

立法會
Legislative Council

LC Paper No. LS 103/99-00

**Paper for the House Committee Meeting
of the Legislative Council
on 17 March 2000**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 3 March 2000 and 4 March 2000**

Date of Tabling in LegCo : 8 March 2000

Amendment to be made by : 5 April 2000 (or 12 April 2000 if extended by resolution)

***District Court Ordinance (Cap. 336)
District Court (Fixed Costs in Matrimonial Causes) (Amendment) Rules 2000
(L.N. 52)**

By these Rules, the District Court Rules Committee increases the fixed cost payable in respect of a decree or an application made in matrimonial causes. The different amounts of fixed costs before and after the increase are set out in the table below. The costs were last revised in 1991.

Fixed costs on Decree	Previous \$	New \$
1. Where a decree is made pursuant to-		
a. disposal of causes in the special procedure list	5,250	8,800
b. a petition for divorce on the ground of adultery	7,500	12,600
c. a petition for divorce on the ground of behaviour	8,500	14,200
d. a petition for divorce on the ground of consent	7,000	11,700

*increase in costs

Fixed costs on Decree	Previous \$	New \$
e. a petition for divorce on the ground of 2 years' separation (formerly 5 years' separation)	7,000	11,700
f. a petition for divorce on the ground of desertion	7,500	12,600
2. Where separate attendance is required in respect of the hearing of a question of-		
a. either custody or access only or custody and access only	2,500	4,200
b. ancillary relief only	3,000	5,000
c. custody, access and ancillary relief or ancillary relief and either custody or access	5,000	8,400
plus		
For each subsequent attendance after the first chambers appointment	1,000 (up to a maximum of \$8,000 per matter)	1,700 (up to a maximum of \$13,400 per matter)
3. Additional costs to be allowed in accordance with the Legal Aid (Scale of Fees) Regulations	400	700

The Rules also prescribe that the fixed cost in respect of substituted service of documents is \$3,700 and make technical amendments to the forms of proceedings.

**Mandatory Provident Fund Schemes (Exemption) Regulation (Cap. 485 sub.leg.)
Mandatory Provident Fund Schemes (Exemption) Regulation (Specification of Date under sections 5 and 16) Notice (L.N. 53)**

This Notice specifies 4 May 2000 as the date by which an application for an exemption certificate has to be made in respect of a scheme exempted or registered under the Occupational Retirement Schemes Ordinance (Cap. 426) ("ORSO scheme").

The legal effect of the exemption certificate is to exempt the relevant employer as well as the existing and new members of the ORSO scheme from the requirements in Part III of the Mandatory Provident Fund Schemes Ordinance (Cap. 485). That Part stipulates, among other things, the duty of employers and employees to contribute to a provident fund scheme registered under that Ordinance.

Tax Reserve Certificates (Fourth Series) Rules (Cap. 289 sub.leg.)
Tax Reserve Certificates (Rate of Interest) (No. 2) Notice 2000 (L.N. 54)

This Notice fixes at 4.7708% per annum the rate of interest payable on tax reserve certificates issued on or after 6 March 2000.

Elections (Corrupt and Illegal Conduct) Ordinance (10 of 2000)
Elections (Corrupt and Illegal Conduct) Ordinance (10 of 2000) (Commencement) Notice 2000 (L.N. 55)

This Notice appoints 3 March 2000 as the day on which the Elections (Corrupt and Illegal Conduct) Ordinance (10 of 2000) shall come into operation. The objects of the Ordinance are -

- (a) to ensure that, as far as practicable, elections to elect the Chief Executive and persons to membership of the Legislative Council, District Councils and certain other public bodies and to be village representatives are conducted fairly, openly and honestly and are free from corrupt conduct and illegal conduct;
- (b) to regulate electoral advertising so as to ensure, as far as practicable, the fairness and honesty of electoral advertising; and
- (c) to ensure that candidates properly account for the expenditure of money at elections and the soliciting and receipt of election donations and that they do not exceed the prescribed levels of expenditure.

Exchanges and Clearing Houses (Merger) Ordinance (12 of 2000)
Exchanges and Clearing Houses (Merger) Ordinance (12 of 2000) (Commencement) Notice 2000 (L.N. 56)

This Notice appoints 6 March 2000 as the day on which the Exchanges and Clearing Houses (Merger) Ordinance (12 of 2000) (other than section 21(1) and (2)) shall come into operation.

The Ordinance prohibits persons from being controllers of Exchange Companies or clearing houses unless the persons are recognized exchange controllers. It regulates recognized exchange controllers, certain Exchange Companies and clearing houses.

Section 21(1) and (2) relates to the amendment of the constitution of the Hong Kong Securities Clearing Company Limited and has come into operation on 25 February 2000 when the Ordinance was published in the Gazette.

Licensing Appeals Board Rules (L.N. 43 of 2000)

Licensing Appeals Board Rules (L.N. 43 of 2000) (Commencement) Notice 2000 (L.N. 57)

This Notice appoints 15 March 2000 as the day on which the Licensing Appeals Board Rules (L.N. 43 of 2000) shall come into operation. The Rules are made to regulate the making of appeals to the Licensing Appeals Board, which is set up under the Provision of Municipal Services (Reorganization) Ordinance (No. 78 of 1999) to hear and determine appeals that lie to the Board under section 125 of the Public Health and Municipal Services Ordinance (Cap. 132).

