

立法會
Legislative Council

LC Paper No. LS77/04-05

**Paper for the House Committee Meeting
on 10 June 2005**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 3 June 2005**

Date of tabling in LegCo : 8 June 2005

Amendment to be made by : 6 July 2005 (or the 1st meeting of LegCo in the next session if extended by resolution)

PART I SUBSIDIARY LEGISLATION

**Registration of Persons Ordinance (Cap. 177) (“the Ordinance”)
Application for New Identity Cards (Persons Born in 1974 to 1985) Order (“the Order”) (L.N. 85)**

The Order amends Schedule 2 to the Registration of Persons (Application for New Identity Cards) Order (Cap. 177 sub. leg. E) to provide that holders of valid identity cards who were born in 1974 to 1985 shall apply for new identity cards with embodied chips in the respective specified periods. Under section 7B(3) of the Ordinance, any person who without reasonable excuse fails to apply for new identity cards in accordance with the Order commits an offence and is liable to a fine at level 2 (\$5,000).

2. The Order shall come into operation on 13 October 2005.

3. Members may refer to the LegCo Brief on the Order issued by Security Bureau on 3 June 2005 for background information.

**Clubs (Safety of Premises) Ordinance (Cap. 376) (“the Ordinance”)
Clubs (Safety of Premises) (Exclusion) (Amendment) Order 2005 (L.N. 86)**

4. The Schedule to the Clubs (Safety of Premises) (Exclusion) Order (Cap. 376 sub. leg. C) specifies a list of club-houses situated in Government premises which are excluded from the Ordinance. This Order amends the Schedule to:-

- (a) update the name, address or location of 3 club-houses set out in the Schedule;
- (b) remove 3 club-houses (namely, Civil Aid Service Officers' Mess (Kowloon) at Civil Aid Service Kowloon Training Centre, 204, Argyle Street, Kowloon; Hong Kong Fire Services Officers' Club at Room 306, Tsimshatsui Fire Station Complex, 333, Canton Road, Tsimshatsui, Kowloon and The Land Registry Staff Recreation Club at Room 1714, 17/F, Queenwsay Government Offices, High Block, Hong Kong) from the Schedule; and
- (c) add a new club-house (The Commercial Crime Bureau Officers' Executive Boardroom at Room 1311, 13/F, Arsenal House West Wing, Police Headquarters, 1 Arsenal Street, Wanchai, Hong Kong) to the Schedule.

Pensions (Increase) Ordinance (Cap. 305)

Declaration of Increase in Pensions Notice 2005 (L.N. 87)

Widows and Orphans Pension (Increase) Ordinance (Cap. 205)

Widows and Orphans Pension (Increase) Notice 2005 (L.N. 88)

Declaration of Increase in Pensions Notice 2005

5. Under section 4(1B) of Cap. 305, if the average monthly Consumer Price Index (A) ("the Index") of a period of 12 months ending on 31 March of a year exceeds the Index of the immediately preceding 12 months by a percentage that is more than 0.1%, the basic pension to which Cap. 305 applies shall be increased by the same percentage. This Notice declares a 0.5% increase in respect of the basic pension with effect on 1 April 2005.

Widows and Orphans Pension (Increase) Notice 2005

6. Under section 3(3) of Cap. 205, if the Index of a period of 12 months ending on 31 March of a year exceeds the Index of the immediately preceding 12 months by a percentage that is more than 0.1%, the pensions described in Cap. 205 payable to a widow or orphan of an officer who made a contribution to the widows and orphans pension schemes under Cap. 205 shall be increased by the same percentage. This Notice specifies a 0.5% increase in respect of those pensions with effect from 1 April 2005.

7. Members may refer to the LegCo Brief issued by Civil Service Bureau on Declaration of Increase in Pensions Notice 2005 and Widows and Orphans Pension (Increase) Notice 2005 on 27 May 2005 (Ref: CSBCR/AP/4-075-005/5 Pt. 8) for background information.

Tax Reserve Certificates (Fourth Series) Rules (Cap. 289 sub. leg. A) (“the Rules”)

Tax Reserve Certificates (Rate of Interest) (No. 4) Notice 2005 (L.N. 89)

8. By this Notice made under rule 7(2)(h) of the Rules, the Secretary for Financial Services and the Treasury has prescribed the rate of interest payable on tax reserve certificates issued on or after 6 June 2005 to be 1.0833% per annum (the new rate). Accordingly, the Schedule to the Tax Reserve Certificates (Rate of Interest) (Consolidation) Notice (Cap. 289 sub. leg. B) is amended by adding “and before 6 June 2005” at the end of item 147 and the new rate as item 148.

Road Traffic Ordinance (Cap. 374) (“the Ordinance”)

Road Traffic (Registration and Licensing of Vehicles) (Amendment) Regulation 2005 (Commencement) Notice (L.N. 90)

9. The Road Traffic (Registration and Licensing of Vehicles) (Amendment) Regulation 2005 (L.N. 58 of 2005) (“the Amendment Regulation”) was made under section 6 of the Ordinance to:

- (a) amend Schedule 7 to the Road Traffic (Registration and Licensing of Vehicles) Regulations (Cap. 374 sub. leg. E) (“the Schedule”) to extend or modify the “permitted area” in the Sai Kung District, Tsuen Wan District, Islands District and Kwai Tsing District for taxis licensed to operate within the New Territories or Lantau only; and
- (b) replace all references to the Declaration of Districts Order 1994 (Cap. 366 sub. leg.) in the Schedule by references to the District Councils Ordinance (Cap. 547).

