

立法會
Legislative Council

LC Paper No. LS38/03-04

**Paper for the House Committee Meeting
on 30 January 2004**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 21 January 2004**

Date of Tabling in LegCo : 4 February 2004

Amendment to be made by : 3 March 2004 (or 24 March 2004 if extended by resolution)

Civil Aviation Ordinance (Cap. 448)

Air Transport (Licensing of Air Services) (Amendment) Regulation 2004 (L.N. 4)

The Air Transport Licensing Authority ("the Licensing Authority") is a statutory body established under the Air Transport (Licensing of Air Services) Regulations (Cap. 448 sub. leg. A) ("the Regulations") and is responsible for issuing route licences to Hong Kong airlines for operation of scheduled air services to and from Hong Kong. Regulation 4(1) of the Regulations provides that the Licensing Authority shall consist of not less than three members appointed by the Chief Executive. Regulation 4(6)(c) confers on the Chief Executive the power to prescribe the quorum of the Licensing Authority for the dispatch of its business and the way in which the Licensing Authority shall determine questions for its decision.

2. This Regulation amends regulation 4 of the Regulations to provide expressly that the quorum at a meeting of the Licensing Authority for the dispatch of business is three members.

3. This Regulation will come into operation on a day to be appointed by the Secretary for Economic Development and Labour by notice published in the Gazette.

4. Members may refer to the LegCo Brief (Ref.: EDBCR) dated 20 January 2004 issued by the Economic Development and Labour Bureau for background information.

5. The proposal in this Regulation was discussed at the meeting of the Panel on Economic Services on 16 December 2003. While the Panel generally supported the proposal, a member was of the view that a quorum of three members was too small and should be enlarged to facilitate the Licensing Authority to discharge its duty.

6. As express provisions are proposed in this Regulation to provide for the quorum of the Licensing Authority, we have asked the Administration whether it would consider also making express provisions on the way in which the Licensing Authority shall determine questions for its decision under the Regulations. We will report further to Members after receiving the Administration's reply.

**Animals and Plants (Protection of Endangered Species) Ordinance (Cap. 187)
Animals and Plants (Protection of Endangered Species) (Exemption)
(Amendment) Order 2004 (L.N. 5)
Animals and Plants (Protection of Endangered Species) Ordinance (Amendment
of Schedules) Notice 2004 (L.N. 6)**

7. L.N. 5 amends the Animals and Plants (Protection of Endangered Species) (Exemption) Order (Cap. 187 sub. leg. A) to exempt the possession or control of four species from the licensing requirement imposed by the Animals and Plants (Protection of Endangered Species) Ordinance (Cap. 187) ("the Ordinance").

8. L.N. 6 amends Schedules 1 and 3 and the Sixth Schedule to the Ordinance to give effect to the changes made to the listings of endangered species in the Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora ("CITES") in November 2002. The effect of the amendments is that the import, export or possession of the species listed in the relevant Schedules will be prohibited unless a licence for their import, export or possession has been issued by the Director of Agriculture, Fisheries and Conservation.

9. The Ordinance gives effect to CITES which applies to Hong Kong. Members may refer to the LegCo Brief (File Ref.: ETWB 9/55/25/01 (2003) Pt.11) issued by the Environment, Transport and Works Bureau on 19 January 2004 for background information on the Order and Notice. According to the Brief, the Administration has consulted the Endangered Species Advisory Committee, the Endangered Species Protection Liaison Group and representatives of the trades concerned, including traditional Chinese medicines traders and practitioners, bird traders, turtle traders and plant traders. According to the Administration, representatives of the trades welcome the proposed exemption as this will facilitate trade in the species concerned. As for the changes to be made to the list of controlled species, representatives of the trades concerned generally have no objection on the understanding that those changes are required under CITES and that trade in the species will still be allowed with valid licences.

10. Both the Order and the Notice will come into operation on a day to be appointed by the Secretary for the Environment, Transport and Works by notice published in the Gazette.

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

Prepared by

FUNG Sau-kuen, Connie
Assistant Legal Adviser
Legislative Council Secretariat
28 January 2004