

立法會
Legislative Council

LC Paper No. LS30/04-05

**Paper for the House Committee Meeting
on 21 January 2005**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 14 January 2005**

Date of Tabling in LegCo : 19 January 2005

Amendment to be made by : 2 February 2005 (or 9 March 2005 if extended by resolution)

Prevention of Bribery Ordinance (Cap. 201)

Prevention of Bribery Ordinance (Amendment of Schedule 1) (Hong Kong Sports Institute Limited) Order (L.N. 4)

The Ombudsman Ordinance (Cap. 397)

The Ombudsman Ordinance (Amendment of Schedule 1) (Hong Kong Sports Institute Limited) Order (L.N. 5)

Upon commencement of the Hong Kong Sports Development Board (Repeal) Ordinance on 1 October 2004, the Hong Kong Sports Development Board ("HKSDB") was dissolved and removed from the application of the Prevention of Bribery Ordinance (Cap. 201) and the Ombudsman Ordinance (Cap. 397).

2. The Hong Kong Sports Institute Limited ("the Institute") took over the responsibilities of the HKSDB from 1 October 2004. These two Orders add the Institute to the respective Schedules to the two Ordinances so that the two Ordinances will apply to the Institute, its employees and members.

3. The two Orders came into operation upon gazettal. Members may refer to the LegCo Brief (File Ref.: SF(1) to HAB/CS/CR/6/8/102) issued by the Home Affairs Bureau dated 5 January 2005 for background information.

4. The Panel on Home Affairs has not discussed these two Orders.

Interpretation and General Clauses Ordinance (Cap. 1)
Specification of Public Office (L.N. 6)

5. This Specification is made by the Chief Executive in Council under section 43 of the Interpretation and General Clauses Ordinance (Cap. 1). It shall come into operation on 10 March 2005.

6. Section 2 of this Specification specifies the Commissioner of Mines as a specified public officer. He may therefore delegate his powers and duties under Regulations 3(2) and 7 of the Dangerous Goods (Government Explosives Depot) Regulations (Cap. 295 sub. leg. D) in relation to the receipt and removal of explosives to other public officers.

7. Section 3 of the Specification amends the reference to "Director of Civil Engineering Services" to "Director of Civil Engineering and Development" in the Schedule to the Ordinance to reflect the change of post title.

8. Members may refer to the LegCo Brief (File Ref.: ETWB (CR)(W) 1-10/16) issued by the Environment, Transport and Works Bureau dated 11 January 2005 for details.

Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap. 413)
Merchant Shipping (Prevention of Pollution by Sewage) Regulation (L.N. 7)
Merchant Shipping (Prevention and Control of Pollution) (Fees) Regulation (L.N. 8)

9. Annex IV to the International Convention for the Prevention of Pollution from Ships 73/78 relates to the prevention of pollution by sewage from ships. It has been adopted by the International Maritime Organization ("IMO") and is expected to come into force internationally on 1 August 2005. The Merchant Shipping (Prevention of Pollution by Sewage) Regulation is to give effect to that Annex.

10. Apart from some exceptions, this Regulation applies to Hong Kong registered ocean-going ships and to non-Hong Kong registered ocean-going ships within Hong Kong waters which are of 400 gross tonnage or above, or of less than 400 gross tonnage which are certified to carry more than 15 persons.

11. A ship to which this Regulation applies is required to be fitted with equipment such as a sewage treatment plant, a sewage comminuting and disinfecting system or a holding tank as specified in the Schedule to the Regulation. It has to be surveyed and has to have on board an International Sewage Pollution Prevention Certificate ("ISPP Certificate") available for inspection. Discharge of sewage into

sea is prohibited unless the ship is using an approved system to discharge comminuted and disinfected sewage at a distance of more than three nautical miles from the nearest land, or if sewage is not comminuted or disinfected, the sewage is to be discharged at a distance of more than 12 nautical miles from the nearest land. Where a serious accident occurs to or a material defect is discovered in a ship in respect of which an ISPP Certificate has been issued, the company or the master of the ship shall report the accident or defect to the Director of Marine. Penalties are imposed against the company and the master of the ship concerned if they fail to comply with these requirements.

12. The Marine Department and its recognized organizations are to provide survey services under the Regulation and issue ISPP Certificates. The Chief Executive in Council has made the Merchant Shipping (Prevention and Control of Pollution) (Fees) Regulation under section 3(2A) of the Ordinance. According to the LegCo Brief (File Ref. : MA 90/6/3) issued by the Economic Development and Labour Bureau dated 12 January 2005, the levels of charges in the Fees Regulation are the same as those currently charged for similar services prescribed in the relevant parts of the Merchant Shipping (Fees) Regulations (Cap. 281 sub. leg. F).

13. The technical sub-committee of the Hong Kong Shipowners Association and the Shipping Consultative Committee were consulted and they raised no objection to the proposed regulation.

14. The Panel on Economic Services was consulted on 15 January 2004 on the proposed introduction of subsidiary legislation. The Panel was generally in support of the proposal but concerns had been raised over the discharge of effluents from ocean-going ships and the related controlling mechanism.

15. The two pieces of subsidiary legislation shall come into operation on a day to be appointed by the Secretary for Economic Development and Labour by notice published in the Gazette.

16. No difficulties in relation to the legal and drafting aspects of L.N. 4 to L.N. 6 have been identified. We are still scrutinizing the two marine-related Regulations and will make a further report to the House Committee if necessary. Since the deadline for amendments to the Regulations will fall in less than two weeks' time, it is advisable that a decision be taken now to extend the scrutiny period.

Prepared by

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