

立法會
Legislative Council

LC Paper No. LS23/04-05

**Paper for the House Committee Meeting
on 7 January 2005**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 17 December 2004**

Date of tabling in LegCo : 5 January 2005

Amendment to be made by : 2 February 2005 (or 23 February 2005 if extended by resolution)

**Civil Aviation Ordinance (Cap. 448)
Air Transport (Licensing of Air Services) (Amendment) (No. 2) Regulation 2004
(L.N. 215)**

The Amendment Regulation is made by the Chief Executive in Council under section 5(1) of the Civil Aviation Ordinance and will come into operation on a date to be appointed by the Secretary for Economic Development and Labour by notice published in the Gazette. It amends regulation 4 of the Air Transport (Licensing of Air Services) Regulations (Cap. 448 sub. leg. A) by repealing paragraph (6)(c) and adding a new paragraph (8).

2. The new paragraph provides legislative backing to the Air Transport Licensing Authority (ATLA) to determine their own procedures. The position at common law is that ATLA as a statutory body can determine the manner in which it processes an application. However, the Subcommittee formed in February 2004 to study the Air Transport (Licensing of Air Services) (Amendment) Regulation 2004 considered that the practice and procedures relating to the dispatch of business by ATLA should be set out clearly in legislation. To avoid any uncertainty, it would be necessary to give legal status to the existing set of procedures adopted by ATLA. The Administration has agreed to consider the matter and come up with a proposal. (Please see paragraphs 7 to 9 of the Report of the Subcommittee LC Paper No. CB(1) 1033/03-04.) The Amendment Regulation is the resulting proposal. The deleted regulation 4(6)(c) provides that the way in which ATLA shall determine questions for their decision shall be such as the Chief Executive(CE) may prescribe. This is a discretionary power that CE has so far not exercised. Members may refer to the LegCo Brief on the Amendment Regulation dated 15 December 2004 and issued by the Economic Development and Labour Bureau for further and background

information.

**Country Parks Ordinance (Cap. 208)
Lai Chi Wo (Special Area) Order 2004 (L.N. 216)**

3. This Order is made under section 24(1) of the Country Parks Ordinance (Cap. 208) by the Chief Executive after consultation with the Executive Council. It designates as a special area for the purposes of the Country Parks Ordinance (Cap. 208) the area of Government land at Lai Chi Wo delineated in black and coloured pink on Plan No. SA/LCW dated 8 December 2004 and deposited in the office of the Country and Marine Parks Authority (the new special area). Consequentially, the Schedule to the Special Areas (Designation) (Consolidation) Order (Cap. 208 sub. leg. D) is amended by adding the new special area as item 5 in the Schedule.

4. In designating it as a special area, the Government has recognized the high ecological value of the new special area and the need to protect it from developments and incompatible human activities. Members may refer to the LegCo Brief (Ref: (E) 55/21/57 (2002)) dated 15 December 2004 and issued by the Environment, Transport and Works Bureau for further and background information. The Order is to become effective on 15 March 2005.

**Public Health and Municipal Services Ordinance (Cap. 132)
Designation of Libraries (No. 2) Order 2004 (L.N. 217)**

5. By this Order made under section 105K of the Public Health and Municipal Services Ordinance (Cap. 132) by the Director of Leisure and Cultural Services, Shop No. 201, Level Two, Plover Cove Garden, No. 3 Plover Cove Road, Tai Po ceases to be designated as a library and the 5th floor, Tai Po Complex, 8 Heung Sze Wui Street, Tai Po is designated as a library. Item 37 in the Schedule to the Designation of Libraries Order (Cap. 132 sub. leg. O) is accordingly amended.

Concluding Observations

6. The Panel on Economic Services was briefed on the proposed Air Transport (licensing of Air Services) (Amendment) (No. 2) Regulation 2004 at its meeting on 25 October 2004. The Panel did not raise any questions and supported the proposal. No LegCo Panel has been consulted on the other subsidiary legislation reported above. No difficulties in the legal or drafting aspects of the subsidiary legislation have been observed.

Prepared by

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