

立法會
Legislative Council

LC Paper No. LS85/04-05

**Paper for the House Committee Meeting
on 24 June 2005**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 17 June 2005**

Date of tabling in LegCo : 22 June 2005

Amendment to be made by : 2nd meeting of LegCo in the next session (or the 1st meeting held not earlier than 21 days thereafter if extended by resolution)

PART I AVOIDANCE OF DOUBLE TAXATION

Inland Revenue Ordinance (Cap. 112)

Specification of Arrangements (Swiss Federal Council) (Avoidance of Double Taxation on Income from Aircraft Operation) Order (L.N. 96)

Specification of Arrangements (Government of the Republic of Finland) (Avoidance of Double Taxation on Income from Aircraft Operation) Order (L.N. 97)

Specification of Arrangements (Government of the State of Kuwait) (Avoidance of Double Taxation on Income from Aircraft Operation) Order (L.N. 98)

Specification of Arrangements (Government of the Republic of Kenya) (Avoidance of Double Taxation on Income from Aircraft Operation) Order (L.N. 99)

Specification of Arrangements (Government of the Republic of Iceland) (Avoidance of Double Taxation on Income from Aircraft Operation) Order (L.N. 100)

Specification of Arrangements (Government of the Hashemite Kingdom of Jordan) (Avoidance of Double Taxation on Income from Aircraft Operation) Order (L.N. 101)

Specification of Arrangements (Government of the Kingdom of Denmark) (Avoidance of Double Taxation on Income from Shipping Operation) Order (L.N. 102)

The seven Orders are made by the Chief Executive in Council under section 49 of the Inland Revenue Ordinance (Cap. 112). Each Order specifies in

its section 2 the arrangements that have been made with the Government of the country named in the title of the Order with a view to affording relief from double taxation in relation to income tax and any tax of a similar character imposed by the laws of that country and declares that it is expedient that those arrangements should have effect. The effect of such declaration is that the arrangement would have effect in relation to tax in Hong Kong notwithstanding anything in any Ordinance.

2. The first six of the Orders relate to income or profits derived from operation of aircraft in international traffic by an airline of one contracting party (including a pool service, a joint air transport operation or an international operating agency), capital and assets of an airline of one contracting party relating to the operation of aircraft in international traffic; and gains from alienation of aircraft operated in international traffic and movable property pertaining to the operation of such aircraft. Members may wish to refer to the LegCo Brief (Ref: FIN CR10/2041/46) issued by the Financial Services and the Treasury Bureau (FSTB) on 15 June 2005 for further and background information. The Order relating to arrangements with the Government of the Kingdom of Denmark concerns only with profits derived from the operation of ships in international traffic, and gains derived from the alienation of ships operated in international traffic or of movable property pertaining to the operation of such ships. The related LegCo Brief (Ref: FIN CR10/10/2041/46) has also been issued by FSTB on 15 June 2005.

3. According to the Administration, the aircraft operators have been consulted on the double taxation relief arrangements relating to the aircrafts and the relevant Air Services Agreements will be made available to the public. The Hong Kong Shipowners Association has been consulted on the Agreement with the Kingdom of Denmark and it welcomes the Agreement.

PART II MISCELLANEOUS AMENDMENTS

Registration of Local Newspapers Ordinance (Cap. 268)

News Agencies Registration (Amendment) Regulation 2005 (L.N. 103)

Newspapers Registration and Distribution (Amendment) Regulation 2005 (L.N. 104)*

4. By the Amendment Regulations made by the Secretary for Financial Services and the Treasury under section 29A of the Interpretation and General Clauses Ordinance (Cap. 1), the fees specified respectively in the News Agencies Registration Regulations (Cap. 268 sub. leg. A) and the Newspapers Registration and Distribution Regulations (Cap. 268 sub. leg. B) are varied as follows:-

* Fee revision.

News Agencies Registration Regulations (Cap. 268 sub. leg. A)

Fees for search inspection and extract from register of news agencies

Regulation	Repealing	substituting
11 (Search and inspect any news agency register)	\$28	\$32
11 (Certified true copy of an extract from news agency register)	\$115	\$125

Registration fees, etc.

Regulation	Repealing	substituting
13(1) (First registration of a news agency)	\$785	\$905
13(2) (Annual renewal of registration of news agency)	\$785	\$725
13(3) (Changes of particulars of a news agency)	\$83	\$100

Newspapers Registration and Distribution Regulations (Cap. 268 sub. leg. B)

Fees for search inspection and extract from register of local newspaper

Regulation	repealing	substituting
10 (Search and inspect any newspaper register)	\$28	\$33
10 (Certified true copy of an extract from newspaper register)	\$115	\$130

Registration fees, etc.

