

立法會
Legislative Council

LC Paper No. LS45/04-05

**Paper for the House Committee Meeting
on 8 April 2005**

**Legal Service Division Report on
Subsidiary Legislation gazetted on 1 April 2005**

Date of tabling in LegCo : 6 April 2005

Amendment to be made by : 4 May 2005 (or 25 May 2005 if extended by resolution)

PART I PUBLIC HEALTH AND MUNICIPAL SERVICES

**Public Health and Municipal Services Ordinance (Cap. 132)
Swimming Pools (Amendment) Regulation 2005 (L.N. 39)**

Section 12 of the Swimming Pools Regulation (Cap. 132 sub. leg. CA) (“the principal Regulation”) stipulates that not less than two life saving attendants possessing valid certificates of competency not less than that of a holder of the bronze medallion of the Hong Kong Life Saving Society are required to be in attendance at a private swimming pool serving more than 20 or more residential units at all times during which such pool is open to swimmers.

2. This Regulation amends section 12 of the principal Regulation to upgrade the standard of competency required of life saving attendants of private swimming pools from that of a holder of a bronze medallion to a pool lifeguard award issued by the Hong Kong Life Saving Society.

3. Members may refer to LegCo Brief (File Ref.: HWF(F)7/14) issued by the Health, Welfare and Food Bureau in March 2005 for background information. According to the Brief, the proposal will better protect swimmers at private swimming pools and bring the standard of competency required of lifeguards working at private swimming pools into line with that required of their counterparts at public swimming pools.

4. This Regulation will come into operation on 1 April 2006. This, according to the Administration, is intended to allow time for incumbent lifeguards serving at private swimming pools to acquire the required higher qualification.

**Public Health and Municipal Services Ordinance (Cap. 132)
Designation of Libraries Order 2005 (L.N. 40)**

5. This Order designates 14 On Chun Street, Ma On Shan as a library.

6. The effect of this Order is to vest the management and control of the newly designated library in the Director of Leisure and Cultural Services (“the Director”). It also enables the Director to exercise his/her statutory functions under the Public Health and Municipal Services Ordinance (Cap. 132) in respect of the library.

PART II COMMENCEMENT NOTICES

**Civil Aviation Ordinance (Cap. 448)
Air Navigation (Flight Prohibition) Order (Commencement) Notice 2005
(L.N. 41)**

**Shipping and Port Control Ordinance (Cap. 313)
Shipping and Port Control (Amendment) (No. 3) Regulation 2000
(Commencement) Notice 2005 (L.N. 43)**

7. L.N. 41 appoints 16 August 2005 as the day on which the Air Navigation (Flight Prohibition) Order (Cap. 448 sub. leg. E) (“the Order”) will come into operation. The Order prohibits aircraft from flying below an altitude of 4,000 feet above mean sea level over the Hong Kong Disneyland and its immediate vicinity. The prohibition, however, does not apply to certain categories of aircraft. Where an aircraft (not being exempted) flies over the Prohibited Area, the operator and the commander of the aircraft each commits an offence and is liable on summary conviction to a fine at level 2 (\$5,000).

8. L.N. 43 appoints 16 August 2005 as the day on which the Shipping and Port Control (Amendment) (No. 3) Regulation 2000 (L.N. 141 of 2000) (“the Regulation”) will come into operation. The Regulation prohibits vessels from anchoring within the prohibited anchorage area adjacent to the Hong Kong Disneyland International Theme Park (“the Disneyland”) except with the permission of the Director of Marine.

9. The Panel on Economic Services was consulted on 16 March 2005 on the two commencement notices. The Panel had expressed concern about the establishment of a prohibited anchorage area south of the Disneyland. Members were worried that vessels carrying people to watch the fireworks display at the Disneyland might congregate in the prohibited anchorage area, resulting in marine safety problems. The Panel noted that the Administration would closely monitor the situation and would consider the need to designate an anchorage area for pleasure vessels carrying people to watch the fireworks display at the Disneyland as and when appropriate.

**Landlord and Tenant (Consolidation) (Amendment) Ordinance 2002 (32 of 2002)
Landlord and Tenant (Consolidation) (Amendment) Ordinance 2002
(Commencement) Notice 2005 (L.N. 42)**

10. This Notice appoints 1 June 2005 as the day on which sections 3, 21, 34 and 39 (in so far as it relates to new section 144(1), (2) and (3) of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7) (“the principal Ordinance”)) of the Landlord and Tenant (Consolidation) (Amendment) Ordinance 2002 (32 of 2002) (“the Amendment Ordinance”) will come into operation.

11. The main purposes of the Amendment Ordinance are to improve the operation of the principal Ordinance, increase penalties for harassment of the tenant and unlawful eviction, and streamline the statutory repossession procedure. Most of the provisions of the Amendment Ordinance have come into operation on 27 December 2002. The provisions that will be brought into operation by this Notice relate to the charging of fees by the Commissioner of Rating and Valuation (“the Commissioner”) for the issue of certain certificates, the determination of the level of certain fees payable to the Commissioner by the Financial Secretary, and certain provisions transitional to the enactment of the Amendment Ordinance.

PART III TAX RESERVE CERTIFICATES

**Tax Reserve Certificates (Fourth Series) Rules (Cap. 289 sub. leg. A)
Tax Reserve Certificates (Rate of Interest) (No. 2) Notice 2005 (L.N. 44)**

12. This Notice fixes the rate of interest payable on tax reserve certificates issued on or after 4 April 2005 at 0.5000% per annum.

13. Except for L.N. 41 and L.N. 43, the subsidiary legislation reported above has not been discussed by any Panel of the Legislative Council. No difficulties relating to the legal and drafting aspects of the above items of subsidiary legislation have been identified.

PART IV LEGAL NOTICE NOT REQUIRED TO BE TABLED

**United Nations Sanctions Ordinance (Cap. 537)
United Nations Sanctions (Sudan) Regulation (L.N. 45)**

14. This Regulation is made under section 3 of the United Nations Sanctions Ordinance (Cap. 537) by the Chief Executive on the instruction of the Ministry of Foreign Affairs of the People’s Republic of China and after consultation with the Executive Council. It gives effect to a decision of the Security Council of the United Nations in Resolution 1556 of 30 July 2004 to implement the following sanctions:

- (a) prohibitions against sale or supply of arms and related materials to non-governmental entities and individuals operating in the states of North Darfur, South Darfur and West Darfur of Sudan (“Darfur”); and
- (b) prohibitions against provision of certain technical assistance or training to non-governmental entities and individuals operating in Darfur.

15. Although the Regulation is not subject to scrutiny of the Legislative Council under section 34 of the Interpretation and General Clauses Ordinance (Cap. 1), it does come within the terms of reference of the Subcommittee to examine the implementation in Hong Kong of resolutions of the United Nations Security Council in relations to sanctions. It is recommended that the Regulation be referred to the Subcommittee for further study. Neither the public nor any Panel of the Legislative Council has been consulted on the Regulation.

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