

立法會
Legislative Council

LC Paper No. LS28/08-09

**Paper for the House Committee Meeting
on 9 January 2009**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 2 January 2009**

Date of tabling in LegCo : 7 January 2009

Amendment to be made by : 4 February 2009 (or 25 February 2009 if extended by resolution)

PART I INCREASE IN MAXIMUM AMOUNT OF LOAN BY THE PAWNBROKERS

**Pawnbrokers Ordinance (Cap. 166)
Pawnbrokers Ordinance (Amendment of Schedules) Order 2009 (L.N. 1)**

The regulatory regime provided for under the Pawnbrokers Ordinance (Cap. 166) (the Ordinance) applies only to loans by pawnbrokers within the amount specified in the First Schedule ("Maximum Amount of Loan to which Ordinance Applies") to the Ordinance. The current maximum amount of loan specified in the First Schedule is \$50,000. Loans above the limit are not subject to the control, regulation or protection provided by the Ordinance, and are subject to the control and regulation under the Money Lenders Ordinance (Cap. 163)*.

2. Under section 27 of the Ordinance, the Chief Executive may by order amend all or any of the Schedules.

* The Money Lenders Ordinance (MLO) provides for the control and regulation of money lenders and money lending transactions. According to section 2 of the MLO, "money lender" means every person whose business (whether or not he carries on any other business) is that of making loans or who advertises or announces himself or holds himself out in any way as carrying on that business but does not include, inter alia, any person who makes an "exempted loan" specified in Part 2 of Schedule 1. Loans made by a licensed pawnbroker under the Pawnbrokers Ordinance to which that Ordinance applies are "exempted loans" for the purpose of the MLO, and hence are not subject to the requirements under the MLO.

3. This Order amends –
 - (a) the First Schedule to the Ordinance to increase the maximum amount of loan to which the Ordinance applies from \$50,000 to \$100,000; and
 - (b) the First and Second Schedules to the Ordinance to add the cross reference to section 27 ("Amendment of Schedules") of the Ordinance to the top right-hand corners of the Schedules.
4. Members may refer to LegCo Brief File Ref: SBC 3/15/9 Pt. 5 of December 2008 issued by the Security Bureau for background information.
5. The maximum amount of loan was last revised in June 1990 (L.N. 169 of 1990). Since 1990, the Consumer Price Index (CPI) has risen by 63.7%. According to the LegCo Brief, in 2007, the Hong Kong and Kowloon Pawnbrokers' Association requested the Administration to raise the limit from \$50,000 to \$100,000 on the ground that, given the lapse of time, the prices of the more popular items pawned to pawnbrokers (e.g. gold articles, jewellery, valuable watches, etc.) had far exceeded the current limit. The Administration also considers that the proposed limit of \$100,000, though exceeding the CPI increase during the period, is appropriate and necessary for the pawnbroking industry.
6. The Panel on Security was consulted on the proposed increase at its meeting on 27 October 2008. Members did not raise any queries on the proposal.
7. The Order will come into operation on 25 February 2009.

PART II RATE OF INTEREST ON TAX RESERVE CERTIFICATE

Tax Reserve Certificates (Fourth Series) Rules (Cap. 289 sub. leg. A)

Tax Reserve Certificates (Rate of Interest) Notice 2009 (L.N. 2)

8. By this Notice made by the Secretary for Financial Services and the Treasury under rule 7(2)(h) of the Tax Reserve Certificates (Fourth Series) Rules (Cap. 289 sub. leg. A), the rate of interest payable on tax reserve certificates issued on or after 5 January 2009 is fixed at 0.3667% per annum (the new rate). The Schedule to the Tax Reserve Certificates (Rate of Interest) (Consolidation) Notice (Cap. 289 sub. leg. B) is consequentially amended by inserting "and before 5 January 2009" in item 165 and adding the new rate as item 166.

PART III COMMENCEMENT NOTICE

Fugitive Offenders Ordinance (Cap. 503)

Fugitive Offenders (Ireland) Order (L.N. 96 of 2008)

Fugitive Offenders (Ireland) Order (Commencement) Notice (L.N. 3)

9. This Commencement Notice specifies 14 January 2009 as the day on which the Fugitive Offenders (Ireland) Order (L.N. 96 of 2008) (the Order) will come into operation.

10. The Order is made by the Chief Executive in Council under section 3 of the Fugitive Offenders Ordinance (Cap. 503) (the Ordinance). By the Order, it is directed that the procedures in the Ordinance for the surrender of fugitive offenders shall apply between Hong Kong and Ireland. The Order is made in consequence of the arrangements for the surrender of fugitive offenders entered into by Hong Kong and Ireland and signed in Dublin on 5 October 2007 (the Agreement). The Agreement is recited in the Schedule to the Order. Under section 2 of the Order, the relevant procedures are subject to the limitations, restrictions, exceptions and qualifications contained in the Agreement.

11. A Subcommittee was formed to study the Order. The Subcommittee recommended to the House Committee at its meeting on 6 June 2008 that the Order be supported.

12. The Panel on Security has not been consulted on the Commencement Notice.

13. There are no difficulties identified in relation to the legal or drafting aspects of the above items of subsidiary legislation.

Prepared by

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