

立法會

Legislative Council

LC Paper No. LS 1/04-05

Paper for the House Committee Meeting of the Legislative Council on 8 October 2004

Legal Service Division Reports on Subsidiary Legislation tabled in the Legislative Council from 23 June to 7 July and on 6 October 2004

Purpose of Paper

The purpose of this paper is to explain to Members the reason for the large volume of subsidiary legislation which is now presented to Members for consideration, and the role of the Legislative Council in respect of the scrutiny of subsidiary legislation.

Background

2. All items of subsidiary legislation currently submitted to Members are subject to section 34 of the Interpretation and General Clauses Ordinance (Cap. 1) ("the Ordinance"). The section empowers the Council to amend an item of subsidiary legislation within certain limits. The subsidiary legislation currently submitted may be divided into two main groups:

- (a) Items tabled between 23 June and 7 July 2004 of the Second Legislative Council (Appendix I)

Under section 34(2) and (3) of the Ordinance, the scrutiny period of these items is deemed to extend to and expire on the day after the second meeting of the Council (i.e. 13 October 2004 will be the last day of the normal scrutiny period). The scrutiny period could be further extended under the Ordinance by resolution of the Council to the meeting of 3 November 2004.

- (b) Items tabled on 6 October 2004 of the Third Legislative Council
(Appendix II)
-

These items have been made and gazetted after the last meeting of the Legislative Council on 7 July 2004. These items, except for the United Nations Sanctions (Iraq) (Amendment) Regulation 2004 (L.N. 132) made under the United Nations Sanctions Ordinance (Cap. 537) which excludes the application of section 34 of the Ordinance to regulations made thereunder, were tabled at the meeting on 6 October 2004, and the Council may by resolution amend them, except for the United Nations Sanctions (Iraq) (Amendment) Regulation 2004, by 3 November 2004, or by 24 November 2004 if extended by resolution.

3. Members may view the gazette version of these items at the following website : <http://www.gld.gov.hk/egazette/> or obtain their hard copies from the Legislative Council Library. Where a Legislative Council Brief has been issued by the Administration on a particular item, the Brief is appended to the report on the relevant item.

Suggested method of approach

4. In scrutinizing subsidiary legislation the principal tests are:
- (a) lawfulness - are the provisions within the limits of the authority entrusted to the executive by the legislature in the principal ordinance?
 - (b) fairness/reasonableness - even if lawful, are the provisions acceptable on their merits?
 - (c) clarity - even if lawful, fair and reasonable, can improvements be made to the drafting to facilitate understanding?

5. It is the Legal Service Division's responsibility to advise Members on paragraph 4(a) and (c) above since legal issues are involved. Hence the Division scrutinizes all items when they are gazetted, normally on a Friday. A written report is then produced for the next House Committee meeting, held usually on the following Friday. The weekly report enables Members to monitor all items. Those which are of interest or concern to Members will then be followed up, either by the Legal Service Division or the Secretariat, on request. If Members find there are issues that need to be further pursued, a subcommittee may be formed to study a particular item in detail. Alternatively, a subcommittee may be set up at the outset, if necessary.

Amendment of subsidiary legislation by LegCo resolution

6. If as a result of the scrutiny of an item of subsidiary legislation it is found that changes should be made, Members may amend it by passing a resolution in the Legislative Council within the prescribed time limits.

7. Any such amendment to a piece of subsidiary legislation by resolution takes effect only from the date of gazettal of the resolution. The amendment does not affect anything done before then under the subsidiary legislation though it might have already taken effect.

8. Members may wish to note that section 34 of the Ordinance also specifies a limit in which amendments could be made by the Legislative Council, that is, the subsidiary legislation must be amended in such a manner consistent with the power to make such subsidiary legislation.

Encl

Prepared by

Legal Service Division
Legislative Council Secretariat
7 October 2004

**Legal Service Division Reports on
Subsidiary Legislation tabled from 23 June to 7 July 2004**

<u>L.N. No</u>	<u>Item</u>
117	Public Health and Municipal Services Ordinance (Public Markets) (Designation and Amendment of Tenth Schedule) Order 2004
118	Declaration of Markets Notice (Amendment) Declaration 2004
119	Banking (Specification of Public Sector Entities in Hong Kong) (Amendment) Notice 2004
120	Road Traffic (Construction and Maintenance of Vehicles) (Amendment) (No. 2) Regulation 2002 (L.N. 147 of 2002) (Commencement) Notice 2004
121	Road Traffic (Safety Equipment) (Amendment) Regulation 2002 (L.N. 148 of 2002) (Commencement) Notice 2004
122	Fixed Penalty (Criminal Proceedings) (Amendment) Regulation 2004 (L.N. 103 of 2004) (Commencement) Notice 2004
123	Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240) - Resolution of the Legislative Council (L.N. 114 of 2004) (Commencement) Notice 2004
124	Mutual Legal Assistance in Criminal Matters (Ukraine) Order (L.N. 110 of 2004) (Commencement) Notice 2004
128	Merchant Shipping (Prevention and Control of Pollution) (Specification of Substances) (Amendment) Order 2004
129	Mutual Legal Assistance in Criminal Matters (Singapore) Order (L.N. 112 of 2004) (Commencement) Notice 2004
130	Merchant Shipping (Security of Ships and Port Facilities) Rules
131	Declaration of Change of Titles (Information Technology Services Department and Director of Information Technology Services) Notice 2004

立法會
Legislative Council

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 18 June 2004**

Date of tabling in LegCo : 23 June 2004

Amendment to be made by : 13 October 2004 (or the 3 November 2004 if extended by resolution)

PART I MISCELLANEOUS AMENDMENTS

Public Health and Municipal Services Ordinance (Cap. 132)

Public Health and Municipal Services Ordinance (Public Markets) (Designation and Amendment of Tenth Schedule) Order 2004 (L.N. 117)

Declaration of Markets Notice (Amendment) Declaration 2004 (L.N. 118)

The Director of Food and Environmental Hygiene ("the Director") is vested with the power to manage and control public markets under the Public Health and Municipal Services Ordinance (Cap. 132) ("the Ordinance"). Section 79(3) of the Ordinance provides that the Director may, by order published in the Gazette, designate as a public market any market to which the Ordinance applies and such markets are specified in the Tenth Schedule. The Director may also, by order published in the Gazette, amend, add to, or delete from, the Tenth Schedule (section 79(5)). L.N. 117 designates the Tai Po Hui Market as a public market. It also amends the Tenth Schedule to add the Tai Po Hui Market to the list of public markets.

2. Section 79(1) of the Ordinance provides that the Ordinance shall apply to every market, being a market in which food is sold, which is declared by the Director to be a market to which the Ordinance applies. By L.N. 118, the Tai Po Hui Market is declared to be a market to which the Ordinance applies. It also amends the Schedule to the Declaration of Markets Notice (Cap. 132 sub. leg. AN) to add the Tai Po Hui Market to the list of markets.

Banking Ordinance (Cap. 155)

Banking (Specification of Public Sector Entities in Hong Kong) (Amendment) Notice 2004 (L.N. 119)

3. This Notice specifies 香港五隧一橋有限公司 Hong Kong Link 2004 Limited as a public sector entity in Hong Kong for the purpose of calculating the risk weighted exposure of an authorized institution referred to in the Third Schedule to the Banking Ordinance (Cap. 155). The effect of such specification is that it will enable the relevant public sector entity in Hong Kong to borrow funds at a lower cost in the market.

4. Members may refer to the LegCo Brief (File Ref: LM.32/2004 to G4/16C Pt.16) issued by the Financial Services and the Treasury Bureau on 18 June 2004 for background information. According to the LegCo Brief, the Hong Kong Monetary Authority has consulted the Hong Kong Association of Banks and the Hong Kong Association of Restricted Licence Banks and Deposit-taking Companies on the proposed specification and has received no objection.

5. This Notice will come into operation on 11 November 2004.

PART II COMMENCEMENT NOTICES

Road Traffic Ordinance (Cap. 374)

Road Traffic (Construction and Maintenance of Vehicles) (Amendment) (No. 2) Regulation 2002 (L.N. 147 of 2002) (Commencement) Notice 2004 (L.N. 120)

Road Traffic (Safety Equipment) (Amendment) Regulation 2002 (L.N. 148 of 2002) (Commencement) Notice 2004 (L.N. 121)

Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240)

Fixed Penalty (Criminal Proceedings) (Amendment) Regulation 2004 (L.N. 103 of 2004) (Commencement) Notice 2004 (L.N. 122)

Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240) - Resolution of the Legislative Council (L.N. 114 of 2004) (Commencement) Notice 2004 (L.N. 123)

6. L.N. 120 and L.N. 121 appoint 1 August 2004 as the day on which the Road Traffic (Construction and Maintenance of Vehicles) (Amendment) (No. 2) Regulation 2002 (L.N. 147 of 2002) ("the Construction and Maintenance Regulation") and the Road Traffic (Safety Equipment) (Amendment) Regulation 2002 (L.N. 148 of 2002) ("the Safety Equipment Regulation") will come into operation. The two Regulations provide for measures to enhance the safety of passengers on newly registered public light buses ("PLBs"). The Construction and Maintenance Regulation requires the installation of high back seats on newly registered PLBs. The Safety Equipment Regulation provides for the fitting and wearing of rear seat belts on newly registered PLBs. It also provides that the responsibility of wearing seat belts rests with passengers of PLBs.

7. L.N. 122 and L.N. 123 appoint 1 August 2004 as the day on which the Fixed Penalty (Criminal Proceedings) (Amendment) Regulation 2004 (L.N. 103 of 2004) ("the Fixed Penalty Regulation") and the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240) - Resolution of the Legislative Council (L.N. 114 of 2004) ("the Fixed Penalty Resolution") will come into operation. The Fixed Penalty Resolution, which was passed by the Legislative Council on 9 June 2004, and the Fixed Penalty Regulation introduce consequential amendments to the Schedule to the Fixed Penalty (Criminal Proceedings) Ordinance and Form 1 in the Schedule to the Fixed Penalty (Criminal Proceedings) Regulations (Cap. 240 sub. leg. A) respectively to reflect the change in the responsibility of wearing seat belts on PLBs from the driver to the passengers as provided in the Safety Equipment Regulation.

8. At the meetings of the Subcommittee on Proposed resolution under section 12 of the Fixed Penalty (Criminal Proceedings) Ordinance and the Bills Committee on Road Traffic (Amendment) Bill 2003 held on 17 May 2004 and 2 June 2004 respectively, members supported the measures proposed to enhance the safety of PLBs and agreed to their implementation on 1 August 2004.

Mutual Legal Assistance in Criminal Matters Ordinance (Cap. 525)
Mutual Legal Assistance in Criminal Matters (Ukraine) Order (L.N. 110 of 2004)
(Commencement) Notice 2004 (L.N. 124)

9. This Notice appoints 3 July 2004 as the day on which the Mutual Legal Assistance in Criminal Matters (Ukraine) Order (L.N. 110 of 2004) ("the Order") will come into operation.

10. The Order directs that the Mutual Legal Assistance in Criminal Matters Ordinance (Cap. 525), subject to specified modifications, shall apply between Hong Kong and Ukraine. The Order is made in consequence of the arrangements for mutual legal assistance entered into by Hong Kong and Ukraine and signed in Hong Kong on 2 April 2003.

11. No difficulties relating to the legal and drafting aspects of L.N. 117 to L.N.118 and L.N. 120 to L.N. 124 have been identified. As for L.N. 119, the Legal Service Division is seeking clarification with the Administration on a technical issue and will make a further report to the House Committee in due course.

Prepared by

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Legislative Council Secretariat
24 June 2004

LEGISLATIVE COUNCIL BRIEF

Banking Ordinance (Chapter 155)

BANKING (SPECIFICATION OF PUBLIC SECTOR ENTITIES IN HONG KONG) (AMENDMENT) NOTICE 2004

INTRODUCTION

The Monetary Authority (MA) has published the Banking Ordinance (Specification of Public Sector Entities in Hong Kong) (Amendment) Notice 2004, at Annex, in the Gazette to specify the newly established 香港五隧一橋有限公司 Hong Kong Link 2004 Limited (Hong Kong Link) as a public sector entity in Hong Kong under the Third Schedule to the Banking Ordinance (Third Schedule).

BACKGROUND

2. To ensure that banks have sufficient capital to provide a stable resource to absorb any losses arising from the risks in their business, section 98(1) of the Banking Ordinance (Cap. 155) imposes a capital adequacy ratio on authorized institutions incorporated in Hong Kong (AIs). The framework used to calculate the statutory capital adequacy ratio is set out in the Third Schedule to the Banking Ordinance. The Third Schedule covers, among other elements, a risk weighting framework for various types of bank assets. Under this framework, an AI may hold less capital for assets with lower risk weights than assets with higher risk weights.