Electronic Transactions Ordinance (1 of 2000)

Electronic Transactions (Exclusion) Order (L.N. 58)

Electronic Transactions Ordinance (1 of 2000)

Electronic Transactions Ordinance (Amendment of Schedule 2) Order 2000 (L.N. 59)

L.N. 58 sets out the specific statutory provisions which are respectively excluded from the application of electronic records and digital signatures under sections 5, 6, 7 and 8 of the Electronic Transactions Ordinance (1 of 2000) ("ETO").

Sections 5 to 8 of the ETO give legal recognition to electronic records and digital signatures. The effect of this is that where an Ordinance or a rule of common law or a rule of equity requires or permits information to be or given in writing, or requires the signature of a person, an electronic record and a digital signature satisfy the respective requirement. Section 11 of the ETO provides that the Secretary for Information Technology and Broadcasting may by order published in the Gazette exclude individual statutory provisions from the application of sections 5 to 8 of the ETO.

A list of the statutory provisions excluded from the application of sections 5 to 8 of the ETO is provided in Schedules 1 to 4 to L.N. 58. The details of those provisions are set out in Annex F to the LegCo Brief (Ref. : ITBB/IT107/4/1(00)XVII) issued by the Information Technology and Broadcasting

Bureau in March 2000. The excluded statutory provisions involve the giving of information or document which is solemn in nature (i.e. information or documents relating to the electoral process); information required for operational reasons (e.g. an arrival or departure card furnished by persons arriving or departing from Hong Kong); documents and plans required under the Buildings Ordinance (Cap. 123) and its subsidiary legislation; documents and plans for the purpose of applying for licences such as a food business licence or a licence in respect of a hotel or guesthouse; etc.

The effect of L.N. 58 is that in respect of the provisions set out therein, electronic records and digital signatures will not be accepted as satisfying the statutory requirement for giving information and/or signature.

According to the LegCo Brief, the Bills Committee on the Electronic Transactions Bill had been briefed of the examples of the categories of statutory provisions which have to be excluded from the application of sections 5 to 8 of the ETO when the Bills Committee examined the Bill late last year. The statutory provisions listed in L.N. 58 are in line with the examples provided to the Bills Committee.

L.N. 59 amends Schedule 2 to the ETO by adding to the list of judicial proceedings exempted from the application of sections 5 to 8 of the ETO proceedings before certain statutory appeal boards and statutory tribunals which exercise quasi-judicial functions. The effect of L.N. 59 is that electronic records and digital signatures will not be accepted in proceedings before those appeal boards and tribunals.

According to the LegCo Brief, the Administration has consulted the statutory appeal boards and tribunals concerned. Those bodies support the exemption as they have practical and operational problems in accepting electronic submission in their proceedings for the time being.

These two Orders will come into operation on 7 April 2000 when sections 5 to 8 of and Schedule 2 to the ETO also come into effect by virtue of L.N. 60 of 2000.

We have asked the Administration to explain why disciplinary proceedings before statutory bodies like the Dental Council of Hong Kong and the Medical Council of Hong Kong etc. are not included in Schedule 2 to the ETO. The Administration has explained that although such disciplinary proceedings are regarded as quasi-judicial proceedings, the Dental Council and the Medical Council are not of the similar nature as courts and tribunals since they also exercise many other non-judicial functions in their proceedings. As such, the Administration does not consider it appropriate to deal with these bodies in Schedule 2 to the ETO. Section 15 of ETO would allow these bodies to agree with other non-government parties as to whether electronic records and digital signatures may be used in satisfying requirements under relevant statutory provisions for the parties concerned

to provide information to these bodies or to sign a document for presenting to these bodies.

Electronic Transactions Ordinance (1 of 2000)

Electronic Transactions Ordinance (1 of 2000) (Commencement) (No. 2) Notice 2000 (L.N. 60)

This Notice appoints 7 April 2000 as the day on which the remaining provisions of the Electronic Transactions Ordinance (1 of 2000) that have not come into operation (including sections 5 to 8 of and Schedule 2 to the Ordinance) will come into operation. Those provisions give legal recognition to electronic records and digital signatures and provide for exemptions from the application of electronic records and digital signatures.

Legislative Council (Amendment) Ordinance 1999 (Amendment) Ordinance 2000 (15 of 2000)

Legislative Council (Amendment) Ordinance 1999 (Amendment) Ordinance 2000 (15 of 2000) (Commencement) Notice 2000 (L.N. 61)

This Notice appoints-

- (a) 4 March 2000 as the day on which the Legislative Council (Amendment) Ordinance 1999 (Amendment) Ordinance 2000 (15 of 2000) (for the purpose only of enabling arrangements to be made for the holding of the Election Committee subsector elections in 2000 to elect members of the Election Committee for the second term of office of the Legislative Council and for the holding of the second general election in 2000 to elect all the Members of that Council) shall come into operation;
- (b) 1 July 2000 as the day on which the Ordinance (in so far as it has not already come into operation) shall come into operation.

The Ordinance amends the Legislative Council (Amendment) Ordinance 1999 to provide that only registered social workers are eligible to be registered as electors of the social welfare functional constituency.

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