

立法會
Legislative Council

LC Paper No. LS132/99-00

**Paper for the House Committee Meeting
of the Legislative Council
on 12 May 2000**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 5 May 2000**

Date of Tabling in LegCo : 10 May 2000

Amendment to be made by : 7 June 2000 (or 14 June 2000 if extended by resolution)

**High Court Ordinance (Cap. 4)
Rules of the High Court (Amendment) Rules 2000 (L.N. 129)**

These Rules are made by the Rules Committee of the High Court under section 54 of the High Court Ordinance (Cap. 4) to effect the following amendments to the Rules of the High Court (Cap. 4 sub. leg.) ("RHC"):-

RHC	Amendment	Summary of existing provisions	Summary of amendment provisions	Remarks
Order 44 rule 12	Paragraph (1) repealed; substituting new paragraph (1).	Order 58 rule 1 applies to a master's order under Order 44 rule 12.	Order 58 rule 1 applies to a master's order made under Order 44 rule 11 and such hearing on appeal shall be in open court unless the Court otherwise directs.	The amendment removes an irregularity in the rule and makes it clear that appeals shall be heard in open court. Order 58 rule 1 stipulates, inter alia, that an appeal lies to a judge.

	Paragraph (1A) added.	Nil	<ul style="list-style-type: none"> - Notice of appeal shall state grounds of appeal. - No fresh evidence (other than evidence of matters occurred after the date of the master's order) shall be admitted except on special grounds. - The power of the judge hearing the appeal to draw inference from facts is the same as the Court of Appeal under Order 59 rule 10(3). 	The new paragraph makes further provisions for the appeal from the master's order.
Order 58 rule 1(3)	Repealing "5" where it first appears and substituting "14".	Notice of appeal must be issued within 5 days of the judgment, order or decision appealed against being given or made.	Such notice must be issued within 14 days.	The time for appeal from a master's judgment, order or decision is extended.
Order 59 rule 4(1)	Subparagraph (b) Repealing "21" and substituting "28".	Time for appeal from order or decision made or given in winding up or bankruptcy matters: 21 days.	The time for appeal is extended to 28 days.	
	Subparagraph (c) Repealing "6 weeks" and substituting "28 days".	Time for appeal in general: 6 weeks.	It is now shortened to 28 days.	Appeals from the High Court and from the District Court to the Court of Appeal will be subject to the same time limit.
Order 62	Rule 9A added.	Nil	The Court is empowered to order immediate payment of costs of an amount that it has estimated	The power is new to the extent that payment is ordered to be made

			against a party to an application before it, if it considers that party has resisted or made the application frivolously or vexatiously or it has other just reason so to do. The amount so estimated and paid is to be adjusted upon taxation after the final disposal of the whole of the proceedings before the Court.	immediately without taxation. The contents of this new rule have been discussed by members of the Bills Committee on the District Court (Amendment) Bill 1999 in the context of its application to the District Court.
Order 83A	Rule 5 is repealed.	An originating summons that begins a money lender's action must include the particulars specified in rules 2 and 3.	Nil	An irregularity is rectified.
Appendix A	Second paragraph of Form No.14	...the Defence <i>need not be filed and served until</i> 14 days after a Statement of Claim has been served on the Defendant.	...the Defence <i>must be filed and served within</i> 14 days after a Statement of Claim has been served on the Defendant.	An error is rectified.

The Rules Committee of the High Court is comprised of members of the judiciary and representatives from the two legal professional bodies.

Factories and Industrial Undertakings Ordinance (Cap. 59)
Factories and Industrial Undertakings (Confined Spaces) Regulation (L.N. 18 of 1999) (Commencement) Notice 2000 (L.N. 130)

By this Notice, the Commissioner for Labour has appointed 19 June 2000 as the day on which sections 3 and 5 to 15 of the Factories and Industrial Undertakings (Confined Spaces) Regulation (L.N. 18 of 1999) ("the Regulation") will come into operation.

The Regulation relates to safety measures for better protection of

workers in a confined space and had been scrutinized by a Subcommittee of the House Committee before it was approved by a resolution of this Council. All provisions of the Regulation will be operative except section 4 that establishes a certification system for (a) workers and (b) competent persons who would prepare risk assessment reports. Members may wish to refer to the Report of the Subcommittee (*LC paper No. CB(2) 976/98-99*) for further information.

**Factories and Industrial Undertakings Ordinance (Cap. 59)
Factories and Industrial Undertakings (Safety Management) Regulation (Cap. 59
sub. leg.) (Commencement) Notice 2000 (L.N. 131)**

By this Notice, the Commissioner for Labour has appointed 19 June 2000 to be the day on which the following provisions of the Factory and Industrial Undertakings (Safety Management) Regulation (L.N. 298 of 1999) ("the Regulation") shall come into operation:-

Section(s)	Qualification (if any)	Heading of Section /Part commenced
1	-	Commencement
2	-	Interpretation
3-7		Part II, Registration as Safety Auditor or Scheme Operator
30(1)	Except paragraphs (b) & (c)	Appeals
33(1)(c), (3) & (5)	-	Commissioner may inspect safety audit, etc.
34(1), (4) & (7)	-	Offences
36	-	Power of commissioner to specify forms
37	-	Service of Notices
38	(but only in so far as item 45 to be added to the Schedule to the Administrative Appeals Board Ordinance (Cap. 443) relates to a decision of the Commissioner for Labour to refuse to register a person under section 6 or to register a person under that section subject to conditions)	Consequential Amendments Schedule amended
Schedule 1	-	Eligibility to be registered as safety auditor
Schedule 2	-	Eligibility to be registered as scheme operator

The Regulation relates to the implementation of a safety management

system in Hong Kong. It had been scrutinized by a Subcommittee of the House Committee before the approval by a resolution of this Council. The provisions commencing operation on the appointed day will inaugurate the registration regime of safety auditors and scheme operators, both of whom are essential to the implementation of the safety management system. Members may wish to refer to the Report of the Subcommittee (*LC paper No. CB(2) 356/99-00*) for further information.

Electricity Ordinance (Cap. 406)

**Electricity Supply Lines (Protection) Regulation (L.N. 96 of 2000)
(Commencement) Notice 2000 (L.N. 132)**

By this Notice given by the Secretary for Economic Services, 14 June 2000 is appointed as the day on which the Electricity Supply Lines (Protection) Regulation (L.N. 96 of 2000) ("the Regulation") (excluding sections 10 to 14, 16, 17(3) to (7) and 18) is to come into operation.

The Regulation relates to the prescription of requirements designed to ensure that works activities carried out in the vicinity of underground electricity cables or overhead electricity lines would not prejudice safety or the continuity of the supply of electricity. The provisions that are yet to become operative concern mainly the statutory requirements for works carried out in vicinity of electricity supply lines and the related regime of remedial notices, offences and penalties. A Subcommittee of the House Committee had scrutinized the Regulation before it was approved by a resolution of this Council. Members may find further information in the Report of the Subcommittee (*LC paper No. CB(1) 1159/99-00*).

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9 May 2000