

**立法會**  
**Legislative Council**

LC Paper No. LS21/04-05

**Paper for the House Committee Meeting  
on 17 December 2004**

**Legal Service Division Report on  
Subsidiary Legislation Gazetted on 10 December 2004**

**Date of tabling in LegCo** : 15 December 2004

**Amendment to be made by** : 12 January 2005 (or 2 February 2005 if extended by resolution)

**PART I SCHEDULES OF BUS ROUTES**

**Public Bus Services Ordinance (Cap. 230)**

**Schedule of Routes (Citybus Limited) Order 2004 (L.N. 201)**

**Schedule of Routes (Citybus Limited) (North Lantau and Chek Lap Kok Airport) Order 2004 (L.N. 202)**

**Schedule of Routes (Kowloon Motor Bus Company (1933) Limited) Order 2004 (L.N. 203)**

**Schedule of Routes (Long Win Bus Company Limited) Order 2004 (L.N. 204)**

**Schedule of Routes (New Lantao Bus Company (1973) Limited) Order 2004 (L.N. 205)**

**Schedule of Routes (New World First Bus Services Limited) Order 2004 (L.N. 206)**

Under section 5(1) of the Public Bus Services Ordinance (Cap. 230), the Chief Executive in Council may grant to any registered company the right to operate a public bus service on such routes as he specifies by order.

2. Section 15(1) of Cap. 230 provides that the Commissioner for transport may, after consultation with the bus companies, require them to introduce new routes and make alterations to specified routes on a temporary basis where appropriate. Such changes may take effect for a period up to 24 months and will expire upon expiry of such period unless they are specified in the orders made by the Chief Executive in Council under section 5(1) before expiry of such period.

3. L.N. 201 to 206 replace the previous Orders (L.N. 60 to 65 of 2003) to update the schedules of bus routes operated by Citybus Limited, Kowloon Motor Bus Company (1933) Limited, Long Win Bus Company Limited, New Lantao Bus Company (1973) Limited and New World First Bus Services Limited.

4. Members may refer to the LegCo Brief (ref: ETWB(T) 2/4/115) issued by the Environment, Transport and Works Bureau on 9 December 2004 for more background information about these Orders. These Orders have not been referred to any LegCo Panel and according to the LegCo Brief, the District Councils concerned were consulted on the services before the same were introduced (para. 6).

5. These Orders shall come into operation on 12 January 2005.

## **PART II FOOD AND DRUGS - COMPOSITION AND LABELLING**

### **Public Health and Municipal Services Ordinance (Cap. 132) Food and Drugs (Composition and Labelling) (Amendment) (No. 2) Regulation 2004 (L.N. 207)**

6. This amendment Regulation expands the list of ingredients (including stabilizers, acidity regulators, thickeners and emulsifiers) permitted to be included in cream and provides for the respective amounts thereof.

7. Members may refer to the LegCo Brief (ref: HWF(F)5/1/8) issued by the Health, Welfare and Food Bureau in December 2004 for more background information about the amendment Regulation. The amendment Regulation has not been referred to any LegCo Panel. The Administration considers that the proposed amendments follow the international standard adopted by the Codex Alimentarius Commission under the Food and Agricultural Organization and the World Health Organization and since the trade has been informed and the proposal would result in relaxation of restrictions, public consultation is not necessary (para. 7 and 11 of LegCo Brief).

