

LEGISLATIVE COUNCIL BRIEF

Business Registration Ordinance (Cap. 310)

BUSINESS REGISTRATION (AMENDMENT) REGULATION 1999

INTRODUCTION

Annex On 12 February 1999, the Secretary for the Treasury made the Business Registration (Amendment) Regulation 1999 at the Annex.

BACKGROUND AND ARGUMENT

2. In order to provide timely and quality services to the business community and the public at large, we have reviewed the operation of the business registration system and have identified various improvement measures to rationalise the operation of the system and to keep pace with the development of today's business environment. Such improvement measures required amendments to the Business Registration Ordinance (Cap. 310) and its subsidiary legislation. At the sitting on 13 January 1999, the Legislative Council passed the Business Registration (Amendment) Bill 1998 with a Committee Stage Amendment incorporated. The Amendment Bill was gazetted on 22 January 1999 as the Business Registration (Amendment) Ordinance 1999.

3. The Business Registration (Amendment) Regulation 1999 (the Amendment Regulation) seeks to amend the Business Registration Regulations (the Regulations) in order to implement the package of improvement measures we have identified.

THE AMENDMENT REGULATION

4. The provisions of the Amendment Regulation are -
- (a) **Clause 1** provides that the Amendment Regulation shall come into operation on 1 April 1999.
 - (b) **Clause 2(b)** seeks to dispense with the submission of business registration applications in duplicate and provides that business registration fee and the levy for the Protection of Wages on Insolvency Fund (the levy) should be paid when application for registration is submitted.

- (c) **Clause 3** enables the Commissioner of Inland Revenue to remove from the business register of particulars of businesses that are untraceable or have long-outstanding business registration fees and levy and to reinstate the particulars on the register, and to remove superseded or obsolete information of a business from the register.
- (d) **Clauses 2(a), 4 and 5** make minor tidying up amendments to the Regulations.

PUBLIC CONSULTATION

5. We have informed the Financial Affairs Panel of the Legislative Council of the proposed amendments. The Panel has not raised any adverse comments to the proposals.

HUMAN RIGHTS IMPLICATIONS

6. The Department of Justice advises that the Amendment Regulation is consistent with the human rights provisions of the Basic Law.

BINDING EFFECT OF THE AMENDMENT REGULATION

7. The Amendment Regulation will not affect the current binding effect of the Business Registration Regulations.

FINANCIAL AND STAFFING IMPLICATIONS

8. Streamlining the operations of the system will result in staff savings, some of which will be deployed to improve the quality and efficiency of service.

LEGISLATIVE TIMETABLE

9. The legislative timetable is-

Publication in the Gazette	19 February 1999
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Tabling at the Legislative Council	3 March 1999
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PUBLICITY

10. We have already made public the package of improvement measures before the Business Registration (Amendment) Bill 1998 was introduced into the Legislative Council. As the Amendment Regulation is part of the amendment exercise, no separate publicity would be made.

ENQUIRIES

11. In case of enquiries about this Brief, please contact Miss Amy Tse, Principal Assistant Secretary for the Treasury (Revenue), at 2810 2370.

Finance Bureau
File Reference : FIN CR 3/2311/90
15 February 1999

BUSINESS REGISTRATION (AMENDMENT) REGULATION 1999

(Made under section 14(1A) of the Business Registration
Ordinance (Cap. 310))

1. Commencement

This Regulation shall come into operation on 1 April 1999.

2. Application for registration

Regulation 3 of the Business Registration Regulations (Cap. 310 sub. leg.) is amended

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- (a) by adding “to the Commissioner” after “shall be made”;
- (b) by repealing “Such application shall be forwarded in duplicate to the Commissioner.” and substituting -
 - “Such application shall be accompanied by full payment of -
 - (i) the fee prescribed in item 1 of Schedule 1 to the Ordinance or in item 2 of Schedule 2 to the Ordinance, as the case may be; and
 - (ii) the levy.”.

3. The register

Regulation 4 is amended -

- (a) in paragraph (4), by repealing “移走” where it twice appears and substituting “刪除”;
- (b) by adding -
 - “(4A) The Commissioner may remove from the register all particulars (except the name and the

identifying numbers assigned to applications under paragraph (1))
in respect of -

- (a) any business which has been found untraceable by the Commissioner during the period of 10 years immediately preceding the date of the removal; or
- (b) any business which has not paid the prescribed business registration fee or prescribed branch registration fee or the levy as required under the Ordinance for a continuous period of 10 years immediately preceding the date of the removal.

(4B) Where the Commissioner has removed any particulars under paragraph (4A) (a) or (b), he shall record the removal on the register in such manner as he sees fit.