3. Under the Third Schedule, claims on public sector entities carry a relatively lower risk weight in calculating the capital adequacy ratio reflecting public sector entities' relatively higher credit worthiness than ordinary corporate borrowers. This also applies to bonds issued by public sector entities and held by AIs. This allows public sector entities to borrow funds at a lower cost in the market. Moreover, in calculating the liquidity ratio under the Fourth Schedule to the Banking Ordinance, AIs can apply higher liquidity conversion factors to marketable debt securities issued or guaranteed by public sector entities.

4. Paragraph 1 of the Third Schedule contains a definition of “public sector entity in Hong Kong”. As stipulated in the definition, the MA can specify any body as a public sector entity in Hong Kong by a notice published in the Gazette.

5. Currently, public sector entities in Hong Kong include the MTR Corporation Limited, the Kowloon-Canton Railway Corporation, the Hong Kong Housing Authority, the Hospital Authority, the Airport Authority, The Hong Kong Mortgage Corporation Limited and the Urban Renewal Authority.

JUSTIFICATIONS

6. Hong Kong Link, a limited company incorporated in Hong Kong, is wholly owned by the Government acting through the Financial Secretary Incorporated. The objects of Hong Kong Link as set out in its Memorandum of Association include, among other things, acquiring by purchase or otherwise one or more notes, bonds or other financial instruments issued by the Government including the benefit of other arrangements entered into in connection therewith and borrowing and raising money in Hong Kong dollars or in any other currency or currencies and in such manner as Hong Kong Link thinks fit. According to Hong Kong Link, the company has been established for the sole purpose of issuing notes and bonds backed by statutory revenues from certain Government-owned tolled facilities, including the Cross-Harbour Tunnel, Shing Mun Tunnels, Tseung Kwan O Tunnel, Lion Rock Tunnel, Aberdeen Tunnel and Lantau Link.

7. The MA, after reviewing the objects of the company, the underlying arrangements for the note and bond issuance and Hong Kong Link’s relationship with the Government, is satisfied that Hong Kong Link is established solely for public purposes and has a high credit worthiness which justify the granting of the status of public sector entity in Hong Kong under the Third Schedule.

THE NOTICE

8. This Notice specifies Hong Kong Link as a public sector entity in Hong Kong under the Third Schedule to the Banking Ordinance (Cap 155).

LEGISLATIVE TIMETABLE

9. The Notice was published in the Gazette on 18 June 2004 and will be tabled at the Legislative Council on 23 June 2004 for negative vetting. The Notice will take effect on 11 November 2004.

IMPLICATIONS OF THE PROPOSAL

10. The Notice is in conformity with the Basic Law, including the provisions concerning human rights. It has no financial or civil service, productivity, environmental or sustainability implications. The amendments will not affect the current binding effect of the existing provisions of the Banking Ordinance.

PUBLIC CONSULTATION

11. The Hong Kong Monetary Authority (HKMA) has consulted the Hong Kong Association of Banks and the Hong Kong Association of Restricted Licence Banks and Deposit-taking Companies on the proposed specification and has received no objection.

PUBLICITY

12. The HKMA will issue a letter to all AIs and the industry associations informing them of the Notice.

ENQUIRIES

13. Inquiries on this brief may be directed to Ms. Rose Luk, Head (Banking Policy) of HKMA (telephone number: 2878 1638) or Mrs. Millie Ng, Assistant Secretary for Financial Services and the Treasury (Financial Services) (telephone number: 2528 9076).

Financial Services Branch
Financial Services and the Treasury Bureau
18 June 2004

L.N. 119 of 2004**BANKING (SPECIFICATION OF PUBLIC SECTOR ENTITIES IN HONG KONG) (AMENDMENT) NOTICE 2004**

(Made under the definition of “public sector entity in Hong Kong” in paragraph 1 of the Third Schedule to the Banking Ordinance (Cap. 155))

1. Commencement

This Notice shall come into operation on 11 November 2004.

2. Specification of 香港五隧一橋有限公司 Hong Kong Link 2004 Limited as a public sector entity in Hong Kong

香港五隧一橋有限公司 Hong Kong Link 2004 Limited is specified as a public sector entity in Hong Kong.

3. Specification of public sector entity in Hong Kong

Section 1 of the Banking (Specification of Public Sector Entities in Hong Kong) Notice (Cap. 155 sub. leg. E) is amended by adding—

“(5) 香港五隧一橋有限公司 Hong Kong Link 2004 Limited is specified as a public sector entity in Hong Kong.”.

William A. RYBACK
Monetary Authority

16 June 2004

Explanatory Note

This Notice specifies 香港五隧一橋有限公司 Hong Kong Link 2004 Limited as a public sector entity in Hong Kong for the purpose of calculating the risk weighted exposure of an authorized institution. The method of calculating the risk weighted exposure is set out in paragraph 4 of the Third Schedule to the Banking Ordinance (Cap. 155).

立法會
Legislative Council

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 25 and 29 June 2004**

Date of Tabling in LegCo : 30 June 2004

Amendment to be made by : 13 October 2004 (or the 3 November 2004 if extended by resolution)

PART I MERCHANT SHIPPING

**Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap. 413)
Merchant Shipping (Prevention and Control of Pollution) (Specification of
Substances) (Amendment) Order 2004 (L.N. 128)**

The International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969 ("the Convention") established the internationally agreed rules permitting necessary measures to be taken on the high seas by a contracting party when threatened by grave and imminent risk of oil pollution as a result of maritime casualty.

2. The Protocol Relating to Intervention of the High Seas in Cases of Pollution by Substances other than Oil, 1973 ("the Protocol") extended the provisions of the Convention to cover pollution caused by substances other than oil. A list of "substances other than oil" was annexed to the Protocol. Both the Convention and the Protocol are implemented in Hong Kong through the Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap. 413) ("the Ordinance"). The "substances other than oil" are specified in the Merchant Shipping (Prevention and Control of Pollution) (Specification of Substances) Order (Cap. 413 sub. leg. F) ("the Principal Order") made under the Ordinance.

3. Section 6 of the Ordinance provides that where an accident has occurred to or in a ship and the Director of Marine ("the Director") is of the opinion that, among other things, any "substance other than oil" from the ship will or may cause pollution on a large scale in Hong Kong or in the waters of Hong Kong, he may for the purpose of preventing or reducing pollution, or the risk of pollution, give directions in respect of the ship or its cargo to specified persons.

4. On 11 October 2002, the International Maritime Organization adopted a resolution made by its Marine Environment Protection Committee regarding amendments to the list of substances annexed to the Protocol. The resolution was deemed to have been accepted by Parties to the Protocol on 22 March 2004 and the amendments came into effect internationally on 22 June 2004. This Order amends the Principal Order to give effect to those amendments as regards "substances other than oil" in the domestic law which implements the Protocol.

5. At the Economic Services Panel's meeting on 15 January 2004, the Administration briefed members about the Order. The members raised no queries about it.

6. Members may refer to LegCo Brief File Ref.: MA90/19 dated 25 June 2004 from Economic Development Branch, Economic Development and Labour Bureau for background information.

7. The Order will come into operation on a day to be appointed by the Director by notice published in the Gazette.

Merchant Shipping (Security of Ships and Port Facilities) Ordinance (13 of 2004)
Merchant Shipping (Security of Ships and Port Facilities) Rules (L.N. 130)

8. The Merchant Shipping (Security of Ships and Port Facilities) Ordinance (13 of 2004) ("the Ordinance") was passed by this Council on 23 June 2004. It came into operation on 25 June 2004 upon its gazettal.

9. The Ordinance implements the December 2002 amendments to the International Convention for the Safety of Life at Sea 1974 and the International Ship and Port Facility Security Code which have come into force on 1 July 2004. It mainly empowers the Secretary for Economic Development and Labour to make rules for the purposes of the Ordinance. Most of the implementation details will be in the Rules.

10. A Bills Committee was set up to scrutinize the relevant Bill. To facilitate the putting in place of the Rules before 1 July 2004, the Bills Committee also scrutinized the draft Rules. Members suggested a number of amendments to the Rules, most of which were accepted by the Administration.

11. The Rules as now gazetted in a Gazette Extraordinary came into effect upon gazettal. Part 1 of the Rules sets out the definitions and certain functions that the Director of Marine may execute. Parts 2 and 3 provide for security-related requirements to be complied with in relation to ships and port facilities respectively. Part 4 contains miscellaneous provisions on appeals and fees.

12. Members may refer to the Legislative Council Brief (File Ref.: MA 150/47) issued by the Economic Development and Labour Bureau dated 26 June 2004 for details. According to paragraph 12 of the Brief, the Administration has consulted the Shipping Consultative Committee and the Port Area Security Advisory Committee and secured their support. Comments from individual members of these committees have been taken into account in finalizing the Rules.

13. We have checked the Rules and confirmed that they have incorporated the amendments as suggested by the Bills Committee.

PART II COMMENCEMENT NOTICE

Mutual Legal Assistance in Criminal Matters (Singapore) Order (L.N. 112 of 2004)

Mutual Legal Assistance in Criminal Matters (Singapore) Order (L.N. 112 of 2004) (Commencement) Notice 2004 (L.N. 129)

14. This Notice specifies 14 July 2004 as the day on which the Mutual Legal Assistance in Criminal Matters (Singapore) Order will come into operation.

15. No difficulties relating to the legal and drafting aspects of the above items have been identified.

Prepared by

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Assistant Legal Advisers

Legislative Council Secretariat

6 July 2004

LEGISLATIVE COUNCIL BRIEF

MERCHANT SHIPPING (PREVENTION AND CONTROL OF POLLUTION) (SPECIFICATION OF SUBSTANCES) (AMENDMENT) ORDER 2004

Introduction

This paper briefs Members on the Merchant Shipping (Prevention and Control of Pollution) (Specification of Substances) (Amendment) Order 2004 (“Amendment Order”) at Annex. The Amendment Order is made under section 6(10) of the Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap. 413) (“Ordinance”).

Purpose

2. The purpose of the Amendment Order is to align Hong Kong legislation with the amendments to the Annex to the Protocol Relating to Intervention of the High Seas in Cases of Pollution by Substances other than Oil, 1973 (“Protocol”).

Background

3. The International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969 (“Convention”) established the internationally agreed rules permitting necessary measures to be taken on the high seas by a Contracting Party when threatened by grave and imminent risk of oil pollution as a result of maritime casualty.

4. The Protocol extended the provisions of the Convention to cover pollution caused by substances other than oil. A list of “substances other than oil” was annexed to the Protocol. Both the Convention and the Protocol are implemented in Hong Kong through the Ordinance. The “substances other than oil” are specified in the Merchant Shipping (Prevention and Control of Pollution) (Specification of Substances) Order (Cap.413F) made under the Ordinance.

5. On 11 October 2002, the International Maritime Organisation (“IMO”) adopted Resolution MEPC.100 (48) which revised the list of “substances other than oil” annexed to the Protocol. The Resolution was deemed to have been accepted by Parties to the Protocol on 22 March 2004 and the revision came into effect internationally on 22 June 2004.

6. To allow sufficient time for consideration of the Amendment Order by the Legislative Council, the Director of Marine will specify a date on which the Amendment Order shall come into effect in Hong Kong after the completion of the negative vetting process. The commencement notice will be published in the Gazette. In the interim period, the Director of Marine will rely on paragraph (b) of the definition of “any substance other than oil” given in section 6(9) of the Ordinance, or section 11B of the Shipping and Port Control Ordinance (Cap. 313) to handle shipping casualties caused by new “substances other than oil”.

The Amendment Order

7. The Amendment Order will specify “substances other than oil” in accordance with IMO’s Resolution MEPC.100 (48).

Legislative Timetable

8. The legislative timetable for the Amendment Order is as follows:-

Publication in the Gazette	25 June 2004
Tabling at Legislative Council	30 June 2004
Commencement of the Amendment Order	On a date to be appointed by the Director of Marine

Implications

9. The Amendment Order is in conformity with the Basic Law, including the provision on human rights. It will not affect the binding effect of the Ordinance. The highly technical amendments it makes have no financial, civil service, economic or environmental implications.

Public Consultation

10. The amendments effected by the Amendment Order will not affect the public at large. As it is in line with internationally accepted standards, no public consultation is considered necessary. We have obtained the support of the Legislative Council Panel on Economic Services for the relevant amendments on 15 January 2004.

Publicity

11. A press release will be issued on 25 June 2004. A spokesman will be made available to answer public and media enquiries. The Marine Department will notify the industry by issuing a Marine Department Notice.

Enquiry

12. Any enquiry on this brief can be addressed to Mr. P F Chun, Assistant Director of Marine (2852 4408) or Miss Florence Chan, Assistant Secretary for Economic Development and Labour (2537 2842).

