

立法會 *Legislative Council*

LC Paper No. LS113/05-06

Paper for the House Committee Meeting on 6 October 2006

Legal Service Division's Report on Subsidiary Legislation gazetted from 21 July 2006 to 29 September 2006

This paper annexes seven Legal Service Division's reports on subsidiary legislation gazetted from 21 July 2006 to 29 September 2006 (**Annex**). The items of subsidiary legislation included in these reports (except for Western Harbour Crossing Ordinance (Replacement of Schedule 1) Notice 2006 (L.N. 181) gazetted on 28 July 2006, Tai Lam Tunnel and Yuen Long Approach Road Ordinance (Toll Increase) Notice 2006 (L.N. 186) gazetted on 8 September 2006 and United Nations Sanctions (Liberia) Regulation 2005 (Amendment) (No. 2) Regulation 2006 (L.N. 188) gazetted on 15 September 2006, which are not required to be tabled) will be tabled at the Council meeting on 11 October 2006. Under section 34 of the Interpretation and General Clauses Ordinance (Cap. 1), the Legislative Council may amend the tabled items of subsidiary legislation by 8 November 2006, or by 29 November 2006 if extended by resolution.

2. Six out of the seven reports referred to above have been separately submitted to Members during the summer recess to enable Members to consider the relevant subsidiary legislation as soon as possible. The reports are submitted again in this bundle to facilitate consideration by the House Committee.

3. The Secretariat has circulated to Members the Gazettes which contain the subsidiary legislation covered by these seven reports in the usual manner. Members may also view the relevant Gazettes at the following website : <http://www.gld.gov.hk/egazette/>.

4. Members may wish to consider whether it is necessary to set up a subcommittee to study any items of subsidiary legislation covered by these seven reports.

Encl

Prepared by

Legal Service Division
Legislative Council Secretariat
4 October 2006

**Legal Service Division's Reports on
Subsidiary Legislation gazetted between 21 July 2006 and 29 September 2006**

<u>L.N. No</u>	<u>Item</u>
180	Designation of Libraries Order 2006
*181	Western Harbour Crossing Ordinance (Replacement of Schedule 1) Notice 2006
182	Public Health and Municipal Services (Setting Aside Places for Use as Public Pleasure Grounds) (No. 2) Order 2006
183	Public Health and Municipal Services Ordinance (Amendment of Fourth Schedule) (No. 2) Order 2006
184	Merchant Shipping (Limitation of Shipowners Liability) (Rate of Interest) (Amendment) (No. 2) Order 2006
185	Dentists Registration (Amendment) Ordinance 2006 (Commencement) Notice
*186	Tai Lam Tunnel and Yuen Long Approach Road Ordinance (Toll Increase) Notice 2006
187	Legal Practitioners (Risk Management Education) Rules (Appointment of Commencement Date) Notice 2006
*188	United Nations Sanctions (Liberia) Regulation 2005 (Amendment) (No. 2) Regulation 2006
189	Airport Authority Ordinance (Map of Restricted Area) (No. 2) Order 2006
190	Clubs (Safety of Premises) (Exclusion) (Amendment) Order 2006

*not required to be tabled and not subject to amendment

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**Legal Service Division Report on
Subsidiary Legislation Gazetted on 21 July 2006**

Date of Tabling in LegCo : 11 October 2006

Amendment to be made by : 8 November 2006 (or 29 November 2006 if extended by resolution)

**Public Health and Municipal Services Ordinance (Cap. 132)
Designation of Libraries Order 2006 (L.N. 180)**

By this Order, the upper ground floor, Stanley Municipal Services Building, 6 Stanley Market Road, Stanley, Hong Kong is designated as a library. The effect of this Order is that the management and control of the library concerned is vested in the Director of Leisure and Cultural Services and that the provisions in the Public Health and Municipal Services Ordinance (Cap. 132) relating to libraries are applicable to that library.

