

## **LEGISLATIVE COUNCIL BRIEF**

Dangerous Drugs Ordinance  
(Chapter 134)

### **DANGEROUS DRUGS (AMENDMENT) (NO. 2) ORDINANCE 1994 (63 OF 1994) (COMMENCEMENT) NOTICE 1998**

#### **INTRODUCTION**

At the meeting of the Executive Council on 16 June 1998, the Council ADVISED and the Acting Chief Executive ORDERED that the Chief Executive should exercise his authority to make the Dangerous Drugs (Amendment) (No. 2) Ordinance 1994 (63 of 1994) (Commencement) Notice 1998 at the Annex, to bring the Amendment Ordinance into operation on 14 August 1998.

#### **BACKGROUND AND ARGUMENT**

##### **General Background**

2. On 31 August 1993, the former Executive Council decided that the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances should be applied to Hong Kong. As a result of the decision, the United Kingdom was requested to apply the Convention to Hong Kong.

3. In order for Hong Kong to implement the obligations of the Convention, the Amendment Ordinance was enacted in July 1994 to implement provisions of the Convention by adding a new Part VB to the Dangerous Drugs Ordinance to suppress illicit drug traffic by sea.

#### **The Making of Commencement Notice in respect of the Amendment Ordinance**

4. The Convention was applied to Hong Kong by the United Kingdom on 15 May 1997. The People's Republic of China has also notified the United Nations of the continued application of the Convention to the Hong Kong Special Administrative Region. The Amendment Ordinance should be brought into force as soon as possible as it implements obligations in the Convention.

5. The Amendment Ordinance provides that the Chief Executive may appoint a day, by notice in the Gazette, for the coming into operation of the Amendment Ordinance. Shortly after reunification, a commencement

notice in respect of the Amendment Ordinance was made by the Chief Executive *without* reference to the Executive Council, and was published in the Gazette on 25 July 1997 as Legal Notice No. 405 of 1997. According to subsequent legal advice, the Executive Council should have been consulted on the making of such a notice by the Chief Executive after reunification. The Department of Justice has advised that a commencement notice is subordinate legislation, and that the Chief Executive is required under Article 56 of the Basic Law to consult the Executive Council before making any subordinate legislation. It is therefore arguable whether the Legal Notice is valid or not. To put the matter beyond doubt, it is decided after consultation with the Executive Council that a fresh commencement notice be made and published in the Gazette.

## **THE NOTICE**

6. The Dangerous Drugs (Amendment) (No. 2) Ordinance 1994 (63 of 1994) (Commencement) Notice 1998 specifies that the Amendment Ordinance will come into operation on 14 August 1998.

## **LEGISLATIVE TIMETABLE**

7. The legislative timetable is -

Publication in the Gazette	10 July 1998
Tabling in the Legislative Council for negative vetting	15 July 1998

### **FINANCIAL AND STAFFING IMPLICATIONS**

8. The proposal has no financial or staffing implications.

### **PUBLICITY**

9. A press release will be issued on 8 July 1998 to explain the Notice.

### **ENQUIRIES**

10. For any enquiries on the Notice, please contact Miss Cathy Chu on 2867 2748.

Security Bureau

8 July 1998

**DANGEROUS DRUGS (AMENDMENT) (NO. 2) ORDINANCE 1994  
(63 OF 1994) (COMMENCEMENT) NOTICE 1998**

Under section 1(2) of the Dangerous Drugs (Amendment) (No. 2) Ordinance 1994, I, after consultation with the Executive Council, appoint 14 August 1998 as the day on which the Ordinance shall come into operation.

TUNG Chee-hwa  
Chief Executive

1998