

立法會
Legislative Council

LC Paper No. LS14/08-09

**Paper for the House Committee Meeting
on 14 November 2008**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 7 November 2008**

Date of tabling in LegCo : 12 November 2008

Amendment to be made by : 10 December 2008 (or 7 January 2009 if extended by resolution)

PART I SUBSIDIARY LEGISLATION

**Jury Ordinance (Cap. 3)
Allowances to Jurors (Amendment) Order 2008 (L.N. 240)**

This Order amends the Allowances to Jurors Order (Cap. 3 sub. leg. A) to increase the rate of allowance and the maximum rate of additional allowance payable to jurors from \$280 to \$360. This Order was made by the Chief Executive in Council under section 31 of the Jury Ordinance (Cap. 3).

2. The current rates of allowances payable to jurors are the same as those payable to ordinary witnesses in criminal proceedings and coroners' inquests. The rates were last revised in 1996.

3. According to the Administration, there has been no adjustment since 1996 for reasons such as the Government's austerity drive. The Judiciary Administration (JA) conducted a review earlier this year. Taking into account the movements in —

- (a) the median monthly earnings of employees in Hong Kong from the first quarter of 1995 to the second quarter of 2008; and
- (b) the mid-point salary of a Medical and Health Officer from 1 April 1995 to 1 April 2008;

(collectively as 'Adjustment Indicators')

the new rates of allowances were proposed to maintain the real value of the allowances to minimize any financial loss suffered by members of the public serving as jurors or witnesses in criminal proceedings and coroner's inquests.

4. Regarding the rates of allowances for witnesses in criminal proceedings and coroners' inquests, the Chief Secretary has given notice to move two proposed resolutions on 3 December 2008 to seek a corresponding increase. We will separately report on the proposed resolutions.

5. For additional information, please refer to LegCo Brief (File Ref: CSO/ADM/CR 11/3221/97(08)) dated 5 November 2008, issued by the Administration Wing, Chief Secretary for Administration's Office and Judiciary Administration.

6. The Panel on Administration of Justice and Legal Services was provided with an information paper (LC Paper No. CB(2)2049/07-08(01)) on the proposed revision by JA on 23 May 2008. The Panel did not raise any queries on the paper. The new rates of allowances proposed in that paper have now been revised after taking into account movements in the adjustment indicators since then.

7. This Order shall come into operation on a day to be appointed by the Chief Justice by notice published in the Gazette.

Antiquities and Monuments Ordinance (Cap. 53)

Antiquities and Monuments (Declaration of Historical Buildings) (No. 3) Notice 2008 (L.N. 241)

8. This Notice declares the buildings including Old Green Island Lighthouse and the New Green Island Lighthouse, and the adjoining land, situated within a specified area on Green Island, Hong Kong to be historical buildings for the purposes of the Antiquities and Monuments Ordinance (Cap. 53) (the Ordinance).

9. The Notice was made by the Secretary for Development pursuant to section 3(1) of the Ordinance after consultation with the Antiquities Advisory Board and with the approval of the Chief Executive. The effect of the Notice is that no person shall excavate in, demolish or interfere with such historical buildings except in accordance with a permit granted by the Secretary for Development.

10. Neither the Panel on Development nor the Panel on Home Affairs or its Subcommittee on Heritage Conservation has discussed the declaration.

PART II NON-LEGISLATIVE INSTRUMENT

Air Pollution Control Ordinance (Cap. 311)

Technical Memorandum for Allocation of Emission Allowances in Respect of Specified Licences (S.S. No. 5 to Gazette No. 45/2008)

11. The Technical Memorandum for Allocation of Emission Allowances in Respect of Specified Licences (Technical Memorandum) is the first technical memorandum issued by the Secretary for the Environment pursuant to section 26G of Air Pollution Control Ordinance (Cap. 311) (the Ordinance).

12. The Technical Memorandum allocates the total quantities of emission allowances for the three specified pollutants, namely sulphur dioxide, nitrogen oxides and respirable suspended particulates to the power plants in Hong Kong for the year 2010 and beyond. The Technical Memorandum also sets out the allocation principles and determination methods of the quantity of emission allowances to be allocated in respect of each power plant for each emission year as well as its updating formula.

13. According to section 37B(2) of the Ordinance, where a technical memorandum has been laid on the table of the Legislative Council, the Legislative Council may, by resolution passed at a sitting of the Legislative Council held before the expiration of a period of 28 days after the sitting at which it was so laid, provide that the technical memorandum shall be amended in any manner consistent with the power to issue the technical memorandum. Section 37B(4)(a) of the Ordinance provides that before expiry of the 28-day period, the Legislative Council may by resolution extend that period to the first sitting of the Legislative Council held not earlier than twenty-first day after the day of its expiry.

14. Pursuant to the section 37C of the Ordinance, the Technical Memorandum shall commence to have effect upon the expiry of the above amendment period or the period as extended if the Legislative Council does not pass a resolution to amend it. In the case where the Legislative Council passes a resolution amending the Technical Memorandum, it shall come into effect at the beginning of the day of the publication in the Gazette of such resolution.

15. Members may wish to refer to the LegCo Brief (File Ref: EP CR 9/150/21) issued by the Environmental Protection Department in November 2008 for additional information on the Technical Memorandum.

16. At its meeting held on 27 October 2008, the Panel on Environmental Affairs discussed the final draft of the Technical Memorandum. Members expressed concern on the basis upon which the emission caps for individual specified pollutants were arrived at, Hong Kong's ability to achieve the 2010 emission reduction targets in the midst of the financial tsunami and whether the power companies would transfer the costs of installing pollution abatement equipment to consumers through increased electricity tariffs.

17. No difficulties have been identified in the legal or drafting aspects of the above three items.

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