

立法會
Legislative Council

LC Paper No. LS 148/98-99

**Paper for the House Committee Meeting
of the Legislative Council
on 16 April 1999**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 26 March 1999**

Date of Tabling in LegCo : 31 March 1999

Amendment to be made by : 28 April 1999 (or 5 May 1999 if extended by resolution)

Public Bus Services Ordinance (Cap. 230)
Schedule of Routes (Citybus Limited) Order 1999 (L.N. 78)
Schedule of Routes (North Lantau and Chek Lap Kok Airport) (Citybus Limited) Order 1999 (L.N. 79)
Schedule of Routes (Kowloon Motor Bus Company) Order 1999 (L.N. 80)
Schedule of Routes (Long Win Bus Company Limited) Order 1999 (L.N. 81)
Schedule of Routes (New Lantau Bus Company) Order 1999 (L.N. 82)
Schedule of Routes (New World First Bus Services Limited) Order 1999 (L.N. 83)

Under section 5(1) of the Public Bus Services Ordinance (Cap. 230) (“the Ordinance”), the Chief Executive in Council may grant any registered company the right to operate a public bus service on such routes as he specifies by order. The existing Schedule of Routes Orders for New Lantau Bus Company (1973) Limited (NLB), Citybus Limited (Citybus), Long Win Bus Company Limited (Long Win) (formerly known as Long Win Holdings Limited), Kowloon Motor Bus Company (1933) Limited (KMB) and New World First Bus Services Limited (New World) were approved in January 1997, October 1996 and March 1997, October 1996, July 1997 and March 1998 respectively. Since then, a number of temporary route alterations have been made to meet changing circumstances. Section 15(1) of the Ordinance provides that the Commissioner for Transport may, after consultation with the franchised bus companies, require them to introduce such temporary changes. These changes may take effect for a period up to 24 months. The changes could survive the 24 months period only if they are incorporated in the Schedule of Routes Orders.

The 6 Orders (L.N.s 78- 83) replace their respective previous Orders to update the schedules of bus routes operated by the franchised bus companies.

Members may refer to LegCo Brief File Reference: TRAN 2/04/115(99)Pt 1

of 23 March 1999 from Transport Branch for background information.

The 6 Orders will come into operation on 8 May 1999.

Film Censorship Ordinance (Cap. 392)
Film Censorship (Amendment) Regulation 1999 (L.N. 84)

The Amendment Regulation amends the principal Regulations to reflect the main changes contained in the Film Censorship (Amendment) Ordinance (9 of 1999) (“the Amendment Ordinance”).

Sections 2 to 5 and 8 of the Amendment Regulation amend the principal Regulations by replacing references to various Forms specified in Schedule 1 with the power of the Film Censorship Authority (“the Authority”) to determine and set forms that are required for the purposes of the Film Censorship Ordinance (Cap. 392) (“the Ordinance”).

Section 6 of the Amendment Regulation amends the principal Regulations by enabling requests from members of the public for a review of the decision of the Authority or a censor to be made to the Board of Review through the Secretary for Information Technology and Broadcasting instead of the Chief Secretary for Administration.

Sections 7 and 9 of the Amendment Regulation prescribe the statutory time for the Authority to issue a certificate or make an approval under section 9(3), 15B(4)(b) or 15K(5) of the Ordinance, as the case may be, and the censor to make a decision under section 10(5) of the Ordinance.

Members may refer to LegCo Brief File Reference: ITBB(CR) 8/6/1 (99) Pt. 4 of 24 March 1999 from Information Technology and Broadcasting Bureau for background information. Members may also note that the draft Amendment Regulation, which is identical to the Amendment Regulation, was seen by the Bills Committee on the Film Censorship Amendment Bill 1998 and members of the Bills Committee had raised no question on it.

The Amendment Regulation will come into operation on the day appointed for the coming into operation of the Amendment Ordinance, which according to the LegCo Brief will be 17 June 1999.

