

**立法會**  
**Legislative Council**

LC Paper No. LS41/07-08

**Paper for the House Committee Meeting  
on 15 February 2008**

**Legal Service Division Report on  
Subsidiary Legislation Gazetted on 25 January 2008**

**Date of tabling in LegCo** : 30 January 2008

**Amendment to be made by** : 27 February 2008 (or 9 April 2008 if extended by resolution)

**PART I FEES AND FARES**

**Waste Disposal Ordinance (Cap. 354)**

**Waste Disposal (Permits and Licences) (Fees) (Amendment) Regulation 2008 (L.N. 11)**

This Regulation is made by the Chief Executive in Council under section 33 of the Waste Disposal Ordinance (Cap. 354) after consultation with the Advisory Council on the Environment. In April 2006, the Waste Disposal (Amendment) Ordinance 2006 was enacted. A new section 20DA was introduced which provides, *inter alia*, that authorisation is required for the disposal of any imported non-hazardous waste at a designated waste disposal facility. This Regulation fixes the application fee for the authorisation at \$11,250.

2. According to the Administration, the fee is set in accordance with the "user pays" principle to recover the full administrative cost incurred in processing the application. This approach was supported by Members during deliberation on the Waste Disposal (Amendment) Bill 2005. The trade has been informed of the new statutory requirement. The Advisory Council on the Environment was consulted and supported the proposal.

3. The Regulation shall come into operation on 1 April 2008.

4. Members may refer to the LegCo Brief issued by the Environmental Protection Department (File Ref.: EP170/3P/51) issued in January 2008 and the report of the Bills Committee (CB(2)1482/05-06) for further information.

**Road Traffic Ordinance (Cap. 374)**

**Road Traffic (Public Service Vehicles) (Amendment of Schedule 5) Regulation 2008 (L.N. 12)**

5. This Regulation is made by the Chief Executive in Council under section 7(1C) of the Road Traffic Ordinance (Cap. 374). The Regulation makes provisions to increase the flagfall fare of urban and New Territories taxis by \$1 by amending Schedule 5 to the Road Traffic (Public Service Vehicles) Regulations (Cap. 374 sub. leg. D), and to rectify a couple of clerical errors therein.

6. In August 2007, the taxi trade applied for the introduction of a fuel surcharge of \$1 owing to the increase of the price of liquefied petroleum gas (LPG). The Administration considered that it was more appropriate to increase the fare through the existing fare adjustment mechanism instead of allowing the surcharge application. The taxi trade then applied for fare increase.

7. The Transport Advisory Committee (TAC) was consulted on the fare increase and supported the proposal. According to the Administration, TAC is currently reviewing the fare structure of taxis with a view to, *inter alia*, identifying feasible and appropriate improvement measures to broaden the taxi trade's business opportunities, and to address the "discount gang" problem. Should TAC come up with recommendations on the revision of taxi fare structure and should they be endorsed by the Administration, the current \$1 fare increase would be subsumed within the overall fare re-structure proposal.

8. The Panel on Transport was consulted on 30 October 2007 on the application for imposing a fuel surcharge. The Panel generally considered that the taxi trade was facing a difficult operating condition and the rising LPG price was exerting pressure on the taxi operators. The Panel passed a motion during the meeting demanding the Administration to accede to the request of the taxi trade to levy a fuel surcharge. The Panel subsequently noted that some taxi associations accepted the Administration's stance on fuel surcharge and submitted application for a flagfall fare increase of \$1 instead.

9. The Regulation shall come into operation on 28 February 2008.

10. Members may refer to the LegCo Brief issued by the Transport and Housing Bureau in January 2008 (File Ref.: THB(T)L 3/3/5) for further information.

**PART II MISCELLANEOUS**

**Pension Benefits Ordinance (Cap. 99)**

**Pension Benefits Ordinance (Established Offices) (Amendment) Order 2008 (L.N. 13)**

11. This Order is made by the Chief Executive in Council under section 2(1)

of the Pension Benefits Ordinance (Cap. 99).

12. According to the Administration, amendments to the Pension Benefits Ordinance (Established Offices) Order will be made by batches for administrative convenience. It was last amended in November 2003. The Amendment Order updates the list of established offices since the last amendment by amending the Schedules to include 8 newly established offices, deleting 31 obsolete established offices, and amending the Chinese names of 5 offices.

13. The Amendment Order came into operation on 25 January 2008.

14. Members may refer to the LegCo Brief issued by the Civil Service Bureau dated 22 January 2008 (File Ref.: CSBCR/AP/4-075-004/3 Pt.6) for further information.

