

立法會
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**Paper for the House Committee Meeting
on 26 November 2010**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 19 November 2010**

Date of tabling in LegCo : 24 November 2010

Amendment to be made by : 15 December 2010 (or 12 January 2011 if extended by resolution)

Census and Statistics Ordinance (Cap. 316)
Census and Statistics (2011 Population Census) Order (L.N. 152)

The Order is made by the Chief Executive in Council under section 9 of the Census and Statistics Ordinance (Cap. 316) to direct the Commissioner for Census and Statistics to carry out a census of population of Hong Kong from 30 June to 2 August 2011 (the 2011 Census) to obtain particulars in respect of persons, premises, vessels and other matters described in the Order.

2. The purpose of the 2011 Census is to obtain information on the demographic, social and economic characteristics of the population of Hong Kong at the time of the taking of the census. According to paragraph 3 of Annex B of the LegCo Brief, the 2011 Census will provide comprehensive and useful population and household related information to the Government of the Hong Kong Special Administrative Region, the academics and the business community for planning, research and formulating business strategies, which will benefit Hong Kong as a whole.

3. Members may refer to the LegCo Brief (File Ref.: FSB/G6/168C) issued by the Financial Services and the Treasury Bureau on 17 November 2010 for background information.

4. It is noted that the census reference moment was at 3 a.m. on the date of commencement of the 2011 Census, unlike that in previous census orders which was at 3 a.m. on the day before the census period commenced. Upon enquiry, the Administration has clarified that there is no existing policy governing the choice of census reference moment. 3 a.m. on 30 June 2011 is chosen because it falls on the day before the public holiday of 1 July and the middle of the year, which is easy to remember. In practice, the Census & Statistics Department (C&SD) will send letters to all households (which will be over 2 million) in several batches at the end of June 2011 and the earliest batch will be sent out about one week before the census, i.e. around 23 June 2011. Household occupants will be requested to complete the relevant questionnaire (or online version census form) starting from 30 June 2011. For online submission, C&SD will ensure that the system accepts submission after 3:00 am on 30 June 2011.

5. The Administration briefed the Panel on Financial Affairs (FA Panel) on the planned approach of the 2011 Census on 5 January 2009 and on 4 May 2009 regarding the funding proposal for procurement of computer equipment and services for the 2011 Census. Panel members raised concerns to which the Administration responded as follows -

- (a) As regards the reduction of the sampling fraction of the detailed enumeration in the 2011 Census from one-seventh in the 2001 Population Census to one-tenth of the population, the Administration indicated that according to the experience of conducting the 2006 Population By-census, a sampling fraction of one-tenth of the population could provide the required precision for supporting relevant statistical inference and analysis.
- (b) As regards the introduction of electronic means for both the simple enumeration and the detailed enumeration and postal return for the simple enumeration, in addition to conventional face-to-face interviews, the Administration indicated that for the simple enumeration involving a few simple questions on basic demographic characteristics, electronic means was considered appropriate. As for the detailed enumeration which was more complicated, Internet submission rate might not be very high.
- (c) As to whether information on specific groups, such as ethnic minorities and sexual minorities, and the movement of people to and from the Mainland for work, study and retirement etc. could be collected in the 2011 Census, the Administration indicated that

sensitive topics should better be collected through surveys on special topics instead of during population censuses, as collection of such information would require skilful enumerators with full training. Further, data relating to movement of people to and from the Mainland for work, study and retirement would be collected through the population census if the individuals concerned or their family members had a regular residence in Hong Kong and they were present to provide the information during household visits. However, people who normally resided outside Hong Kong would be categorized as non-Hong Kong residents for statistical purpose.

6. Members may wish to refer to an information paper (LC Paper No. CB(1)487/08-09(04)) issued by C&SD to the FA Panel in December 2008 for further information.