Merchant Shipping (Safety) Ordinance (Cap. 369)
Merchant Shipping (Safety) (Carriage of Cargoes) (Amendment) Regulation 1999 (L.N. 85)

This Regulation makes amendments to the Merchant Shipping (Safety) (Carriage of Cargoes) Regulation (Cap. 369 sub. leg.) to give effect to recent changes to Chapter VI of the International Convention for the Safety of Life at Sea. The amendments impose requirements to improve safety during the loading and unloading of bulk cargoes and additional requirements relating to the securing of cargo on ships engaged in the carrying of cargo.

New section 8A of the Merchant Shipping (Safety) (Carriage of Cargoes)

Regulation (section 5 of the Regulation) requires, in respect of bulk cargoes, the terminal owner to appoint a terminal representative for the operations of loading and unloading from a ship. The provision further requires the owner to appoint another person to replace the outgoing terminal representative (new section 8A(2)). Failing which, the owner commits an offence. The requirement to appoint a replacement terminal representative has to be complied with immediately upon the existence of a vacancy, which seems to be unfair and impracticable. However, in responding to the Legal Service Division's enquiry the Administration stated that the matter had been discussed between the Director of Marine and all the four bulk cargo terminals. The terminal operators confirmed that they would have no practical difficulties in complying with new section 8A(2). A terminal representative could be appointed immediately when there is any vacancy.

Members may refer to LegCo Brief File Reference: ESB 7627/45(98) XV of February 1999 from Economics Services Bureau for background information.

Securities Ordinance (Cap. 333)
Securities (Dealers, Investment Advisers, Partnerships and Representatives)
(Amendment) Rules 1999 (L.N. 86)

These Amendment Rules amend rule 15 of the Principal Rules so that the provision does not apply to securities borrowing of Hong Kong stock by a recognised clearing house.

Rule 15 of the Principal Rules provides that a dealer shall not be a party to a securities borrowing unless he first enters into a written agreement, with the other party to the securities borrowing, which:

- (a) requires the borrower to deposit with the lender collateral for the borrowed securities exceeding the market value of those securities;
- (b) requires daily valuation by both parties of the borrowed securities and collateral deposited;
- (c) specifies the circumstances in which each party is entitled to terminate the securities borrowing; and
- (d) specifies the rights and liabilities of a party in the event of a default by either party.

In consequence of the strict enforcement of compulsory buy-in for outstanding positions which fails to settle by T+2, the Hong Kong Securities Clearing Company Limited (“Hongkong Clearing”) which operates the Central Clearing and Settlement System (“CCASS”) proposes to launch a compulsory securities borrowing mechanism (“CSB”). Under this mechanism, Hongkong Clearing will borrow, as a principal, securities to deliver to buyers in cases where sellers default on their delivery obligations on T+2. Without this CSB mechanism buyers would have to wait until T+3 to T+5 for delivery of the securities following a default. However, it is intended that Hongkong Clearing, as the borrower in CSB transactions, will not deposit collateral with lenders of securities because of the risk that lenders may not be able to return collateral to Hongkong Clearing upon the closing of CSB transactions. It is also intended that Hongkong Clearing and the broker lending the securities will not be required to enter into a written agreement as their relationship will be governed by existing rules and procedures.

Members may refer to LegCo Brief (without File Reference on it) of 22 March 1999 from Securities and Futures Commission for background information.

The Amendment Rules will come into operation on 23 April 1999.

Nurses Registration (Amendment) Ordinance 1997

Nurses Registration (Amendment) Ordinance 1997 (82 of 1997) (Commencement) Notice 1999 (L.N. 87)

This Notice specifies 3 May 1999 as the day on which sections 2 to 4, 9, 13 and 20 to 23 of the Nurses Registration (Amendment) Ordinance 1997 (82 of 1997) (“the Amendment Ordinance”) will come into operation. Those provisions provide for the composition of the Nursing Council of Hong Kong (“the Council”), and the regulation making powers of the Secretary for Health and Welfare and the Council. The other provisions of the Amendment Ordinance have not yet come into operation.

