

**立法會**  
**Legislative Council**

LC Paper No. LS26/11-12

**Paper for the House Committee Meeting  
on 10 February 2012**

**Legal Service Division Report on  
Subsidiary Legislation Gazetted on 3 February 2012**

**Date of tabling in LegCo** : 8 February 2012

**Amendment to be made by** : 29 February 2012 (or 28 March 2012 if extended by resolution)

**PART I SUBSIDIARY LEGISLATION RELATING TO THE  
2012-2013 BUDGET SPEECH**

**Rating Ordinance (Cap. 116)**

**Rating (Exemption) Order 2012 (L.N. 14)**

L.N. 14 was made by the Chief Executive in Council under section 36(2) of the Rating Ordinance (Cap. 116) to give effect to the rates concession proposed in paragraph 59(1) of the 2012-2013 Budget Speech.

2. L.N. 14 declares that all tenements are exempted from the payment of rates in respect of all quarters in the period from 1 April 2012 to 31 March 2013 wholly, if the amount of rates payable for the quarter is \$2,500 or less, or up to \$2,500 if the amount is more than \$2,500. The amount of \$2,500 is reduced on a pro rata basis if rates are payable for only part of the period.

3. L.N. 14 will come into operation on 1 April 2012.

**Public Finance Ordinance (Cap. 2)  
Revenue (Reduction of Business Registration Fees) Order 2012 (L.N. 15)**

4. L.N. 15 was made by the Chief Executive under section 39A(a) of the Public Finance Ordinance (Cap. 2) after consultation with the Executive Council to give effect to the proposal to waive the business registration fees as set out in paragraph 41(1) of the 2012-13 Budget Speech<sup>1</sup>.

5. L.N. 15 reduces the fees payable under the Business Registration Ordinance (Cap. 310) in respect of business registration certificates and branch registration certificates that commence on or after 1 April 2012 but before 1 April 2013. In relation to a one-year business registration certificate, the fee is reduced by a sum of \$2,000 to nil and a one-year branch registration fee is reduced by a sum of \$73 to nil. In relation to a three-year business registration certificate, (i.e. where an election is made under section 6(5C) of Cap. 310 for the expiry date to be endorsed on the applicable business registration certificates to be the date of expiration of 3 years from the date of commencement endorsed thereon), the fee is reduced by a sum of \$2,000 to \$3,200 and a three-year branch registration fee is reduced by a sum of \$73 to \$116.

6. In the case where a company is deemed to have made a business registration application under section 5A(2)(a) of Cap. 310 on the incorporation of the company, the reduction applies to the business registration fee payable under section 5A(1)(a) of Cap. 310 if the related incorporation application<sup>2</sup> is made on or after 1 April 2012 but before 1 April 2013.

7. L.N. 15 will come into operation on 1 April 2012.

8. No LegCo Briefs have been issued in respect of L.N. 14 and L.N. 15 and the Panel on Financial Affairs has not been consulted on the relevant proposals.

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<sup>1</sup> Section 39A(a) of the Public Finance Ordinance provides, among other things, that any fee made payable by or under any Ordinance to the Government, not being a fee which is regulated by rules of court, may be reduced or varied by order of the Chief Executive provided that no variation thereof shall cause such fee to exceed the original figure.

<sup>2</sup> Under section 2(1) of Cap. 310, "incorporation application", means an application to form an incorporated company under section 14A of the Companies Ordinance (Cap. 32).

## **PART II REVISION OF FEES AND CHARGES**

### **Import and Export Ordinance (Cap. 60)**

#### **Import and Export (Fees) (Amendment) Regulation 2012 (L.N. 16)**

### **Chemical Weapons (Convention) Ordinance (Cap. 578)**

#### **Chemical Weapons (Convention) Ordinance (Amendment of Schedule 4) Order 2012 (L.N. 17)**

#### L.N. 16

9. Under section 31(1)(x) of the Import and Export Ordinance (Cap. 60), the Chief Executive in Council may make regulations for prescribing fees to be collected by the Commissioner or Director-General of Trade and Industry in respect of any matter arising under Cap. 60. Section 29A of the Interpretation and General Clauses Ordinance (Cap. 1) provides that the Financial Secretary (which by virtue of section 3 of Cap. 1 means the Secretary for Financial Services and the Treasury as well) may vary fees which have been set by subsidiary legislation made by the Chief Executive in Council.

10. L.N. 16 was made by the Secretary for Financial Services and the Treasury to amend the Import and Export (Fees) Regulations (Cap. 60 sub. leg. B) (Cap. 60B) as follows -

- (a) to increase the fee for the issue of a delivery verification certificate for the certification of delivery of strategic commodities into Hong Kong by 10% from \$235 to \$260 (item 10A of the Schedule to Cap. 60B); and
- (b) to increase the fee for the issue of an international import certificate by 10% from \$79 to \$87 (item 10C of the Schedule to Cap. 60B).

11. The above fees were last revised in March 2008.

#### L.N. 17

12. Schedule 4 to the Chemical Weapons (Convention) Ordinance (Cap. 578) provides for the fee for the application for a permit to operate a facility (the permit) under Cap. 578. Under section 40(2) of Cap. 578, the

Financial Secretary (which by virtue of section 3 of Cap. 1 means the Secretary for Financial Services and the Treasury as well) may by order amend Schedule 4 to Cap. 578.

13. L.N. 17 was made by the Secretary for Financial Services and the Treasury to reduce the application fee for the permit by 59% from \$570 to \$235. The application fee was last revised in March 2008.

14. Members may refer to the LegCo Brief (Ref: CITB CR 13/39/3(14)) issued by the Commerce and Economic Development Bureau in February 2012 for background information. According to the Administration, these fees are revised with the aim to recovering the full costs of providing the relevant services (para. 4-6 of the LegCo Brief).

15. At the meeting of the Panel on Commerce and Industry on 17 January 2012, the Administration briefed members on the proposal to adjust fees and charges in respect of the certification and licensing services related to strategic commodities under the purview of the Trade and Industry Department, and the necessary amendments to implement the proposed fee adjustments. The Panel supported in principle the relevant proposals.

16. L.N. 16 and L.N. 17 will come into operation on 30 March 2012.

### **PART III COMMENCEMENT NOTICE**

#### **Communications Authority Ordinance (Cap. 616)**

#### **Communications Authority Ordinance (Commencement) Notice (L.N. 18)**

17. By L.N. 18, the Secretary for Commerce and Economic Development appoints 1 April 2012 as the day on which the Communications Authority Ordinance (Cap. 616) comes into operation.

18. The Communications Authority Bill (enacted as the Communications Authority Ordinance (Cap. 616)) was passed by the Legislative Council on 30 June 2011 and the enacted Ordinance was published in the Gazette on 8 July 2011. Cap. 616 provides for, inter alia, the establishment of the Communications Authority and the transfer of the functions of the Broadcasting Authority and the Telecommunications Authority to the Communications Authority.

19. The Panel on Information Technology and Broadcasting has not been consulted on the commencement date of Cap. 616. Upon the enquiries made by the Legal Service Division, the Administration advised that it has on a number of occasions made known its intention to bring Cap. 616 into operation nine months after its enactment (for example, in the replies to questions in relation to the examination of estimates of 2011-2012 expenditure, it was mentioned that the Administration expected that the Communications Authority would be established in about nine months after the enactment of the Communications Authority Bill (CEDB(CT)010, 020 and 025)).

Concluding remark

20. No difficulties in the legal and drafting aspects of the above subsidiary legislation have been identified.

Prepared by

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