2. No difficulties relating to the legal and drafting aspects of the Order have been identified.

Prepared by

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27 July 2006

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Legislative Council

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 28 July 2006**

**SUBSIDIARY LEGISLATION NOT REQUIRED TO BE TABLED AND NOT
SUBJECT TO AMENDMENT**

**Western Harbour Crossing Ordinance (Cap. 436)
Western Harbour Crossing Ordinance (Replacement of Schedule 1) Notice 2006
(L.N. 181)**

The Western Harbour Crossing Ordinance (Cap. 436) (“the Ordinance”) provides for a specified toll adjustment mechanism in respect of the Western Harbour Crossing. Under Schedule 4 to the Ordinance, the Western Harbour Tunnel Company Limited (“the Company”) or the franchisee may effect toll increases on six specified dates: 1 January 2001, 1 January 2005, 1 January 2009, 1 January 2013, 1 January 2017 and 1 January 2021. Under section 46(1) of the Ordinance, however, if the Company’s or the franchisee’s net revenue in any year (which is not a year ending immediately before the specified dates) is less than the minimum estimated net revenue for that year specified in Schedule 5 to the Ordinance, the Company or the franchisee may apply to the Secretary for the Environment, Transport and Works to give effect to the next anticipated toll increase. The maximum levels of increase in respect of different categories of vehicles, from operating date up to 31 December 2010 or during the period of 13 years beginning on operating date, are specified in Schedule 2 to the Ordinance.

2. Under section 52(1) of the Ordinance, where a toll is increased in accordance with the Ordinance and the project agreement, the Commissioner for Transport shall by notice published in the Gazette amend Schedule 1 to vary the relevant tolls. Under section 52(2), the Company or the franchisee shall not give effect to more than one increase in the tolls in one year. The last toll increase came into effect on 31 July 2005 (L.N. 129 of 2005). Section 52(3) provides that section 34 of the Interpretation of General Clauses Ordinance (Cap. 1) shall not apply in respect of such notice, hence the notice is not tabled before the Legislative Council and not subject to amendment by Legislative Council. This Notice replaces the existing Schedule 1 to the Ordinance to show the new tolls.

3. Members may refer to an information paper (LC Paper No. CB(1)1963/05-06(01)) issued by Environment, Transport and Works Bureau to the Panel on Transport in July 2006 for background information. A comparison table of the existing and new tolls is provided in Annex B to the information paper.

4. According to the information paper, the Company's net revenue has consistently fallen short of the specified levels since operation of the Western Harbour Crossing began in 1997. To date, the Company has raised its statutory tolls four times in December 2000, July 2002, February 2004 and July 2005. In practice, however, concessionary tolls which are less than the statutory tolls have been offered by the Company to all vehicle classes. According to the Administration, the actual toll levels will remain unchanged and users will not be affected by the revision as contained in this Notice.

5. The Notice came into operation on 31 July 2006.

Prepared by

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1 August 2006

立法會
Legislative Council

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 11 August 2006**

Date of tabling in LegCo : 11 October 2006

Amendment to be made by : 8 November 2006 (or 29 November 2006 if extended by resolution)

Public Health and Municipal Services Ordinance (Cap. 132)

Public Health and Municipal Services (Setting Aside Places for Use as Public Pleasure Grounds) (No. 2) Order 2006 (L.N. 182)

Public Health and Municipal Services Ordinance (Amendment of Fourth Schedule) (No. 2) Order 2006 (L.N. 183)

By the Order (i.e. L.N. 182) made under section 106(1) of the Public Health and Municipal Services Ordinance (Cap. 132) (the Ordinance), the Director of Leisure and Cultural Services (the Director) has set aside for use as public pleasure grounds the following places (specified places):-

On the Island of Hong Kong	Tong Shui Road Garden Yuk Kwai Shan Service Reservoir Sitting-out area
In Kowloon	Nan Lian Garden
In the New Territories	Chiu Tam Path Garden Kat Cheung Crescent Garden Wai Hon Road Garden Wo Yi Hop Road Garden

2. The list of public pleasure grounds (other than bathing beaches) contained in the Fourth Schedule to the Ordinance is correspondingly amended by a separate Order (i.e. L.N.183) made by the Director under section 106(6) of the Ordinance by adding the above specified places under the appropriate headings of the list.