(4C) The particulars in respect of a business removed from the register under paragraph (4A) (a) may be reinstated on the register where the person carrying on the business provides to the Commissioner such information as to enable the Commissioner to trace the business and provided that all outstanding fees and levies

relating to the business together with any penalties payable are paid.

(4D) The particulars in respect of a business removed from the register under paragraph (4A) (b) may be reinstated on the register where all outstanding fees and levies relating to the business together with any penalties payable are paid.

(4E) Where the Commissioner has reinstated any particulars under paragraph (4C) or (4D), he shall record the reinstatement on the register in such manner as he sees fit.

(4F) The Commissioner may remove from the register any information in respect of any business where such information has been replaced by information received by the Commissioner under section 8 of the Ordinance, or has otherwise become obsolete, for a period of 10 years immediately preceding the date of the removal.

(4G) Any information removed from the register under paragraph (4F) shall not be reinstated on the register.”.

4. Business and branch registration certificates

Regulation 5 is amended by adding -

“(1A) The Commissioner shall endorse on a business registration certificate and a branch registration certificate

a date of commencement and a date of expiry for the business registration certificate or the branch registration certificate, as the case may be.”.

5. Forms

Regulation 9 is amended -

- (a) in Form 1(a), in section A, in item 4(a) (ii), by repealing “(if applicable)”;
- (b) in Form 1(b), in section A -
 - (i) in item 1(a) (ii), by repealing “(if applicable)”;
 - (ii) by repealing item 2 and substituting -

“2. If body corporate is not incorporated in Hong Kong and is one to which Part XI of the Companies Ordinance (Cap. 32) applies:

- (a) Name of body corporate :
- (b) Place of incorporation :
- (c) Name and address of person or persons resident in Hong Kong whose particulars have been delivered to the Registrar of Companies :
- (d) Date of registration under Part XI of the Companies Ordinance (Cap. 32) :”;
- (iii) by repealing item 3 and substituting -

“3. If body corporate is not incorporated in Hong Kong and is one to which Part XI of the Companies Ordinance (Cap. 32) does not apply:

- (a) Name of body corporate :
- (b) Place of incorporation :

- (c) Date of incorporation :
- (iv) in item 4(a) (ii), by repealing “(if applicable)”;
- (v) by repealing everything under and including the heading
“CERTIFICATE OF APPLICANT” and substituting -
“CERTIFICATE OF APPLICANT

I certify that the particulars set out in this application are true.

Date :

Signed :

Full name (in block letters) :

*Identity card number/
Passport number (if no
identity card number) :

Residential address :
.....

Designation within the
body corporate :
(i.e. director, manager or secretary)

* Delete as appropriate.”;

- (c) in Form 1(c) -
 - (i) by repealing “*firm*” and substituting “*partnership*”;
 - (ii) in section A, in item 1(a) (ii), by repealing “(if
applicable)”;
 - (iii) in section A, by repealing everything under and including
the heading “CERTIFICATE OF APPLICANT” and
substituting -

“CERTIFICATE OF APPLICANT

I certify that -

- (a) the particulars set out in this application are true; and
- (b) (where the business is a partnership) I have listed all the partners of the business.

Date :

Signed :

Name in block letters :

*Identity card number/
Passport number (if no
identity card number) :

Designation within the
partnership or other body
unincorporate :

(i.e. partner (if a partnership)/
principal officer)

* Delete as appropriate.”;

- (d) in Form 1(d), in section A -
 - (i) in item 2(a) (ii), by repealing “(if applicable)”;
 - (ii) under the heading “CERTIFICATE OF APPLICANT”,
by repealing “firm” and substituting “partnership”;
- (e) by repealing Form 2 and substituting -

“ORIGINAL
DUPLICATE

FORM 2

[reg. 5]

Business Registration Ordinance

(Chapter 310)

Business Registration Regulations
BUSINESS/BRANCH REGISTRATION CERTIFICATE

Name of Business/
Corporation

Business/
Branch Name

Address

Nature of Business

Status

Date of Commencement Date of Expiry Certificate No. Fee and Levy

RECEIVED FEE AND
LEVY HERE STATED
IN PRINTED FIGURES \$”;

- (f) in Form 3, by repealing “for the last 6 months” and substituting “for the past 6 months or, in the case of a new business, the estimated average total *sales/receipts of the business for the first 6 months after commencement”.

(Miss Denise Yue)
Secretary for the Treasury

12 February 1999

Explanatory Note

This Regulation makes amendments to the Business Registration Regulations (Cap. 310 sub. leg.) in order to give effect to the proposals which aim at rationalising and improving the existing registration system.