8. The amendment Regulation shall come into operation on 4 February 2005.

## **PART III SUBSIDIARY LEGISLATION UNDER THE TELECOMMUNICATIONS ORDINANCE**

### **Telecommunications Ordinance (Cap. 106) Telecommunications (Designation of Frequency Bands Subject to Payment of Spectrum Utilization Fee) (Amendment) Order 2004 (L.N. 208) Telecommunications (Method for Determining Spectrum Utilization Fees) (Third Generation Mobile Services) (Amendment) Regulation 2004 (L.N. 209)**

**Telecommunications (Level of Spectrum Utilization Fees) (Second Generation Mobile Services) Regulation (L.N. 210)**

9. Under section 32I of the Telecommunications Ordinance (“the Ordinance”), the Telecommunications Authority (“TA”) may by order designate the frequency bands in which the use of spectrum is subject to the payment of spectrum utilization fees by the spectrum users. The level of, or the method for determining, the spectrum utilization fees will be prescribed by the Secretary for Commerce, Industry and Technology. Section 32I(8) of the Ordinance provides that spectrum utilization fees paid by licensees shall be paid into the general revenue. At present, while spectrum utilization fees are payable by licensees providing third generation (“3G”) mobile services, those providing second generation (“2G”) mobile services are not subject to payment of such fees.

10. The purpose of L.N. 208 and L.N. 210 is to extend the requirement to pay spectrum utilization fees to licensees of 2G mobile services in the new round of licences upon expiry of their existing ones. L.N. 208 designates additional sets of frequency bands in which the use of spectrum is subject to the payment of spectrum utilization fees by the spectrum users. These sets of frequency bands are currently deployed for provision of 2G mobile services. L.N. 210 specifies the level of spectrum utilization fees for these additional frequency bands and empowers TA to take remedial action should a licensee fail to keep proper accounts for the purposes of determining spectrum utilization fees. Under L.N. 210, the amount of the spectrum utilization fees payable by 2G licensees is determined as follows:

- (a) for the first 5 years of the new licence, the annual spectrum utilization fees will be \$145 per kHz of the total radio frequencies then assigned to the licensee; and
- (b) from the 6<sup>th</sup> licence year onwards to the expiry of the licence, the annual spectrum utilization fees will be 5% of the network turnover, subject to a minimum fee of \$1,450 per kHz of the total radio frequencies then assigned to the licensee.

11. L.N. 209 makes consequential amendments to the Telecommunications (Method for Determining Spectrum Utilization Fees) (Third Generation Mobile Services) Regulation (Cap. 106 sub. leg. X) (“the principal Regulation”) to make it clear that the principal Regulation only applies to the 4 sets of frequency bands that have been designated for providing 3G mobile services.

12. Members may refer to the LegCo Brief (File Ref.: CTB(CR)7/23/11) issued by the Commerce, Industry and Technology Bureau dated 8 December 2004 for background information. According to the Brief, the Administration considers it appropriate to start charging 2G licensees spectrum utilization fees upon expiry of their licences. The reason is that 2G licensees, like licensees of 3G mobile services, make use of radio spectrum for commercial services.

13. According to the LegCo Brief, the public and the industry were consulted in August 2003 and March 2004 respectively on the licensing requirements, which include the introduction of spectrum utilization fees, of mobile telecommunications services upon expiry of existing 2G licences.

14. The Panel on Information Technology and Broadcasting was briefed on the above subsidiary legislation at its meeting on 13 December 2004. At the meeting, members expressed concern over a number of issues, including the level of spectrum utilization fees payable by 2G licensees as compared with those payable by 3G licensees, and whether the proposed assignment of only one-third of the originally assigned spectrum to the CDMA licensee and TDMA licensee could cope with the service demands of local subscribers and inbound roamers using the CDMA network. The Administration explained that in due course, the annual spectrum utilization fees for 2G licensees would be 5% royalty over the licensee's annual network turnover, which was the same charging formula as that for 3G licensees. As regards the CDMA and TDMA licences, the Administration advised that based on its assessment, the proposed spectrum capacity should be able to cope with the service demands in the run-up to November 2008 when the 3-year migration period for the licensees expired.

15. L.N. 208 to L.N. 210 will come into operation on 3 February 2005.

16. The Legal Service Division is seeking clarification from the Administration on certain technical issues. A further report will be issued if necessary.

