport) with effect from 29 September 2003, passengers from Macau and certain parts of the Mainland may choose to arrive at the Airport by cross-boundary ferry service for direct onward departure by air. These passengers will not be required to go through Hong Kong immigration controls and will remain within the restricted area of the Airport before their onward departure.

2. This Order amends the Second Schedule to the Ordinance to exempt passengers arriving by cross-boundary ferry service for onward departure by air from liability to pay air passenger departure tax provided that they remain at all times within the restricted area of the Airport before their departure. Members may recall that the boundaries of the restricted area of the Airport have been expanded by section 2(c) of the Airport Authority Ordinance (Map of Restricted Area) Order (Cap. 483 sub. leg. G) to include the ferry terminal at the Airport and the connecting road for the purpose of facilitating cross-boundary ferry services between the Airport and selected ports in the Pearl River Delta for transit passengers. The expansion came into operation on 25 September 2003 (L.N. 207 of 2003 refers).

3. The Order came into operation on the date of publication in the Gazette, i.e. 27 September 2003. Members may refer to the LegCo Brief (File Ref.: FIN CR 11/2321/83) issued by the Financial Services and the Treasury Bureau dated 26 September 2003 for details.

4. No difficulties relating to the legal and drafting aspects of the Order have been identified.

Prepared by

FUNG Sau-kuen, Connie
Assistant Legal Adviser
Legislative Council Secretariat
29 September 2003

LS/S/47/02-03