

立法會
Legislative Council

LC Paper No. LS7/05-06

**Paper for the House Committee Meeting
on 4 November 2005**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 28 October 2005**

Date of Tabling in LegCo : 2 November 2005

Amendment to be made by : 30 November 2005 (or 21 December 2005 if extended by resolution)

PART I REVISION OF FEES FOR ENVIRONMENT AND CONSERVATION RELATED SERVICES

In this Part, the eight Amendment Regulations relate to the adjustment of 24 fee items, of which 14 are to be reduced to their full costs and 10 increased. A fee revision review exercise has been conducted in 2004 following the Financial Secretary's announcement in the 2004-05 Budget Speech of the resumption of revision of Government fees and charges to abide by the "user pays" principle.

2. Members may refer to the LegCo Brief (File Ref.: EP(RM) 110/1/12(05) Pt.1) issued by the Environmental Protection Department in October 2005 for background information. The LegCo Brief contains a summary of the existing and proposed fees and their cost computation.

3. All of the Amendment Regulations are made after consultation with the Advisory Council on the Environment. Other than L.N.s 178 and 186, the rest of the Amendment Regulations are made by the Secretary for the Environment, Transport and Works. All of them will come into operation 1 January 2006.

4. The Panel on Environmental Affairs was consulted on 21 December 2004. Members raised no objection to the revision of these fee items in accordance with the "user pays" principle.

5. No difficulties relating to the legal and drafting aspects of all the Amendment Regulations have been identified.

Water Pollution Control Ordinance (Cap. 358)

***Water Pollution Control (General) (Amendment) Regulation 2005 (L.N. 178)**

6. **L.N. 178** is made by the Chief Executive in Council—
- (a) to reduce the licence fees for the discharge or deposit from industrial, institutional or commercial premises or from a domestic sewage treatment plant, and the fee for the issue of a certified copy of an entry in the register kept by the Director of Environmental Protection under the Water Pollution Control Ordinance (Cap. 358);
 - (b) to increase the fee for the discharge or deposit from industrial, institutional or commercial premises of domestic sewage only and the licence fees in the case of discharge or deposit from domestic premises with a view to achieving full cost recovery within three years.
7. The fees were last revised in 2000.

Air Pollution Control Ordinance (Cap. 311)

***Air Pollution Control (Reduction of Fee for Permit for Open Burning) Regulation 2005 (L.N. 180)**

***Air Pollution Control (Specified Processes) (Amendment) Regulation 2005 (L.N. 181)**

8. **L.N. 180** reduces the fee for obtaining a permit to carry out open burning.
9. The main purposes of **L.N. 181** are —
- (a) to increase the licence fees to conduct a specified process and the fees for varying or cancelling any term or condition imposed on exempted premises with a view to achieving full cost recovery within three years;
 - (b) to reduce the fee for obtaining a certified copy of an entry in the register of specified processes.
10. The fees were last revised in 2000.

Ozone Layer Protection Ordinance (Cap. 403)

***Ozone Layer Protection (Fee Reduction) Regulation 2005 (L.N. 182)**

11. **L.N. 182** reduces the fees for—

* fee revision

- (a) registration for the purposes of exporting or importing a substance listed in the Schedule of the Ozone Layer Protection Ordinance (Cap. 403), whether existing alone or in a mixture (“scheduled substance”);
- (b) obtaining a licence to import, export or both import and export a scheduled substance.

12. The existing fees were prescribed in 2003.

Noise Control Ordinance (Cap. 400)

***Noise Control (General) (Fee Revision) Regulation 2005 (L.N. 183)**

***Noise Control (Air Compressors) (Fee Revision) Regulation 2005 (L.N. 184)**

***Noise Control (Hand Held Percussive Breakers) (Fee Revision) Regulation 2005 (L.N. 185)**

13. With a view to achieving full cost recovery in six years, **L.N. 183** increases the application fees for construction noise permits in respect of—

- (a) the use of powered mechanical equipment in construction work (other than percussive piling);
- (b) the carrying out of prescribed construction work, and
- (c) the carrying out of percussive piling.

