

立法會
Legislative Council

LC Paper No. LS 148/99-00

**Paper for the House Committee Meeting
of the Legislative Council
on 2 June 2000**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 26 and 30 May 2000**

Date of Tabling in LegCo : 31 May 2000

Amendment to be made by : 28 June 2000 (or the 2nd meeting of LegCo in the next session if extended by resolution)

**Air Pollution Control Ordinance (Cap. 311)
Air Pollution Control (Asbestos) (Administration) (Amendment) Regulation 2000
(L.N. 190)**

Consequent upon the abolition of the Industry Department and the establishment of a new Innovation and Technology Commission within the Commerce and Industry Bureau, this Amendment Regulation amends the Air Pollution Control (Asbestos) (Administration) Regulation (Cap. 311 sub. leg.) to provide for the transfer of management responsibility in respect of the Hong Kong Laboratory Accreditation Scheme from the Industry Department to the Commissioner for Innovation and Technology.

Members may refer to LegCo Brief File Ref: EFB9/55/01/109 Pt.5 of May 2000 from Environment and Food Bureau for background information.

The Amendment Regulation will come into operation on 1 July 2000.

**Supplementary Medical Professions Ordinance (Cap. 359)
Optometrists (Registration and Disciplinary Procedure) (Amendment)
Regulation 2000 (L.N. 191)**

This Amendment Regulation amends the Optometrists (Registration and Disciplinary Procedure) Regulation (Cap. 359 sub. leg.) to allow the Secretary of the Optometrists Board to enter the name of a Part II optometrist in Part I of the register if that optometrist-

- (a) holds a Certificate of Attainment in Ocular Pharmacology issued by the Hong Kong Polytechnic University; and
- (b) has practised for one year or more after having been registered as a Part II optometrist, or has other experience that is recognized by the Board.

Members may refer to LegCo Brief File Ref: HWB/M/22/1 Pt.5(95) of May 2000 from Health and Welfare Bureau for background information.

The Amendment Regulation will come into operation on 1 July 2000.

Road Traffic Ordinance (Cap. 374)

Road Traffic (Traffic Control) (Amendment) (No. 2) Regulation 2000 (L.N. 192)

This Amendment Regulation amends the Road Traffic (Traffic Control) Regulations (Cap. 373 sub. leg.) to add a new driving rule that prohibits a driver, if the motor vehicle being driven by him is in motion, from-

- (a) using a mobile telephone while holding it in his hand or between his head and shoulder;
- (b) using any other telecommunications equipment while holding it in his hand; or
- (c) using, while holding in his hand, any accessory to-
 - (i) a mobile telephone; or
 - (ii) any other telecommunications equipment.

Any person who without reasonable excuse contravenes the provision commits an offence and is liable to a fine of \$2,000.

Members will recall that the Road Traffic (Traffic Control) (Amendment) Regulation 2000 (L.N. 39 of 2000) containing similar proposal was gazetted on 3 February 2000. When the Regulation was discussed by the House Committee at the meetings on 11 February and 17 March 2000, Members raised a number of concerns and queries about the proposal in the Regulation. Members of the House Committee agreed to repeal the Regulation while at the same time to form a Subcommittee to study details of the proposal. A Subcommittee was therefore formed to study the proposal in the Regulation. Having considered the views of the Subcommittee, the Administration has agreed to revise the proposal which is now reflected in the Amendment Regulation.

The provisions of the Amendment Regulation relating to use of any other telecommunications equipment or accessory to any other telecommunications equipment, while holding it in the driver's hand when driving, will come into operation on 1 July 2001. The remaining provisions will come into operation on 1 July 2000.

Firearms and Ammunition (Amendment) Ordinance 2000 (14 of 2000)
Firearms and Ammunition (Amendment) Ordinance 2000 (14 of 2000)
(Commencement) Notice 2000 (L.N. 193)

This Notice specifies various commencement dates for the following Firearms and Ammunition (Amendment) Ordinance 2000 (14 of 2000)-

- (a) the provisions relating mainly to technical amendments to the Firearms and Ammunition Ordinance (Cap. 238), 26 May 2000;
- (b) the provisions relating mainly to empowering the Commissioner of Police to grant an instructor's authorization, approve an approved agent to possess or deal in the specified arms and ammunition and approve a person as a range officer, 28 June 2000;
- (c) miscellaneous provisions relating mainly to possession by carriers, their agents or employees, requirements for dealer's licence and renewal of licences, 26 November 2000; and
- (d) the provision relating to possession of arms and ammunition by a member of a shooting club, 26 November 2001.

Firearms and Ammunition (Amendment) Regulation 2000 (L.N. 146 of 2000)
Firearms and Ammunition (Amendment) Regulation 2000 (L.N. 146 of 2000)
(Commencement) Notice 2000 (L.N. 194)

This Notice, in order to tie in with the Firearms and Ammunition (Amendment) Ordinance 2000 (14 of 2000) (Commencement) Notice 2000 (L.N. 193 of 2000), specifies different commencement dates for the following provisions of the Firearms and Ammunition (Amendment) Regulation 2000 (L.N. 146 of 2000)-

- (a) the provisions relating mainly to requirement for a person seeking authorization as an arms instructor, a person seeking to be an approved agent and a person who has applied for approval as a range officer to undergo tests or examinations, criteria for shooting clubs to operate

shooting ranges and contents of courses of instruction, 28 June 2000;
and

(b) the other provisions, 26 November 2000.