3. The setting aside as public pleasure grounds of the specified places allows the Director as the Authority to assume the general control and management of the places pursuant to section 107 of the Ordinance and to exercise all the powers vested in the Authority by virtue of the provisions contained in Part X of the Ordinance, including the making of regulations and rules governing the public pleasure grounds. No difficulties in the legal or drafting aspects of the Orders have been observed.

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11 August 2006

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Legislative Council

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 1 September 2006**

Date of tabling in LegCo : 11 October 2006

Amendment to be made by : 8 November 2006 (or 29 November 2006 if extended by resolution)

**Merchant Shipping (Limitation of Shipowners Liability) Ordinance (Cap. 434)
Merchant Shipping (Limitation of Shipowners Liability) (Rate of Interest)
(Amendment) (No. 2) Order 2006 (L.N. 184)**

The Merchant Shipping (Limitation of Shipowners Liability) (Rate of Interest) (Amendment) (No. 2) Order 2006 (“the Order”) is made under section 19(1) of the Merchant Shipping (Limitation of Shipowners Liability) Ordinance (Cap. 434) (“the Ordinance”) by the Monetary Authority (“the MA”) to prescribe the new rate of interest to be applied to limitation funds constituted under paragraph 1 of Article 11 of the Convention on Limitation of Liability for Maritime Claims, 1976 as applied by the Ordinance (“the Convention”).

2. Under the Convention, shipowners and salvors may limit their liability for maritime claims by constituting limitation funds. A limitation fund shall comprise the amounts set out in the Convention and interest on those amounts.

3. The Order prescribes the new rate of interest applicable on or after 1 September 2006 to be 7.96%. According to the MA, the interest rate is on per annum basis. The existing interest rate of 7.38% was prescribed by the MA on 20 February 2006 and effective from 24 February 2006.

4. Members may refer to the LegCo Brief issued by the Financial Services and the Treasury Bureau on 1 September 2006 for background information. The Order has not been referred to any LegCo Panel.

5. The Order came into effect on the day it was published in the Gazette, that is, 1 September 2006.

Dentists Registration (Amendment) Ordinance 2006 (11 of 2006)
Dentists Registration (Amendment) Ordinance 2006 (Commencement) Notice
(L.N. 185)

6. The Dentists Registration (Amendment) Ordinance 2006 amends the Dentists Registration Ordinance (Cap. 156) (“the Ordinance”) and the Dentists (Registration and Disciplinary Procedure) Regulations (Cap. 156 sub. leg. A) to establish a Specialist Register for registered dentists qualified in various specialist fields of dentistry and the Education and Accreditation Committee. By this Notice, the Secretary for Health, Welfare and Food has appointed 30 November 2006 as the day on which the Ordinance shall come into operation.
7. The Panel on Health Services has not been consulted on the Notice.
8. Members may refer to the Report of the Bills Committee on the Dentists Registration (Amendment) Bill 2005 (Ref: CB(2)1831/05-06) for further information.

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11 September 2006

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Legislative Council

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 8 September 2006**

LEGAL NOTICE NOT REQUIRED TO BE TABLED AT LEGISLATIVE COUNCIL

**Tai Lam Tunnel and Yuen Long Approach Road Ordinance (Cap. 474)
Tai Lam Tunnel and Yuen Long Approach Road Ordinance (Toll Increase)
Notice 2006 (L.N. 186)**

Under section 39(1) of the Tai Lam Tunnel and Yuen Long Approach Road Ordinance (Cap. 474) (“the Ordinance”), the franchisee (Route 3 (CPS) Company Limited) may give effect to toll increases on each of the three specified dates referred to in Schedule 3 to the Ordinance (1 January 2003, 2010 and 2017). However, if the franchisee’s actual net revenue (“ANR”) for any year, which is not a year ending immediately before a specified date, is less than the minimum estimated net revenue (“MENR”) for that year as specified in Schedule 4 to the Ordinance, the franchisee may advance an anticipated toll increase under section 40(1). Where the franchisee has effected all the anticipated toll increases pursuant to sections 39(1) and 40(1) and its ANR for any year occurring before the expiry of the franchise period is less than its MENR for that year, the franchisee may apply to the Secretary for the Environment, Transport and Works under section 42 of the Ordinance to give effect to an additional toll increase.

