

立法會
Legislative Council

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**Paper for the House Committee Meeting
on 22 May 2009**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 15 May 2009**

Date of tabling in LegCo : 20 May 2009

Amendment to be made by : 17 June 2009 (or 8 July 2009 if extended by resolution)

PART I AMENDMENTS TO SUBSIDIARY LEGISLATION RELATING TO TUNNELS AND SPECIFICATION OF PUBLIC OFFICE

Road Tunnels (Government) Ordinance (Cap. 368)
Road Tunnels (Government) (Amendment) Regulation 2009 (L.N. 96)

Eastern Harbour Crossing Ordinance (Cap. 215)
Eastern Harbour Crossing Road Tunnel (Amendment) Regulation 2009 (L.N. 97)

Tate's Cairn Tunnel Ordinance (Cap. 393)
Tate's Cairn Tunnel (Amendment) Regulation 2009 (L.N. 98)

Interpretation and General Clauses Ordinance (Cap. 1)
Specification of Public Office Notice 2009 (L.N. 99)

Tsing Ma Control Area Ordinance (Cap. 498)
Tsing Ma Control Area (General) (Amendment) Regulation 2009 (L.N. 104)

L.N. 96 and L.N. 104

At present, various tolled tunnels/bridges use different signage for autotoll lanes and booths. As part of the standardization programme launched by the Transport Department to standardize such signage for all tunnels/bridges with autotoll facilities, L.N. 96 and L.N. 104 amend the Road Tunnels (Government) Regulations (Cap. 368 sub. leg. A) and Tsing Ma Control Area (General) Regulation (Cap. 498 sub.

leg. B) (TMCA General Regulation) respectively to introduce new and standardized autotoll booth signs in the five Government road tunnels covered under the Road Tunnels (Government) Ordinance (Cap. 368), namely, Cross-Harbour Tunnel, Aberdeen Tunnel, Lion Rock Tunnel, Shing Mun Tunnels and Tseung Kwan O Tunnel, and the Tsing Ma Control Area (TMCA). The standardized signage adopted for the above Government road tunnels and the TMCA is the same as that adopted for the Tsing Sha Control Area under the Tsing Sha Control (General) Regulation (Cap. 594 sub. leg. A).

2. Other amendments introduced by L.N. 96 relate to amending regulation 10(a) of the Road Tunnels (Government) Regulations to allow motor tricycles to use Government road tunnels, providing that the removal fee applicable to private cars, taxis and motor cycles under the Regulations should also apply to motor tricycles and replacing all references to “First Schedule” and “Second Schedule” in the Regulations with “Schedule 1” and “Schedule 2” respectively.

3. Apart from introducing standardized autotoll booth signs in the TMCA, L.N. 104 also amends section 15 of the TMCA General Regulation to allow medium goods vehicles and heavy goods vehicles to use the nearside lane or middle lane of the tunnel located within the TMCA.

L.N. 97 and L.N. 98

4. Under section 43 of the Eastern Harbour Crossing Ordinance (Cap. 215) (the EHC Ordinance), the Chief Executive in Council may make regulations providing for, among others, the provision by the New Hong Kong Tunnel Company Limited or its assignee (collectively the EHC Company) of adequate, efficient, safe and continuous facilities for the passage of motor vehicles through the road tunnel area. Regulation 3(1)(a) of the Eastern Harbour Crossing Road Tunnel Regulations (Cap. 215 sub. leg. D) (the EHC Regulations), made by the Chief Executive in Council under section 43 of the EHC Ordinance, provides that the EHC Company shall, to the satisfaction of the Commissioner for Transport (the Commissioner), erect and maintain adequate and efficient traffic signs, and place and maintain adequate and efficient road markings, in the road tunnel area. Regulation 4 provides that in order to comply with the obligations under regulation 3(1)(a) of the EHC Regulations, the EHC Company may cause or permit to be erected or placed in the road tunnel area certain specified traffic signs or road markings.

5. L.N. 97 amends regulations 3(1)(a) and 4 of the EHC Regulations to impose on the EHC Company an obligation, and to empower the EHC Company to erect and place light signals in the road tunnel area.

