

立法會
Legislative Council

LC Paper No. LS16/05-06

**Paper for the House Committee Meeting
on 9 December 2005**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 2 December 2005**

Date of tabling in LegCo : 7 December 2005

Amendment to be made by : 21 December 2005 (or 8 February 2006 if extended by resolution)

PART I INTELLECTUAL PROPERTY

Registered Designs Ordinance (Cap. 522)

Registered Designs Ordinance (Amendment of Schedule) Regulation 2005 (L.N. 215)

Trade Marks Ordinance (Cap. 559)

Trade Marks Ordinance (Amendment of Schedule 1) Regulation 2005 (L.N. 216)

Patents Ordinance (Cap. 514)

Patents Ordinance (Amendment of Schedule 1) Order 2005 (L.N. 217)

Layout-design (Topography) of Integrated Circuits Ordinance (Cap. 445)

Layout-design (Topography) of Integrated Circuits (Designation of Qualifying Countries, Territories or Areas) (Amendment) Regulation 2005 (L.N. 218)

Under the Paris Convention for the Protection of Industrial Property (“Paris Convention”), the Hong Kong Special Administrative Region (“HKSAR”) is obliged to grant to a person who has filed an application for registration of a patent, industrial design or trade mark in a Paris Convention country a right of priority during a prescribed period for the purpose of filing the same application in the HKSAR. Under the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (“TRIPS Agreement”), the HKSAR is obliged to grant the same priority treatment to an application filed in a WTO member country, territory or area.

2. Specific provisions have been made in the Patents Ordinance (Cap. 514), Registered Designs Ordinance (Cap. 522) and Trade Marks Ordinance (Cap. 559) to

the effect that a person who has filed an application in a Paris Convention country or a WTO member country, territory or area will enjoy a right of priority. A list of Paris Convention countries and WTO member countries, territories or areas has been set out in a Schedule to each of the afore-mentioned Ordinances. The Chief Executive in Council is empowered to amend by an Order published in the Gazette the Schedule to the Patents Ordinance and to amend by Regulation the Schedules to the Registered Designs Ordinance and the Trade Marks Ordinance to update their respective lists. Pursuant to the TRIPS Agreement, the same level of intellectual property protection for layout-designs (topographies) of integrated circuits is also granted to citizens of other WTO member countries, territories or areas designated by the Chief Executive by Regulation as to citizens of HKSAR in the Layout-design (Topography) of Integrated Circuits Ordinance (Cap. 445). The Chief Executive is empowered to amend the latter Regulation for a similar purpose.

3. The four items of subsidiary legislation are made to update the respective Schedules to Ordinances and the Regulations concerned to reflect that:

- (a) six countries have become members of the Paris Convention;
- (b) four countries have acceded to the WTO Agreement;
- (c) one existing Paris Convention country has changed its name;
- (d) the Chinese names of some countries have been revised to ensure their accuracy; and
- (e) two countries have been removed from the list of WTO member countries, territories or areas which are not Paris Convention countries in the Schedule to the Patent Ordinance and Registered Designs Ordinance following their accession to the Convention.

4. Members may refer to the LegCo Brief (File Ref: CIB 80/18/2) issued by the Commerce, Industry and Technology Bureau dated 30 November 2005 for background information. The proposed subsidiary legislation has not been discussed by the Panel on Commerce and Industry ("the Panel"). However, the Administration has issued a paper to the Panel (circulated vide LC Paper No. CB(1)49/05-06 dated 24 October 2005) indicating that it is ready to provide additional information if members so require. While noting the paper, no Panel member has proposed any discussion at the Panel. According to the Administration, the proposed amendments are technical by nature and will only have very little impact on the business community.

5. All four items of subsidiary legislation will come into operation on 17 February 2006.

6. No difficulties relating to their legal and drafting aspects have been identified.

PART II MISCELLANEOUS AMENDMENTS

Public Health and Municipal Services Ordinance (Cap. 132) Designation of Libraries (No. 2) Order 2005 (L.N. 219)

7. By this Order made under section 105K of the Public Health and Municipal Services Ordinance (Cap. 132) by the Director of Leisure and Cultural Services, the ground floor of No. 9 and 9A, Tit Shu Street, Tai Kok Tsui, Kowloon ceases to be designated as a library and the third floor, Tai Kok Tsui Municipal Services Building, 63 Fuk Tsun Street, Tai Kok Tsui, Kowloon is designated as a library. Item 28 in the Schedule to the Designation of Libraries Order (Cap. 132 sub. leg. O) is amended accordingly.

8. The proposed Order has not been discussed in the Home Affairs Panel. No difficulties relating to the legal and drafting aspects of the Order have been identified.

Tax Reserve Certificates (Fourth Series) Rules (Cap. 289 sub. leg. A) Tax Reserve Certificates (Rate of Interest) (No. 9) Notice 2005 (L.N. 220)

9. By this Notice made under rule 7(2)(h) of the Tax Reserve Certificates (Fourth Series) Rules (Cap. 289 sub. leg. A), the Secretary for Financial Services and the Treasury prescribed the rate of interest payable on tax reserve certificates issued on or after 5 December 2005 to be 2.7500% per annum (“the new rate”). The Schedule to the Tax Reserve Certificates (Rate of Interest) (Consolidation) Notice (Cap. 289 sub. leg. B) is amended accordingly by adding “and before 5 December” at the end of item 152 and the new rate as item 153.

10. The proposed Notice has not been discussed in the Financial Affairs Panel. No difficulties relating to the legal and drafting aspects of the Notice have been identified.

Prepared by

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