Economic Development Branch
Economic Development and Labour Bureau
25 June 2004

**MERCHANT SHIPPING (PREVENTION AND CONTROL OF
POLLUTION) (SPECIFICATION OF SUBSTANCES)
(AMENDMENT) ORDER 2004**

(Made under section 6(10) of the Merchant Shipping
(Prevention and Control of Pollution)
Ordinance (Cap. 413))

1. Commencement

This Order shall come into operation on a day to be appointed by the Director of Marine by notice published in the Gazette.

2. Section substituted

Section 1A of the Merchant Shipping (Prevention and Control of Pollution) (Specification of Substances) Order (Cap. 413 sub. leg. F) is repealed and the following substituted –

“1A. Interpretation

In this Order –

“BLG/Circ.13” (《BLG/13 號通函》) means the circular issued by IMO bearing “BLG/Circ.13” as its reference number;

“Consolidated Edition 2002” (《2002 年綜合版》) means the publication published by IMO entitled ‘MARPOL 73/78 Consolidated Edition, 2002’;

“1998 IBC Code” (《1998 年國際化學品規則》) means the 1998 edition of the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk published by IMO;

“1993 IGC Code” (《1993 年國際氣體規則》) means the 1993 edition of the International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk published by IMO;

“2002 IMDG Code” (《2002 年國際海運危險貨物規則》) means the 2002 edition of the International Maritime Dangerous Goods Code published by IMO;

“IMO” means the International Maritime Organization;

“MARPOL 73/78” (《73/78 年防污公約》) means the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto;

“MEPC.2/Circ.9” (《MEPC.2/9 號通函》) means the circular issued by IMO bearing “MEPC.2/Circ.9” as its reference number, as modified by IMO on 23 January 2004.”.

3. Section substituted

Section 2 is repealed and the following substituted –

‘2. Specification of substances

A substance on board a ship is a substance other than oil for the purposes of paragraph (a) of the definition of “any substance other than oil” in section 6(9) of the Ordinance if –

- (a) it is a substance specified in the Schedule; and
- (b) it is carried on board the ship as cargo, or it is the residue of a quantity of the same substance previously carried on board the ship.”.

4. Schedule substituted

The Schedule is repealed and the following substituted –

“ SCHEDULE [s. 2]

SUBSTANCES OTHER THAN OIL

1. Noxious liquid substances, as defined in Annex II to MARPOL 73/78 as contained in the Consolidated Edition 2002, when carried in bulk, and –

- (a) categorized or provisionally categorized as Category A or B in –

- (i) Chapter 17 of 1998 IBC Code; or
 - (ii) Lists 1 to 4 attached to MEPC.2/Circ.9; or
 - (b) identified in the list attached to BLG/Circ.13 with –
 - (i) “2”, “(2)”, “2/BOD” or “2/D” in column B, and “XX” in column E, of the list; or
 - (ii) “XXX” in column E of the list.
- 2. Harmful substances in packaged form, as defined in Annex III to MARPOL 73/78 as contained in the Consolidated Edition 2002, which –
 - (a) are identified as severe marine pollutants with “PP” in column “MP” of the Index to the 2002 IMDG Code; or
 - (b) meet the criteria for severe marine pollutants as specified in paragraph 2.10.4.1.2 of the Code.
- 3. Radioactive materials, as defined in paragraph 2.7.1 of the 2002 IMDG Code, which are transported –
 - (a) in type B (U) or type B (M) packages as specified in paragraph 2.7.7.1.5 of the Code;
 - (b) in type C packages as specified in paragraph 2.7.7.1.6 of the Code;
 - (c) as fissile materials as defined in paragraph 2.7.2 of the Code; or
 - (d) under special arrangements as specified in paragraph 7.1.14.10 of the Code.
- 4. Liquefied gases, identified in Chapter 19 of the 1993 IGC Code, when carried in bulk.”.

Director of Marine

21 June 2004

Explanatory Note

On 11 October 2002, the International Maritime Organization adopted a resolution made by its Marine Environment Protection Committee regarding amendments to the list of substances annexed to the Protocol relating to Intervention on the High Seas in Cases of Pollution by Substances Other Than Oil, 1973. This Order amends the Merchant Shipping (Prevention and Control of Pollution) (Specification of Substances) Order (Cap. 413 sub. leg. F) to give effect to those amendments as regards substances other than oil in the domestic law which implements the Protocol.

LEGISLATIVE COUNCIL BRIEF

MERCHANT SHIPPING (SECURITY OF SHIPS AND PORT FACILITIES) RULES

INTRODUCTION

This paper briefs Members on the Merchant Shipping (Security of Ships and Port Facilities) Rules (“the Rules”) made under the Merchant Shipping (Security of Ships and Port Facilities) Ordinance (13 of 2004) (“the Ordinance”) to implement the maritime security provisions adopted by the International Maritime Organization (IMO) under the December 2002 amendments to the International Convention for the Safety of Life at Sea, 1974 (SOLAS) and the associated International Ship and Port Facility Security (ISPS) Code. The Rules will be tabled at the Legislative Council on 30 June 2004.

BACKGROUND

2. The development of the maritime security provisions under the 2002 amendments to SOLAS and the ISPS Code was triggered by the terrorist attacks on 11 September 2001. It aims to establish an international framework through which government agencies and the shipping and port industries co-operate to detect and deter acts that threaten security in maritime transport. As the Central People’s Government is a contracting government to SOLAS which is applicable to Hong Kong, these provisions will be binding on Hong Kong upon commencement on 1 July 2004. Hong Kong is required to give effect to the requirements through domestic legislation.

3. In brief, the provisions require ships engaged on international voyage and port facilities serving such ships to develop security plans incorporating measures to respond to different security levels.

Contracting Governments are required to set security levels and ensure that ships flying their flag, port facilities within their jurisdiction, as well as foreign ships visiting their ports or within their territorial waters are in compliance with the requirements. All applicable ships are required to carry an International Ship Security Certificate that is issued by the ship's flag administration or its authorized recognized security organization whilst all applicable port facilities shall have their security plan approved by the authority appointed by its Government. Ships found not in compliance with the provisions will be subject to control measures, which may include denial of entry into ports or expulsion from ports.

4. Subsequent to the endorsement of the Executive Council on 2 March 2004, the Bill was introduced into the Legislative Council on 24 March 2004 and passed on 23 June 2004. The Ordinance was gazetted and commenced on 25 June 2004 which is the primary local legislation to give effect to the maritime security provisions. In essence, the Ordinance confers the Director of Marine, who has been appointed as the "Designated Authority" responsible for ensuring the implementation of the maritime security provisions under SOLAS, various powers that are required to implement the provisions in Hong Kong including the power to designate port facilities, recognize security organizations, set security levels and issue security instructions, inspect and control ships and port facilities, and to grant exemptions from any provisions of the Ordinance. Section 6(1) of the Ordinance empowers the Secretary for Economic Development and Labour to make rules for the purposes of the Ordinance.

THE RULES

5. On 30 June 2004, we will table the Rules made under the Ordinance. The Rules are outlined in the ensuing paragraphs.

Merchant Shipping (Security of Ships and Port Facilities) Rules

6. The Rules, at Annex A, provide for –

- (i) powers of the Director of Marine to set security levels, to issue security instructions when the highest security level is set, to delegate functions relating to security of ships and port facilities to recognized security organizations, and to declare an area of the waters of Hong Kong closed to all vessels or any class or type of vessels in order to abate or contain security threat;
- (ii) the specified provisions of SOLAS and the ISPS Code that Hong Kong ships and non-Hong Kong ships intending to enter Hong Kong or in Hong Kong, the owners or managers of such ships, and port facilities shall comply with;
- (iii) powers of the Director of Marine to impose control measures under SOLAS on ships intending to enter Hong Kong or in Hong Kong;
- (iv) the requirements and arrangements about International Ship Security Certificate;
- (v) the requirements on port facilities about security plans;
- (vi) the requirements on ships and port facilities to comply with security levels set by the Director of Marine;
- (vii) the requirements on ships and port facilities to keep record as specified;
- (viii) offences and penalties for non-compliances with the Rules; and
- (ix) appeal arrangement and the charging of fees for related services.

7. Under the Rules, the security requirements that ships and port facilities have to comply with, and the control measures that would be

imposed on ships in Hong Kong ports, are stipulated by referring directly to the provisions of SOLAS and the ISPS Code. The Rules also spell out the various arrangements for the implementation of such requirements.

LEGISLATIVE TIMETABLE

8. The legislative timetable for the Rules is –

Publication in the Gazette	29 June 2004
Tabling at the Legislative Council	30 June 2004
Implementation	immediate upon gazettal

9. To enforce the maritime security provisions under SOLAS and the ISPS Code and exercise control on ships, it is necessary to have the Rules enacted on or before 1 July 2004. The Rules will take effect immediately upon gazettal.

IMPLICATIONS OF THE PROPOSAL

B

10. The proposal has economic implications as set out at Annex B. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It has no productivity, civil service and environmental implications. Although there will be revenue generated from services provided for implementing the requirements under the Rules, the amount to be collected on cost recovery basis is expected to be very small and hence the financial implication is negligible. The Marine Department will absorb the additional work through its existing staff and resources. The proposal does not have major sustainability implications but would help Hong Kong shipping and port industries maintain a leading position in the region. The Rules will be binding on the Government.

11. Failure to comply with the convention requirements will not only undermine the security standard for our ships and port facilities, breach the international obligations under SOLAS but also cause serious adverse effect on the commercial operations of the shipping and port industries of Hong Kong. For example, Hong Kong registered ships to which Chapter XI-2 applies and which do not carry a valid International Ship Security Certificate may be delayed, detained or expelled from a foreign port.

PUBLIC CONSULTATION

12. We have consulted the Shipping Consultative Committee and the Port Area Security Advisory Committee, and secured their support. Comments from individual members of these committees have been taken into account in finalizing the Rules. The Rules have also been examined and agreed by the Bills Committee.

PUBLICITY

13. A press release will be issued on 29 June 2004. A spokesman will be made available to answer public and media enquiries.

ENQUIRIES

14. Any enquires on this brief can be addressed to Mr K L Lee, Chief, Marine Accident Investigation of the Marine Department (Tel: 2852 4603) or Mr H B Chan, Assistant Secretary of the Economic Development and Labour Bureau (Tel: 2121 2304).

**Economic Development and Labour Bureau
26 June 2004**

**MERCHANT SHIPPING (SECURITY OF SHIPS AND PORT
FACILITIES) RULES**

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MERCHANT SHIPPING (SECURITY OF SHIPS AND PORT FACILITIES) RULES

(Made under section 6 of the Merchant Shipping (Security of Ships and Port Facilities) Ordinance (13 of 2004))

PART 1 GENERAL PROVISIONS

1. Interpretation

In these Rules, unless the context otherwise requires –

“company” (公司), in relation to a ship, means –

- (a) the owner of the ship; or
- (b) any person, including the manager or bareboat charterer of the ship, who has assumed responsibility for the operation of the ship and, on assuming that responsibility, agreed to take over all duties and responsibilities imposed in respect of the ship by the International Safety Management Code;

“company security officer”(公司保安官員) means a person designated under rule 9(1)(b);

“Declaration of Security” (保安聲明) means an agreement reached between a ship and a port facility or a ship with which it interfaces specifying the security measures that each will implement;

“interim certificate”(臨時證書) means an Interim International Ship Security Certificate issued under rule 16;

“International Safety Management Code” (《國際安全管理規則》) means the International Management Code for the Safe Operation of Ships and for Pollution Prevention adopted by the International Maritime Organization as amended by the Organization from time to time;

- “port facility security officer” (港口設施保安官員) means a person designated under rule 24(1);
- “port facility security plan” (港口設施保安計劃) means a plan referred to in section 16 of part A of the Code;
- “security certificate” (保安證書) means an International Ship Security Certificate issued or endorsed under rule 14;
- “security instruction” (保安指示) means an instruction given under rule 3;
- “security level” (保安級別) means the qualification of the degree of risk that any suspicious act or circumstance threatening the security of a ship or port facility will occur as set pursuant to section 4.1 of part A of the Code;
- “ship security officer” (船舶保安官員) means a person designated under rule 9(1)(a);
- “ship security plan” (船舶保安計劃) means a plan referred to in section 9 of part A of the Code.

2. Setting of security levels

The Director shall set security levels pursuant to section 4.1 of part A of the Code by publishing a notice which is accessible through the Internet.

3. Security instructions

(1) Where security level 3 is set by the Director, the Director may give such security instructions as he thinks fit to –

- (a) a Hong Kong ship;
- (b) a non-Hong Kong ship in the waters of Hong Kong; or
- (c) a designated port facility.

(2) Security instructions referred to in subrule (1) shall be given by such means as the Director thinks fit including –

- (a) publishing a notice which is accessible through the Internet;

- (b) making a public announcement by radio or television;
- (c) placing a notice in any daily newspaper in circulation in Hong Kong; and
- (d) issuing a notice to the company or the master of the ship or the management of the designated port facility.

(3) The Director may delegate his power under subrule (1) to such persons as he thinks fit.