Regulation	repealing	substituting
12(1) (First registration of a newspaper)	\$785	\$905
12(2) (Annual renewal of registration of newspaper)	\$785	\$680
12(3) (Changes of particulars of a newspaper)	\$83	\$100
13(2) (Annual fee for newspaper distributor's licence)	\$785	\$865

5. The variation in fees reflects the resumption of the revision of fees and charges indicated by the Financial Secretary in his 2004-5 budget speech. There are nine increases and two reductions. The net effect would be a reduction in revenue. Members may wish to refer to the LegCo Brief (Ref: HAB/CR/1/21/26 Pt.8) issued in June 2005 by the Home Affairs Bureau for further and background information. The Amendment Regulations shall come into operation on 1 December 2005.

6. The Panel on Home Affairs has been briefed on the proposed fees revision at its meeting on 21 March 2005. No objection was raised by Members. No other public consultation has been conducted by the Administration.

Legal Officers Ordinance (Cap. 87)

Legal Officers Ordinance (Amendment of Schedule 1) Order 2005 (L.N. 105)

7. By this Order made by the Acting Chief Executive under section 11 of the Legal Officers Ordinance (Cap. 87) (the Ordinance) after consultation with the Executive Council, Schedule 1 to the Ordinance is amended by:-

Repealing	Substituting
Senior Solicitor, Land Registry.	Deputy Principal Solicitor, Land Registry. Assistant Principal Solicitor, Land Registry. Senior Solicitor, Land Registry. Solicitor, Land Registry.

8. The Chief Executive is empowered under section 11 of the Ordinance to amend Schedule 1. The amendment is occasioned by the need to appoint additional solicitors of other ranks to make preparation for the implementation of the title registration system following the enactment of the Land Titles Ordinance (Cap. 585). The inclusion of the officers in Schedule 1 as legal officers would enable them to exercise the full range of rights of both a barrister and a solicitor. This Order shall come into operation on 2 December 2005.

9. As the Administration does not consider that public consultation is necessary, neither the public nor any LegCo Panel has been consulted on this Order. Members may wish to refer to the LegCo Brief (Ref: HPLB(B)30/30/118) issued by the Housing, Planning and Lands Bureau on 14 June 2005 for background information.

Import and Export (General) Regulations (Cap. 60 sub. leg. A)

Import and Export (General) Regulations (Amendment of Seventh Schedule) Notice 2005 (L.N. 106)

10. By this Notice made by the Director-General of Trade and Industry under regulation 7(2) of the Import and Export (General) Regulations (Cap. 60 sub. leg. A) (the Regulations), the Seventh Schedule to the Regulations is amended by adding Cyprus, Estonia, Latvia, Lithuania, Malta and Slovakia.

11. The Seventh Schedule of the Regulations set out the specified countries or places (defined in regulation 6DA) to and from which the export and import of rough diamonds are allowed under Part VI of the Regulations. International trade in rough diamonds is subject to a scheme of certificate of origin known as the “Kimberley Process Certification Scheme”[†]. The purpose is to

[†] Members may wish to refer to a paper issued in November 2002 by the Commerce and Industry Branch of the Commerce, Industry and Technology Bureau on “Implementation of International Certification Scheme for Rough Diamonds in Hong Kong” (CB(1)216/02-03(03)) for further information. Full text of the Kimberley Process Certification Scheme is available at http://www.natural-resources.org/minerals/CD/docs/int_law/Kimberley_Process_en.pdf.

stem the trade of rough diamonds coming from rebel areas in Sierra Leone and Angola in accordance with the sanctions imposed by the United Nations Security Council resolutions. The addition of the countries to the Seventh Schedule by the Notice would allow legitimate trade in rough diamonds with those countries.

PART III COMMENCEMENT NOTICE

Immigration (Amendment) Ordinance (6 of 2005)

Immigration (Amendment) Ordinance 2005 (Commencement) Notice (L.N. 107)

12. By this Notice made under section 1(2) of the Immigration (Amendment) Ordinance 2005 (6 of 2005) (the Amendment Ordinance), the Secretary for Security has appointed 17 November 2005 as the date on which the Amendment Ordinance is to come into effect.

13. The Amendment Ordinance was enacted on 1 June 2005. It provides for the verification of identity of persons possessing digital personal identity cards, granting them permission to stay, imposing limit of stay and other conditions of stay all by automated means.

Concluding Observations

14. Save as above expressly mentioned, no public consultation or consultation with any LegCo Panel has been conducted. No difficulties have been identified in the legal or drafting aspects of the subsidiary legislation reported above.

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