14. **L.Ns. 184 and 185** increase the application fee for a noise emission label respectively for an air compressor and a hand held percussive breaker with a view to achieving full cost recovery in two years. All of the fees were last revised in 2000.

Dumping at Sea Ordinance (Cap. 466)

***Dumping at Sea (Fees Adjustment) Regulation 2005 (L.N. 186)**

15. **L.N. 186** is made by the Director of Environmental Protection in his capacity as the Authority to reduce the fee payable for a copy of an entry in the register of permits. The fee was last revised in 2000.

PART II REVISION OF OTHER FEES

Building Management Ordinance (Cap. 344)

***Building Management (Fee Revision) Regulation 2005 (L.N. 187)**

16. **L.N. 187** increases the fees payable in respect of the following matters under the Building Management (Fees) Regulations (Cap. 344 sub. leg. A)—

* fee revision

- (a) issuing a certificate or duplicate certificate of registration of an owners' corporation;
- (b) issuing an amended or duplicate amended certificate of registration on change of name of an owners' corporation;
- (c) registering or filing of any document required to be submitted to the Land Registrar under the Building Management Ordinance;
- (d) inspecting the register of owners' corporations maintained by the Land Registrar and any relevant document required to be submitted to the Land Registrar, supplying a copy or extract of such register or document, and issuing a certificate of the Land Registrar in relation thereto.

17. Members may refer to the LegCo Brief (File Ref.: HAD HQ CR/20/1/1/(C)) issued by the Home Affairs Department in October 2005 for background information. The LegCo Brief contains a summary of the existing and proposed fees and their cost computation. Full cost recovery for the various fees will be achieved within three to twelve years. The fees were last revised in 1997. The Regulation will come into operation on 1 January 2006.

18. At the meeting on 21 March 2005, the Panel on Home Affairs was consulted on the Administration's proposals relating to the revision of Government fees and charges which do not directly affect people's livelihood or general business activities, including the fee proposals relating to owners' corporations.

19. Some members enquired how the full cost for the issue of a certificate of registration of a corporation was calculated. The Administration explained that the Land Registry had to cross-check all supporting documents submitted in the application for registration of a corporation, and that 60% of the full cost was staff cost whereas the rest was office expenditure. Members may wish to refer to the minutes of the Panel meeting on 21 March 2005 (LC Paper No. CB(2)1468/04-05) for details.

Hotel and Guesthouse Accommodation Ordinance (Cap. 349)

***Hotel and Guesthouse Accommodation (Revision of Licence Fees) Regulation 2005 (L.N. 188)**

20. **L.N. 188** revises the fees for the issue and renewal of licences in respect of hotels or guesthouses.

21. Members may refer to the LegCo Brief (File Ref.: HAD HQ CR/15/3/1/(C)) issued by the Home Affairs Department in October 2005 for background information. The LegCo Brief contains a summary of the existing and

* fee revision

proposed fees and their cost computation. Full cost recovery for the various fees will be achieved within one to six years. The licence fees were last revised in 2001. The Regulation will come into operation on 1 January 2006.

22. According to the LegCo Brief, the Tourist Guest Houses Federation of Hong Kong Limited and the Hong Kong Guesthouses Association have been consulted in March 2005. The majority of guesthouses operators prefer a mild increase in licence fees, and some suggest freezing of fees or making adjustments two years later. The Federation of Hong Kong Hotel Owners Limited has informally advised the Administration that hotel operators have no objection.

23. At the meeting of the Panel on Home Affairs on 21 March 2005, members raised no question on the revised licence fees in respect of hotels or guesthouses.

24. No difficulties relating to the legal and drafting aspects of the two Regulations have been identified.

PART III OTHER SUBSIDIARY LEGISLATION

Inland Revenue Ordinance (Cap. 112)

Specification of Arrangements (Government of the Kingdom of Thailand) (Avoidance of Double Taxation on Income and Prevention of Fiscal Evasion) Order (L.N. 179)

25. On 7 September 2005, the HKSAR Government signed an agreement with the Government of the Kingdom of Thailand for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income (“the Agreement”) together with a Protocol to the Agreement. The Agreement will bring some tax savings to Hong Kong residents. It covers profits tax, salaries tax and property tax in respect of Hong Kong, and income tax and petroleum income tax in respect of Thailand.

