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**Paper for the House Committee Meeting
on 1 November 2002**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 25 October 2002**

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Amendment to be made by : 27 November 2002 (or 18 December 2002 if extended by resolution)

PART I SUBSIDIARY LEGISLATION ON KARAOKE ESTABLISHMENTS

Karaoke Establishments Ordinance (22 of 2002)

Karaoke Establishments (Licensing) Regulation (L.N. 153)

Karaoke Establishments (Fees) Regulation (L.N. 154)

These two Regulations are made under the Karaoke Establishments Ordinance (22 of 2002) (the Ordinance), which was passed by the Legislative Council on 3 July 2002. The Ordinance provides for the setting up of a licensing scheme for the regulatory control of karaoke establishments with a view to ensuring their fire safety, building safety and public safety standards. Under the Ordinance, the licensing authority may grant a permit to karaoke establishments located in premises in respect of which a licence or certificate of compliance has been issued under other legislation, i.e. restaurants, clubs, hotels and guesthouses. For karaoke establishments located elsewhere, the operators concerned will be required to apply for a licence. The Ordinance will be brought into operation pending the making of the detailed licensing requirements by way of subsidiary legislation.

2. The Karaoke Establishments (Licensing) Regulation (L.N. 153) (the Licensing Regulation) provides for the detailed requirements on fire safety and building safety and the factors that the licensing authority may take into account when deciding whether certain premises are suitable for the operation of a karaoke establishment. These factors include whether the premises are structurally suitable and whether adequate means of escape, adequate means of access for firefighting and rescue, and adequate fire resisting construction and sanitary fitments are provided.

3. The Licensing Regulation also sets out the general conditions applicable to karaoke establishments in respect of which permits or licences have been granted or issued. These conditions relate to the maintenance, hygiene and alteration to the layout of karaoke establishments. Under the Licensing Regulation, a contravention of these conditions is an offence punishable, on first conviction, by a fine at level 5 (\$50,000) and imprisonment for 6 months, and on subsequent conviction, by a fine at level 6 (\$100,000) and imprisonment for one year. A further daily fine of \$2,000 may be imposed in case of a continuing offence.

4. The Karaoke Establishments (Fees) Regulation (L.N. 154) (the Fees Regulation) prescribes the fees to be charged for the grant or issue, transfer and renewal of a permit, provisional permit, licence and provisional licence in respect of karaoke establishments. The proposed fees for the new issue of licences range from \$10,500 in respect of a karaoke establishment not exceeding 100m² to \$27,800 for one exceeding 400m². The proposed fees for renewal of licences range from \$4,520 to \$8,400, depending on the size of the karaoke establishments concerned. As for the grant and renewal of a permit, the proposed fees are \$3,540 and \$1,240 respectively. According to the Administration, the proposed fees are lower for permits as the permits are invariably linked to parent licences or certificates of compliance issued under other legislation. A permit or licence will normally be valid for a period of 24 months, renewable thereafter for periods of 24 months each.

5. The Bills Committee on the Karaoke Establishments Bill has discussed the policy aspects of the draft Karaoke Establishments (Licensing) Regulation (draft Regulation) provided by the Administration, in particular, the concerns of the Karaoke Requirements Concern Group (the Concern Group) about the financial implications of the proposed fire safety and building safety requirements for karaoke establishments. In response to the Concern Group's concerns, the Administration has explained the need for those requirements and agreed to accept other options for the purpose of satisfying the relevant requirements. While most of the provisions in the Licensing Regulation are similar to those in the draft Regulation, Members may wish to note that the Administration has made some changes to certain provisions, including those relating to restrictions on location for operating karaoke establishments and the persons to be held criminally liable for contravention of any of the general conditions applicable to karaoke establishments.

6. The Fees Regulation has not been discussed by the Bills Committee on Karaoke Establishments Bill. No public consultation on the Fees Regulation has been carried out.

7. Both Regulations will come into operation on the day appointed for the commencement of the Karaoke Establishments Ordinance. For Members' information, the Administration intends to bring the Ordinance into operation by the end of this year.