(4) The company and the master of a ship or the management of a designated port facility to which a security instruction is given by the Director under subrule (1) shall –

- (a) ensure that the security instruction is complied with without undue delay; and
- (b) where it is impracticable to comply with paragraph (a), notify the Director of that fact without undue delay.

(5) If a security instruction given to a ship in the waters of Hong Kong has been received by the company or the master of the ship but the company or the master, without reasonable excuse, fails to comply with subrule (4), the company or the master (as the case may be) commits an offence and is liable on conviction to a fine at level 5.

(6) If a security instruction given to a designated port facility has been received by the management of the port facility but the management, without reasonable excuse, fails to comply with subrule (4), the management commits an offence and is liable on conviction to a fine of \$500,000 and to imprisonment for 3 years.

4. Delegation of functions to recognized security organizations

Subject to the exceptions specified in section 4.3 of part A of the Code, the Director may, in writing, delegate to a recognized security organization his

functions relating to security of ships or port facilities under Chapter XI-2 of the Convention and part A of the Code.

5. Declaration of closed area

(1) If the Director reasonably believes that, in order to abate or contain any security threat, it is necessary to close any area of the waters of Hong Kong to all vessels or any class or type of vessels, he may declare that area to be an area closed to those vessels or that class or type of vessels, as the case may be.

(2) If the master of a vessel, without reasonable excuse, causes the vessel to enter a closed area in contravention of a declaration under subrule (1), he commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 6 months.

(3) The Director shall make a declaration under subrule (1) by such means as he thinks fit including –

- (a) publishing a notice which is accessible through the Internet;
- (b) making a public announcement by radio or television; and
- (c) placing a notice in any daily newspaper in circulation in Hong Kong.

PART 2

SHIPS

6. Hong Kong ships to comply with the Convention

A Hong Kong ship shall comply with regulations 4, 6 and 8 of Chapter XI-2 of the Convention.

7. Non-Hong Kong ships to comply with the Convention

(1) A non-Hong Kong ship in Hong Kong shall comply with regulations 4, 6 and 8 of Chapter XI-2 of the Convention.

(2) A non-Hong Kong ship intending to enter Hong Kong shall comply with regulations 4 and 9.2 of Chapter XI-2 of the Convention.

8. Companies to comply with the Convention

(1) The company of a ship shall comply with regulations 4, 5 and 8 of Chapter XI-2 of the Convention.

(2) The company of a ship shall provide the master, company security officer and ship security officer of the ship with such supports as are necessary for each of them to perform their respective functions under Chapter XI-2 of the Convention and part A of the Code.

9. Ship security officers and company security officers

- (1) The company of a ship shall designate for the ship –
- (a) a ship security officer; and
 - (b) a company security officer.

(2) A ship security officer and a company security officer shall comply with the provisions of part A of the Code that respectively apply to each of them and take into account the guidance contained in part B of the Code.

10. Control of ships in Hong Kong

(1) The Director may impose any control measures referred to in regulation 9.1 or 9.3 of Chapter XI-2 of the Convention on a ship in the waters of Hong Kong.

(2) The master of a ship shall, without undue delay, act upon any direction given pursuant to the regulation referred to in subrule (1) by the Director.

11. Control of ships intending to enter Hong Kong

(1) The Director may impose any control measures referred to in regulation 9.2 or 9.3 of Chapter XI-2 of the Convention on a ship intending to enter the waters of Hong Kong.

(2) The master of a ship shall, without undue delay, act upon any direction given pursuant to the regulation referred to in subrule (1) by the Director.

12. Maintenance of security system on Hong Kong ships

The company and the master of a Hong Kong ship shall ensure that the security system and the associated security equipment of the ship that have been verified are properly maintained as required under section 19.1.4 of part A of the Code.

13. Certificates for Hong Kong ships

(1) The company and the master of a Hong Kong ship shall ensure that the ship holds a valid security certificate or an interim certificate.

(2) The master of a Hong Kong ship shall ensure that the ship has on board either of the certificates referred to in subrule (1) while the ship is engaged on international voyage.

(3) The master of a Hong Kong ship who, without reasonable excuse, fails to comply with subrule (2) commits an offence and is liable on conviction to a fine at level 3.

14. International Ship Security Certificates

(1) Subject to subrule (2), an International Ship Security Certificate may, on application by the company of a Hong Kong ship, be issued or endorsed in respect of the ship by –

- (a) the Director;

- (b) a recognized security organization that is authorized in writing by the Director to issue or endorse the Certificate; or
- (c) upon the request of the Director, another Contracting Government.

(2) A security certificate shall not be issued or endorsed in respect of a Hong Kong ship unless –

- (a) a ship security plan of the ship has been approved by the Director or a recognized security organization; and
- (b) the requirements of verification in accordance with section 19.1 of part A of the Code have been complied with in relation to the ship.

(3) If the Director refuses to issue or endorse (as the case may be) a security certificate, he shall inform the applicant concerned by a notice in writing stating the reasons for his refusal.

(4) A security certificate is valid for such period as specified in the certificate by the person who issued or endorsed the certificate.

(5) A security certificate ceases to be valid if any of the events mentioned in section 19.3.8 of part A of the Code occurs.

15. Obligations of companies in relation to ships

Where a security certificate has been issued or endorsed in respect of a ship, the company of the ship shall, on transferring its responsibility for the operation of the ship to another company –

- (a) as soon as practicable transmit to that another company all information relating to the certificate; or
- (b) facilitate the verifications carried out for the ship.

16. Interim International Ship Security Certificates

(1) Subject to subrule (2), in a case falling within section 19.4.1 of part A of the Code, an Interim International Ship Security Certificate may on application by the company of a Hong Kong ship be issued pursuant to section 19.4.2 of part A of the Code in respect of the ship by –

- (a) the Director; or
- (b) a recognized security organization that is authorized in writing by the Director to issue the Certificate.

(2) An interim certificate shall not be issued in respect of a Hong Kong ship unless the requirements specified in section 19.4.2 of part A of the Code are verified to have been complied with in relation to the ship.

(3) If the Director refuses to issue an interim certificate, he shall inform the applicant concerned by a notice in writing stating the reasons for his refusal.

(4) An interim certificate is valid until –

- (a) the expiration of 6 months from its date of issue; or
- (b) a security certificate is issued in respect of the ship,

whichever first occurs.

17. Cancellation of certificates

(1) The Director may, by notice in writing to the company of a ship, cancel a security certificate issued or endorsed in respect of the ship if he has reason to believe that –

- (a) regulation 4, 6 or 8 of Chapter XI-2 of the Convention has not been complied with in relation to the ship; or
- (b) the certificate was issued or endorsed on the basis of false or erroneous information.

(2) The Director may, by notice in writing to the company of a ship, cancel an interim certificate issued in respect of the ship if he has reason to believe that –

- (a) any of the requirements specified in section 19.4.2 of part A of the Code has not been complied with in relation to the ship; or
- (b) the certificate was issued on the basis of false or erroneous information.

(3) The Director shall give reasons for cancelling a certificate.

18. Hong Kong ships outside Hong Kong to comply with requirements of security levels

(1) Subject to subrule (2), where a security level is set by the Director, the company and the master of a Hong Kong ship outside Hong Kong shall ensure that the ship, without undue delay –

- (a) complies with the requirements specified in section 7 of part A of the Code in respect of the security level; and
- (b) implements the preventive and protective measures specified in its ship security plan in respect of the security level.

(2) If a Hong Kong ship is in the waters of another party to the Convention and the security level set by the government of that party is higher than that set by the Director, the ship shall act on the security level set by that government as if the security level was set by the Director.

19. Ships in Hong Kong waters to comply with requirements of security levels

(1) Subject to subrule (2), where a security level is set by the Director, the company and the master of a ship in the waters of Hong Kong shall ensure that the ship, without undue delay –

- (a) complies with the requirements specified in section 7 of part A of the Code in respect of the security level; and
- (b) implements the preventive and protective measures specified in its ship security plan in respect of the security level.

(2) Subrule (1) does not apply if a ship referred to in that subrule has complied with the requirements specified in section 7 of part A of the Code in respect of a security level higher than that set by the Director and has implemented the preventive and protective measures specified in its ship security plan in respect of that higher level.

(3) If the company or the master of a ship, without reasonable excuse, fails to comply with subrule (1), the company or the master (as the case may be) commits an offence and is liable on conviction to a fine at level 5.

20. Duty to notify the Director of non-compliance

(1) The master of a ship shall, without undue delay, notify the Director of the details of any non-compliance by the ship with –

- (a) any of the requirements specified in relation to the ship in rule 18; or
- (b) any of the requirements specified in relation to the ship in rule 19.

(2) The master of a ship who, without reasonable excuse, fails to comply with subrule (1)(b) commits an offence and is liable on conviction to a fine at level 5.

21. Ships to complete and keep Declarations of Security

(1) If a ship is requested by the Director under section 5 of part A of the Code to complete a Declaration of Security, the master or the ship security

officer of the ship shall, without undue delay, complete the Declaration of Security in the manner specified in that section.

(2) After completing a Declaration of Security in respect of a Hong Kong ship, the master or the ship security officer, as the case may be, of the ship shall keep the Declaration of Security on board during the next 10 calls of the ship at any port facility.

22. Duty to keep information and records

(1) A ship intending to enter the waters of Hong Kong shall keep on board the information specified in –

- (a) regulation 5 of Chapter XI-2 of the Convention; and
- (b) regulation 9.2.1 of Chapter XI-2 of the Convention on –
 - (i) where the ship has previously called at not less than 10 port facilities, the last 10 occasions where the ship called at port facilities immediately before it intends to enter the waters of Hong Kong;
 - or
 - (ii) where the ship has previously called at less than 10 port facilities, all occasions where the ship called at port facilities immediately before it intends to enter the waters of Hong Kong.

(2) A Hong Kong ship shall keep on board –

- (a) a ship security plan of the ship developed and approved in accordance with section 9 of part A of the Code;
- (b) all approvals (if any) for amendment to the ship security plan given pursuant to section 9 of part A of the Code;
- (c) the information specified in regulation 5 of Chapter XI-2 of the Convention; and

- (d) in the manner specified in section 10 of part A of the Code, the records specified in section 10.1 of that part for a period of not less than 3 years.

PART 3 DESIGNATED PORT FACILITIES

23. Designated port facilities to comply with the Convention

A designated port facility shall comply with regulation 10.1 of Chapter XI-2 of the Convention.

24. Port facility security officers

(1) The management of a designated port facility shall designate a port facility security officer for the port facility.

(2) A port facility security officer shall comply with the provisions of part A of the Code that apply to him and take into account the guidance contained in part B of the Code.

25. Port facility security plans

The port facility security officer of a designated port facility shall ensure that a port facility security plan is developed and maintained for the port facility and submitted to the Director for approval in accordance with section 16 of part A of the Code.

26. Duty to notify the Director of material change in circumstances

If, since a port facility security plan of a designated port facility has been approved, there has been any material change in the circumstances that may affect the security of the port facility or the implementation of the port facility security plan, the port facility security officer of the port facility shall, without undue delay –

- (a) report the details of the change to the Director;
- (b) cause the port facility security plan to be revised to take into account the change; and
- (c) submit the revised port facility security plan to the Director for approval.

27. Withdrawal of approval of port facility security plans

- (1) If the Director has reason to believe that –
 - (a) a material change referred to in rule 26 has occurred in respect of a designated port facility; and
 - (b) the requirements specified in that rule are not complied with in relation to the port facility,

the Director may, by a notice in writing to the management of the port facility, withdraw his approval of the port facility security plan of the port facility.

- (2) The Director shall give reasons for withdrawing his approval.

28. Designated port facilities to comply with requirements of security levels

- (1) Where a security level is set by the Director, the management of a designated port facility shall ensure that the port facility, without undue delay –
 - (a) complies with the requirements specified in section 14 of part A of the Code in respect of the security level; and
 - (b) implements the preventive and protective measures specified in its port facility security plan in respect of the security level.

(2) The management of a designated port facility who, without reasonable excuse, fails to comply with subrule (1) commits an offence and is liable on conviction to a fine at level 5.

29. Designated port facilities to complete and keep Declarations of Security

(1) If a designated port facility is requested under section 5 of part A of the Code by the Director to complete a Declaration of Security, the port facility security officer of the port facility shall, without undue delay, complete the Declaration of Security in the manner specified in that section.

(2) After completing a Declaration of Security in respect of a designated port facility, the port facility security officer of the port facility shall keep the Declaration of Security for a period of not less than 1 year.

30. Rectification of non-compliance

(1) If the Director has reason to believe that any requirement of the port facility security plan of a designated port facility is not complied with, he may direct the management of the port facility to rectify the condition of non-compliance within such period as he specifies.

(2) The management of a designated port facility who, without reasonable excuse, fails to comply with any direction made under subrule (1) commits an offence and is liable on conviction to a fine at level 5.