#### **PART IV NEW IDENTITY CARDS**

##### **Registration of Persons Ordinance (Cap. 177)**

##### **Registration of Persons (Application for New Identity Cards) (Amendment) Order 2004 (L.N. 211)**

##### **Application for New Identity Cards (Persons Born in 1943 to 1951 or 1970 to 1973) Order (L.N. 212)**

17. L.N. 211 amends section 3(2) of the Registration of Persons (Application for New Identity Cards) Order (Cap. 177 sub. leg. E) to direct certain categories of persons to apply for new identity cards with embodied chips within the specified period.

18. L.N. 212 amends Schedule 2 to Cap. 177 sub. leg. E to provide that holders of valid identity cards who were born in 1943 to 1951 or 1970 to 1973 shall apply for new identity cards with embodied chips in the respective specified periods. Under section 7B(3) of Cap. 177, any person who without reasonable excuse fails to apply for new identity cards in accordance with an order commits an offence and is liable to a fine at level 2 (\$5,000).

19. Members may refer to the LegCo Brief issued by the Security Bureau on 10 December 2004 for more background information about these Orders. These Orders have not been referred to the LegCo Panel on Security but a Progress Report on the HKSAR Identity Card Project was made in an information paper prepared by the Security Bureau in July 2004 (LC Paper No. CB(2)3025/03-04(01)).

20. This Order shall come into operation on 3 February 2005.

## **PART V OCCUPATIONAL HEALTH AND EMPLOYEES' COMPENSATION - SARS AND AVIAN INFLUENZA A**

### **Employees' Compensation Ordinance (Cap. 282)**

#### **Employees' Compensation Ordinance (Amendment of Second Schedule) Order 2004 (L.N. 213)**

### **Occupational Safety and Health Ordinance (Cap. 509)**

#### **Occupational Safety and Health Ordinance (Amendment of Schedule 2) Order 2004 (L.N. 214)**

21. The Second Schedule to the Employees' Compensation Ordinance (Cap. 282) specifies a list of occupational diseases in respect of which employees' compensation is payable. The Schedule also specifies the nature of the trade, industry or process associated with the occupational diseases and the prescribed period for the purpose of determining the liability to compensation. If the incapacity or death of an employee results from an occupational disease and is due to the nature of any employment in which the employee was employed at any time within the prescribed period immediately preceding such incapacity or death, the employee or members of his family, as the case may be, shall be entitled to compensation under the Ordinance as if such incapacity or death had been caused by an accident arising out of and in the course of employment.

22. L.N. 213 adds two occupational diseases, namely, severe acute respiratory syndrome ("SARS") and avian influenza A, to the Second Schedule to Cap. 282.

23. The Occupational Safety and Health Ordinance (Cap. 509) requires a medical practitioner, on examining an employee, to notify the Commissioner for Labour if the practitioner finds or suspects that the employee suffers from an occupational disease specified in Schedule 2 to Cap. 509.

24. L.N. 214 adds two occupational diseases, namely SARS and avian influenza A, to Schedule 2 to Cap. 509.

25. At its meeting on 18 November 2004, the Panel on Manpower was provided with an information paper by the Administration (LC Paper No.

CB(2)207/04-05(03)) and was consulted on the Administration's proposal to add SARS and avian influenza A to the Second Schedule to Cap. 282 and Schedule 2 to Cap. 509.

26. A member expressed support for the Administration's proposal to safeguard the interests of employees. Another member said that the poultry industry welcomed the proposal of prescribing avian influenza A as an occupational disease. The member suggested that the Administration should gauge the views of the medical and healthcare sectors on the proposed prescribed employment period of one month for SARS. Another member informed the Panel that the insurance industry did not raise objection to the Administration's proposal. The member envisaged that there would be an upward adjustment on the employees' compensation insurance premium after the proposal came into operation.

27. L.N. 213 and L.N. 214 shall come into operation on a date to be appointed by the Commissioner for Labour by notice published in the Gazette.

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