

立法會
Legislative Council

LC Paper No. LS38/08-09

**Paper for the House Committee Meeting
on 13 February 2009**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 6 February 2009**

Date of tabling in LegCo : 11 February 2009

Amendment to be made by : 11 March 2009 (or 1 April 2009 if extended by resolution)

Telecommunications Ordinance (Cap. 106)

Telecommunications (Designation of Frequency Bands subject to Payment of Spectrum Utilization Fee) (Amendment) Order 2009 (L.N. 20)

Telecommunications (Level of Spectrum Utilization Fees) (Second Generation Mobile Services) (Amendment) Regulation 2009 (L.N. 21)

Telecommunications (Determining Spectrum Utilization Fees by Auction) (Amendment) Regulation 2009 (L.N. 22)

The Order in L.N. 20 is made by the Telecommunications Authority (the Authority) under section 32I(1) of the Telecommunications Ordinance (Cap. 106) after carrying out the consultation required under 32G(2) of the Ordinance. The Order seeks to designate two additional sets of frequency bands for the provision of the second generation mobile service as well as mobile television and other permitted telecommunications services such as digital audio radio and datacasting services in which the use of spectrum is subject to the payment of spectrum utilization fees (SUF).

2. By the Order, the Schedule to the Telecommunications (Designation of Frequency Bands subject to Payment of Spectrum Utilization Fee) Order (Cap. 106 sub. leg. Y) (the Schedule) is amended by adding—

- (a) Part 2A for the frequency bands of 1780.1-1784.9 MHz paired with 1875.1-1879.9 MHz (also known as 1800 MHz Bands) for provision of public mobile telephone service (Part 2A frequency bands); and
- (b) Part 5 for the following frequency multiplexes (i.e. a frequency channel for digital transmission) primarily for introduction of broadcast-type mobile TV services (Part 5 frequency bands)—
 - (i) 216.160-217.696 MHz;
 - (ii) 217.872-219.408 MHz; and
 - (iii) 678-686 MHz.

3. L.N. 21 and L.N. 22 are made by the Secretary for Commerce and Economic Development under section 32I(2) of the Ordinance to tie in with L.N. 20.

4. L.N. 21 amends the Telecommunications (Level of Spectrum Utilization Fees) (Second Generation Mobile Services) Regulation (Cap. 106 sub. leg. AA) (the principal Regulation) to specify the SUF for Part 2A frequency bands.

5. The SUF specified for Part 2A frequency bands consists of—

- (a) a fixed fee to be determined by auction in accordance with the Telecommunications (Determining Spectrum Utilization Fees by Auction) Regulation (Cap. 106 sub. leg. AC); and
- (b) an annual fee determined in accordance with the newly added section 4B of the principal Regulation, which applies the same formula prescribed in section 4 of the principal Regulation as follows:-
 - (i) for each period of 12 months beginning from 30 September 2009 to 29 September 2011, \$145 for every 1 kHz or part of every 1 kHz of the spectrum assigned for use by the relevant licensee; and
 - (ii) for each period of 12 months beginning from 30 September 2011 to 29 September 2021, 5% of the network turnover in the period of 12 months concerned; or \$1,450 for every 1 kHz or part of every 1 kHz of the spectrum assigned, whichever is the higher.

6. To encourage better coverage in the countryside, the use of Part 2A frequency bands authorised by the Authority solely for providing mobile telecommunications services within country parks and prescribed remote areas is not subject to payment of the SUF as specified above.

7. L.N. 22 amends the Telecommunications (Determining Spectrum Utilization Fees by Auction) Regulation (Cap. 106 sub. leg. AC) (the principal Regulation) to specify that the fixed fee (being part of the SUF) payable for the use of Part 2A frequency bands and the SUF payable for the use of Part 5 frequency bands shall be determined by auction to be held in accordance with the principal Regulation and the specified terms as published by the Authority in the Gazette.

8. L.N. 20 to L.N. 22 will come into operation on 3 April 2009.

9. For background information, Members may wish to refer to the paper entitled "Assignment of the Available Radio Spectrum in the 1800 MHz Band" issued by the Commerce and Economic Development Bureau and the Office of the Authority on 1 December 2008 (LC Paper No. CB(1)326/08-09(03)) and the LegCo Brief on Framework for Development of Mobile Television Services (File Ref: CTB (CR)9/19/14(08) Pt. 4) dated 22 December 2008, issued by the Communications and Technology Branch of the Commerce and Economic Development Bureau.

10. At the meeting of the Information Technology and Broadcasting Panel held on 8 December 2008, the Administration briefed Members on the paper entitled "Assignment of the Available Radio Spectrum in the 1800 MHz Band". The Panel supported in principle the legislative amendments proposed in the paper.

11. No difficulties relating to the legal and drafting aspects of L.N. 20 to L.N. 22 have been identified.

Dangerous Goods (Consignment by Air) (Safety) Regulations (Amendment of Schedule) Order 2006 (L.N. 76 of 2006)

Dangerous Goods (Consignment by Air) (Safety) Regulations (Amendment of Schedule) Order 2006 (Commencement) Notice 2009 (L.N. 23)

12. By this Notice, the Director-General of Civil Aviation under section 1 of the Dangerous Goods (Consignment by Air) (Safety) Regulations (Amendment of Schedule) Order 2006 (L.N. 76 of 2006) (the Order) appoints 1 July 2009 as the day on which section 2(2), (7) and (8) of the Order comes into operation.

13. The Order amends the Schedule to the Dangerous Goods (Consignment by Air) (Safety) Regulations (Cap. 384 sub. leg. A) to implement new requirements introduced by the 2005-2006 edition of the Technical Instructions for the Safe Transport of Dangerous Goods by Air approved and published by the International Civil Aviation Organization.

14. The Order (except section 2(2) and (7)) came into operation on 1 November 2006. L.N. 197 of 2007 subsequently amends section 2(7) of and adds section 2(8) to the Order. Section 2(2), (7) and (8) relates to new training requirements that staff of freight forwarders involved in the processing, handling, storing or loading of any air cargo should have received training on proper handling of dangerous goods before performing those functions. The commencement of the provision has been deferred to allow sufficient time for the local freight forwarding industry to complete the requisite personnel training.

15. Neither the public nor any LegCo Panel has been consulted on this Notice.

16. No difficulties relating to the legal and drafting aspects have been identified.

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