PART 4

MISCELLANEOUS PROVISIONS

31. Appeals

(1) If the company of a ship is aggrieved by a decision of the Director made in respect of the ship under any of the following provisions, it may appeal to a court of survey in accordance with the Merchant Shipping (Court of Survey) Regulations (Cap. 369 sub. leg. A) –

- (a) rule 14 (refusing to issue or endorse a security certificate);
- (b) rule 16 (refusing to issue an interim certificate);
- (c) rule 17(1) (cancelling a security certificate);
- (d) rule 17(2) (cancelling an interim certificate).

(2) If the management of a designated port facility is aggrieved by a decision of the Director made in respect of the port facility under rule 27, the management may appeal to the Administrative Appeals Board against the decision.

(3) An appeal referred to in subrule (1) or (2) may only be made within 14 days after –

- (a) the applicant has received a notice referred to in rule 14(3);
- (b) the applicant has received a notice referred to in rule 16(3);
- (c) the company has received a notice of cancellation referred to in rule 17(1) or (2); or
- (d) the management has received a notice of withdrawal referred to in rule 27(1),

as the case may be.

(4) A court of survey may affirm or reverse a decision appealed against.

(5) The lodging of an appeal under this rule does not by itself operate as a stay of execution of a decision of the Director.

32. Fees

(1) The Director may charge fees in respect of the time spent by an authorized officer on providing services relating to any of the following matters –

- (a) issuing or endorsing a security certificate;
- (b) issuing an interim certificate;
- (c) approving a port facility security plan;
- (d) inspecting for the purpose of removal of detention of ships.

(2) The fee under subrule (1) is charged on an hourly basis and the rate is –

- (a) in the case where an authorized officer is required to inspect a ship or a port facility in the course of providing

- services, \$3,270 for the first hour or part hour and \$1,115 for each subsequent hour or part hour; or
- (b) in any other case, \$1,115 for each hour or part hour.

Consequential Amendments

Administrative Appeals Board Ordinance

33. Schedule amended

The Schedule to the Administrative Appeals Board Ordinance (Cap. 442) is amended by adding –

- | | |
|---|--|
| “65. Merchant Shipping (Security of Ships and Port Facilities) Rules (L.N. of 2004) | A decision of the Director of Marine under rule 27(1).”. |
|---|--|

Secretary for Economic Development
and Labour

June 2004

Explanatory Note

These Rules are made under the Merchant Shipping (Security of Ships and Port Facilities) Ordinance (13 of 2004) (“the Ordinance”) to implement the December 2002 amendments to the International Convention for the Safety of Life at Sea, 1974 (“the Convention”) and the International Ship and Port Facility Security Code and related provisions in the Convention.

2. Part 1 sets out the definitions necessary for interpreting the Rules and sets out certain functions that the Director of Marine may execute for the purposes of the Ordinance and these Rules.
3. Part 2 provides for security-related requirements to be complied with in relation to ships and sets out restrictions that are imposed in respect of ships.
4. Part 3 provides for security-related requirements to be complied with in relation to port facilities and sets out restrictions that are imposed in respect of port facilities.
5. Part 4 contains miscellaneous provisions on appeals and fees.

IMPLICATIONS OF THE PROPOSAL

Economic implications

As most ships and port facilities engaged in international trade already have certain existing security arrangements to guard against common crimes or illegal activities such as theft, smuggling, illegal immigrants etc., enhancing security measures according to the Rules will only incur a small amount of additional cost to them. Such additional cost is insignificant compared with their total operation cost, and it applies globally to the shipping and port industries instead of just the local industries. Failure to implement the proposal in Hong Kong will have serious adverse effect on the business of the local industries. If Hong Kong is seen not in compliance with the international convention requirements, the majority of ships registered in Hong Kong would probably switch to other flags and port facilities such as container terminals will lose their competitive edge over other competitors in the region. On the other hand, the ability to implement the requirements effectively and efficiently will be an advantage over other competitors, as shippers would prefer those carriers and port facilities that can provide a secured and smooth service to move their cargoes.

立法會
Legislative Council

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 2 July 2004**

Date of tabling in LegCo : 7 July 2004

Amendment to be made by : 13 October 2004 (or 3 November 2004 if extended by resolution)

**Interpretation and General Clauses Ordinance (Cap. 1)
Declaration of Change of Titles (Information Technology Services Department
and Director of Information Technology Services) Notice 2004 (L.N. 131)**

This Notice is made by the Chief Secretary for Administration under section 55 of the Interpretation and General Clauses Ordinance (Cap. 1) to declare that as from 1 July 2004 -

- (a) the title of the Information Technology Services Department is to be changed to the Office of the Government Chief Information Officer; and
- (b) the title of the Director of Information Technology Services is to be changed to the Government Chief Information Officer.

2. The references to the old titles in the Dangerous Drugs Ordinance (Cap. 134) and the Electronic Transactions Ordinance (Cap. 553) and wherever occurring in any instruments, contracts or legal proceedings made or commenced before 1 July 2004 are to be substituted accordingly.

3. The Bills Committee on Electronic Transactions (Amendment) Bill 2003 has noted the Administration's proposal to transfer the functions currently performed by the Director of Information Technology Services to the newly created post of Government Chief Information Officer.

Prepared by

HO Ying-chu, Anita
Assistant Legal Adviser
Legislative Council Secretariat
8 July 2004

**Legal Service Division Reports on
Subsidiary Legislation tabled on 6 October 2004**

<u>L.N. No</u>	<u>Item</u>
132	United Nations Sanctions (Iraq) (Amendment) Regulation 2004 (LN132 is not required to be tabled at the Legislative Council)
137	Quarantine and Prevention of Disease Ordinance (Amendment of First Schedule) (No. 2) Order 2004
138	Prevention of the Spread of Infectious Diseases Regulations (Amendment of Form) (No. 2) Order 2004
141	Import and Export (General) Regulations (Amendment of Seventh Schedule) (No. 3) Notice 2004
142	Public Health and Municipal Services Ordinance (Public Pleasure Grounds) (Amendment of Fourth Schedule) (No. 2) Order 2004
143	Public Health and Municipal Services Ordinance (Public Markets) (Designation and Amendment of Tenth Schedule) (No. 2) Order 2004
144	Declaration of Markets Notice (Amendment) (No. 2) Declaration 2004
145	Clearing and Settlement Systems Ordinance (20 of 2004) (Commencement) Notice 2004
146	Tax Reserve Certificates (Rate of Interest) (No. 5) Notice 2004
147	Construction Workers Registration Ordinance (18 of 2004) (Commencement) Notice 2004
148	Banking (Specification of Public Sector Entities in Hong Kong) (Amendment) Notice 2004 (Repeal) Notice

- 149 Banking (Specification of Public Sector Entities in Hong Kong) (Amendment) (No. 2) Notice 2004
- 150 Federation of Hong Kong Industries (Addition of a Scheduled Group) (No. 2) Notice 2004
- 151 Hong Kong Sports Development Board (Repeal) Ordinance (11 of 2004) (Commencement) Notice 2004
- 152 Professional Accountants (Amendment) Ordinance 2004 (23 of 2004) (Commencement) Notice 2004
- 153 Tax Reserve Certificates (Rate of Interest) (No. 6) Notice 2004

立法會
Legislative Council

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 9 July 2004**

United Nations Sanctions Ordinance (Cap. 537)

United Nations Sanctions (Iraq) (Amendment) Regulation 2004 (L.N. 132)

The United Nations Sanctions (Iraq) (Amendment) Regulation 2004 ("the Iraq Regulation") is made under the United Nations Sanctions Ordinance (Cap. 537) by the Chief Executive on the instructions of the Ministry of Foreign Affairs of the People's Republic of China ("MFA") after consultation with the Executive Council. As the application of sections 34 and 35 of the Interpretation and General Clauses Ordinance (Cap. 1) is specifically excluded, the Regulation is not required to be laid before the Legislative Council and is not subject to amendment by the Legislative Council.

2. The Iraq Regulation gives effect to a decision of the Security Council of the United Nations ("the Security Council") to lift all prohibitions related to trade with Iraq contained in paragraph 10 of Resolution 1483 on 22 May 2003. In that decision, the prohibitions related to the sale or supply to Iraq of arms and related material, except arms and related material required by the United States of America and the United Kingdom of Great Britain and Northern Ireland as occupying powers under unified command ("the Authority" as referred to in the Resolution), shall continue to apply. Certain textual amendments are also made to the Chinese text of the existing United Nations Sanctions (Iraq) Regulation (Cap. 537 sub. leg. B).

3. In response to the request of the Legal Service Division, the Administration has provided an explanatory note to the specific provisions of the Iraq Regulation (Appendix A).

4. Members may recall that a Sub-committee on United Nations Sanctions (Liberia) Regulation 2003 was set up to examine that Regulation, which was also made under the United Nations Sanctions Ordinance to give effect to a decision of the Security Council. At the meetings of the Sub-committee, the Administration undertook to provide to LegCo a formal document issued by the Chief Secretary for Administration to confirm MFA's instructions on the implementation of the Security Council resolutions with respect to all regulations to be made under Cap. 537 in future. (para. 20 of LC Paper No. CB(2)2892/03-04). The Legal Service Division has written to the Administration to ask for the aforesaid formal document (Appendix B) and will report further upon receipt of it.

5. In the further report of the Sub-committee to the House Committee (LC Paper No. CB(2)2892/03-04), the Sub-committee considers that due to time constraints in the last term, it recommends that a subcommittee under the House Committee be formed in the following legislative term to follow up the arrangements for implementing the Security Council resolutions in relation to sanctions in Hong Kong (para. 21 of the report). Members may wish to consider the appropriate way to deal with the Iraq Regulation.

Encl

Prepared by

Kitty Cheng
Assistant Legal Adviser
Legislative Council Secretariat
28 July 2004

**United Nations Sanctions (Iraq) (Amendment) Regulation
2004**

The United Nations Sanctions (Iraq) (Amendment) Regulation 2004 seeks to implement the decision in relation to the lifting of trade sanctions against Iraq as stipulated in paragraph 10 of UNSCR 1483 by amending the United Nations Sanctions (Iraq) Regulation. The opportunity is taken to review and amend the United Nations Sanctions (Iraq) Regulation having regard to regulations made under the Ordinance since 1997 (when the United Nations Sanctions (Iraq) Regulation was made). The main amendments are as follows -

- (a) To define “authorized officer” as designated officers only and cross out CE’s power in authorizing any person to be an authorized officer.
- (b) to repeal section 2 to remove the prohibition against importation of goods from Iraq into the HKSAR;
- (c) to repeal section 3 to remove the prohibition against exportation of goods from Iraq;
- (d) to add a new section 3A to provide for the granting of licences for the supply or delivery of arms and related material in cases where exemptions provided for in UNSCR 1483 are satisfied;
- (e) to add a new section 3B to make it an offence in providing false information or documents for the purpose of obtaining licences and to provide for the penalties;
- (f) to repeal section 6 as “supply” of goods comprehends the “export” of goods;
- (g) to amend section 7 so that its scope of application is consistent with other prevailing regulations under the Ordinance;
- (h) to amend section 8 to provide for the power to search suspected vehicles and a time limit for detaining ships, aircrafts and vehicles;

- (i) to add a new section 11A to require an authorized officer to produce evidence of his identity and authority before or on exercising a power conferred by the United Nations Sanctions (Iraq) Regulation;
- (j) to repeal section 12(1) so that the United Nations (Iraq) Regulation will no longer apply to any ship, aircraft or body corporate that purports to be registered in the HKSAR to avoid ultra vires implications;
- (k) to repeal section 1 of the Schedule to remove the excessive power to request any person to furnish information for the purpose of securing compliance with or detecting evasion of the United Nations Sanctions (Iraq) Regulation; and
- (l) to delete the provisions on offences relating to customs in the United Nations Sanctions (Iraq) Regulation (i.e. sections 8(6)(d), 9 and section 2(1)(a) and 2(5)(d) of the Schedule) to avoid ultra vires implications.

Appendix B

LS/S/35/03-04
2869 9457
2877 5029

Mr Lau Wai-ming
AS (2B)
Commerce, Industry and Technology Bureau
Level 29
One Pacific Place
88 Queensway
Hong Kong

By Fax (2530 5966) and By Post

28 July 2004

Dear Mr Lau,

**United Nations Sanctions (Iraq) (Amendment) Regulation 2004
(L.N. 132 of 2004)**

As you may recall, the Administration agreed with the LegCo Subcommittee on United Nations Sanctions (Liberia) Regulation 2003 that the Administration would provide to LegCo a formal document issued by the Chief Secretary for Administration ("CS") to confirm the instructions of the Ministry of Foreign Affairs of the PRC on the implementation of resolutions of the Security Council of the United Nations with respect to all regulations to be made under the United Nations Sanctions Ordinance (Cap.537).

