

**立法會**  
**Legislative Council**

LC Paper No. LS10/09-10

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

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

**Date of tabling in LegCo** : 11 November 2009

**Amendment to be made by** : 9 December 2009 (or 6 January 2010 if extended by resolution)

**The Ombudsman Ordinance (Cap. 397)**

**The Ombudsman Ordinance (Amendment of Schedule 1) Order 2009 (L.N. 217)**

By this Order made by the Chief Executive in Council under section 24 of The Ombudsman Ordinance (Cap. 397) (the Ordinance), Part I of Schedule 1 to the Ordinance is amended in the following manner:-

Repealing	Substituting	Adding
Auxiliary Medical Service (department)	Auxiliary Medical Service (Government department)	-
Civil Aid Service (department)	Civil Aid Service (Government department)	-
-	-	Auxiliary Medical Service (as raised and maintained under section 3 of the Auxiliary Medical Service Ordinance (Cap. 517))
-	-	Civil Aid Service (as raised and maintained under section 3 of the Civil Aid Service Ordinance (Cap. 518))
-	-	Consumer Council
-	-	Estate Agents Authority

2. The amendments make clear that Auxiliary Medical Service and Civil Aid Service to which the Ordinance currently applies are government departments. Four public bodies, including the two Services as bodies set up under the respective eponymous Ordinances, are brought within the jurisdiction of The Ombudsman who will have the power under section 7 of the Ordinance to investigate any action taken by or on behalf those bodies.

3. According to the Administration, the public bodies concerned have been consulted and have agreed to the inclusion. Members may refer to the LegCo Brief issued by the Administration Wing, Chief Secretary for Administration's Office and dated 6 November 2009 for background and further information. The Administration informed the Panel on Administration of Justice and Legal Services at its meeting on 27 April 2009 that after consulting the relevant bureaux and public bodies, it was agreed that the Auxiliary Medical Service, Civil Aid Service, Consumer Council and Estate Agents Authority, as recommended by The Ombudsman, should come under The Ombudsman's jurisdiction. Members raised no query.

4. This Order is to come into operation on a day to be appointed by the Director of Administration by notice published in the Gazette.

**Census and Statistics Ordinance (Cap. 316)**

**Census and Statistics (Annual Survey of Economic Activities) Order (L.N. 218)**

**Census and Statistics (Quarterly Survey of Service Industries) (Amendment) Order 2009 (L.N. 219)**

5. The required data for the annual business operating statistics of business establishments compiled by the Census and Statistics Department (CSD) are collected through six different mandatory surveys and one voluntary survey. Each mandatory survey covering business establishments engaged in a defined scope of economic activities as specified in each of the six survey orders separately made under section 11 of the Census and Statistics Ordinance (Cap. 316). The classification of economic activities that has been adopted in the survey orders followed a standard industrial classification scheme known as the Hong Kong Standard Industrial Classification (HSIC). The mandatory surveys do not cover personal services, such as medical and health, education and elderly services. Presently data of the personal services industry are collected through a voluntary survey.

6. HSIC has been revised in October 2008 (HSIC Version 2.0) to align with the latest international standards released by the United Nations in August 2008. The revision results in major changes in the coverage of economic activities across different sectors. Consequently, the six survey orders are required to be amended to

reflect the revised classification of economic activities. CSD now recommends that an integrated survey covering all economic activities in Hong Kong be conducted instead of the existing seven separate surveys. HSIC Version 2.0 allows the inclusion of personal services activities in a mandatory survey similar to all the other economic activities. To implement the integrated survey, a new order must be made to replace the six existing survey orders and to cover the voluntary survey.

7. L.N. 218 makes provisions for conducting an annual survey by the Commissioner for Census and Statistics in accordance with specified requirements, for the purpose of compiling statistics relating to the economic activities of business undertakings in all economic sectors in Hong Kong. Apart from some slight variations, L.N. 218 contains all the existing provisions in the six survey orders. It also repeals the six existing survey orders, namely, Census and Statistics (Annual Survey of Industrial Production) Order (Cap. 316A), Census and Statistics (Annual Survey of Wholesale, Retail and Import and Export Trades, Restaurants and Hotels) Order (Cap. 316C), Census and Statistics (Annual Survey of Building, Construction and Real Estate Sectors) Order (Cap. 316E), Census and Statistics (Annual Survey of Banks, Deposit-taking Companies, restricted Licence Banks and Representative Offices of Foreign Banks) Order (Cap. 316H), Census and Statistics (Annual Survey of Storage, Communication, Financing, Insurance and Business Services) Order (Cap. 316I) and Census and Statistics (Annual Survey of Transport and Related Services) Order (Cap. 316J).

