

立法會
Legislative Council

LC Paper No. LS88/03-04

**Paper for the House Committee Meeting
on 25 June 2004**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 18 June 2004**

Date of tabling in LegCo : 23 June 2004

Amendment to be made by : The 2nd meeting of LegCo in the next session (or the 1st meeting of LegCo not earlier than the 21st day after the 2nd meeting in the next session if extended by resolution)

PART I MISCELLANEOUS AMENDMENTS

Public Health and Municipal Services Ordinance (Cap. 132)

Public Health and Municipal Services Ordinance (Public Markets) (Designation and Amendment of Tenth Schedule) Order 2004 (L.N. 117)

Declaration of Markets Notice (Amendment) Declaration 2004 (L.N. 118)

The Director of Food and Environmental Hygiene ("the Director") is vested with the power to manage and control public markets under the Public Health and Municipal Services Ordinance (Cap. 132) ("the Ordinance"). Section 79(3) of the Ordinance provides that the Director may, by order published in the Gazette, designate as a public market any market to which the Ordinance applies and such markets are specified in the Tenth Schedule. The Director may also, by order published in the Gazette, amend, add to, or delete from, the Tenth Schedule (section 79(5)). L.N. 117 designates the Tai Po Hui Market as a public market. It also amends the Tenth Schedule to add the Tai Po Hui Market to the list of public markets.

2. Section 79(1) of the Ordinance provides that the Ordinance shall apply to every market, being a market in which food is sold, which is declared by the Director to be a market to which the Ordinance applies. By L.N. 118, the Tai Po Hui Market is declared to be a market to which the Ordinance applies. It also amends the Schedule to the Declaration of Markets Notice (Cap. 132 sub. leg. AN) to add the Tai Po Hui Market to the list of markets.

**Banking Ordinance (Cap. 155)
Banking (Specification of Public Sector Entities in Hong Kong) (Amendment)
Notice 2004 (L.N. 119)**

3. This Notice specifies 香港五隧一橋有限公司 Hong Kong Link 2004 Limited as a public sector entity in Hong Kong for the purpose of calculating the risk weighted exposure of an authorized institution referred to in the Third Schedule to the Banking Ordinance (Cap. 155). The effect of such specification is that it will enable the relevant public sector entity in Hong Kong to borrow funds at a lower cost in the market.

4. Members may refer to the LegCo Brief (File Ref: LM.32/2004 to G4/16C Pt.16) issued by the Financial Services and the Treasury Bureau on 18 June 2004 for background information. According to the LegCo Brief, the Hong Kong Monetary Authority has consulted the Hong Kong Association of Banks and the Hong Kong Association of Restricted Licence Banks and Deposit-taking Companies on the proposed specification and has received no objection.

5. This Notice will come into operation on 11 November 2004.

PART II COMMENCEMENT NOTICES

**Road Traffic Ordinance (Cap. 374)
Road Traffic (Construction and Maintenance of Vehicles) (Amendment) (No. 2)
Regulation 2002 (L.N. 147 of 2002) (Commencement) Notice 2004 (L.N. 120)
Road Traffic (Safety Equipment) (Amendment) Regulation 2002 (L.N. 148 of
2002) (Commencement) Notice 2004 (L.N. 121)**

**Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240)
Fixed Penalty (Criminal Proceedings) (Amendment) Regulation 2004 (L.N. 103 of
2004) (Commencement) Notice 2004 (L.N. 122)
Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240) - Resolution of the
Legislative Council (L.N. 114 of 2004) (Commencement) Notice 2004
(L.N. 123)**

6. L.N. 120 and L.N. 121 appoint 1 August 2004 as the day on which the Road Traffic (Construction and Maintenance of Vehicles) (Amendment) (No. 2) Regulation 2002 (L.N. 147 of 2002) ("the Construction and Maintenance Regulation") and the Road Traffic (Safety Equipment) (Amendment) Regulation 2002 (L.N. 148 of 2002) ("the Safety Equipment Regulation") will come into operation. The two Regulations provide for measures to enhance the safety of passengers on newly registered public light buses ("PLBs"). The Construction and Maintenance Regulation requires the installation of high back seats on newly registered PLBs. The Safety Equipment Regulation provides for the fitting and wearing of rear seat belts on newly registered PLBs. It also provides that the responsibility of wearing seat belts rests with passengers of PLBs.

7. L.N. 122 and L.N. 123 appoint 1 August 2004 as the day on which the Fixed Penalty (Criminal Proceedings) (Amendment) Regulation 2004 (L.N. 103 of 2004) ("the Fixed Penalty Regulation") and the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240) - Resolution of the Legislative Council (L.N. 114 of 2004) ("the Fixed Penalty Resolution") will come into operation. The Fixed Penalty Resolution, which was passed by the Legislative Council on 9 June 2004, and the Fixed Penalty Regulation introduce consequential amendments to the Schedule to the Fixed Penalty (Criminal Proceedings) Ordinance and Form 1 in the Schedule to the Fixed Penalty (Criminal Proceedings) Regulations (Cap. 240 sub. leg. A) respectively to reflect the change in the responsibility of wearing seat belts on PLBs from the driver to the passengers as provided in the Safety Equipment Regulation.

8. At the meetings of the Subcommittee on Proposed resolution under section 12 of the Fixed Penalty (Criminal Proceedings) Ordinance and the Bills Committee on Road Traffic (Amendment) Bill 2003 held on 17 May 2004 and 2 June 2004 respectively, members supported the measures proposed to enhance the safety of PLBs and agreed to their implementation on 1 August 2004.

Mutual Legal Assistance in Criminal Matters Ordinance (Cap. 525)
Mutual Legal Assistance in Criminal Matters (Ukraine) Order (L.N. 110 of 2004)
(Commencement) Notice 2004 (L.N. 124)

9. This Notice appoints 3 July 2004 as the day on which the Mutual Legal Assistance in Criminal Matters (Ukraine) Order (L.N. 110 of 2004) ("the Order") will come into operation.

10. The Order directs that the Mutual Legal Assistance in Criminal Matters Ordinance (Cap. 525), subject to specified modifications, shall apply between Hong Kong and Ukraine. The Order is made in consequence of the arrangements for mutual legal assistance entered into by Hong Kong and Ukraine and signed in Hong Kong on 2 April 2003.

11. No difficulties relating to the legal and drafting aspects of L.N. 117 to L.N.118 and L.N. 120 to L.N. 124 have been identified. As for L.N. 119, the Legal Service Division is seeking clarification with the Administration on a technical issue and will make a further report to the House Committee in due course.

Prepared by

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