I wonder if the Administration could let us have the aforesaid document issued by CS as soon as practicable. Please let me have a reply in both languages before 2nd August 2004.

Yours sincerely,

Kitty Cheng
Assistant Legal Adviser

c.c. Legal Adviser
CAS(1)5

立法會
Legislative Council

**Legal Service Division Further Report on
United Nations Sanctions (Iraq) (Amendment) Regulation 2004
(L.N. 132 of 2004) gazetted on 9 July 2004**

At the meetings of the Sub-committee on United Nations Sanctions (Liberia) Regulation 2003, the Administration undertook to provide to LegCo a formal document issued by the Chief Secretary for Administration to confirm the instructions of the Ministry of Foreign Affairs of PRC on the implementation of the resolutions of the Security Council of the United Nations with respect to all regulations to be made under the United Nations Sanction Ordinance (Cap. 537) in future (para. 20 of LC Paper No. CB(2)2892/03-04). The Legal Service Division has written to the Administration to ask for the aforesaid formal document and the Administration's reply together with the formal document is attached for members' reference (Appendix A).

2. The Chinese version of the Administration's explanatory note to the provisions of this Regulation (please refer to Appendix A to Legal Service Division Report on Subsidiary Legislation Gazetted on 9 July 2004) is also attached for members' reference (Appendix B).

Encl

Prepared by

Kitty Cheng
Assistant Legal Adviser
Legislative Council Secretariat
4 August 2004

香港特別行政區政府
工商及科技局
工商科

香港金鐘道八十八號
太古廣場第一期二十九樓

Our Ref : CIB CR75/53/2 XII



COMMERCE AND INDUSTRY BRANCH
COMMERCE, INDUSTRY AND
TECHNOLOGY BUREAU
GOVERNMENT OF THE HONG KONG
SPECIAL ADMINISTRATIVE REGION

LEVEL 29, ONE PACIFIC PLACE
88 QUEENSWAY
HONG KONG

Tel : 2918 7506
Fax : 2530 5966

4 August 2004

Legislative Council Secretariat
Legislative Council
Legislative Council Building
8 Jackson Road
Hong Kong

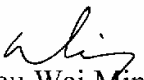
(Attn : Ms Kitty Cheng)

Dear Ms Cheng,

United Nations Sanctions (Iraq) (Amendment) Regulation 2004
(L.N. 132 of 2004)

I enclose for your reference a document issued by the Chief Secretary for Administration in connection with the United Nations Sanctions (Iraq) (Amendment) Regulation 2004.

Yours sincerely,


(Lau Wai Ming)

for Secretary for Commerce, Industry and Technology

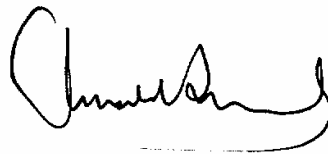
<u>c.c.</u>	<u>Attn</u>	<u>Fax</u>
DoJ	Mr John Hunter	2877 2130
	Ms Daphne Siu	2869 0670
	Mr Peter H H Wong	2869 0720
	Mr Jonathan Daw	2869 0720

United Nations Sanctions Ordinance (Cap. 537)

United Nations Sanctions (Iraq) (Amendment) Regulation 2004

This is to confirm that the Chief Executive received specific instruction from the Ministry of Foreign Affairs of the People's Republic of China in May 2003 which requested the Government of the Hong Kong Special Administrative Region to fully implement Resolution No. 1483 of the Security Council of the United Nations, and that the United Nations Sanctions (Iraq) (Amendment) Regulation 2004 was made in pursuance of that part of the instruction relating to the lifting of trade sanctions against Iraq as set out in paragraph 10 of Resolution No. 1483.

Dated this 3rd day of August 2004



(Donald Tsang)
Chief Secretary for Administration

立法會
Legislative Council

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 16 July 2004**

Date of tabling in LegCo : 6 October 2004

Amendment to be made by : 3 November 2004 (or 24 November 2004 if extended by resolution)

Quarantine and Prevention of Disease Ordinance (Cap. 141)

Quarantine and Prevention of Disease Ordinance (Amendment of First Schedule) (No. 2) Order 2004 (L.N. 137)

Prevention of the Spread of Infectious Diseases Regulations (Amendment of Form) (No. 2) Order 2004 (L.N. 138)

The Quarantine and Prevention of Disease Ordinance (Cap. 141) ("the Ordinance") consolidates the law relating to quarantine and prevention of disease among human beings. In the Ordinance, "infectious disease" is defined as any disease specified in the First Schedule of the Ordinance. The Quarantine and Prevention of Disease Ordinance (Amendment of First Schedule) (No. 2) Order 2004 amends the First Schedule of the Ordinance to include "Japanese encephalitis" as an infectious disease. The effect is that provisions in the Ordinance and regulations made under the Ordinance apply to "Japanese encephalitis".

2. The Prevention of the Spread of Infectious Diseases Regulations (Cap. 141 sub. leg. B) ("the Regulations") are made under the Ordinance for the purpose of preventing the introduction into, the spread in and the transmission from Hong Kong of any disease. Under section 4 of the Regulations, a medical practitioner or medical officer is required to notify the Director of Health forthwith in a form specified in the Regulations if he has reason to suspect the existence of a case of an infectious disease or, in the case of death, that an infectious disease existed. Consequential to the addition of "Japanese encephalitis" in the list of infectious diseases, the Prevention of the Spread of Infectious Diseases Regulations (Amendment of Form) (No. 2) Order 2004 adds "Japanese encephalitis" to the specified form.

3. Members may refer to the LegCo Brief issued by the Health, Welfare and Food Bureau on 15 July 2004 (File Ref.: HWF CR (H) /4/3231/96 (04)) for background information. According to the Brief, the Administration expects that members of the public would welcome the Orders.

4. The Panel on Health Services has not discussed the Orders.
5. Both Orders came into operation upon gazettal on 16 July 2004.

Prepared by

LAI Shun-wo, Monna
Assistant Legal Adviser
Legislative Council Secretariat
22 July 2004

LEGISLATIVE COUNCIL BRIEF

Quarantine and Prevention of Disease Ordinance (Chapter 141)

QUARANTINE AND PREVENTION OF DISEASE ORDINANCE (AMENDMENT OF FIRST SCHEDULE) (NO.2) ORDER 2004

PREVENTION OF THE SPREAD OF INFECTIOUS DISEASES REGULATIONS (AMENDMENT OF FORM) (NO.2) ORDER 2004

INTRODUCTION

On 12 July 2004, the Director of Health (“the Director”), in exercise of powers conferred by sections 72 and 8(4) of the Quarantine and Prevention of Disease Ordinance (Cap.141) (“the Ordinance”), made –

- (a) the Quarantine and Prevention of Disease Ordinance (Amendment of First Schedule) (No.2) Order 2004 at Annex A; and
- (b) the Prevention of the Spread of Infectious Diseases Regulations (Amendment of Form) (No.2) Order 2004 at Annex B.

JUSTIFICATIONS

2. The Ordinance and its subsidiary legislation provide a legislative framework for the prevention of infectious diseases of public health importance. Regulation 4 of the Prevention of the Spread of Infectious Diseases Regulations (Cap. 141 sub. Leg. B) (“the Regulation”) requires medical practitioners to notify the Director if they have reason to suspect the existence of any case of the infectious diseases specified in the First Schedule to the Ordinance in a form as prescribed in the Schedule to the Regulations. The reporting of infectious disease cases plays an important role in the surveillance, prevention and control of spread of infectious diseases. The Director regularly reviews the list of infectious diseases statutorily notifiable by medical practitioners in order to ensure maximum protection of the local community against infectious diseases. At present, there are 29 infectious diseases listed in the First Schedule to the Ordinance.

3. Japanese encephalitis (JE) is endemic in the Mainland and some countries in Southeast Asia. Many of the infected persons may not have symptoms but those who fall ill may die or result in disabilities. The case fatality rate of symptomatic infections ranges from 5% to 35%. Neurological sequelae may occur in up to 70% of the survivors of symptomatic infections.

4. In Hong Kong, there had been six cases of JE reported in the past 10 years (1994 – 2003), including two local cases and four imported cases, and the range was 0 – 2 cases per year. In 2004, three local JE cases have been confirmed recently with onset of symptoms within a period of 2 weeks (29 May – 11 June). This number is higher than expected. One of the three patients died, and the other two are still in hospital.

5. JE is a viral disease transmitted by the bite of infective mosquitoes. The mosquito becomes infected by feeding on pigs or wild birds infected with the JE virus. Pigs, wild birds and the vector mosquitoes are present in Hong Kong.

THE ORDERS

6. The Quarantine and Prevention of Disease Ordinance (Amendment of First Schedule) (No.2) Order 2004 amends the First Schedule to the Ordinance by adding JE to the list of infectious diseases specified in that Schedule. The Prevention of the Spread of Infectious Diseases Regulations (Amendment of Form) (No.2) Order 2004 amends Form 2 of the Schedule to the Regulations by adding JE to the list of infectious diseases in that Form. The Orders will come into operation on 16 July 2004 upon gazettal.

LEGISLATIVE TIMETABLE

7. The legislative timetable is as follows –

Publication in the Gazette	16 July 2004
Tabling at Legislative Council	6 October 2004

IMPLICATIONS OF THE ORDERS

8. The Orders are in conformity with the Basic Law, including the provisions concerning human rights. They will not affect the current binding effect of the Ordinance and have no economic, financial and civil service implications.

PUBLIC CONSULTATION

9. Members of the public are concerned about the recent cases of Japanese encephalitis occurring in Hong Kong. They are expected to welcome the Orders. The public and private hospitals collaborating with the Centre for Health Protection (CHP) of Department of Health (DH) have been informed of the plan to heighten the surveillance of viral encephalitis. They are in general supportive to the plan, which is considered a prudent measure to facilitate early detection of the disease and implement appropriate public health measures as and when required. The Scientific Committee on Vector-borne Diseases of the CHP also supports to include JE as one of the statutorily notifiable diseases.

PUBLICITY

10. DH will issue a press release on 16 July 2004, and has informed the medical practitioners individually in Hong Kong of the requirement to notify the Director of cases of JE. A spokesman from DH will be available to answer media enquiries.

OTHERS

11. For any enquiries on this brief, please contact Dr Teresa CHOI, Principal Medical and Health Officer (Surveillance Section) of the CHP at 2768 9602.

Health, Welfare and Food Bureau
15 July 2004

QUARANTINE AND PREVENTION OF DISEASE
ORDINANCE (AMENDMENT OF FIRST
SCHEDULE)(NO. 2) ORDER 2004

(Made under section 72 of the Quarantine and Prevention of Disease
Ordinance (Cap. 141))

1. **Infectious diseases**

The First Schedule to the Quarantine and Prevention of Disease Ordinance
(Cap. 141) is amended by adding –
“7B. Japanese encephalitis”.



Director of Health (Acting)

12 July 2004

Explanatory Note

This Order adds Japanese encephalitis to the list of infectious diseases specified in the First Schedule to the Quarantine and Prevention of Disease Ordinance (Cap. 141). Provisions relating to infectious diseases in that Ordinance and in the Prevention of the Spread of Infectious Diseases Regulations (Cap. 141 sub. leg. B) therefore apply to this disease.

PREVENTION OF THE SPREAD OF INFECTIOUS DISEASES
REGULATIONS (AMENDMENT OF FORM) (NO. 2)
ORDER 2004

(Made under section 8(4) of the Quarantine and Prevention of
Disease Ordinance (Cap. 141))

1. Forms

The Schedule to the Prevention of the Spread of Infectious Diseases
Regulations (Cap. 141 sub. leg. B) is amended, in Form 2, by adding after

Influenza A (H5) –

Japanese encephalitis”.



Director of Health (Acting)

12 July 2004

Explanatory Note

This Order adds Japanese encephalitis to Form 2 of the Schedule to the
Prevention of the Spread of Infectious Diseases Regulations (Cap. 141 sub. leg.
B) in consequence of this disease being added as an infectious disease to the
First Schedule to the Quarantine and Prevention of Disease Ordinance (Cap.
141). Medical practitioners are required to report suspected cases of this disease
to the Director of Health in accordance with that Form under regulation 4 of the
Regulations.

立法會
Legislative Council

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 23 July 2004**

Date of tabling in LegCo : 6 October 2004

Amendment to be made by : 3 November 2004 (or 24 November 2004 if extended by resolution)

Import and Export Ordinance (Cap. 60)
Import and Export (General) Regulations (Amendment of Seventh Schedule)
(No. 3) Notice 2004 (L.N. 141)

This Notice removes Republic of Congo from, and adds Norway to, the list of specified countries or places in the Seventh Schedule to the Import and Export (General) Regulations (Cap. 60 sub. leg. A). Part VI of and the Seventh Schedule to those Regulations implement in Hong Kong an international certification scheme for rough diamonds known as the Kimberley Process Certification Scheme. The effect of this Notice is that trade in rough diamonds with Norway is permitted, but trade in rough diamonds with Republic of Congo is prohibited, under the Kimberley Process Certification Scheme.

