

立法會
Legislative Council

LC Paper No. LS67/04-05

**Paper for the House Committee Meeting
on 20 May 2005**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 13 May 2005**

Date of Tabling in LegCo : 18 May 2005

Amendment to be made by : 15 June 2005 (or 6 July 2005 if extended by resolution)

PART I Official Languages Ordinance

**Official Languages Ordinance (Cap. 5)
Official Languages (Alteration of Text under Section 4D) (Reference to
“Alteration” in Entertainment Special Effects Ordinance) Order (L.N. 75)**

Under section 4D of the Official Languages Ordinance (Cap. 5), the Secretary for Justice may make formal alterations to the text of an Ordinance in one official language to achieve consistency between a word, expression or phrase with another word, expression or phrase where both such words, expressions or phrases purport to be the equivalent of the same word, expression or phrase in the other official language in the same context. The Secretary for Justice has authorized the Law Draftsman pursuant to section 7 of the Legal Officers Ordinance (Cap. 87) to make such formal alterations.

2. **L.N. 75** makes a formal alteration to section 26(1)(n) and (o) of the Entertainment Special Effects Ordinance (Cap. 560) by repealing “修改” and substituting “更改” so as to achieve consistency between the Chinese equivalent of “alteration” in that section and that in the Chinese text of section 47(7) of the Ordinance, sections 19 and 34 of the Entertainment Special Effects (General) Regulation (Cap. 560 sub. leg. A) and the Schedule to the Entertainment Special Effects (Fees) Regulation (Cap. 560 sub. leg. B). The contexts in those relevant sections all relate to the alteration of a licence or permit. The Order shall come into operation on 15 July 2005.

PART II Public Health and Municipal Services Ordinance

Public Health and Municipal Services Ordinance (Cap. 132)

Public Health and Municipal Services (Setting Aside Places for Use as Public Pleasure Grounds) Order 2005 (L.N. 76)

Public Health and Municipal Services Ordinance (Amendment of Fourth Schedule) Order 2005 (L.N. 77)

Public Health and Municipal Services (Designation of Public Swimming Pools) Order 2005 (L.N. 78)

Public Health and Municipal Services Ordinance (Amendment of Fourteenth Schedule) Order 2005 (L.N. 79)

3. L.N. 76 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. L.N. 77 amends the Fourth Schedule to the Public Health and Municipal Services Ordinance (Cap. 132) to update the list of public pleasure grounds. The effect of both Orders is to vest the general management and control of public pleasure grounds, including the exclusive right to provide amenities of any kind, in the Director of Leisure and Cultural Services.

4. L.N. 78 designates the Tai Kok Tsui Swimming Pool as a public swimming pool. L.N. 79 amends the Fourteenth Schedule to the Ordinance to add the Tai Kok Tsui Swimming Pool to the list of public swimming pools. The effect of both Orders is to vest the management and control of the public swimming pool concerned in the Director of Leisure and Cultural Services.

PART III Companies (Amendment) Ordinance 2004

High Court Ordinance (Cap. 4)

Rules of the High Court (Amendment) Rules 2005 (L.N. 80)

Companies (Amendment) Ordinance 2004 (30 of 2004)

Companies (Amendment) Ordinance 2004 (Amendment of Schedule 3) Notice 2005 (L.N. 81)

Companies (Amendment) Ordinance 2004 (Commencement Notice) 2005 (L.N. 82)

5. L.N.s 80, 81 and 82 all relate to the Companies (Amendment) Ordinance 2004 (30 of 2004) (“the Amendment Ordinance”). Members may refer to LegCo Brief File Ref.: C2/1/57/3(04) Pt 8 for background information.

6. Section 5 of Schedule 3 to the Amendment Ordinance adds a new Part IVAA to the Companies Ordinance (Cap. 32) to provide for a statutory derivative action whereby a member of a specified corporation may commence an

action on behalf of the corporation in respect of a wrong done to the corporation. New section 168BD of the Companies Ordinance requires the member to serve a pre-action notice on the specified corporation unless otherwise dispensed with by the leave of the court.

7. Under Order 102, Rule 2 of the Rules of the High Court (Cap. 4, sub. leg. A), an application for leave to dispense with the service of the pre-action notice must be made by inter partes originating summons. **L.N. 80** amends Order 102, Rule 2 to provide that such an application may be made by ex parte originating summons. **L.N. 80** shall come into operation on the day appointed for the commencement of Schedule 3 to the Amendment Ordinance.

8. **L.N. 82** appoints 15 July 2005 as the day on which Schedule 3 and section 2 (insofar it relates to Schedule 3) of the Amendment Ordinance shall come into operation. The principal purpose of Schedule 3 is to enhance remedies for shareholders in relation to statutory derivative action, unfair prejudice remedies, injunction orders and orders for inspection of the records of companies incorporated in Hong Kong and non-Hong Kong companies.

9. Section 1 of Schedule 3 to the Amendment Ordinance amends section 2(1) of the Companies Ordinance to define a specified corporation to mean a company or a non-Hong Kong company. "Non-Hong Kong company" is a new term introduced by virtue of Schedule 2 to the Amendment Ordinance to replace the existing term "oversea company".

10. Since Schedule 2 to the Amendment Ordinance would come into operation after the commencement of Schedule 3, **L.N. 81** modifies the new definition of "specified corporation" to ensure that the amendment made by Schedule 3 can be given effect during the period between the commencement of Schedule 3 (i.e. 15 July 2005) and the commencement of Schedule 2 to the Amendment Ordinance (intended to be in late 2005).

11. No public consultation or consultation with any LegCo Panel in respect of all the above subsidiary legislation was carried out. No difficulties relating to the legal and drafting aspects of the subsidiary legislation have been identified.

Prepared by

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