Hong Kong Airport (Control of Obstructions) Ordinance (Cap. 301)
Hong Kong Airport (Control of Obstructions) (Exemption) (Amendment)
Order 2010 (L.N. 153)

7. Under section 3(1AA) of the Hong Kong Airport (Control of Obstructions) Ordinance (Cap. 301) (the Ordinance), the Secretary for Development (the Secretary) may, on the advice of the Director-General of Civil Aviation (the Director-General), by order prescribe the areas within which no building shall exceed the height specified in the order. Section 3(3A) of the Ordinance provides that the Secretary may, on the advice of the Director-General, by order grant an exemption from the operation of an order made pursuant to section 3(1AA) subject to such terms and conditions required for or related to the safety of aircraft as he may impose. The Hong Kong Airport (Control of Obstructions) (Exemption) Order (Cap. 301 sub. leg. E) (the Exemption Order) exempts certain portions of land from that restriction.

8. The Hong Kong Airport (Control of Obstructions) (Exemption) (Amendment) Order 2010 (the Amendment Order) is made by the Secretary under section 3(3A) of the Ordinance on the advice of the Director-General to amend the Exemption Order to exempt certain portions of land at Lamma Island, Kowloon Peak and Castle Peak from that restriction and specify the new height restriction for buildings which may be erected on those portions of land, namely 269mPD, 654mPD and 628mPD respectively. The Amendment Order also makes two minor amendments to the Chinese text in the Schedule of the Exemption Order to achieve consistency in wordings.

9. According to the LegCo Brief, the exemptions are made to facilitate the construction of new structures to expand digital terrestrial television coverage at Lamma Island by Asia Television Limited and at Kowloon Peak and Castle Peak by Television Broadcasts Limited.

10. Members may refer to the LegCo Brief (with no file reference) on the Amendment Order issued by the Development Bureau in November 2010 for background information.

11. The Amendment Order has not been discussed by the Panel on Development.

12. The Amendment Order will come into operation on 15 January 2011.

Certification for Employee Benefits (Chinese Medicine) (Miscellaneous Amendments) Ordinance 2006 (16 of 2006)

Certification for Employee Benefits (Chinese Medicine) (Miscellaneous Amendments) Ordinance 2006 (Commencement) Notice 2010 (L.N. 154)

13. By L.N. 154 made under section 1(2) of the Certification for Employee Benefits (Chinese Medicine) (Miscellaneous Amendments) Ordinance 2006 (16 of 2006) (the Amendment Ordinance), the Secretary for Labour and Welfare has appointed 14 January 2011 as the day on which the following provisions of the Ordinance come into operation -

- (a) section 15 (in so far as it relates to the adding of section 10AB(5) and (10)(e) to the Employees' Compensation Ordinance (Cap. 282) (ECO)); and
- (b) section 25 (in so far as it relates to the adding of section 12AA(4) and (9)(e) to the Pneumoconiosis and Mesothelioma (Compensation) Ordinance (Cap. 360) (PMCO)).

14. These provisions relate to an employer's liability under ECO to pay, and a person's entitlement under PMCO to, cost of medicine relating to any proprietary Chinese medicines (pCm). As the remaining not-yet-in-operation provisions are related to the registration of pCm, they cannot be commenced yet because the provisions relating to the registration of pCm under the Chinese Medicine Ordinance (Cap. 549) (CMO) and the Chinese Medicines Regulation (Cap. 549 sub. leg. F) (CMR) have not been in full operation. Recently, the

Secretary for Food and Health has, by L.N. 121 and 123 of 2010, made Commencement Notices to commence the provisions relating to the registration of pCm on 3 December 2010. The Commencement Notices were gazetted on 8 October 2010 and the scrutiny period expired on 10 November 2010. No resolution has been passed by the Legislative Council to amend the Commencement Notices or to extend the scrutiny period.

15. By L.N. 203 of 2006 and L.N. 140 of 2008, other provisions of the Amendment Ordinance have already come into operation on 1 December 2006 and 1 September 2008 respectively. Upon the commencement of the remaining provisions, the Amendment Ordinance will have come into full operation. Members may refer to the LegCo Brief (File Ref.: LD ECS 2/50/9) issued by the Labour and Welfare Bureau in November 2010 for background information.

16. The Amendment Ordinance amends the Employment Ordinance (Cap. 57), ECO and PMCO to, among other things, provide for the recognition of certification in various forms given by, and medical examination and treatment conducted or given by, a registered Chinese medicine practitioner for the purposes of entitlement to certain employee benefits under those Ordinances.

17. The Panel on Manpower has not been consulted on the Notice.

Concluding observation

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

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