2. The legal and drafting aspects of this Notice present no problem.

Prepared by

FUNG Sau-kuen, Connie
Assistant Legal Adviser
Legislative Council Secretariat
29 July 2004

立法會
Legislative Council

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 30 July 2004**

Date of Tabling in LegCo : 6 October 2004

Amendment to be made by : 3 November 2004 (or 24 November 2004 if extended by resolution)

**Public Health and Municipal Services Ordinance (Cap. 132)
Public Health and Municipal Services Ordinance (Public Pleasure Grounds)
(Amendment of Fourth Schedule) (No. 2) Order 2004 (L.N. 142)**

This Order amends the Fourth Schedule to the Public Health and Municipal Services Ordinance (Cap. 132) by —

- (i) renaming Hoi Ning Street Temporary Sitting-out Area as Hoi Ning Street Sitting-out Area; and
- (ii) setting aside certain places for use as public pleasure grounds.

2. The Administration has not consulted the Panel on Home Affairs about the Order.

3. No difficulties relating to the legal and drafting aspects of the Order have been identified.

Prepared by

Lam Ping-man, Stephen
Assistant Legal Adviser
Legislative Council Secretariat
5 August 2004

立法會
Legislative Council

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 27 August 2004**

Date of tabling in LegCo : 6 October 2004

Amendment to be made by : 3 November 2004 (or 24 November 2004 if extended by resolution)

**Public Health and Municipal Services Ordinance (Cap. 132)
Public Health and Municipal Services Ordinance (Public Markets) (Designation and Amendment of Tenth Schedule) (No. 2) Order 2004 (L.N. 143)**

By this Order made under section 79(3) and (5) of the Public Health and Municipal Services Ordinance (Cap. 132) (the Ordinance) by the Director of Food and Environmental Hygiene, the Queen Street Cooked Food Market (the Market) is designated as a public market. Accordingly, the Tenth Schedule to the Ordinance is amended by adding the Market.

**Public Health and Municipal Services Ordinance (Cap. 132)
Declaration of Markets Notice (Amendment) (No. 2) Declaration 2004 (L.N. 144)**

2. By this Declaration made under section 79(1) of the Public Health and Municipal Services Ordinance (Cap. 132) (the Ordinance) by the Director of Food and Environmental Hygiene, the Queen Street Cooked Food Market (the Market) is declared to be a market to which the Ordinance applies. Consequentially, the Schedule to the Declaration of Markets Notice (Cap. 132 sub. leg. AN) is amended by adding the Market.

**Clearing and Settlement Systems Ordinance (Cap. 584)
Clearing and Settlement Systems Ordinance (20 of 2004) (Commencement) Notice 2004 (L.N. 145)**

3. By this Notice given under section 1(2) of the Clearing and Settlement Systems Ordinance (Cap. 584) (the Ordinance), the Secretary for Financial Services and the Treasury has appointed 4 November 2004 as the date on which the Ordinance shall come into operation.

4. The Ordinance provides statutory backing for the supervisory oversight role of the Monetary Authority in relation to the important clearing and settlement

systems in Hong Kong and for the finality of settlements effected through such systems. To enable Hong Kong dollar to be admitted to the Continuous Linked Settlement System by the end of 2004, the Administration has decided to bring the Ordinance into operation on 4 November 2004 before the expiration of the full scrutiny period provided under section 34 of the Interpretation and General Clauses Ordinance (Cap.1).

Concluding Observations

5. No difficulties in the legal or drafting aspects of the herein reported subsidiary legislation have been observed. No Panel of the Legislative Council has been consulted on the subsidiary legislation.

Prepared by

KAU Kin-wah
Assistant Legal Adviser
Legislative Council Secretariat
30 August 2004

立法會
Legislative Council

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 3 September 2004**

Date of tabling in LegCo : 6 October 2004

Amendment to be made by : 3 November 2004 (or 24 November 2004 if extended by resolution)

Tax Reserve Certificates (Fourth Series) Rules (Cap. 289 sub. leg. A)
Tax Reserve Certificates (Rate of Interest) (No. 5) Notice 2004 (L.N. 146)

This Notice fixes the rate of interest payable on tax reserve certificates issued on or after 6 September 2004 at 0.150% per annum. The rate before this Notice was 0.050% per annum.

Prepared by

LAI Shun-wo, Monna
Assistant Legal Adviser
Legislative Council Secretariat
3 September 2004

立法會
Legislative Council

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

Date of tabling in LegCo : 6 October 2004

Amendment to be made by : 3 November 2004 (or 24 November 2004 if extended by resolution)

Construction Workers Registration Ordinance (18 of 2004)
Construction Workers Registration Ordinance (18 of 2004) (Commencement)
Notice 2004 (L.N. 147)

By this Notice, the Secretary for the Environment, Transport and Works appoints 18 September 2004 as the day on which sections 1, 2, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 23(4) and (5), 36, 37, 60, 61, 62, 63, 64, 65, 66 and 67 of, and Schedules 1 (except item 51 of Part 1), 2, 3 and 4 to, the Construction Workers Registration Ordinance (“the Ordinance”) shall come into operation.

2. The Ordinance establishes a system for the registration of construction workers and regulates construction workers who personally carry out construction work. The provisions that have commenced on 18 September 2004 relate to:

- (a) the short title and interpretation (sections 1 and 2);
- (b) the Construction Workers Registration Authority and its committees (sections 7 to 15);
- (c) the appointment and powers of authorized officers (sections 16 to 18);
- (d) the power of the Secretary to prescribe the rate of levy and interpretation of specific terms related to levy (sections 19, 20, 21, 23(4) and (5));
- (e) the appointment of the Registrar and its functions and powers (sections 36 and 37);
- (f) miscellaneous provisions such as prosecution, service of notices, forms, regulations, rules and amendment of Schedules (sections 60 to 67);

- (g) details of designated trades, specified body, structures and works and general provisions for the Authority and its committees (Schedules 1 (except item 51 of Part 1), 2, 3 and 4).

3. The rest of the Ordinance that has not come into operation deals with the prohibition of unregistered workers against working on construction sites, imposition of levy, registration of construction workers and reviews and appeals.

4. Members may refer to LegCo Brief (File Ref.: ETWB(CR)(W)150/101) issued by the Environment, Transport and Works Bureau on 15 September 2004 for background information. According to the LegCo Brief, the Administration intends to commence the registration of construction workers at the end of 2005.

Prepared by

Wong Sze-man, Bernice
Assistant Legal Adviser
Legislative Council Secretariat
20 September 2004

LEGISLATIVE COUNCIL BRIEF

CONSTRUCTION WORKERS REGISTRATION ORDINANCE (18 OF 2004) (COMMENCEMENT) NOTICE 2004

INTRODUCTION

This brief aims to inform Members that certain sections of the Construction Workers Registration Ordinance (the Ordinance) will come into operation on 18 September 2004. A copy of the Construction Workers Registration Ordinance (18 of 2004) (Commencement) Notice 2004 is _____ attached.

BACKGROUND

2. The Ordinance was passed at the Legislative Council (LegCo) meeting on 2 July 2004. It aims to implement a mandatory registration system for construction workers by legislation. The main objectives are to ensure the quality of construction works through certification of the skill levels of construction workers and to obtain more reliable data on labour supply to facilitate manpower planning and training.

3. Given the anticipated benefits to the construction industry from the implementation of the registration, we plan to commence the registration of construction workers at the end of 2005 and thus, the necessary preparatory work should be carried out as early as possible.

4. As some of the preparatory work (such as recruiting staff, setting up the offices and acquiring the Computerized Registration Management System) involves time-consuming tasks that cannot be done without the establishment of the Authority and the appointment of the Registrar, we need to commence some relevant sections of the Ordinance. At the same

time, we will commence the section on the empowerment of the Secretary for the Environment, Transport and Works (SETW) to prescribe the rate of levy (the actual prescription of the rate will be made later) as well as other related or miscellaneous sections.

CONTENT OF THE NOTICE

5. The following sections of the Ordinance will come into operation on 18 September 2004 —

- (a) sections 1 and 2 on short title and commencement date of the Ordinance, and interpretation;
- (b) sections 7 to 15 on establishment of the Authority and its committees, and their functions and powers as well as the Authority's delegations, funds and property, and statements of accounts and auditor's report;
- (c) sections 16 to 18 on appointment and powers of the authorized officers;
- (d) sections 19 to 21, 23(4) and 23(5) on interpretation of the specific terms related to levy, value of construction operations, total value of construction operations, and empowerment of SETW to prescribe the rate of levy and the total value of construction operations not liable to levy as well as the definition of the effective date of the rate of levy;
- (e) sections 36 to 37 on appointment of the Registrar, and its functions and powers;
- (f) sections 60 to 67 on miscellaneous provisions for prosecution, service of notices, power to specify forms, regulations, rules, amendment of Schedules and some amendments made to other Ordinances; and

- (g) Schedules 1 (except item 51 of Part 1) to 4 are correspondingly for details of the designated trades, specified body, structures and works as well as general provisions relevant to the Authority and its committees.

COMMENCEMENT OF OTHER SECTIONS

6. Separate commencement notices for other sections of the Ordinance, primarily for the imposition of levy, the registration of construction workers, prohibition of unregistered workers from working on construction sites and requiring contractors to submit records of registered workers, will be prepared and issued in accordance with the implementation plan.

ENQUIRIES

7. For enquiries, please contact Mr Ambrose S Y CHEONG, Chief Assistant Secretary for the Environment, Transport and Works (Works) at 2848 2060.

Environment, Transport and Works Bureau

15 September 2004

**CONSTRUCTION WORKERS REGISTRATION ORDINANCE
(18 OF 2004) (COMMENCEMENT) NOTICE 2004**

Under section 1(2) of the Construction Workers Registration Ordinance, I appoint 18 September 2004 as the day on which sections 1, 2, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 23(4) and (5), 36, 37, 60, 61, 62, 63, 64, 65, 66 and 67 of, and Schedules 1 (except item 51 of Part 1), 2, 3 and 4 to, the Ordinance shall come into operation.

Secretary for the Environment, Transport and
Works

September 2004

立法會
Legislative Council

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 24 September 2004**

Date of Tabling in LegCo : 6 October 2004

Amendment to be made by : 3 November 2004 (or 24 November 2004 if extended by resolution)

Banking Ordinance (Cap. 155)

Banking (Specification of Public Sector Entities in Hong Kong) (Amendment) Notice 2004 (Repeal) Notice (L.N. 148)

Banking (Specification of Public Sector Entities in Hong Kong) (Amendment) (No. 2) Notice 2004 (L.N. 149)

On 18 June 2004, the Monetary Authority (“MA”) published the Banking (Specification of Public Sector Entities in Hong Kong) (Amendment) Notice 2004 (L.N. 119 of 2004) specifying 香港五隧一橋有限公司 Hong Kong Link 2004 Limited as “a public sector entity in Hong Kong” under the Third Schedule to the Banking Ordinance (Cap. 155) (“the Ordinance”). It was to come into operation on 11 November 2004.

2. “Public sector entity in Hong Kong” is defined in the Ordinance to mean some specified corporations and any body specified by the MA in a notice published in the Gazette. On our scrutiny of that Notice, we noted that the Notice was not made by the MA himself. We have sought clarification with the Secretary for Financial Services and the Treasury on the legal basis for making the Notice by a person other than the MA himself as specified in the Ordinance. In response, the MA agreed that it would be preferable for the Notice to be signed by him personally and would make the necessary arrangements.

3. L.N. 148 now repeals L.N. 119. L.N. 149 of 2004 which specifies 香港五隧一橋有限公司 Hong Kong Link 2004 Limited as “a public sector entity in Hong Kong” is now made by MA himself. It will come into operation on 25 November 2004. The effect of this Notice is that it will allow the relevant public sector entity to borrow funds at a lower cost in the market. Members may refer to the LegCo Brief (File ref: G4/16/34C(2004)) issued by the Financial Services Branch of the Financial Services and the Treasury Bureau dated 2 October 2004 for details. The Panel on Financial Affairs has not been consulted on the above Notices.

Federation of Hong Kong Industries Ordinance (Cap. 321)
Federation of Hong Kong Industries (Addition of a Scheduled Group) (No. 2)
Notice 2004 (L.N. 150)

4. This Notice is made by the General Committee of the Federation of Hong Kong Industries (“the Federation”) under section 45 of the Federation of Hong Kong Industries Ordinance (Cap. 321) (“the Ordinance”) with the written approval of the Secretary for Constitutional Affairs.