Animals and Plants (Protection of Endangered Species) Ordinance (Amendment of Schedules) Notice 1999

Animals and Plants (Protection of Endangered Species) Ordinance (Amendment of

Schedules) Notice 1999 (L.N. 38 of 1999) (Commencement) Notice 1999 (L.N. 88)

This Notice specifies 26 March 1999 as the day on which the Animals and Plants (Protection of Endangered Species) Ordinance (Amendment of Schedules) Notice 1999 (L.N. 38 of 1999) (“the Amendment of Schedules Notice”) will come into operation. The Amendment of Schedules Notice amends the Schedules to the Animals and Plants (Protection of Endangered Species) Ordinance (Cap. 187) to give effect to the changes made in June 1997 to the listings of endangered species in the Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

**Rules of the High Court (Amendment) Rules 1999
Rules of the High Court (Amendment) Rules 1999 (L.N. 39 of 1999) (Commencement)
Notice 1999 (L.N. 89)**

This Notice specifies 30 March 1999 as the day on which rule 2 (which relates to the service of writs in the Mainland of China) and rule 4 (which relates to the service in Hong Kong of judicial documents from the Mainland of China) of the Rules of the High Court (Amendment) Rules 1999 (L.N. 39 of 1999) (“the Amendment Rules”) will come into operation. The other provisions of the Amendment Rules have already come into operation.

Encl

Prepared by

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Assistant Legal Adviser
Legislative Council Secretariat
13 April 1999

LS/S/37/98-99
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Mr B Y Lee
Assistant Secretary (ES) 7
Economic Services Bureau
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Central
Hong Kong

9 April 1999

BY FAX

Fax No. : 2523 0030

Total Page(s) : 1

Dear Mr Lee,

Merchant Shipping (Safety) (Carriage of Cargoes) (Amendment) Regulation 1999 (L.N. 85 of 1999)

We spoke in relation to the operation of new section 8A(2) of the Regulation. The problem, as far as I can see, is that the provision requires the owner of a terminal, etc. to reappoint another person to replace an outgoing terminal representative. But it does not state specifically as to how soon the vacancy is to be filled. Is it immediately after or reasonably after the termination? It is appreciated that if you could confirm in writing as to whether the owner of a terminal, etc. will face any legal or practical difficulties in complying with new section 8A(2).

In facilitating us to report on this item to the LegCo House Committee meeting to be held on 16 April 1999, it is appreciated that your reply, in both languages, could reach us by 12 April 1999.

Yours sincerely,

(Stephen Lam)
Assistant Legal Adviser

政府總部經濟局的信頭
Letterhead of ECONOMIC SERVICES BUREAU
GOVERNMENT SECRETARIAT
香港下亞厘華道中區政府合署
Central Government Offices Lower Albert Road Hong Kong

Our Ref: ECON 7627/45(98)Pt.15

Our Tel: 2537 2844

Your Ref:

12 April 1999

Legislative Council Secretariat
Legal Service Division
Legislative Council Building
8 Jackson Road, Central
Hong Kong
Attn.: **Mr Stephen LAM**
(*Fax No.: 2877 5029*)

Dear Mr Lam,

Merchant Shipping (Safety) (Carriage of Cargoes)
(Amendment) Regulation 1999 (L.N. 85 of 1999)

I refer to your letter of 9 April 1999 regarding the arrangements for appointing terminal representatives under the captioned legislation.

The matter had been discussed between D of M and all the four bulk cargo terminals. The terminal operators confirmed that they would have no practical difficulties in compiling with the proposed section 8A(2). A terminal representative could be appointed immediately when there is any vacancy.

Yours sincerely,

(Summy W S CHU)
for Secretary for Economic Services

c.c

D of M (Attn.: Mr. B B Rao) - 2542 4841
D of J (Attn.: Mrs N Dissanayake) - 2869 1302
D of J (Attn.: Ms Stella Chan) - 2869 1302