

立法會
Legislative Council

LC Paper No. LS 105/98-99

**Paper for the House Committee Meeting
of the Legislative Council
on 29 January 1999**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 22 January 1999**

Date of Tabling in LegCo : 27 January 1999

Amendment to be made by : 10 February 1999 (or 3 March 1999 if extended by resolution)

**Fisheries Protection Ordinance (Cap. 171)
Fisheries Protection (Amendment) Regulation 1999 (L.N. 15)**

This Amendment Regulation, made pursuant to the powers conferred under the Fisheries Protection (Amendment) Ordinance (36 of 1998), provides for :

- (a) the prohibition of use of the class or description of apparatus specified by the Director of Agriculture and Fisheries by notice in the Gazette for the purpose of fishing; and
- (b) the increase of fines from \$10,000 to \$200,000 for use or possession of explosives or toxic substance or for use of the apparatus mentioned in (a) for the purpose of fishing.

The Amendment Regulation shall come into operation on 27 February 1999. Members may refer to LegCo Brief File Ref. ESB 2755/45 Pt.3 issued by the Economic Services Bureau on 21 January 1999 for background information.

**Prevention of Bribery Ordinance (Cap. 201)
Prevention of Bribery Ordinance (Amendment of Schedule) Order 1999 (L.N. 16)**

This Order amends the Schedule to the Prevention of Bribery Ordinance (Cap. 201) to specify Exchange Fund Investment Limited as a public body under the Ordinance. The legal effect of the Order is to apply certain provisions of the Ordinance to govern the company, its employees and members.

Members may refer to LegCo Brief File Ref. G6/157C II issued by the Financial Services Bureau on 22 January 1999 for background information.

**Electricity Ordinance (Cap. 406)
Electricity Ordinance (Cap. 406) (Commencement) Notice 1999 (L.N. 19)**

Electrical Products (Safety) Regulation (Cap. 406 sub. leg)
Electrical Products (Safety) Regulation (Cap. 406 sub. leg.) (Commencement) Notice
1999 (L.N. 20)

These two notices respectively appoint 25 February 1999 as the day on which (i) section 29(1)(b) of the Electricity Ordinance (Cap. 406) and (ii) sections 7 and 8 of the Electrical Products (Safety) Regulation (Cap. 406 sub. leg.) shall come into operation.

Section 29(1)(b) of the Ordinance provides that no person shall supply an electrical product for which no certificate of safety compliance has been issued as required by regulations respecting electrical product safety. Section 7 of the Regulation prohibits the supply in Hong Kong of electrical products designed for household use unless a certificate of safety compliance has been issued. Section 8 of the Regulation lists out the various forms that the certificate may take. Failure to comply with these requirements is an offence punishable by a fine of \$10,000.

Members may refer to LegCo Brief File Ref. ECON 5/3231/85 issued by the Economic Services Bureau on 21 January 1999. Paragraph 11 of the LegCo Brief mentions that the progress of consultation with the trade has been reported to the LegCo Panel on Economic Services. The report summarises the transitional arrangements in relation to parallel imports, second-hand electrical products and locally fabricated personal computers to be adopted for a period of one year following commencement of the relevant sections. The report has been circulated to the LegCo Panel Members on 31 December 1998 and is attached at the Annex. At the Panel meeting on 25 January 1999, Members have decided not to follow up the matter.

Encl

Prepared by

Wong Sze-man, Bernice
Assistant Legal Adviser
Legislative Council Secretariat
25 January 1999

LS/S/27/98-99

Legislative Council Panel on Economic Services

**IMPLEMENTATION OF THE
ELECTRICAL PRODUCTS (SAFETY) REGULATION**

INTRODUCTION

This paper summarises progress on the implementation of the Electrical Products (Safety) Regulation (“the Regulation”), reports to Members on action taken to address recent concerns expressed by the trade and sets out the timetable for implementation of those parts of the Regulation relating to certificates of safety compliance.

BACKGROUND

2. The Electrical Products (Safety) Regulation (“EPSR”) was gazetted on 2 May 1997. The Regulation is being implemented in three phases, as follows:

- (a) provisions relating to the registration of Recognized Certification Bodies and Recognized Manufacturers were brought into operation on 24 October 1997;
- (b) the main provisions, including the prescribed safety requirements for electrical products, were brought into operation on 29 May 1998 after expiry of a 12-month grace period; and
- (c) the remaining provisions, relating to certificates of safety compliance requirements will be brought into operation in early 1999.

3. Since 24 October 1997, 49 Recognized Certification Bodies and 4 Recognized Manufacturers from 24 countries have been registered while several more applications are being processed.

4. Since 29 May 1998, more than 1500 inspections of electrical product supply outlets have been conducted and over 130 written warnings have been issued to shops found supplying non-compliant products. A number of potential prosecution cases are in hand. Sample testing of household electrical products is being arranged in order to identify unsafe products available in the market. In addition, more than 150 accident and complaint cases alleged to involve electrical products were investigated.