2. Schedule 1 to the Ordinance specifies the Tai Lam Tunnel and Yuen Long Approach Road Tolls. Under section 45(1), where a toll is increased, the Commissioner for Transport shall by notice published in the Gazette amend Schedule 1. Section 45(3) provides that section 34 of the Interpretation and General Clauses Ordinance (Cap. 1) shall not apply in respect of such notice. Accordingly, the notice is not required to be tabled before the Legislative Council and is not subject to Legislative Council’s amendment.

3. This Notice replaces Schedule 1 to the Ordinance with a new Schedule 1 to reflect the increase of tolls payable under the Ordinance. The amounts of increase are in accordance with the maximum amounts permitted under Schedule 2 to the Ordinance.

4. A comparison of the existing and new statutory tolls is as follows:

Tai Lam Tunnel and Yuen Long Approach Road Tolls

Category	Vehicle	Toll (\$) (as from 17 September 2006)	Existing Toll (\$)
1.	Motorcycles, motor tricycles	30	25
2.	Private cars, electrically powered passenger vehicles, taxis	35	30
3.	Public and private light buses	90	75
4.	(a) Light goods vehicles and special purpose vehicles of a permitted gross vehicle weight not exceeding 5.5 tonnes	90	75
	(b) In a vehicle specified in paragraph (a), each additional axle in excess of 2	40	35
5.	(a) Medium goods vehicles and special purpose vehicles of a permitted gross vehicle weight exceeding 5.5 tonnes but not exceeding 24 tonnes	100	85
	(b) In a vehicle specified in paragraph (a), each additional axle in excess of 2	40	35
6.	(a) Heavy goods vehicles and special purpose vehicles of a permitted gross vehicle weight exceeding 24 tonnes	120	105
	(b) In a vehicle specified in paragraph (a), each additional axle in excess of 2	40	35
7.	Public and private single-decked buses	90	75
8.	Public and private double-decked buses	105	90

5. The Environment, Transport and Works Bureau has provided an information paper about this Notice to the Panel on Transport in September 2006 (LC Paper No. CB(1)2185/05-06(01)). According to the information paper, despite the increase in the statutory tolls, the franchisee will continue to offer concessions to all types of vehicles so that the current toll levels would be maintained and users will not be affected. Details of the toll concessions are set out in Annex B to the paper. The Notice has not been discussed by the Transport Panel.

6. This Notice will come into operation on 17 September 2006.

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15 September 2006

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立法會
Legislative Council

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 15 September 2006**

Date of Tabling in LegCo : 11 October 2006

Amendment to be made by : 8 November 2006 (or 29 November 2006 if extended by resolution)

PART I COMMENCEMENT NOTICE

**Legal Practitioners (Risk Management Education) Rules (Cap. 159 sub. leg. Z)
Legal Practitioners (Risk Management Education) Rules (Appointment of
Commencement Date) Notice 2006 (L.N. 187)**

The Legal Practitioners (Risk Management Education) Rules (Cap. 159 sub. leg. Z) (“the Rules”) provide for the implementation of a programme of training courses on risk management for solicitors, foreign lawyers and trainee solicitors. The Law Society of Hong Kong intends to apply the Rules to different categories of lawyers by different phases. The Principal Rules have been applied to solicitors who are principals (L.N.s 146 and 154 of 2005).