5. At its 493rd General Committee Meeting held on 22 March 2004, the Federation resolved to create a new scheduled group, i.e. automobile components. Members of this new group will then be entitled to apply for full membership of the Federation, to vote at the Federation’s general meetings and to be registered as electors under section 20R of the Legislative Council Ordinance (Cap. 542), i.e. Industrial (First) Functional Constituency. The First Schedule to the Ordinance which specifies the scheduled groups of the Federation has to be amended to include this new group. Members may refer to the LegCo Brief dated 18 September 2004 and issued by the Federation for background information.

6. This Notice has not been considered by the Panel on Commerce and Industry. It has come into operation on the date of gazettal, i.e. on 24 September 2004.

7. No difficulties relating to the legal and drafting aspects of all of the above subsidiary legislation have been identified.

Prepared by

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Assistant Legal Adviser
Legislative Council Secretariat
4 October 2004

LEGISLATIVE COUNCIL BRIEF

Banking Ordinance (Chapter 155)

BANKING (SPECIFICATION OF PUBLIC SECTOR ENTITIES IN HONG KONG) (AMENDMENT) (NO.2) NOTICE 2004

INTRODUCTION

The Monetary Authority (MA) has published the Banking Ordinance (Specification of Public Sector Entities in Hong Kong) (Amendment) (No.2) Notice 2004, at Annex, in the Gazette to specify the newly established 香港五隧一橋有限公司 Hong Kong Link 2004 Limited (Hong Kong Link) as a public sector entity in Hong Kong under the Third Schedule to the Banking Ordinance (Third Schedule).

BACKGROUND

2. To ensure that banks have sufficient capital to provide a stable resource to absorb any losses arising from the risks in their business, section 98(1) of the Banking Ordinance (Cap. 155) imposes a capital adequacy ratio on authorized institutions incorporated in Hong Kong (AIs). The framework used to calculate the statutory capital adequacy ratio is set out in the Third Schedule to the Banking Ordinance. The Third Schedule covers, among other elements, a risk weighting framework for various types of bank assets. Under this framework, an AI may hold less capital for assets with lower risk weights than assets with higher risk weights.

3. Under the Third Schedule, claims on public sector entities carry a relatively lower risk weight in calculating the capital adequacy ratio reflecting public sector entities' relatively higher credit worthiness than ordinary corporate borrowers. This also applies to bonds issued by public sector entities and held by AIs. This allows public sector entities to borrow funds at a lower cost in the market. Moreover, in calculating the liquidity ratio under the Fourth Schedule to the Banking Ordinance, AIs can apply higher liquidity conversion factors to marketable debt securities issued or guaranteed by public sector entities.

4. Paragraph 1 of the Third Schedule contains a definition of “public sector entity in Hong Kong”. As stipulated in the definition, the MA can specify any body as a public sector entity in Hong Kong by a notice published in the Gazette.

5. Currently, public sector entities in Hong Kong include the MTR Corporation Limited, the Kowloon-Canton Railway Corporation, the Hong Kong Housing Authority, the Hospital Authority, the Airport Authority, The Hong Kong Mortgage Corporation Limited and the Urban Renewal Authority.

6. The MA published in the Gazette on 24 September 2004 the Banking (Specification of Public Sector Entities in Hong Kong) (Amendment) Notice 2004 (Repeal) Notice to repeal a similar notice (L.N.119 of 2004) published in the Gazette on 18 June 2004 which served to specify the Hong Kong Link as a public sector entity in Hong Kong. The notice (which has not yet come into effect) was repealed for technical reasons.

JUSTIFICATIONS

7. Hong Kong Link, a limited company incorporated in Hong Kong, is wholly owned by the Government acting through the Financial Secretary Incorporated. The objects of Hong Kong Link as set out in its Memorandum of Association include, among other things, acquiring by purchase or otherwise one or more notes, bonds or other financial instruments issued by the Government including the benefit of other arrangements entered into in connection therewith and borrowing and raising money in Hong Kong dollars or in any other currency or currencies and in such manner as Hong Kong Link thinks fit. According to Hong Kong Link, the company has been established for the sole purpose of issuing notes and bonds backed by statutory revenues from certain Government-owned tolled facilities, including the Cross-Harbour Tunnel, Shing Mun Tunnels, Tseung Kwan O Tunnel, Lion Rock Tunnel, Aberdeen Tunnel and Lantau Link.

8. The MA, after reviewing the objects of the company, the underlying arrangements for the note and bond issuance and Hong Kong Link’s relationship with the Government, is satisfied that Hong Kong Link is established solely for public purposes and has a high credit worthiness which justify the granting of the status of public sector entity in Hong Kong under the Third Schedule.

THE NOTICE

9. This Notice specifies Hong Kong Link as a public sector entity in Hong Kong under the Third Schedule to the Banking Ordinance (Cap. 155).

LEGISLATIVE TIMETABLE

10. The Notice was published in the Gazette on 24 September 2004 and will be tabled at the Legislative Council on 6 October 2004 for negative vetting. The Notice will take effect on 25 November 2004.

IMPLICATIONS OF THE PROPOSAL

11. The Notice is in conformity with the Basic Law, including the provisions concerning human rights. It has no financial or civil service, productivity, environmental or sustainability implications. The amendments will not affect the current binding effect of the existing provisions of the Banking Ordinance.

PUBLIC CONSULTATION

12. The Hong Kong Monetary Authority (HKMA) has consulted the Hong Kong Association of Banks and the Hong Kong Association of Restricted Licence Banks and Deposit-taking Companies on the proposed specification and has received no objection.

PUBLICITY

13. The HKMA will issue a letter to all AIs and the industry associations informing them of the Notice.

ENQUIRIES

14. Inquiries on this brief may be directed to Ms. Rose Luk, Head (Banking Policy) of HKMA (telephone number: 2878 1638) or Mr. Clement Chan, Assistant Secretary for Financial Services and the Treasury (Financial Services) (telephone number: 2528 9076).

Financial Services Branch
Financial Services and the Treasury Bureau
2 October 2004

L.N. 149 of 2004**BANKING (SPECIFICATION OF PUBLIC SECTOR ENTITIES IN HONG KONG) (AMENDMENT) (NO. 2) NOTICE 2004**

(Made under the definition of “public sector entity in Hong Kong” in paragraph 1 of the Third Schedule to the Banking Ordinance (Cap. 155))

1. Commencement

This Notice shall come into operation on 25 November 2004.

2. Specification of 香港五隧一橋有限公司 Hong Kong Link 2004 Limited as a public sector entity in Hong Kong

香港五隧一橋有限公司 Hong Kong Link 2004 Limited is specified as a public sector entity in Hong Kong.

3. Specification of public sector entity in Hong Kong

Section 1 of the Banking (Specification of Public Sector Entities in Hong Kong) Notice (Cap. 155 sub. leg. E) is amended by adding—

“(5) 香港五隧一橋有限公司 Hong Kong Link 2004 Limited is specified as a public sector entity in Hong Kong.”.

Joseph C. K. YAM
Monetary Authority

16 September 2004

Explanatory Note

This Notice specifies 香港五隧一橋有限公司 Hong Kong Link 2004 Limited as a public sector entity in Hong Kong for the purpose of calculating the risk weighted exposure of an authorized institution. The method of calculating the risk weighted exposure is set out in paragraph 4 of the Third Schedule to the Banking Ordinance (Cap. 155). The Notice takes effect on 25 November 2004.

LEGISLATIVE COUNCIL BRIEF

FEDERATION OF HONG KONG INDUSTRIES ORDINANCE CHAPTER 321

Federation of Hong Kong Industries (Addition of a Scheduled Group) Notice 2004

INTRODUCTION

The Federation of Hong Kong Industries (“the Federation”) has resolved to amend the First Schedule to the Federation of Hong Kong Industries Ordinance (Cap. 321) (“the Ordinance”) by adding a new scheduled group - Automobile Components. The amendment is set out in the Federation of Hong Kong Industries (Addition of a Scheduled Group) Notice 2004 at Annex.

JUSTIFICATIONS

The New Group

2. Under section 45 of the Ordinance, the Federation may from time to time amend the First Schedule to the Ordinance which lists the various groups forming its members to accommodate changes in the business environment. The Federation wants to give due importance to the automobile components industry for the benefit of Hong Kong. At its 493rd General Committee Meeting held on 22 March 2004, the Federation resolved to create a new scheduled group – automobile components. The creation of this new scheduled group aims to broaden

the representation of the Federation. It is also the Federation's object to serve and foster the interests of the automobile components industry in Hong Kong.

3. The Federation intends to recruit into the new group companies which manufacture automobile parts, components, instruments and accessories.

4. As with members of the majority of other scheduled groups, members in the new group will be entitled to vote at the Federation's general meetings. They will also be eligible to be registered as electors under section 20R of the Legislative Council Ordinance (Cap. 542), i.e. Industrial (First) Functional Constituency. In accordance with section 45(5) of the Ordinance, the Federation has obtained the written approval of the Secretary for Constitutional Affairs for the addition of the group.

THE NOTICE

5. The Notice amends the First Schedule to the Ordinance to add a new group, "Group 27 Automobile Components".

IMPLICATIONS OF THE PROPOSAL

6. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It will not affect the binding effect of the Ordinance. It has no financial, civil service, productivity, economic, environmental or sustainability implications.

PUBLIC CONSULTATION

7. The addition of the new group is a normal housekeeping exercise to keep the Federation in line with the development of industry in Hong Kong. Public consultation is therefore considered not necessary.

EFFECTIVE DATE

8. The addition of the new group will take effect on the date on which the Notice is published in the Gazette.

PUBLICITY

9. The Notice will be published in the Gazette on 24 September 2004. The Federation will make an announcement when the addition of the new group becomes effective.

ENQUIRIES

10. For any enquiries on this brief, please contact Mr. Joseph Li, Director of the Federation, at 2732 3188.

**FEDERATION OF HONG KONG INDUSTRIES (ADDITION
OF A SCHEDULED GROUP)(NO. 2) NOTICE 2004**

(Made by the general committee of the Federation of Hong Kong
Industries under section 45 of the Federation of Hong Kong
Industries Ordinance (Cap. 321))

1. Scheduled groups

The First Schedule to the Federation of Hong Kong Industries Ordinance
(Cap. 321) is amended by adding –

“27. 27 Automobile components”.

Director-General,
Federation of Hong Kong Industries

2004

Explanatory Note

The purpose of this Notice is to add a new group to the groups of
businesses specified in the First Schedule to the Federation of Hong Kong
Industries Ordinance (Cap. 321).

立法會
Legislative Council

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 30 September 2004**

Date of Tabling in LegCo : 6 October 2004

Amendment to be made by : 3 November 2004 (or 24 November 2004 if extended by resolution)

Hong Kong Sports Development Board (Repeal) Ordinance (11 of 2004)
Hong Kong Sports Development Board (Repeal) Ordinance (11 of 2004)
(Commencement) Notice 2004 (L.N. 151)

This Notice appoints 1 October 2004 as the day on which the Hong Kong Sports Development Board (Repeal) Ordinance (11 of 2004) (“the Repeal Ordinance”) will come into operation.

2. The main objects of the Repeal Ordinance are to repeal the Hong Kong Sports Development Board Ordinance (Cap. 1149) (“the Ordinance”), to close the Hong Kong Sports Institute Trust Fund (“the Fund”), and to dissolve the Hong Kong Sports Development Board (“the Board”) and the Hong Kong Sports Institute Trust Fund Committee of Trustees (“the Committee”) established under the Ordinance. The Repeal Ordinance also provides for the vesting of the assets, liabilities, rights and obligations of the Board and the Committee and any balance of the Fund in the Government, and other amendments consequential upon the dissolution of the Board.

Professional Accountants (Amendment) Ordinance 2004 (23 of 2004)
Professional Accountants (Amendment) Ordinance 2004 (23 of 2004)
(Commencement) Notice 2004 (L.N. 152)

3. This Notice appoints 26 November 2004 as the day on which the remaining provisions of the Professional Accountants (Amendment) Ordinance 2004 (23 of 2004) that have not come into operation will come into operation. These provisions relate to the expansion of the membership of the Council of the Hong Kong Institute of Certified Public Accountants (“the Institute”), formerly known as the Hong

Kong Society of Accountants (“HKSA”), by increasing the number of lay members and the number of elected members, and the reform of the investigation and disciplinary mechanism under the Professional Accountants Ordinance (Cap. 50). The other provisions of the Amendment Ordinance came into operation on 8 September 2004. These provisions relate to the change of the name of HKSA to “Hong Kong Institute of Certified Public Accountants”, change of the designation of its members from “professional accountants” to “certified public accountants”, widening the powers of the Council of the Institute and other technical amendments.

Tax Reserve Certificates (Fourth Series) Rules (Cap. 289 sub. leg. A)
Tax Reserve Certificates (Rate of Interest) (No. 6) Notice 2004 (L.N. 153)

4. This Notice fixes the rate of interest payable on tax reserve certificates issued on or after 4 October 2004 at 0.250% per annum.
5. The legal and drafting aspects of the above items of subsidiary legislation present no problem.

Prepared by

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4 October 2004