

立法會
Legislative Council

LC Paper No. LS14/05-06

**Paper for the House Committee Meeting
on 2 December 2005**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 25 November 2005**

Date of tabling in LegCo : 30 November 2005

Amendment to be made by : 21 December 2005 (or 18 January 2006 if extended by resolution)

PART I EXTENSION OF PREVENTIVE MEASURES TO INFLUENZA A

**Quarantine and Prevention of Disease Ordinance (Cap. 141)
Prevention of the Spread of Infectious Diseases (Amendment) Regulation 2005
(L.N. 208)**

By this Amendment Regulation made by the Chief Executive in Council under section 8 of the Quarantine and Prevention of Disease Ordinance (Cap. 141), the Prevention of the Spread of Infectious Diseases Regulations (Cap. 141 sub. leg. B) (the Regulations) are amended as follows:-

Mode	Regulation	Effect
Adding	27AA before Regulation 27A	The new regulation defines “specified disease” for the interpretation of Part VIA of the Regulations to cover both SARS and the 3 subtypes (i.e. H5, H7 & H9) of influenza A.
Amending	27A(1)(a), (b) & (c)	The references to SARS are substituted by “a specified disease”, so that the measures stipulated in regulation 27A would also apply to the 3 subtypes of influenza A.
Amending	27C(1), (2) & (4)	The references to SARS are substituted by “a specified disease”, so that the measures stipulated in regulation 27C would also apply to the 3 subtypes of influenza A.

The heading of Part VIA of the Regulations is also amended by repealing “SEVERE ACUTE RESPIRATORY SYNDROME” and substituting “CERTAIN INFECTIOUS DISEASES”.

2. Part VIA of the Regulations contains control measures for preventing the spread of SARS. The amendments extend the applicability of those measures to the three subtypes of Influenza A. In face of the threat of the spread of avian influenza, those measures, such as conducting temperature screening at exit and entry control points and stopping persons who are carriers of the three subtypes of influenza from leaving Hong Kong, are necessary for its prevention and control. Members may wish to refer to the LegCo Brief (Ref.: HWF CR(H)4/3231/96(05) Pt. 16) issued by the Health, Welfare and Food Bureau on 23 November 2005 for detailed background information. The amendments have become effective on the date of publication in the Gazette, i.e. 25 November 2005.

3. The Panel on Health Services and the Panel on Food Safety and Environmental Hygiene were briefed of the proposed port health measures and the need for the amendments to the Regulations as part of the Administration's Preparedness Plan for Influenza Pandemic at the joint meeting of the Panels on 5 November 2005. Panel members expressed support for the proposed amendments and urged the Administration to introduce them as soon as possible. According to the Administration, prominent members of the medical community have expressed support for the proposal.

PART II MANDATORY INSTALLATION OF EMISSION REDUCTION DEVICES

Air Pollution Control Ordinance (Cap. 311)

Air Pollution Control (Emission Reduction Devices for Vehicles) (Amendment) Regulation 2005 (L.N. 209)

4. By this Amendment Regulation made by the Secretary for the Environment, Transport and Works under section 43 of the Air Pollution Control Ordinance (Cap. 311) after consultation with the Advisory Council on the Environment, the Air Pollution Control (Emission Reduction Devices for Vehicles) Regulation (Cap. 311 sub. leg. U) (the Regulation) is amended as follows:-

Mode	Reference	Effect
Amend	Section 2(2)	Adding "bus", which will in the Regulation have the same meanings assigned to it by section 2 of the Road Traffic Ordinance (Cap. 374).
Amend	Schedule 1	(a) In Class 1 substituting "or goods vehicle" for " , goods vehicle or light bus", so that light bus will no longer be a Class 1 vehicle. (b) Adding light bus or bus with corresponding specifications as Class 3 vehicles and goods vehicle with corresponding specifications as Class 4 vehicles.
Amend	Schedule 2	Adding Class 3 and Class 4 vehicles, so that the specified emission reduction device will apply to them.

5. The amendments signify the last phase of the programme requiring all pre-Euro diesel vehicles to install emission reduction devices (ERDs). According to the Administration, the voluntary programme to assist owners of pre-Euro diesel light vehicles weighing up to 4 tons to install ERDs was completed in October 2001 and since 1 December 2003, the requirement of installing ERDs has been made mandatory for such vehicles. The voluntary programme for pre-Euro diesel heavy vehicles weighing over 4 tons to install ERDs was completed in 2004 with 97% of such vehicles having participated. With the coming into effect of the Amendment Regulation on 1 April 2006, the requirement of installing ERDs would too become mandatory for the last described vehicles (excluding long idling vehicles listed in paragraph (e) of the specifications of Class 4 vehicle in Schedule 1 to the Regulation).