8. The repeal of Cap. 316H affects the Census and Statistics (Quarterly Survey of Service Industries) Order (Cap. 316M) (the principal Order) which in its section 1 defines “financing” with reference to the meaning of terms defined in Cap. 316H. Hence, the principal Order is amended by L.N. 219 by removing the reference to Cap. 316H in the definition of “financing” and adding the definitions of “bank”, “deposit-taking company”, “foreign bank”, “representative office” and “restricted licence bank”.

9. According to the Administration, CSD has approached the relevant trade associations, and key institutions and business firms engaged in personal services during the period of August-September 2009 to ascertain their views on the introduction of L.N. 218. The majority of the respondents did not object to the proposal. The Statistics Advisory Board also endorsed the proposed introduction of an integrated mandatory survey at its meeting on 24 June 2009. An information note (LC Paper No. CB(1)38/09-10(01)) was provided to the Financial Affairs Panel on 15 October 2009. Members may refer to the LegCo Brief (File Ref: FSB G4/61C(2009) Pt. 2) issued by the Financial Services and the Treasury Bureau and dated 4 November 2009 for background and further information.

10. Both L.N. 218 and L.N. 219 are to come into operation on 7 January 2010.

**Antiquities and Monuments Ordinance (Cap. 53)**  
**Antiquities and Monuments (Declaration of Historical Buildings) Notice 2009**  
**(L.N. 220)**

11. By this Notice made under section 3(1) of the Antiquities and Monuments Ordinance (Cap. 53) (the Ordinance) after consultation with the Antiquities Advisory Board and with the approval of the Chief Executive, the Secretary for Development (the Authority), declares-

- (a) the Residence of Ip Ting-sz\* at Lin Ma Hang Tsuen, Sha Tau Kok, New Territories; and
- (b) the Yan Tun Kong Study Hall\*\* at Hang Tau Tsuen, Ping Shan, Yuen Long, New Territories and the adjoining land,

to be historical buildings for the purposes of the Ordinance. The two buildings are delineated and shown edged red respectively on Plans No. DNM2250 and No. YLM6953a signed and deposited in the Land Registry under section 3(4) of the Ordinance by the Authority.

12. The effect of the Notice is that no person shall excavate or carry on building or other works on or in the monuments, or demolish, remove, obstruct, deface or interfere with the monuments except in accordance with a permit granted by the Authority.

**Employees Retraining Ordinance (Cap. 423)**  
**Employees Retraining Ordinance (Amendment of Schedule 2) (No. 2) Notice**  
**2009 (L.N. 221)**

13. By this Notice made by the Employees Retraining Board under section 31(2) of the Employees Retraining Ordinance (Cap. 423) (the Ordinance), Schedule 2 to the Ordinance is amended by adding, as items 90 to 93, four organizations, i.e. Monita Hair & Beauty Academy; Hospital & Clinic Nurses Association; Division of Continuing and Professional Education, School of Chinese Medicine, Hong Kong Baptist University and Occupational Safety and Health Council.

14. Schedule 2 to the Ordinance specifies the training bodies that may provide or conduct retraining courses for the purposes of the Ordinance.

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\*葉定仕故居

\*\*仁敦岡書室

*Concluding observations*

15. Save and except as above expressly stated in paragraph 3 in relation to L.N. 217 and in paragraph 9 in relation to L.N. 218 and L.N. 219, neither the public nor any LegCo Panel has been consulted on the subsidiary legislation reported. No difficulties in the drafting and legal aspects of the subsidiary legislation have been identified.

Prepared by

KAU Kin-wah  
Assistant Legal Adviser  
Legislative Council Secretariat  
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