6. Regulation 3(1)(a) of the Tate’s Cairn Tunnel Regulations (Cap. 393 sub. leg. A) (the TCT Regulations), made by the Chief Executive in Council under section 24 of the Tate’s Cairn Tunnel Ordinance (Cap. 393) (the TCT Ordinance), provides that the Tate’s Cairn Tunnel Company Limited or its assignee (collectively the TCT

Company) shall, to the satisfaction of the Commissioner, erect and maintain adequate and efficient traffic signs and light signals, and place and maintain adequate and efficient road markings, in the tunnel area. Regulation 4 provides that the TCT Company may, without prejudice to regulation 3(1)(a) of the TCT Regulations, cause or permit to be erected or placed in the tunnel area certain traffic signs, road markings or light signals shown in the relevant Schedules to the Road Traffic (Traffic Control) Regulations (Cap. 374 sub. leg. G).

7. L.N. 98 expands the powers of the TCT Company under regulation 4 of the TCT Regulations to allow it to erect or place in the tunnel area any traffic sign, light signal or road marking prescribed by by-laws made by the TCT Company under the TCT Ordinance and any traffic sign, light signal or road marking that it may think appropriate for the giving of advice and information to persons using the tunnel.

8. The effect of the above amendments to regulation 4 of the EHC Regulations and TCT Regulations is that both the EHC Company and the TCT Company will have similar powers in relation to regulation of vehicular traffic or pedestrians by using traffic signs, light signals and road markings in the relevant tunnel areas.

L.N. 99

9. L.N. 99 specifies the Commissioner and the Director of Highways for the Tsing Sha Control Area Ordinance (Cap. 594) and its subsidiary legislation to enable them to delegate to other public officers their respective powers and duties in relation to the Tsing Sha Control Area under the relevant Ordinance and subsidiary legislation.

10. Members may refer to the LegCo Brief (Ref: THB(T)CR 2/4651/83) issued by the Transport and Housing Bureau in May 2009 for background information. According to paragraph 15 of the LegCo Brief, the tunnel companies concerned have been consulted and they support the proposal.

11. According to paragraph 4 of the LegCo Brief, the standardized autotoll signage will be introduced to the four Build-Operate-Transfer (BOT) tunnels, namely Eastern Harbour Crossing, Western Harbour Crossing, Tate's Cairn Tunnel, and Route 3 through amendments to the by-laws governing the BOT tunnels. The Administration will introduce the relevant amendments into the Legislative Council for approval upon the coming into effect of L.N. 97 and L.N. 98.

12. L.N. 96 to L.N. 99 and L.N. 104 have not been discussed by the Panel on Transport.

13. The above subsidiary legislation will come into operation on 10 July 2009.

PART II FEE REVISION

Shipping and Port Control Ordinance (Cap. 313)
Shipping and Port Control (Amendment) Regulation 2009 (L.N. 100)

Merchant Shipping (Registration) Ordinance (Cap. 415)
Merchant Shipping (Registration) (Fees and Charges) (Amendment) Regulation 2009 (L.N. 101)

Merchant Shipping (Seafarers) Ordinance (Cap. 478)
Merchant Shipping (Seafarers) (Fees) (Amendment) Regulation 2009 (L.N. 102)

Merchant Shipping (Local Vessels) Ordinance (Cap. 548)
Merchant Shipping (Local Vessels) (Fees) (Amendment) Regulation 2009 (L.N. 103)

14. L.N. 100 to L.N. 103 are made by the Secretary for Financial Services and the Treasury under section 29A of the Interpretation and General Clauses Ordinance (Cap. 1) by virtue of various provisions under the Shipping and Port Control Ordinance (Cap. 313) and other Ordinances relating to merchant shipping to revise 27 marine-related fees and charges specified in subsidiary legislation made under the relevant Ordinances. The revision is made in accordance with the Government's policy that fees and charges charged by the Government should in general be set at a level sufficient to recover the full cost of providing the services.