**Public Health and Municipal Services Ordinance (Cap. 132)**

**Public Health and Municipal Services (Cessation of Setting Aside Places for use as Public Pleasure Grounds) Order 2008 (L.N. 14)**

**Public Health and Municipal Services Ordinance (Amendment of Fourth Schedule) Order 2008 (L.N. 15)**

15. L.N. 14 is made by the Director of Leisure and Cultural Services under section 106(1) of the Public Health and Municipal Services Ordinance (Cap. 132). It provides that Kowloon Tsai Park Squash Court (with effect from 1 February 2008) and The Jockey Club Kwai Shing Public Squash Courts (with effect from 1 March 2008) cease to be set aside for use as public pleasure grounds. L.N. 15 correspondingly amends the Fourth Schedule to Cap. 132 to update the list of public pleasure grounds.

**PART III LEGAL NOTICES NOT REQUIRED TO BE TABLED AND NOT SUBJECT TO AMENDMENT**

**United Nations Sanctions Ordinance (Cap. 537)**

**United Nations Sanctions (Cote d'Ivoire) Regulation 2008 (L.N. 16)**

**United Nations Sanctions (Democratic Republic of The Congo) Regulation 2008 (L.N. 17)**

16. The United Nations Sanctions (Côte d'Ivoire) Regulation 2008 (the Côte d'Ivoir Regulation) was made by the Chief Executive under section 3 of the United Nations Sanctions Ordinance (Cap. 537) on the instruction of the Ministry of Foreign Affairs of the People's Republic of China issued in November 2007 and after consultation with the Executive Council to give effect to certain decisions of the Security Council of the United Nations (UNSC) in Resolution 1782 (2007) as adopted by UNSC on 29 October 2007.

17. The Côte d'Ivoir Regulation replaces the United Nations Sanctions (Côte d'Ivoir) Regulation 2007 (Cap. 537 sub. leg. AD), which expired at midnight on 31 October 2007. It provides for the further implementation of the following sanctions imposed by UNSC –

- (a) prohibition against any unauthorised supply, delivery, and carriage of arms or related materials to Côte d'Ivoir;
- (b) prohibition against the provision of advice, assistance or training related to military activities to persons in Côte d'Ivoir in certain circumstances;
- (c) prohibition against making available any fund, other financial assets or economic resources to or for the benefit of certain persons or entities;
- (d) prohibition against importation of rough diamonds from Côte d'Ivoir into Hong Kong; and
- (e) prohibition against entry into or transit through Hong Kong of certain persons.

18. The United Nations Sanctions (Democratic Republic of the Congo) Regulation 2008 (the Congo Regulation) was made by the Chief Executive under section 3 of the United Nations Sanctions Ordinance (Cap. 537) on the instruction of the Ministry of Foreign Affairs of the People's Republic of China issued in December 2007 and after consultation with the Executive Council to give effect to certain decisions of UNSC in Resolution 1771 (2007) as adopted by UNSC on 10 August 2007.

19. The Congo Regulation replaces the United Nations Sanctions (Democratic Republic of the Congo) Regulation 2006 (Cap. 537 sub. leg. AB), which expired at midnight on 31 July 2007. It provides for the further implementation of the following sanctions imposed by UNSC –

- (a) prohibition against any unauthorised supply, delivery, carriage of arms or related materials to Congo;
- (b) prohibition against the provision of advice, assistance or training related to military activities to persons in Congo in certain circumstances;
- (c) prohibition against making available any funds, financial assets or economic resources to or for the benefit of certain persons or entities; and
- (d) prohibition against entry into or transit through Hong Kong of certain persons.

20. Both regulations make provisions for the investigation of any

contravention of the respective prohibitions and for the gathering of evidence and other matters relating to the enforcement of the prohibitions.

21. The two regulations came into effect on 25 January 2008. The Côte d'Ivoire Regulation will expire at midnight on 31 October 2008 whereas the Congo Regulation will expire at midnight on 15 February 2008.

22. Members may refer to the information papers issued by the Commerce and Economic Development Bureau in January 2008 (CB(1)716/07-08(01) and CB(1)716/07-08(02)) to the Subcommittee to Examine the Implementation in Hong Kong of Resolutions of the United Nations Security Council in relation to Sanctions (the Subcommittee) on the two regulations.

23. Under section 3(5) of the principal ordinance, sections 34 and 35 of the Interpretation and General Clauses Ordinance (Cap. 1) shall not apply to regulations made under the principal ordinance. Therefore, the two regulations are not subject to amendment by the Legislative Council. However, since the two regulations come within the terms of reference of the Subcommittee, Members may consider referring them to the Subcommittee for further consideration.

### **Concluding Remarks**

24. No difficulties have been identified in the legal or drafting aspects of the above items of subsidiary legislation.

Prepared by

LEE Ka-yun, Kelvin  
Assistant Legal Adviser  
Legislative Council Secretariat  
12 February 2008