

立法會
Legislative Council

LC Paper No. LS27/03-04

**Paper for the House Committee Meeting
on 19 December 2003**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 12 December 2003**

Date of tabling in LegCo : 17 December 2003

Amendment to be made by : 14 January 2004 (or 4 February 2004 if extended by resolution)

PART I NEW SUBSIDIARY LEGISLATION

**Electoral Affairs Commission Ordinance (Cap. 541)
Particulars Relating to Candidates on Ballot Papers (Legislative Council)
Regulation (L.N. 263)**

The Regulation contains new provisions allowing specified particulars relating to candidates in LegCo elections to be printed on the ballot papers.

2. A candidate for a functional constituency or a single candidate on a nomination list for a geographical constituency will be able to request the Electoral Affairs Commission (EAC) to print on the relevant ballot papers a personal photograph of the candidate and such particulars as the registered name and emblem of a prescribed body, the registered emblem of the candidate and the words "Independent Candidate" or "Non-affiliated Candidate".

3. As for a nomination list with different candidates, a candidate on the list may request for a personal photograph of any one or more of the candidates on the list and such particulars as the registered names and emblems of not more than 3 prescribed bodies, registered emblems of not more than 3 candidates on the list and the words "Independent Candidate" or "Non-affiliated Candidate" against the names of the corresponding candidates to be printed on the relevant ballot papers.

4. To facilitate the printing of the names (including abbreviations) and emblems of prescribed bodies and the emblems of individual candidates on ballot papers, the Regulation makes provisions for the prior registration of such names and emblems and requires consent to be given by the prescribed bodies to the requesting

candidate for such use of their names and emblems. The Regulation also contains detailed procedural provisions on the making and processing of applications for the registration of names and emblems.

5. The LegCo Panel on Constitutional Affairs was briefed on the proposal at its meetings on 24 April and 20 October 2003. It was generally supported by members but a number of points were also made for the consideration of EAC. At the second meeting, members also suggested that a Subcommittee be formed to study in detail the relevant regulation when it is ready.

6. Members may refer to LegCo Brief issued by the Registration and Electoral Office in December 2003 for further information and samples of ballot papers printed with specified particulars.

7. The Regulation shall come into operation on 6 February 2004, except Part 2 (Request to Print Particulars Relating to Candidates on Ballot Papers), which will come into operation on a day to be appointed by EAC. The technical aspects of the Regulation are still being scrutinised.

PART II MISCELLANEOUS AMENDMENTS

Registration of Persons Ordinance (Cap. 177)

Application for New Identity Cards (Persons Born in 1958 to 1963) Order (L.N. 264)

8. By this Order made by the Secretary for Security under section 7B(1) of the Registration of Persons Ordinance (Cap. 177), Schedule 2 to the Registration of Persons (Application for New Identity Card) Order (Cap. 177 sub. leg. E) is amended by adding before -

"1964 or 1965 From 12 January 2004 to 13 March 2004"

the following -

"1958 or 1959 From 26 July 2004 to 25 September 2004

1960 or 1961 From 24 May 2004 to 24 July 2004

1962 or 1963 From 15 March 2004 to 22 May 2004".

9. The Order has specified the categories of persons being directed to apply for identity cards at any of the nine smart identity card centres within the respective specified periods. This is the second cycle of the territory-wide identity card replacement exercise that has been launched since 18 August 2003 and covers Hong Kong residents born in 1958 to 1963. Residents who are not in Hong Kong during the specified periods may apply for their identity cards within 30 days of their return to Hong Kong. Members may wish to refer to the LegCo Brief issued by the Security Bureau and dated 12 December 2003 for further information. The Order will come into operation on 5 February 2004.

Public Health and Municipal Services Ordinance (Cap. 132)

**Public Health and Municipal Services Ordinance (Public Pleasure Grounds)
(Amendment of Fourth Schedule) (No. 4) Order 2003 (L.N. 265)**

10. By this Order made by the Director of Leisure and Cultural Services under section 106(1) and (6) of the Public Health and Municipal Services Ordinance (Cap. 132) (the Ordinance), the Hang Hong Street Garden and the San Hing Tsuen Children's Playground are set aside for use as public pleasure grounds and the Stanley Playground ceases to be set aside for use as a public pleasure ground. The list of public pleasure grounds in the Fourth Schedule to the Ordinance is also amended accordingly.

