

立法會
Legislative Council

LC Paper No. LS8/09-10

**Paper for the House Committee Meeting
on 6 November 2009**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 30 October 2009**

Date of tabling in LegCo : 4 November 2009

Amendment to be made by : 2 December 2009 (or 6 January 2010 if extended by resolution)

**Dumping at Sea Ordinance (Cap. 466)
Dumping at Sea (Exemption) (Amendment) Order 2009 (L.N. 203)**

This Order is made under section 11(1) of the Dumping at Sea Ordinance (Cap. 466) (the Ordinance) by the Secretary for the Environment.

2. The Order amends Schedule 2 to the Dumping at Sea (Exemption) Order (Cap. 466 sub. leg. B) (the Exemption Order) by specifying the foreshore and sea-bed situated in an area to the east of Sha Chau as a reclamation area (the Reclamation Area). In the Reclamation Area, a new sediment disposal facility (the New Facility) is being constructed.

3. Under section 4 of the Exemption Order, a reclamation authorized under the Foreshore and Sea-bed (Reclamations) Ordinance (Cap. 127) (the Reclamations Ordinance) is exempt from the requirement for a permit under section 8 of the Ordinance for dumping operations in a reclamation area unless the relevant area is specified in Schedule 2 to the Exemption Order. By a notice of authorization published on 13 June 2008 (G.N. 3966 of 2008) in accordance with section 9 of the Reclamations Ordinance, reclamation at the Reclamation Area where the New Facility is located is authorized under the Reclamations Ordinance, thereby exempting reclamation thereon from the permit requirement.

4. In order to apply the regulatory control regime under the Ordinance in respect of the New Facility so as to require a permit to be obtained from the Director of Environmental Protection under section 8 of the Ordinance for dumping operations at the New Facility, it is necessary to specify the Reclamation Area in Schedule 2 to the Exemption Order. According to the Administration, this is similar to the arrangement for the existing sediment disposal facility at the east of Sha Chau¹.

¹ Item 18 of Schedule 2 to the Exemption Order lists the foreshore and sea-bed affected by the previous and existing sediment disposal facilities at the east of Sha Chau.

5. The Order will come into operation on 1 January 2010.
6. At the meeting of the Panel on Development on 19 December 2008, the Administration briefed the Panel on its proposal of forming and capping the New Facility. In response to Members' requests, the Administration provided a supplementary information note on the method of disposal and operation, environmental monitoring of the New Facility, the key findings of the environmental impact assessment and the outcome of public consultation for the New Facility. The Administration indicated that it would initiate action to include the Reclamation Area in Schedule 2 of the Exemption Order. Members had not expressed any views on this arrangement.
7. Members may wish to refer to the LegCo Brief (File Ref: EP 76/3P/57 (21)) issued by the Environmental Protection Department in October 2009 for background information.

Energy Efficiency (Labelling of Products) Ordinance (Cap. 598)
Energy Efficiency (Labelling of Products) Ordinance (Amendment of Schedules)
Order 2009 (L.N. 204)

8. A resolution was passed at the meeting of the Legislative Council on 21 October 2009 to introduce the second phase of the Mandatory Energy Efficiency Labelling Scheme (MEELS) by adding two products, namely, washing machines and dehumidifiers, to Part 1 of Schedule 1 to the Energy Efficiency (Labelling of Products) Ordinance (Cap. 598) as prescribed products.
9. Sections 4 and 5 of Cap. 598 prohibit the supply of prescribed products without reference numbers assigned by the Electrical and Mechanical Services Department and energy labels containing certain information affixed to these products. This Order adds washing machines and dehumidifiers to Part 2 of Schedule 1, Schedules 2 and 3 to Cap. 598. As a result, the supply of a washing machine or dehumidifier requires a reference number and an energy label as required under Cap. 598.
10. The newly added Parts 5 and 6 to Schedule 2 to Cap. 598 also specify the respective requirements for energy labels to be affixed to washing machines and dehumidifiers, including the colour, design, dimensions and information to be contained.
11. Members may refer to the LegCo Brief (ref: ENB 24/26/24 Pt.6) issued by the Environment Bureau in September 2009 for background information about this Order.
12. The LegCo Panel on Environmental Affairs was consulted on the legislative proposals for the implementation of the second phase of MEELS including this Order at the meeting held on 15 July 2009. While there was general support for the implementation of the second phase of the MEELS, some members expressed the view that the Administration should expedite the progress of the MEELS to keep up with the latest technological development.

13. This Order shall come into operation on a day to be appointed by the Secretary for the Environment by notice published in the Gazette.

