

立法會
Legislative Council

LC Paper No. LS13/02-03

**Paper for the House Committee Meeting
on 8 November 2002**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 1 November 2002**

Date of tabling in LegCo : 6 November 2002

Amendment to be made by : 4 December 2002 (or 8 January 2003 if extended by resolution)

PART I SPECIFICATION OF PUBLIC OFFICE

**Interpretation and General Clauses Ordinance (Cap. 1)
Specification of Public Office (L.N. 158)**

By this Notice, the Secretary for Education and Manpower may delegate certain statutory powers and duties conferred and imposed on him under the Employees Retraining Ordinance (Cap. 423), the Non-local Higher and Professional Education (Regulation) Ordinance (Cap. 493) and the Hong Kong Council for Academic Accreditation Ordinance (Cap. 1150) to other public officers.

2. Except for the powers and duties under section 14(4) of the Employees Retraining Ordinance, the Secretary for Education and Manpower intends to delegate his powers under the three ordinances to the Permanent Secretary for Education and Manpower (and the Deputy Secretary, in respect of one of the powers). Section 14(4) of the Employees Retraining Ordinance relates to the power to set quota for the number of persons to be employed by an employer under the labour importation scheme. The Secretary for Education and Manpower intends to delegate this power to the Permanent Secretary for Economic Development and Labour (Labour).

3. Members may refer to the LegCo Brief (File Ref.: EMB CR 2/3231/02) issued by the Education and Manpower Bureau in October 2002 for details.

**PART II SUBSIDIARY LEGISLATION UNDER THE CHINESE
MEDICINE ORDINANCE (CAP. 549)**

4. The Chinese Medicine Ordinance (Cap. 549) (the Ordinance) was enacted in July 1999. Regulations in relation to Chinese medicine practitioners have

been made and came into operation in August 2000. The Regulations mentioned below are on the fees and the regulatory measures to control the trading and manufacture of Chinese medicines. They will come into operation on a day to be appointed by the Secretary for Health, Welfare and Food by notice published in the Gazette.

5. The Administration briefed the Panel on Health Services on the three Regulations at its meeting on 25 October 2002. During the discussion, the members expressed concern as to whether the Department of Health (DH) had enough qualified staff to implement the new licensing and registration measures. The Administration explained that DH had 10 pharmacists well-versed in Chinese medicine and had also hired several Chinese medicine experts from the Mainland to help cope with the anticipated workload. Members noted that the licensing of traders and manufacturers of Chinese medicines and the registration of proprietary Chinese medicines presently offered for sale in Hong Kong would take two to three years to complete. In the interim period, transitional arrangements would be put in place to minimize disruptions to the Chinese medicine trade. At the meeting, members had not raised any objection to these Regulations.

6. We are still scrutinizing the legal and drafting aspects of the Regulations and will make a further report to the House Committee if any difficulties are identified.

Chinese Medicine (Fees) Regulation (L.N. 159)

7. This Chinese Medicine (Fees) Regulation is made by the Chief Executive in Council under section 161(1) of the Ordinance. It prescribes the various fees payable under the Ordinance in respect of the licensing of Chinese medicines traders and registration of proprietary Chinese medicines and related matters.

8. According to paragraph 13 of the LegCo Brief (File ref.: HWF CR 1/1/3911/98(02) Pt. 8), the Administration has consulted the Chinese Medicine Council of Hong Kong and the relevant Chinese medicines trade associations on the proposed fees. They opined that the licensing fees, particularly those relating to the registration of proprietary Chinese medicines, should be set at low levels. The Administration states that the fee levels proposed should have addressed their concerns. For the administering of the licensing system for Chinese medicine traders, it proposes to recover initially 70% of the administration cost and aim at full cost recovery in three years. For the registration and certification of proprietary Chinese medicines, it proposes to recover 25.2% and 27.9% respectively of the administration cost and aim at achieving full cost recovery in five years.

Chinese Medicines Regulation (L.N. 160)

9. This Regulation is made by the Chinese Medicine Council of Hong Kong under section 161(5) of the Ordinance with the approval of the Secretary for

Health, Welfare and Food. The Council consists of members of the Chinese medicine profession, academics and community leaders.

10. The Regulation sets out the following -

- (a) the licensing requirements for the four kinds of Chinese medicine traders, i.e. retailers in Chinese herbal medicines, wholesalers in Chinese herbal medicines, wholesalers in proprietary Chinese medicines and manufacturers in proprietary Chinese medicines;
- (b) the duties of the licensees such as providing adequate space and suitable facilities for storing Chinese medicines, keeping the 31 potent Chinese herbal medicines listed in Schedule 1 of the Ordinance apart from other medicines, and keeping of transaction records for at least two years;
- (c) the registration of proprietary Chinese medicines;
- (d) the requirements regarding the labels and package inserts of Chinese herbal medicines and proprietary Chinese medicines;
- (e) offences and penalties;
- (f) exemptions; and
- (g) prescribed forms.

11. A person who has not complied with the requirements of the Regulation is liable on conviction to a maximum fine of \$100,000 and imprisonment for 2 years.

12. According to the LegCo Brief issued by the Health, Welfare and Food Bureau (File ref.: HWF CR 1/1/3911/98(02) Pt. 8) in November 2002, the Administration has organized open fora for the Chinese medicines trade and has consulted them on the proposed regulatory measures.

Chinese Medicines Traders (Regulatory) Regulation (L.N. 161)

13. This Regulation is also made by the Chinese Medicine Council of Hong Kong with the approval of the Secretary for Health, Welfare and Food.

14. It 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.

PART III MISCELLANEOUS AMENDMENTS

Hospital Authority Ordinance (Cap. 113)

Hospital Authority Ordinance (Amendment of Schedule 1) Order 2002 (L.N. 162)

15. By this Order, the Fanling Hospital ("FH") is deleted from Schedule 1 to the Hospital Authority Ordinance (Cap. 113), which is a list of prescribed hospitals. According to the Administration, FH was built in 1960. All the services provided in FH have now been transferred to either the North District Hospital or the Fanling Health Centre. The premises of the FH have been returned to the Government.

Tax Reserve Certificates Ordinance (Cap. 289)

Tax Reserve Certificates (Rate of Interest) (No. 8) Notice 2002 (L.N. 163)

16. This Notice fixes at 0.2308% per annum the rate of interest payable on tax reserve certificates issued on or after 4 November 2002.

Prepared by

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6 November 2002