10. By this Notice, the Secretary for the Environment, Transport and Works appoints:

- (a) 16 August 2005 as the day on which sections 2(f)(ii), (iii) and (iv), (i)(ii), (iii) and (iv) and (j)(ii), (iii) and (iv) of the Amendment Regulation, (the extension or modification of the “permitted area” in the Tsuen Wan District, Islands District and Kwai Tsing District) shall come into operation; and
- (b) 8 July 2005 as the day on which the remaining provisions of the Amendment Regulation shall come into operation.

11. Members may wish to refer to the LegCo Brief issued by the Environment, Transport and Works Bureau in April 2005 and the Legal Service Division Report on the Amendment Regulation (Ref: LC Paper No. LS61/04-05) for background and further information.

Concluding Observations

12. Neither the public nor any Panel of the Legislative Council has been consulted in respect of the subsidiary legislation reported above. No difficulties have been identified in the legal and drafting aspects of the subsidiary legislation.

PART II NON-LEGISLATIVE INSTRUMENT

**Buildings Ordinance (Cap. 123) (“the Ordinance”)
Technical Memorandum for Supervision Plans 2005 (S.S. 5)**

13. The Technical Memorandum for Supervision Plans 2005 (“the 2005 Technical Memorandum”) is issued by the Secretary for Housing, Planning and Lands under section 39A of the Ordinance to replace the existing Technical Memorandum which came into operation on 22 December 1997 (“the 1997 Technical Memorandum”).

14. The 2005 Technical Memorandum supplements the provisions of the Ordinance governing the supervision of the building works or street works (“the Works”) by setting out the principles, requirements and operation of “supervision plans” i.e. plans setting out the plan of safety management of building works prepared in compliance with the technical memorandum prior to or at the time of application for consent to the commencement of the Works or as a result of carrying out urgent works.

15. According to the LegCo Brief on Revised Technical Memorandum for Supervision Plans issued by the Housing, Planning and Lands Bureau on 3 June 2005 (Ref: HPLB(B)35/18/26) (“the LegCo Brief”), the 1997 Technical Memorandum only sets out the site safety supervision requirements (the necessary site supervision requirements to check that the carrying out of the Works, including the sequence of construction, temporary works pertinent to all stages of the Works and the working environment, are safe, such that the hazards from the Works are controlled and risks to workers on site, all persons around the site, and adjoining properties and land are mitigated), but not the quality supervision requirements (the necessary supervision requirements to ensure that the Works are in general carried out in accordance with the provisions of the Ordinance and regulations, the relevant plans approved by the Building Authority (“BA”) and any order made or condition imposed, pursuant to any provisions of the Ordinance or its regulations). The quality supervision requirements have to be imposed through a condition under section 17(1)B6(e) of the Ordinance.

16. The 2005 Technical Memorandum amends the 1997 Technical Memorandum in the following three major aspects:

- (a) to integrate the site safety supervision system and the quality supervision system including the qualified supervision for the Works;

- (b) to replace the different classes of supervision with regard to the complexity of the works by different sets of supervision requirements to cater for the various types of the Works; and
- (c) to incorporate the supervision requirements of the registered geotechnical engineer (“RGE”).

17. The 2005 Technical Memorandum sets out:

- (a) the principles for the preparation of supervision plans (Clause 4);
- (b) detailed supervision requirements for various types of Works including the management structure required to ensure site safety, the general responsibilities of the site supervision personnel for the various types of the Works; the qualifications and experience required for technically competent persons (“TCP”) to be appointed for supervisory work under supervision plans (Clause 5);
- (c) the classes of supervision that the BA identifies as appropriate to various types of the Works (Clause 6);
- (d) the form and content of a supervision plan (Clause 7);
- (e) the procedure, timing and sequence for the submission of supervision plans (Clause 8);
- (f) the circumstances in which minor deviations from a supervision plan may be notified in retrospect (Clause 9);
- (g) the method and timing of notification of, and the amendment procedures for, a proposed or actual deviation from a supervision plan, including deviations caused by an emergency (Clause 10); and
- (h) the circumstances in which a supervision plan is not required for the Works (Clause 11).

18. Members may wish to note that a technical memorandum issued under section 39A of the Ordinance has to undergo a procedure based on that for subsidiary legislation. It is required to be published in the Gazette and laid on the table of the Legislative Council. The Council may also amend the technical memorandum by resolution passed at a sitting of the Legislative Council with the same time-frame.

19. Members may refer to the LegCo Brief and an information paper (“the Information Paper”) provided by the Administration to the Panel on Planning, Lands and Works (“the Panel”) concerning the proposed amendments to the 1997 Technical Memorandum for circulation to members of the Panel and copied to all other members

on 17 May 2005 (Ref: LC Paper No. CB(1)1560/04-05) for background information.

20. According to the LegCo Brief, the Administration has consulted the relevant professional institutions, the Real Estate Developers Association, the Hong Kong Construction Association Limited, the Building Sub-Committee of the Lands and Building Advisory Committee, as well as the Authorized Persons and Registered Structural Engineers Committee on the proposal. They all supported the proposal. The Administration has also conducted two briefing seminars for TCPs and other workers directly engaged in site supervision work on 1 February 2005. No objection to the proposal was raised in the seminars. Members of the Panel have not raised the need for discussion, or objections to the proposals.

21. The 2005 Technical Memorandum shall commence to have effect on 31 December 2005.

Prepared by

LAI Shun-wo, Monna
Assistant Legal Adviser
Legislative Council Secretariat
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