6. According to the Administration, the affected owners had been informed of the plan to make the installation of ERDs mandatory for pre-Euro vehicles as early as 2001. There remain only 930 vehicles that have yet to install the requisite ERDs. They would have ample time to do so before the Amendment Regulation comes into effect. The relevant transport trades have been consulted and have no objection. Similarly, upon being consulted the Advisory Council on the Environment supported the proposal. Members may wish to refer to the LegCo Brief (Ref.: EP 55/01/152) issued by the Environmental Protection Department in November 2005 for further information.

7. The Panel for Environmental Affairs was briefed of the proposal at its meeting on 5 July 2005. There was no objection to the proposal. Members may wish to refer to the minutes of the meeting (LC Paper No. CB(1) 2369/04-05) for details of the discussion.

PART III MISCELLANEOUS AMENDMENTS

Import and Export Ordinance (Cap. 60)

Import and Export (General) (Amendment) Regulation 2005 (L.N. 206)

Reserved Commodities Ordinance (Cap. 296)

Reserved Commodities (Control of Imports, Exports and Reserve Stocks) (Amendment) Regulation 2005 (L.N. 207)

8. Both Amendment Regulations are made by the Chief Executive in Council under the respective empowering provisions of the corresponding principal Ordinances. In the Import and Export (General) Regulations (Cap. 60 sub. leg. A), sections 6DAH(3) and 6H(2) are amended by repealing “Commissioner” and substituting “Director”. In the Reserved Commodities (Control of Imports, Exports and Reserve Stocks) Regulations (Cap. 296 sub. leg. A), Regulation 26(3) is similarly amended. Both Amendment Regulations will come into effect on 25 January 2006.

9. The provisions relate to the power to end the transitional period for submitting a number of official trade-documents other than by electronic means. The relevant documents are required to be submitted to the Director (i.e. Director-General of Trade and Industry as defined in the relevant principal Ordinances). It is therefore proper for the power to be exercised by him instead of the Commissioner (i.e. the Commissioner for Customs and Excise or any Deputy or Assistant Commissioner as defined in the relevant principal Ordinances) as currently provided. The amendments are therefore technical in nature and do not involve any policy change. Members may wish to refer to the LegCo Brief (Ref.: CIB CR 89/62/8 (05)) issued by the Commerce and Industry Branch of the Commerce, Industry and Technology Bureau in November 2005 for background information.

10. The Panel on Commerce and Industry was informed of the proposed amendments by a paper from the Administration entitled "Subsidiary Legislation relating to Government Electronic Trading Services" (LC Paper No. CB(1) 131/05-06(01)) issued in October 2005 by the Commerce and Industry Branch. There was no discussion by the Panel.

**Revenue (Abolition of Estate Duty) Ordinance 2005 (21 of 2005)
Substitution of References to Commencement Date of Revenue (Abolition of
Estate Duty) Ordinance 2005 Notice (L.N. 210)**

11. By this Notice made by the Secretary for Justice (SJ) under section 41 of the Revenue (Abolition of Estate Duty) Ordinance 2005 (21 of 2005) (the Abolition Ordinance), the references to "the commencement date of the Revenue (Abolition of Estate Duty) Ordinance 2005 (21 of 2005)" in various sections of the Probate and Administration Ordinance (Cap. 10), the Estate Duty Ordinance (Cap. 111) and the Inland Revenue Ordinance (Cap. 112) are repealed and substituted by "11 February 2006". This Notice will come into operation on 12 February 2006.

12. The amendments are technical amendments anticipated in section 41 of the Abolition Ordinance and there is no policy change. Although the Abolition Ordinance has not yet commenced operation, by virtue of section 32 of the Interpretation and General Clauses Ordinance (Cap. 1) SJ may exercise the powers under section 41 after the publication of the Abolition Ordinance in the Gazette. The sections to be amended by this Notice are to be added to the relevant Ordinances upon the commencement of the Abolition Ordinance, which will be 11 February 2006.

13. The Bills Committee on the Revenue (Abolition of Estate Duty) Bill was aware of the intention of the Administration to issue this Notice after enactment of the Bill. Neither the public nor any Panel of the Legislative Council has been consulted.

Concluding Observation

14. No difficulties have been observed in the legal or drafting aspects of the subsidiary legislation reported above.

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