15. L.N. 100 and L.N. 103 amend the Thirteenth Schedule to the Shipping and Port Control Regulations (Cap. 313 sub. leg. A) and Schedule 2 to the Merchant Shipping (Local Vessels) (Fees) Regulation (Cap. 548 sub. leg. J) to reduce by 40% the fee payable for a port clearance permit charged on ocean-going vessels and the port and arrival clearance fees in respect of local vessels respectively from \$97 to \$58.

16. L.N. 101 amends the Schedule to the Merchant Shipping (Registration) (Fees and Charges) Regulations (Cap. 415 sub. leg. A) to –

- (a) waive two types of registration fees, namely, the fees payable for registering a transfer of mortgage, a transfer by bill of sale, a transmission, a mortgage, or a discharge of mortgage and the fees payable for the grant of a new certificate upon change of the particulars recorded in the register relating to a ship; and
- (b) lower the cap of the annual tonnage charges for ships registered in Hong Kong by 23% from \$100,000 to \$77,500.

17. L.N. 102 amends the Schedule to the Merchant Shipping (Seafarers) (Fees) Regulation (Cap. 478 sub. leg. AB) to –

- (a) reduce the fee for the issue of licences to officers manning ships registered in Hong Kong by 44% from \$715 to \$400; and
- (b) waive 20 types of miscellaneous fees for services rendered by the Mercantile Marine Office established under the Merchant Shipping (Seafarers) Ordinance (Cap. 478).

18. Members may refer to the LegCo Brief (Ref: MA 10/66) issued by the Transport and Housing Bureau in May 2009 for background information. Annex E to the LegCo Brief sets out the details of the existing and proposed fees. According to paragraph 13 of the Brief, the port and maritime industry has been consulted and they support the proposal.

19. The proposed revision of fees and charges contained in L.N. 100 to L.N. 103 was discussed by the Panel on Economic Development at its meeting on 27 April 2009. While some Panel members requested the Administration to consider further reduction in the fee for the issue of licences to officers manning Hong Kong ships, members were in general supportive of the proposed revision and urged for its early implementation to enhance the competitiveness of the marine industry.

20. L.N. 100 to L.N. 103 will come into operation on 10 July 2009.

**Legal Practitioners Ordinance (Cap. 159)
Practising Certificate (Solicitors) (Amendment) Rules 2009 (L.N. 105)**

21. Under section 73 the Legal Practitioners Ordinance (Cap. 159) (LPO), the Council of The Law Society of Hong Kong (the Council) may, subject to the prior approval of the Chief Justice, make rules regulating the issue to solicitors of practising certificates and providing for the fees payable for solicitors' practising certificates.

22. L.N. 105, which is made by the Council under section 73 of LPO with the prior approval of the Chief Justice, amends the Practising Certificate (Solicitors) Rules (Cap. 159 sub. leg. L) to reduce the fee payable for an application for a solicitor's practising certificate for the practice years beginning on or after 1 January 2010 from \$6,800 to \$5,000.

23. L.N. 105 has not been discussed by the Panel on Administration of Justice and Legal Services.

PART III COMMENCEMENT NOTICE

Statute Law (Miscellaneous Provisions) Ordinance 2008 (10 of 2008)

Statute Law (Miscellaneous Provisions) Ordinance 2008 (Commencement) Notice (L.N. 106)

24. By L.N. 106, the Director of Food and Environmental Hygiene appoints 1 July 2010 as the day on which Division 3 of Part 12 of the Statute Law (Miscellaneous Provisions) Ordinance 2008 (10 of 2008) (the Ordinance) comes into operation.

25. The Ordinance makes miscellaneous amendments to various Ordinances. Division 3 of Part 12 of the Ordinance amends certain Chinese texts in various provisions of the Food and Drugs (Composition and Labelling) Regulations (Cap. 132 sub. leg. W). The other provisions of the Ordinance have come into operation on the day it was published in the Gazette, i.e. 9 May 2008.

26. The Ordinance had been scrutinized by the Bills Committee on Statute Law (Miscellaneous Provisions) Bill 2007. Members did not raise questions on the part of the Bill which has been enacted as Part 12 of the Ordinance.

27. No difficulties relating to the legal and drafting aspects of the above items of subsidiary legislation have been identified.

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