CONSULTATION WITH THE TRADE

5. Regular co-ordination meetings have been held since May 1998 between EMSD and the relevant trade associations, including the Hong Kong & Kowloon Electrical Appliances Merchants Association, the Hong Kong Retail Management Association, the Radio Association of Hong Kong and the Hong Kong & Kowloon Electric Trade Association, to discuss any problems encountered in implementing the EPSR, and to find solutions that are consistent with the overall objective of ensuring product safety. The concerns of the trade have been addressed and generally resolved through this dialogue and the progress made was reported to the Panel in September 1998 (ref. CB(1) 260/98-99).

6. In mid November 1998, the importers of electrical products which are parallel imports expressed their difficulties in obtaining certificates of safety compliance from the manufacturers because their products were not imported through the authorized agents. Several meetings have since been held with the Hong Kong Electrical Appliance I/E Association, which was newly formed to represent these parallel importers, to address their concerns with regard to parallel-imported products, second-hand products and locally fabricated personal computers.

7. The Administration's response to these concerns is set out in the following paragraphs. The Administration will exercise flexibility in implementing enforcement of certain requirements under the EPSR for a "transitional period" of one year after the certificate of safety compliance requirements are put into operation. The transitional arrangements will then be reviewed in the light of experience.

TRANSITIONAL ARRANGEMENTS: PARALLEL IMPORTS

8. The main concern of the parallel importers is that they are unable to obtain the certificates of safety compliance for their products which are imported through channels other than the authorized agents of the manufacturers. Most of these parallel-imported electrical products are 110V audio and video products which, though they may already have been tested and certified to certain overseas safety standards, are not suitable for direct connection to the electrical supply system in Hong Kong and must, under the Regulation, carry a red warning label in Chinese and English to the effect that "*This product should not be connected to the electrical supply system in Hong Kong, otherwise personal injury or damage to property may result.*".

9. The Administration considers that it is acceptable, in respect only of electrical products which are parallel imports and not designed to operate at the

local supply voltage (e.g. 110V products), for the local importer to issue his own Declaration of Conformity to local wholesalers and retailers if -

- (a) he is satisfied that adequate testing of the product to overseas safety standards has been conducted; and
- (b) the relevant certificates of such testing are traceable, together with suitable supporting documentation from the overseas exporters, national certification bodies or overseas authorities to substantiate his declaration.

10. For parallel-imported electrical products which are suitable for operating at Hong Kong's supply voltage of 220V, the importer or agent must support his declaration with proper certificates of safety compliance to show that the products comply with our safety requirements and are compatible with our electrical supply system.

TRANSITIONAL ARRANGEMENTS: SECOND-HAND ELECTRICAL PRODUCTS

11. The trade expressed concern that the suppliers of second-hand electrical products are unable to trace the original certificates of safety compliance for these products.

12. The Administration understands the trade's potential difficulties in respect of second-hand electrical products and in January 1999 will issue guidelines for the trade to follow in achieving compliance with the EPSR in respect of such products. In this connection, the Administration will expect suppliers of second-hand electrical products -

- (a) to keep documentary proof that any such product that they supply is indeed second-hand; and
- (b) to arrange for a qualified person to carry out testing of any such product before it is supplied and certify the safety level of the product and to be able to produce such certification for inspection.

TRANSITIONAL ARRANGEMENTS: LOCALLY FABRICATED PERSONAL COMPUTERS

13. The trade expressed concern about the difficulty of providing certificates of safety compliance for locally fabricated personal computers in which

the combination of component parts may vary with each individual computer supplied.

14. After consultation with the recognized certification bodies, the suppliers concerned have been advised that -

- (a) they may arrange a type test of their computers by an accredited testing laboratory to cover a series of computer models of the same make but with a variety of different component combinations; and
- (b) they should ensure that the associated components of their computer equipment are up to the relevant safety standards and their components are safely assembled and connected.

WAY FORWARD

15. The Electrical Products (Safety) Regulation was enacted with the objective of protecting the public from the hazards posed by sub-standard household electrical products. The Administration considers that the transitional arrangements as stated above have addressed most of the trade's remaining concerns without compromising safety. The Administration has been as reasonable and flexible as possible in drawing up these arrangements and considers that there is no need for any further grace periods. As noted, the transitional arrangements will be reviewed in the light of experience one year after the certificate of safety compliance requirements are put into operation. Regular consultation meetings between EMSD and the trade associations will continue, while the suppliers of electrical products will be reminded to take all reasonable steps and exercise all due diligence to ensure compliance with the Regulation.

16. The Administration plans to gazette the remaining provisions of the EPSR, relating to the certificate of safety compliance requirements, in the latter half of January 1999, with a view to bringing the provisions into effect in February 1999.

Economic Services Bureau
December 1998