Public Health and Municipal Services Ordinance (Cap. 132)

Market (Cessation of Application of the Public Health and Municipal Services Ordinance) Declaration 2009 (L.N. 205)

Public Health and Municipal Services (Cessation of Designation as Public Market) Order 2009 (L.N. 206)

Public Health and Municipal Services Ordinance (Amendment of Tenth Schedule) Order 2009 (L.N. 207)

Background

14. The Director of Food and Environmental Hygiene (DFEH) is empowered under section 79(1) of the Public Health and Municipal Services Ordinance (Cap. 132) (the Ordinance) to declare a market a venue to which the Ordinance applies and, under section 79(3) of the Ordinance, to designate it a public market. DFEH is also empowered under section 79(5) of the Ordinance to amend, add to or delete from the Tenth Schedule of the Ordinance, which lists the designated public markets.

L.N. 205 to L.N. 207

15. The Director of Audit recommended in his Report No. 51 (the Report) that the Food and Environmental Hygiene Department (FEHD) should critically assess the need for the continued operation of Kimberley Street Market (KSM) as a designated public market. The Public Accounts Committee in its Report No. 51 acknowledged that the Director of Food and Environmental Hygiene had agreed to implement the audit recommendations in paragraph 5.12 of the Report, and urged the Director to follow up the audit recommendations without delay. According to the Administration, it was assessed that the local demand for fresh food supply from KSM was low and the cooked food centre on the Ground Floor of KSM was not essential. Based on the above assessment, FEHD consulted the Food and Environmental Hygiene Committee of the Yau Tsim Mong District Council in March 2009, and received unanimous support for complete closure of KSM as soon as possible. Members may wish to refer to the LegCo Brief issued by the Food and Health Bureau in October 2009 for background and further information.

16. L.N. 205 declares the cessation of KSM to be a market to which the Ordinance applies. The Schedule to the Declaration of Markets Notice (Cap. 132 sub. leg. AN) is amended by repealing the entry of KSM. L.N. 206 cancels the designation of KSM as a public market. L.N. 207 amends the Tenth Schedule to the Ordinance by repealing the entry of KSM to reflect the cancellation.

17. Neither the Panel on Health Services nor the Panel on Food Safety and Environmental Hygiene has been consulted.

COMMENCEMENT NOTICES

Electoral Affairs Commission (Electoral Procedure) (Legislative Council) (Amendment) Regulation 2009 (L.N. 130 of 2009)

Electoral Affairs Commission (Electoral Procedure) (Legislative Council) (Amendment) Regulation 2009 (Commencement) Notice (L.N. 208)

Electoral Affairs Commission (Electoral Procedure) (District Councils) (Amendment) Regulation 2009 (L.N. 131 of 2009)

Electoral Affairs Commission (Electoral Procedure) (District Councils) (Amendment) Regulation 2009 (Commencement) Notice (L.N. 209)

Electoral Affairs Commission (Electoral Procedure) (Election Committee) (Amendment) Regulation 2009 (L.N. 132 of 2009)

Electoral Affairs Commission (Electoral Procedure) (Election Committee) (Amendment) Regulation 2009 (Commencement) Notice (L.N. 210)

Electoral Procedure (Chief Executive Election) (Amendment) Regulation 2009 (L.N. 133 of 2009)

Electoral Procedure (Chief Executive Election) (Amendment) Regulation 2009 (Commencement) Notice (L.N. 211)

Electoral Procedure (Village Representative Election) (Amendment) Regulation 2009 (L.N. 134 of 2009)

Electoral Procedure (Village Representative Election) (Amendment) Regulation 2009 (Commencement) Notice (L.N. 212)

Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Constituencies) (Amendment) Regulation 2009 (L.N. 156 of 2009)

Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Constituencies) (Amendment) Regulation 2009 (Commencement) Notice (L.N. 213)

Electoral Affairs Commission (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) (Amendment) Regulation 2009 (L.N. 157 of 2009)

Electoral Affairs Commission (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) (Amendment) Regulation 2009 (Commencement) Notice (L.N. 214)

Electoral Affairs Commission (Registration of Electors) (Village Representative Election) (Amendment) Regulation 2009 (L.N. 158 of 2009)

Electoral Affairs Commission (Registration of Electors) (Village Representative Election) (Amendment) Regulation 2009 (Commencement) Notice (L.N. 215)

18. By L.N. 208 to L.N. 215 made under section 1 of the respective regulations as listed below, the Chairman of the Electoral Affairs Commission has appointed 30 October 2009 as the day on which the following regulations come into operation -