2. Under section 12(2) of the Rules, the Council of The Law Society of Hong Kong appoints 1 November 2006 as the date on which the Rules shall take effect in relation to a solicitor who is not a principal and who was admitted as a solicitor of the High Court before 1 January 2001. The effect of L.N. 187 is that a solicitor who is not a principal and who was admitted as a solicitor of the High Court before 1 January 2001 is required to complete the relevant training courses on risk management education by 1 November 2006.

3. The Panel on Administration of Justice and Legal Services has not been consulted on the Notice.

4. There are no difficulties identified in relation to the legal or drafting aspect of the above item.

PART II LEGAL NOTICE NOT REQUIRED TO BE TABLED

United Nations Sanctions Ordinance (Cap. 537)

United Nations Sanctions (Liberia) Regulation 2005 (Amendment) (No. 2) Regulation 2006 (L.N. 188)

5. This Regulation amends the United Nations Sanctions (Liberia) Regulation 2005 (Cap. 537 sub. leg. X) (“the Principal Regulation”) to give effect to two decisions of the Security Council of the United Nations (“Security Council”).

6. The Regulation amends the Principal Regulation by adding a new section 10C to give effect to a decision of the Security Council in Resolution 1689 of 20 June 2006 to renew a measure imposed by Resolution 1521 of 22 December 2003 by providing for the prohibition against the direct or indirect import of rough diamonds from Liberia.

7. The Regulation amends section 14A(2) of the principal Regulation by adding a new paragraph(d) to give effect to a decision of the Security Council in Resolution 1683 of 13 June 2006 to allow the supply, delivery or carriage of certain prohibited goods to Liberia. The relevant prohibited goods are weapons or ammunition, as approved in advance on a case-by-case basis by the Committee of the Security Council established pursuant to paragraph 21 of Resolution 1521, intended for use by members of the Liberian police and security forces who have been vetted and trained since the inception of the United Nations Mission in Liberia in October 2003.

8. The Regulation amends section 15A(2) of the principal Regulation by adding a new paragraph(c) to give effect to a decision of the Security Council in Resolution 1683 of 13 June 2006 to allow the provision to Liberia of technical assistance or training related to the supply, delivery, manufacture, maintenance or use of weapons or ammunition, as approved in advance on a case-by-case basis by the Committee of the Security Council established pursuant to paragraph 21 of Resolution 1521, intended for use by members of the Liberian police and security forces who have been vetted and trained since the inception of the United Nations Mission in Liberia in October 2003.

9. Although L.N. 188 is not subject to scrutiny of the Legislative Council under section 34 of the Interpretation and General Clauses Ordinance (Cap. 1), it comes within the terms of reference of the Subcommittee to Examine the implementation in Hong Kong of Resolutions of the United Nations Security Council in relation to Sanctions. It is recommended that the Regulation be referred to the Subcommittee for further study.

10. The Panel on Commerce and Industry has not been consulted on the Regulation.

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26 September 2006

LS/S/41/05-06

立法會
Legislative Council

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 29 September 2006**

Date of tabling in LegCo : 11 October 2006

Amendment to be made by : 8 November 2006 (or 29 November 2006 if extended by resolution)

**Airport Authority Ordinance (Cap. 483)
Airport Authority Ordinance (Map of Restricted Area) (No. 2) Order 2006
(L.N. 189)**

This Order is made by the Director-General of Civil Aviation under section 37 of the Airport Authority Ordinance (Cap. 483) which specifies the new boundaries of the Restricted Area for the purposes of the Ordinance and replaces the existing Airport Authority Ordinance (Map of Restricted Area) Order (L.N. 115 of 2006).

2. The Order shall come into operation on 1 December 2006.

**Clubs (Safety of Premises) Ordinance (Cap. 376)
Clubs (Safety of Premises) (Exclusion) (Amendment) Order 2006 (L.N. 190)**

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

4. This Order amends the Schedule by updating the names of 8 clubs and the locations of 6 club-houses, deleting one club-house and adding one club-house.

5. The Order commenced on the date it was published in the Gazette, i.e. 29 September 2006.

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3 October 2006