26. This Order specifies the arrangements in Articles 1 to 28 of the Agreement and Paragraphs 1 to 3 of the Protocol as double taxation relief arrangements under section 49 of the Inland Revenue Ordinance (Cap. 112). It declares that it is expedient that those arrangements should have effect. The arrangements contained in the Agreement and in the Protocol are set out in the Schedule to the Order.

27. A summary of the main provisions of the Agreement is set out in Annex B to the LegCo Brief. Members may refer to the Brief (File Ref: FIN CR 22/10/2041/46) dated 28 October 2005 and issued by the Financial Services and the Treasury Bureau for background information.

28. This Order has not been referred to the Panel on Financial Affairs.

**Public Health and Municipal Services Ordinance (Cap. 132)
Preservatives in Food (Amendment) Regulation 2005 (L.N. 189)**

29. The Preservatives in Food Regulations (Cap. 132 sub. leg. BD) prohibit the import, manufacture for sale or sale of any food containing preservatives or antioxidants unless they are specified in the Regulations. By virtue of the Amendment Regulation, the antioxidant known as calcium disodium ethylene diamine tetraacetate of a specified amount may be added to fully preserved fish and fish products, emulsified and non-emulsified sauces. The Amendment Regulation will come into operation on 23 December 2005.

30. Members may refer to the LegCo Brief (File Ref.: HWF 3/3231/05) issued by the Health, Welfare and Food Bureau in October 2005 for background information. According to the LegCo Brief, the Codex Alimentarius Commission has evaluated the safety of calcium disodium ethylene diamine tetraacetate and permits its application to specific food within the prescribed maximum levels.

31. According to the LegCo Brief, the trade has been informed of the proposed amendment. As this is a relaxation of restrictions of a technical nature, public consultation is not considered necessary. The Panel on Food, Safety and Environmental Hygiene has not been consulted. No difficulties relating to the legal and drafting aspects of the Amendment Regulation have been identified.

**Dangerous Drugs Ordinance (Cap. 134)
Dangerous Drugs Ordinance (Amendment of Second Schedule) Order 2005
(L.N. 190)**

32. The Dangerous Drugs Ordinance (Cap. 134) provides that any registered pharmacist or approved person who is employed or engaged at a hospital or institution specified in its Second Schedule may in specified circumstances possess and supply dangerous drugs, and that authorized public officers may exercise powers of inspection in relation to such a hospital or institution. The purpose of the Order is to bring the list of hospitals or institutions in the Second Schedule up to date.

33. The Order will come into operation on 23 December 2005. The Panel on Security has not been consulted. No difficulties relating to the legal and drafting aspects of the Order have been identified.

PART IV COMMENCEMENT NOTICE

**Securities and Futures (Investor Compensation – Levy) (Amendment) Rules 2005
(L.N. 108 of 2005)**

**Securities and Futures (Investor Compensation – Levy) (Amendment) Rules 2005
(Commencement) Notice (L.N. 191)**

34. The Notice appoints 28 October 2005 as the day on which the Securities and Futures (Investor Compensation – Levy) (Amendment) Rules 2005 (L.N. 108 of 2005) shall come into operation. The Amendment Rules introduce an automatic levy triggering and suspension mechanism for the Investor Compensation Fund. The Panel on Financial Affairs has not been consulted.

PART V LEGAL NOTICES NOT REQUIRED TO BE TABLED

United Nations Sanctions Ordinance (Cap. 537)

United Nations Sanctions (Democratic Republic of the Congo) Regulation 2005 (L.N. 192)

35. The United Nations Sanctions (Democratic Republic of the Congo) Regulation (Cap. 537 sub. leg. V), as amended by the United Nations Sanctions (Democratic Republic of the Congo) (Amendment) Regulation 2005 (L. N. 123 of 2005), expired at midnight on 31 July 2005 in line with the United Nations Security Council Resolution 1596.