	<u>Commencement Notice</u>	<u>Regulation</u>
1.	L.N. 208	Electoral Affairs Commission (Electoral Procedure) (Legislative Council) (Amendment) Regulation 2009 (L.N. 130 of 2009)
2.	L.N. 209	Electoral Affairs Commission (Electoral Procedure) (District Councils) (Amendment) Regulation 2009 (L.N. 131 of 2009)
3.	L.N. 210	Electoral Affairs Commission (Electoral Procedure) (Election Committee) (Amendment) Regulation 2009 (L.N. 132 of 2009)
4.	L.N. 211	Electoral Procedure (Chief Executive Election) (Amendment) Regulation 2009 (L.N. 133 of 2009)
5.	L.N. 212	Electoral Procedure (Village Representative Election) (Amendment) Regulation 2009 (L.N. 134 of 2009)
6.	L.N. 213	Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Constituencies) (Amendment) Regulation 2009 (L.N. 156 of 2009)
7.	L.N. 214	Electoral Affairs Commission (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) (Amendment) Regulation 2009 (L.N. 157 of 2009)
8.	L.N. 215	Electoral Affairs Commission (Registration of Electors) (Village Representative Election) (Amendment) Regulation 2009 (L.N. 158 of 2009)

19. L.N. 130 to 134 of 2009 (i.e. the regulations listed at Items 1 to 5 above) were made by the Electoral Affairs Commission (EAC) under section 7 of the Electoral Affairs Commission Ordinance (Cap. 541) (EACO) to make provisions for voting at elections of the Chief Executive, members of the Legislative Council, members of District Council, members of the Election Committee and Village Representatives by persons -

- (a) who are serving a sentence of imprisonment;
- (b) detained by the Correctional Services Department on remand; and
- (c) otherwise detained by any law enforcement agency under any lawful authority.

20. L.N. 156 to 158 of 2009 (i.e. the regulations listed at Items 6 to 8 above) were made by EAC under section 7 of EACO to make necessary changes to electoral registration arrangements consequential upon the enactment of the Voting by Imprisoned Persons Ordinance (7 of 2009) on 24 June 2009.

Voting by Imprisoned Persons Ordinance (7 of 2009)

Voting by Imprisoned Persons Ordinance (Commencement) (No. 2) Notice 2009 (L.N. 216)

21. By L.N. 216 made under section 2 of the Voting by Imprisoned Persons Ordinance (7 of 2009) (VIPO), the Secretary for Constitutional and Mainland Affairs has appointed 30 October 2009 as the day on which the uncommenced provisions (sections 3, 4, 8, 9 and 10) of VIPO come into operation. By L.N. 162 of 2009 gazetted on 3 July 2009, sections 1, 2, 5, 6, 7 and 11 of VIPO came into operation on 3 July 2009.

22. The objects of VIPO are to amend the Chief Executive Election Ordinance (Cap. 569), Legislative Council Ordinance (Cap. 542), District Councils Ordinance (Cap. 547) and Village Representative Election Ordinance (Cap. 576) to remove restrictions on -

- (a) registration of persons who have been sentenced to death or imprisonment, persons who are serving a sentence of imprisonment and persons who have been convicted of certain election-related or bribery offences as electors; and
- (b) voting by those persons at elections of the Chief Executive, members of the Legislative Council, members of District Councils, members of the Election Committee and village representatives.

23. Before the passage of Voting by Imprisoned Persons Bill (the Bill) at the Council meeting on 24 June 2009, the Bill had been scrutinized by a Bills Committee. Members may wish to refer to the report of the Bills Committee (LC Paper No. CB(2)1896/08-09) for further information.

24. Apart from the Voting by Imprisoned Persons Ordinance (Commencement) Notice 2009 (L.N. 162 of 2009), the Subcommittee on Subsidiary Legislation Relating to Voting by Imprisoned Persons also studied eight sets of amendment regulations relating to voting by imprisoned persons (L.N. 130 to 134 and L.N. 156 to 158 of 2009). The Administration informed the Subcommittee that by L.N. 162 of 2009, the Secretary for

Constitutional and Mainland Affairs had appointed 3 July 2009 as the day on which sections 1, 2, 5, 6, 7 and 11 of VIPO came into operation. The provisions were related to registration of electors. According to the Administration, it was not necessary to tie in the commencement of these provisions with the amendment regulations on registration of electors (L.N. 156 to 158 of 2009). The remaining provisions of VIPO which were related to electoral procedure would come into force on the same date as the amendment regulations on electoral procedure (L.N. 130 to 134 of 2009). The Subcommittee supported L.N. 162 of 2009 and all the relevant amendment regulations (i.e. L.N. 130 to 134 and L.N. 156 to 158 of 2009). Members may wish to refer to the report of the Subcommittee (LC Paper No. CB(2)2598/08-09) for further information.

Concluding observation

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

Prepared by

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