Securities and Futures Ordinance (Cap. 571)

Securities and Futures (Price Stabilizing) (Amendment) Rules 2003 (L.N. 266)

11. These Amendment Rules are made by the Securities and Futures Commission (SFC) under sections 282 and 306 of the Securities and Futures Ordinance (Cap. 571) (the Ordinance) after consultation with the Financial Secretary. They amend Schedule 4 to the Securities and Futures (Price Stabilizing) Rules (Cap. 571 sub. leg. W) (the Rules) by adding as item 1 the following:-

"Item	Specified provisions	Specified body or authority which made the specified provisions
1.	The Price Stabilising Rules, chapter 2 of the Market Conduct Sourcebook	Financial Services Authority United Kingdom".

12. The Rules exclude price stabilizing action conducted in accordance with its provisions from the market misconduct provisions of the Ordinance. Section 15 of the Rules extends the exclusion to price stabilising action conducted on the overseas market and effected in accordance with the stabilization rules in recognized jurisdictions specified in Schedule 4 to the Rules. The Amendment Rules specify the Price Stabilising Rules of the United Kingdom for the purpose of section 15. The SFC and the United Kingdom Financial Services Authority (FSA) have held discussions regarding recognition of the respective price stabilizing rules in each other's jurisdiction. It is anticipated that recognition of the Rules will be granted by FSA in the near future. Members may wish to refer to the LegCo Brief issued by the SFC and dated 9 December 2003 for further and background information.

13. The SFC issued a consultation document on 18 July 2003 on the Amendment Rules for public comments. According to the LegCo Brief, two submissions were received and were supportive of the recognition of the UK rules.

14. The Amendment Rules will come into effect on 6 February 2004.

PART III COMMENCEMENT NOTICES

Companies (Amendment) Ordinance 2003 (28 of 2003)

Companies (Amendment) Ordinance 2003 (28 of 2003) (Commencement) Notice 2003 (L.N. 267)

15. By this Notice given under section 1(2) of the Companies (Amendment) Ordinance 2003 (28 of 2003) (the Ordinance), the Secretary for Financial Services and the Treasury has appointed 13 February 2004 as the date on which the Ordinance with the exception of section 67 will come into operation.

16. The Ordinance implements 17 of the recommendations of the Standing Committee on Company Law Reform relating to the rights of shareholders and directors. They include enforcing terms of memorandum and articles of association, reducing the threshold for shareholders' proposals, removing directors by ordinary resolution, making directors vicariously liable for acts and omissions of their alternates, providing a statutory definition of "shadow director", allowing companies to indemnify directors and auditors, and to insure directors and officers. Prior to its enactment, the provisions of the Ordinance have been studied by a Bills Committee (vide the Report of the Bills Committee LC Paper No. CB(1)2007/02-03).

17. Section 67 amends section 158C of the Companies Ordinance (Cap. 32) and requires the Registrar of Companies to keep and maintain a register of persons who are directors of companies or reserve directors of private companies. It would be commenced after the Companies Registry has completed the necessary modifications to its information system. Members may wish to refer to the LegCo Brief (File Ref: C2/1/55(03) Pt 27) issued by the Financial Services Branch of the Financial Services and the Treasury Bureau for further information.

Factories and Industrial Undertakings (Gas Welding and Flame Cutting) Regulation (Cap. 59 sub. leg. AI)

Factories and Industrial Undertakings (Gas Welding and Flame Cutting) Regulation (Cap. 59 sub. leg. AI) (Commencement) Notice 2003 (L.N. 268)

18. By this Notice given under section 1(2) of the Factories and Industrial Undertakings (Gas Welding and Flame Cutting) Regulation (Cap. 59 sub. leg. AI) (the Regulation), the Commissioner for Labour has appointed 1 March 2004 as the date for the coming into operation of sections 3, 6 and 7 of the Regulation.

19. The Regulation was approved by a resolution of the Council on 28 November 2001 and came into effect on 30 November 2001, the date of its publication in the Gazette, except the sections to be commenced by the Notice. The scrutiny by a subcommittee was dispensed with as Members did not think that was necessary. Section 3 of the Regulation requires a proprietor to ensure that gas welding and flame cutting work (the relevant work) is only performed by a person who has attained the age of 18 and holds a valid certificate or by a trainee under the

supervision of such person. Section 6 imposes a duty on a person who performs the relevant work to produce his valid certificate to an occupational safety officer when required. Section 7 provides for offences and penalties for contravening provisions of the Regulation. Members may wish to refer to the LegCo Brief (File Ref: EMB CR 1/2961/01) issued in respect of the Regulation by the Education and Manpower Bureau in June 2001 for further information.

20. The relevant LegCo Panels have not been consulted on the subsidiary legislation reported in Parts II and III. No difficulties have been observed in the legal and drafting aspects of the subsidiary legislation reported in these Parts.

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