36. On 29 July 2005, the Security Council of the United Nations adopted Resolution 1616 (2005) to, among other things, renew until 31 July 2006 sanctions on the Democratic Republic of the Congo. In September 2005, the Chief Executive received instructions from the Ministry of Foreign Affairs requesting the HKSAR Government to implement that Resolution (see Annex A). This Regulation is made to give effect to that Resolution and will expire on 31 July 2006.

United Nations Sanctions (Liberia) Regulation 2005 (Amendment) Regulation 2005 (L.N. 193)

37. Section 10 of the United Nations Sanctions (Liberia) Regulation 2005 (L.N. 94 of 2005) provides for prohibition against importation of rough diamonds from Liberia into HKSAR. It expired at midnight on 20 June 2005.

38. This Amendment Regulation is to give effect to one of the decisions of the Security Council of the United Nations in Resolution 1607 of 21 June 2005. It provides that measures to impose prohibition against importation of rough diamonds be renewed for a further period of 6 months. In September 2005, the Chief Executive received instructions from the Ministry of Foreign Affairs requesting the HKSAR Government to implement that Resolution (see Annex B). The Amendment Regulation implements that Resolution. The prohibition is to expire at midnight on 20 December 2005.

39. Members may refer to the two information papers issued by the Commerce, Industry and Technology Bureau to the Subcommittee to Examine the Implementation in Hong Kong of Resolutions of the United Nations Security Council in relation to Sanctions (“the Subcommittee”) in October 2005 for details of the above two Regulations (LC Paper No. CB(1)215/05-06(01) & (02)).

40. As the Administration has already provided the two information papers on the above two Regulations to the Subcommittee, it is recommended that they should continue to be dealt with by the Subcommittee.

Encl

Prepared by

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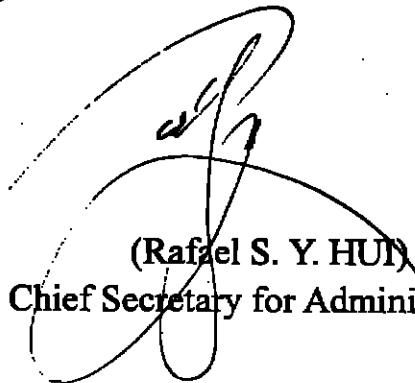
3 November 2005

United Nations Sanctions Ordinance (Cap. 537)

**United Nations Sanctions (Democratic Republic of the Congo)
Regulation 2005**

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 September 2005 which requested the Government of the Hong Kong Special Administrative Region to fully implement Resolution No. 1616 of the Security Council of the United Nations, and that the United Nations Sanctions (Democratic Republic of the Congo) Regulation 2005 was made in pursuance of that instruction.

Dated this *31st* day of *October* 2005



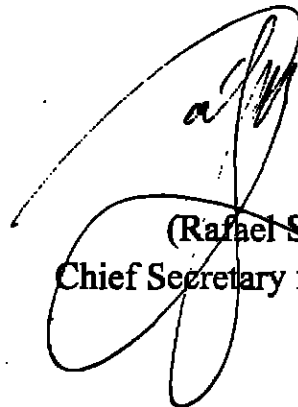
(Rafael S. Y. HUI)
Chief Secretary for Administration

United Nations Sanctions Ordinance (Cap. 537)

**United Nations Sanctions (Liberia) Regulation 2005
(Amendment) Regulation 2005**

This is to confirm that the Chief Executive received specific instructions from the Ministry of Foreign Affairs of the People's Republic of China in September 2005 which requested the Government of the Hong Kong Special Administrative Region to fully implement Resolutions No. 1607 of the Security Council of the United Nations, and that the United Nations Sanctions (Liberia) Regulation 2005 (Amendment) Regulation 2005 was made in pursuance of those instructions.

Dated this *31st* day of *October* 2005



**(Rafael S. Y. HUI)
Chief Secretary for Administration**