

立法會
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**Paper for the House Committee on
17 July 1998**

**Report of the Subcommittee on
Subsidiary Legislation between 13 March to 6 July 1998**

Purpose

This paper reports on the deliberations of the Subcommittee on Subsidiary Legislation gazetted between 13 March and 6 July 1998.

The Subcommittee

2. At the House Committee meeting on 6 July 1998, members decided to form a subcommittee to examine the 63 items of subsidiary legislation gazetted between 13 March to 26 June 1998.
3. To allow sufficient time for scrutiny of the subsidiary legislation gazetted during the period from 13 March to 3 April 1998, motions were passed on 8 July 1998 to extend the period for amending these subsidiary legislation to the LegCo meeting on 15 July 1998.
4. Members decided at the House Committee meeting on 10 July 1998 that the Subcommittee should also be responsible for studying the Fugitive Offenders (New Zealand) Order (L.N. 263) which was gazetted on 6 July and tabled in LegCo on 8 July 1998.
5. Under the Chairmanship of Hon Ronald ARCULLI, the Subcommittee held two meetings with the Administration. The membership list of the Subcommittee is in **Appendix**.

Deliberations of the Subcommittee

6. The main deliberations of the Subcommittee is summarized below.

Subsidiary legislation gazetted between 13 March and 3 April 1998

7. Members have no objection to the 12 items of subsidiary legislation gazetted between 13 March to 3 April 1998.

Subsidiary legislation gazetted between 9 April and 6 July 1998

Housing (Amendment) (No. 2) Ordinance 1998 (24 of 1998) (Commencement) Notice 1998 (L.N. 212)

8. Under the Housing Ordinance, persons found guilty of knowingly making false statements are liable to a fine of \$50,000 and imprisonment for six months. Housing (Amendment) (No. 2) Ordinance 1998 provides for, inter alia, a further fine of treble the amount of rent undercharged for supplying false particulars. Some members are opposed to this provision on the grounds that there is no evidence to suggest that the number of cases of giving false statements are on the rise and that the formula used to calculate the further fine is unacceptable. They consider that the imprisonment terms imposed already has sufficient deterrent effect. It would be more reasonable to increase the fine rather than to adopt the formula of trebling the amount of rent undercharged.

9. The Administration has responded that the additional fine up to three times the amount of rent uncharged aims to strengthen the deterrent effect against making false declarations on income and assets. The fine has to be commensurate with the rent undercharged and to reflect the offence committed. The Administration considers the penalty as fair and reasonable. The Administration has stressed that the failure of implementing such a penalty might convey a wrong message that making false declaration is not a serious offence and invite further abuse of public housing resources.

10. Hon LEE Wing-tat has indicated that he would move a motion to repeal the commencement of the provisions concerning the further fine for making false statements.

Airport Authority Bylaw (L.N. 10 to 1998) (Commencement) (No. 2) Notice 1998 (L.N. 241)

11. Under section 11 of the Bylaw, only bona fide air passengers or persons wearing valid permits or identification documents issued or accepted by the Airport Authority (AA) are allowed entry to the Restricted Area.

12. On the issue of permits, the Administration has advised that the Director of Civil Aviation and the Secretary for Security are also empowered under the Aviation Security Ordinance to issue Restricted Area permits which are accepted by AA. Regarding members' concern that such permits may be subject to such terms and conditions as AA may from time to time determine, the Administration has further advised that this is necessary for safe and secure operation of the Airport.

錯誤! 尚未定義書籤。 Some members are concerned about possible abuse of military identification documents and have requested the Administration to provide the operational guidelines for handling such documents.

Road Traffic (Breath Analysing Instruments and Screening Devices) (Amendment) Notice 1998 (L.N. 228)

13. The Administration has advised in response to members that the additional screening device (EnviteC) is a well proven equipment and operates to the same level of accuracy as the Drager device with maximum deviation at about $\pm 5\%$ of the normal screening level. The Police would be strict on arresting suspected drivers when the proportion of alcohol in his breath exceeds the prescribed limit as indicated by the approved screening device. In marginal cases, the Police would be cautious that a person would not be charged purely on the evidential breath analysing instrument reading up to a reading of 39 mg of alcohol in 100 ml of breath specimen, thus allowing more than 10% variation. The suspect's blood specimen would be taken for analysis to determine whether prosecution should be instituted where necessary.

Fugitive Offenders (Singapore) Order (L.N. 594 of 1997) (Commencement) Notice 1998 (L.N. 236)

Fugitive Offenders (New Zealand Order (L.N. 263)

14. Members have examined in detail the article by article comparison of the two Orders with the model agreement on which bilateral agreements have been negotiated. Members have sought clarifications on technical issues with Administration and they are satisfied that the two Orders are in order.

Aviation Security Regulation (L.N. 622 of 1997) (Commencement) Notice 1998 (L.N. 247)

15. In response to members' concerns, the Administration has advised that they would enhance co-ordination with AA on permits issued to disciplined forces and permits of vehicles used by them who require access to Restricted Area for the performance of their duty, particularly in circumstances of emergency.

16. On the delay in issue of Restricted Area permit to tenants of the Airport, the Administration has advised that a permanent permit valid for five years could be issued in four day. For those in urgent needs while awaiting for approval, temporary permit could be issued in 24 hours. Escort permits would be issued when needed. While members are concerned about the number of applications for permanent permits pending for approval and the time taken for issuing these permits, the Administration has undertaken to provide further information.

Fire Safety (Commercial Premises) (Amendment) Ordinance 1998 (15 of 1998) (Commencement) Notice 1998 (L.N. 234)

17. Members have noted the preparatory work undertaken by the Administration for the commencement of the Fire Safety (Commercial Premises) (Amendment) Ordinance 1998. The Authorities, namely the Director of Fire Services and the Director of Buildings, have been provided with additional resources to implement the Amendment Ordinance. Seminars have been conducted and advisory letters have been sent to parties being affected. A Fire Safety Improvement Loan Scheme was launched on 1 June 1998 to provide financial assistance to owners of prescribed commercial premises and specified commercial buildings who have received statutory directions under the Fire Safety (Commercial Premises) Ordinance or the Amendment Ordinance to improve fire safety of their premises or buildings.

Quarantine and Prevention of Disease Ordinance (Declaration under section 2(1) Notice 1998 (L.N. 250)

Quarantine and Prevention of Disease Ordinance (Sanitary Aerodrome) Declaration 1998 (L.N. 255)

18. According to section 2(1) of the Ordinance, the Director of Health may declare an authorised aerodrome to be a “sanitary aerodrome” after being satisfied that it will at all times have certain facilities at its disposal as stipulated in the Ordinance.

19. Members have noted the series of inspections of sanitary facilities carried out by the Department of Health before the operation of the Airport. All the criteria for “sanitary aerodrome” were deemed fully satisfied on 11 June 1998.

Recommendations

20. As mentioned in paragraph 10, Hon LEE Wing-tat has indicated that he would move a motion to amend the Housing (Amendment) (No. 2) Ordinance 1998 (24 of 1998) (Commencement) Notice 1998 (L.N. 212).

21. The Subcommittee has recommended that all the other 51 items of subsidiary legislation, of which the deadline for making amendments is 29 July 1998, be supported.

Advice sought

22. Members are invited to support the recommendation of the Subcommittee at paragraph 22 above.

Legislative Council Secretariat

17 July 1998