8. Members may refer to the LegCo Brief (File Ref.: SBCR 1/2/1866/97 Pt.5) issued by the Security Bureau on 24 October 2002 for details.

9. No difficulties relating to legal and drafting aspects of the Fees Regulation have been identified. As for the Licensing Regulation, we are seeking clarification from the Administration on certain technical matters. A further report on the Licensing Regulation will be issued when necessary.

PART II AMENDMENTS TO SUBSIDIARY LEGISLATION

Aviation Security Ordinance (Cap. 494)

Aviation Security Ordinance (Replacement of Schedule 1) Order 2002 (L.N. 155)

10. The Aviation Security Ordinance (Cap. 494) (the Ordinance) provides for the prevention and suppression of acts of violence against civil air transport and gives effect to international conventions on aviation security. Under the Ordinance, the commander of an aircraft in flight may, for the purpose of protecting the safety of the aircraft, deliver a person who has committed a serious offence on the aircraft to the relevant authorities of the countries or territories to which the Convention on Offences and Certain Other Acts Committed on Board Aircraft signed at Tokyo on 14 September 1963 (the Tokyo Convention) applies. A list of these countries or territories is provided in Schedule 1 to the Ordinance.

11. This Order repeals and replaces Schedule 1 to the Ordinance for the purpose of updating the list of countries or territories specified in that Schedule and to which the Tokyo Convention applies.

12. This Order will come into operation on 18 December 2002. Members may refer to the LegCo Brief (File Ref.: SBCR7/1476/90 Pt. 13) issued by the Security Bureau on 22 October 2002 for details.

13. No difficulties relating to the legal and drafting aspects of the Order have been identified.

Patents Ordinance (Cap. 514)

Patents (General) (Amendment) (No. 2) Rules 2002 (L.N. 157)

14. Under the Patents Ordinance (Cap. 514) (the Ordinance), the proprietor of a patent granted under the Ordinance may apply to the court to amend the specification of the patent and the court may by order allow any such amendment subject to such conditions as it thinks fit. Upon the making of the court order allowing such amendment, the patent proprietor is required under the Ordinance to file a copy of the order with the Registrar of Patents, failing which no damages will be awarded in proceedings for patent infringement. Section 39(1) of the Patent (General) Rules (Cap. 514 sub. leg.) requires the proprietor concerned to file with the Registrar notice of an amendment of specification of a patent within one month of the making of the court order.

15. These Rules amend section 39 of the Patents (General) Rules to remove the one-month time limit for filing the notice of amendment of specification, and to provide that the notice shall be accompanied by a sealed copy of the court order allowing the amendment. According to the Administration, the one-month time limit is unnecessary and problematic for reasons set out in paragraphs 4 and 5 of the LegCo Brief (File Ref.: CIB CR 06/08/7) issued by the Commerce, Industry and Technology Bureau in October 2002. The effect of these amendments is that a patent proprietor who has been granted a court order allowing amendment of specification of the patent will not become time-barred from filing the notice of amendment and the court order to the Registrar of Patents.

16. These Rules will come into operation on 20 December 2002.

17. The LegCo Panel on Commerce and Industry has not been consulted on these Rules.

18. No difficulties relating to the legal and drafting aspects of these Rules have been identified.

PART III COMMENCEMENT NOTICE

Shipping and Port Control Ordinance (Cap. 313)

Shipping and Port Control (Amendment) Regulation 2002 (L.N. 117 of 2002) (Commencement) Notice 2002 (L.N. 156)

19. This Notice appoints 1 November 2002 as the day on which the Shipping and Port Control (Amendment) Regulation 2002 (L.N. 117 of 2002) (the Regulation) will come into operation.

20. The Regulation provides for, inter alia, the prohibition of vessels with an overall length exceeding 10 metres from entering into a newly created Kap Shui Mun Special Area from the south-eastern and north-eastern boundaries of the Special Area and the requirement for vessels of 300 tons gross or less (other than the exempted ones) to tender a pre-arrival notification to the Director of Marine.

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