

LEGISLATIVE COUNCIL BRIEF

Public Order Ordinance (Chapter 245)
Protected Places (Safety) Ordinance (Chapter 260)
Shipping and Port Control Ordinance (Chapter 313)

MILITARY INSTALLATIONS CLOSED AREAS (AMENDMENT) ORDER 2000

PROTECTED PLACES (DECLARATION) ORDER 2000

SHIPPING AND PORT CONTROL (AMENDMENT) (NO.2) REGULATION 2000

INTRODUCTION

At the meeting of the Executive Council on 2 May 2000, the Council ADVISED and the Chief Executive ORDERED that:-

- (a) the Military Installations Closed Areas (Amendment) Order 2000, at **Annex A**, should be made under section 36(1) of the Public Order Ordinance (Cap.245);
- (b) the Protected Places (Declaration) Order 2000, at **Annex B**, should be made under section 2 of the Protected Places (Safety) Ordinance (Cap.260); and
- (c) the Shipping and Port Control (Amendment) (No.2) Regulation 2000, at **Annex C**, should be made under section 80 of the Shipping and Port Control Ordinance (Cap.313).

BACKGROUND AND ARGUMENTS

The Defence Land Agreement

2. In accordance with the 1994 Sino-British Defence Land Agreement, 14 military sites previously occupied by the former British Garrison and four reprovisioned military estates were handed over to the Hong Kong Garrison on 1 July 1997.

The Garrison Law

3. Under Article 12 of the Garrison Law, the Government of the Hong Kong Special Administrative Region (HKSARG) and the Hong Kong Garrison are required to jointly protect the military facilities within the HKSAR. The Hong Kong Garrison shall delimit military restricted zones in conjunction with the HKSARG and the locations and boundaries of the military restricted zones shall be declared by the HKSARG.

Pre- reunification Arrangements

4. Before the reunification, military sites of the British Garrison were protected under the Military Installations Closed Areas Order (Cap. 245 sub. leg. B) and the Protected Places Order (Cap.260 sub. leg. A). The marine restricted areas of the naval basins were specified and protected under Regulations 23(6)(c) and 24 of the Shipping and Port Control Regulations (Cap.313 sub. leg. A). The firing areas are provided and regulated under the Defences (Firing Areas) Ordinance (Cap.196).

The Need to Protect Military Sites

5. It is necessary to protect the military sites of the Hong Kong Garrison as follows:-

- (a) all the 18 military estates be declared as military closed areas and included in the First Schedule to the Military Installations Closed Areas Order;
- (b) four military sites of special importance to the Hong Kong Garrison, namely their headquarters at Tamar (to be renamed as Central Barracks), Headquarters House, Queens Lines (to be

renamed as Ching Yi To Barracks) and two blocks at Shek Kong Village be accorded added protection and declared as protected places under the Schedule to the Protected Places Order;

- (c) the marine restricted area at Stonecutters Island (to be renamed Ngong Shuen Chau Barracks) under Regulation 23 of the Shipping and Port Control Regulations be maintained, but its size should be reduced (from 100 metres to 50 metres offshore in certain areas) to help relieve sea traffic congestion in the vicinity of the Yaumatei Fairway and Anchorage; also Regulation 24 of the Shipping and Port Control Regulations be amended to reflect that the Naval Basin of the Hong Kong Garrison is now situated at Stonecutters, rather than at Victoria; and
- (d) the Castle Peak Firing Range and the San Wai/Tai Ling Range to remain under Part I of the First Schedule of the Defences (Firing Areas) Ordinance (Cap.196).

6. Some of the military sites of the Hong Kong Garrison will also be renamed to reflect geographical locations of the sites. (**Annex D**)

7. To give effect to paragraph 5 (a) to (c) above, amendments to the following subsidiary legislation are required:-

- (a) Military Installations Closed Areas Order;
- (b) Protected Places Order; and
- (c) Shipping and Port Control Regulations.

THE AMENDMENT LEGISLATION

(a) Military Installations Closed Areas (Amendment) Order 2000

8. **Section 1** repeals the First Schedule to the Military Installations Closed Areas Order (Cap.245 sub. leg. B) which sets out former military sites of the British Garrison and substitutes a new First Schedule in order to declare

the 18 military estates referred to in paragraph 5(a) above to be closed areas.

(b) Protected Places (Declaration) Order 2000

9. **Section 1** declares that the four military estates referred to in paragraph 5(b) above to be protected places. **Section 2** deletes former military sites of the British Garrison listed under the Schedule to the Protected Places Order and makes consequential amendments to the Schedule.

(c) Shipping and Port Control (Amendment) (No.2) Regulation 2000

10. **Section 1** amends regulation 23(6)(c) of the Shipping and Port Control Regulations in order to regulate entry of vessels into the waters in the vicinity of the Stonecutters Island (to be renamed Ngong Shuen Chau Barracks).

11. **Section 2** amends Regulation 24 in order to regulate entry of vessels and navigation in the vicinity of the Ngong Shuen Chau Naval Basin.

LEGISLATIVE TIMETABLE

12. The legislative timetable is as follows:-

Publication in the Gazette	19 May 2000
Tabling of subsidiary legislation at LegCo for negative vetting	24 May 2000

BASIC LAW IMPLICATIONS

13. The Department of Justice advises that the legislative proposals do not conflict with those provisions of the Basic Law carrying no human rights implications.

HUMAN RIGHTS IMPLICATIONS

14. The Department of Justice advises that the legislative proposals are consistent with the human rights provisions of the Basic Law.

BINDING EFFECT

15. The amendments will not affect the current binding effect of the principal Ordinances.

FINANCIAL AND STAFFING IMPLICATIONS

16. There are no financial and staffing implications for Government arising from these proposals.

PUBLICITY

17. The amendment legislation which are mere technical amendments are published in the Gazette on 19 May 2000. A spokesman will be available to answer media questions.

ENQUIRIES

18. For any enquiries on the brief, please contact Mrs C. WILLIS, Principal Assistant Secretary for Security (A) at 2810 2329.

Security Bureau

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