Shipping and Port Control (Amendment) Regulation 2000 (L.N. 107 of 2000)
Shipping and Port Control (Amendment) Regulation 2000 (L.N. 107 of 2000)
(Commencement) Notice 2000 (L.N. 195)

This Notice specifies 1 July 2000 as the date on which the Shipping and Port Control (Amendment) Regulation 2000 (L.N. 107 of 2000) will come into operation. The main purposes of the Amendment Regulation are to consolidate provisions concerning speed restriction scattered in different subsidiary legislation made under the Shipping and Port Control Ordinance (Cap. 313) and redefine the boundaries of speed restriction area in the waters of Hong Kong and to amend the maximum permitted speed for vessels in the waters of Hong Kong.

Electricity Ordinance (Cap. 406)
Electricity Ordinance (Cap. 406) (Commencement) Notice 2000 (L.N. 196)
Electrical Products (Safety) Regulation (Cap. 406 sub. leg.)
Electrical Products (Safety) Regulation (Cap. 406 sub. leg.) (Commencement)
Notice 2000 (L.N. 197)
Electrical Products (Safety) (Amendment) Regulation 2000 (L.N. 77 of 2000)
Electrical Products (Safety) (Amendment) Regulation 2000 (L.N. 77 of 2000)
(Commencement) Notice 2000 (L.N. 198)

Section 29(1)(b) of the Electrical Ordinance (Cap. 406) provides that no person shall supply an electrical product for which no certificate of safety compliance has been issued as required by the regulations in respect of electrical product safety. This provision will be implemented through sections 7 and 8 of the Electrical Products (Safety) Regulation (Cap. 406 sub. leg.) ("the Regulation"). Subsequently, the Electrical Products (Safety) (Amendment) Regulation 2000 (L.N. 77 of 2000) amends, among other things, sections 7 and 8 of the Regulation by updating the safety requirements and specifying that a document may be accepted as a certificate of safety compliance if it is a certificate or test report which, in the opinion of the Director of Electrical and Mechanical Services, demonstrates that an electrical product complies with the applicable safety requirements.

These Notices specify 1 December 2000 as the date on which section 29(1)(b) of the Electrical Ordinance, sections 7 and 8 of the Electrical Products (Safety) Regulation and the Electrical Products (Safety) (Amendment) Regulation 2000 will come into operation.

Members may refer to LegCo Brief File Ref: ECON 5/3231/85 of 26 May 2000 from Economic Services Bureau for background information.

Securities Ordinance (Cap. 333)
Securities (Stock Lending) Rules (L.N. 199)

These Rules provide that a lender under a securities borrowing and lending agreement within the meaning of section 80A of the Securities Ordinance (Cap. 333) shall make such documentary record as prescribed by these Rules and retain such documentary record for not less than one year from the date the relevant record was made and within such time provide any such record to the Securities and Futures Commission at its request.

Members may refer to LegCo Brief dated 29 May 2000 from the Securities and Futures Commission for background information.

We have asked the Administration to clarify the penalty for contravention of the Rules. In reply, the Administration says that the penalty for a lender in breach of rule 3(1) and (2) of the Rules will be provided for in subsidiary legislation to be made by the Chief Executive in Council pursuant to section 146A of the Securities Ordinance (Cap. 333). As to the legislative timetable, the Administration plans to make the relevant subsidiary legislation after the new LegCo session commences in October 2000. Copies of the correspondence are attached for Members' reference.

These Rules shall come into operation on 3 July 2000.

Encl

Prepared by

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Assistant Legal Adviser
Legislative Council Secretariat
1 June 2000

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C9/29C (2000) VIII

31 May 2000
By Fax: 2877 5029

Legislative Council Secretariat
Legislative Council Building
8 Jackson Road
Central
Hong Kong
(Attn: Mr Stephen Lam)

Dear Mr Lam,

**Securities (Stock Lending) Rules
(L.N. 199 of 2000)**

Thank you for your letter dated 30 May 2000 in which you asked about the penalty for a lender in breach of rule 3(1) and (2).

The penalty for a lender in breach of rule 3(1) and (2) will be provided in a subsidiary legislation to be made by the Chief Executive in Council pursuant to s.146A of the Securities Ordinance as amended by Securities (Margin Financing) (Amendment) Ordinance 2000. As we are approaching the end of the current legislative session, in order to allow sufficient time for negative vetting, we plan to make the penalty provisions after the new legislative session commences in October 2000.

Yours sincerely,

(Howard YAM)
for Secretary for Financial Services

c.c. SFC (Attn: Ms. Stella Leung)

LS/B/36/99-00
2869 9468
2877 5029

Mr Howard Yam
Assistant Secretary (Securities) (SD)
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30 May 2000

BY FAX

Fax No. : 2861 1494
Total no. of page(s) : 1

Dear Mr Yam,

**Securities (Stock Lending) Rules
(L.N. 199 of 2000)**

We are scrutinizing the legal and drafting aspects of the Rules.

We would be grateful for your clarification as to the penalty for a lender in breach of rule 3(1) and (2).

In facilitating us to report on the Rules to the House Committee meeting to be held on 2 June 2000, we would be grateful for your reply, in both languages, by tomorrow.

Yours sincerely,

(Stephen Lam)
Assistant Legal Adviser