

立法會
Legislative Council

LC Paper No. LS3/05-06

**Paper for the House Committee Meeting
on 21 October 2005**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 14 October 2005**

Date of tabling in LegCo : 19 October 2005

Amendment to be made by : 16 November 2005 (or 7 December 2005 if extended by resolution)

PART I VEHICLE DESIGN STANDARDS (EMISSION)

Air Pollution Control Ordinance (Cap. 311)

Air Pollution Control (Vehicle Design Standards) (Emission) (Amendment) Regulation 2005 (L.N. 165)

This Amendment Regulation is made by the Secretary for the Environment, Transport and Works under section 43 of the Air Pollution Control Ordinance (Cap. 311) after consultation with the Advisory Council on the Environment. It is to come into operation on 1 January 2006.

2. The Amendment Regulation amends the Air Pollution Control (Vehicle Design Standards) (Emission) Regulations (Cap. 311 sub. leg. J) as follows:-

Mode	Regulation	Effect
By amending	4A(1)	The exception to the obligation that a vehicle equipped with a compression-ignition engine registered on or after 1 April 1995 shall be so constructed that it does not emit excessive smoke, is removed.
By amending	7(1)	The relevant specified emission standards shall only be applicable to the specified classes of vehicles registered before 1 January 2006.
By adding	7B	Subject to regulation 9, the specified classes of vehicles registered on or after 1 January 2006 must conform to the relevant new specified emission standards.
By amending	8 & 9	They are consequential technical amendments necessitated by the foregoing amendments.

By amending	14	The reference to the relevant EU Council Directive is updated to include all amendments to-date and new requirements for on-board diagnostic system are stipulated for motor vehicles registered on or after 1 January 2006 and 1 January 2007 respectively.
Ditto	Schedule 1	The reference to EU Council Directive is updated to include all amendments to-date.
Ditto	Schedules 10B & 10C	A cross reference to the new regulation 7B is added.
By adding	Schedule 12	This is a new schedule that sets out the new European, the new Californian and the new Japanese vehicle design emission standards adopted by the Administration.

3. The purpose of the amendments is to implement in HKSAR the new vehicle emission standards set respectively by EU for light duty vehicles, i.e. Euro IV, California for diesel private cars and the Japanese Ministry of Land, Infrastructure and Transport.¹ “Euro IV” or “Euro4” is the abbreviated reference for the new European vehicle emission standards that have become effective in 2005.

4. According to the Administration, the Hong Kong Motor Traders Association comprising local representatives of major motor vehicle manufacturers and the Right Hand Drive Motor Association (Hong Kong) Limited comprising representative of parallel importers have been consulted. Both of them have no objection to the proposal. The Advisory Council on the Environment has also been consulted and supports the proposal. Members may refer to the LegCo Brief (Ref.: EP 5/01/111) issued by the Environmental Protection Department in October 2005 for further and background information.

5. The Panel on Environmental affairs was briefed of the proposal to implement the new vehicle emission standards at its meeting on 28 February 2005. Its members had expressed support for the proposal. Members may refer to the minutes of the meeting (LC Paper No. CB(1) 1132/04-05) for details of the questions raised by panel members.

¹ The full text of the EU Council Directive 70/220/EEC is available at http://europa.eu.int/comm/enterprise/automotive/directives/vehicles/dir70_220_cee.html. The relevant part of the California Code of Regulations is available at http://ccr.oal.ca.gov/cgi-bin/om_isapi.dll?clientID=98160&infobase=ccr&softpage=Browse_Frame_Pg42.

PART II CONSTRUCTION WORKERS

Construction Workers Registration Ordinance (Cap. 583)

Construction Workers Registration (Fees) Regulation (L.N. 166)

6. This Regulation is made by the Construction Workers Registration Authority under section 63 of the Construction Workers Registration Ordinance (Cap. 583) (the Ordinance) with the approval of the Secretary for the Environment, Transport and Works.

7. The Regulation has set the application fees for the registration and the renewal of registration of construction workers under the Ordinance at \$100 (sections 3(e) and 6). To avoid all applications being made at the same time, the Administration intends to invite workers according to their birth months to register in 4 different periods in the initial 8 months from the commencement of the registration. Different application fees are therefore prescribed for each of the 4 periods at \$78, \$84, \$89 and \$95 respectively (section 3(a), (b), (c) and (d)). An applicant may register for more than one designated trade but is only required to pay the application fee once (sections 9 and 10). However, when a person whose registration is provisional applies subsequently for full registration, he must pay the application fee for full registration (section 4(2)). If such application is made within 36 months of his provisional registration, he would be entitled to a refund of all or part of the application fee paid as calculated inversely proportional to the time elapsed when he made the subsequent application (section 12). An applicant is also entitled to a refund of all or a part of the application fee paid as calculated inversely proportional to the length of his period of registration or renewed registration if it is less than 36 months (sections 11 and 13). An applicant pays only half the prescribed fee if his application is supported by the relevant qualification (section 5). The fee for replacement of lost registration card and the fee for a notice of appeal have also been set (sections 7 and 8).

8. The Regulation is to come into operation on 29 December 2005, the date on which the registration of construction workers is expected to commence. Members may wish to refer to the LegCo Brief (Ref.: ETWB(CR)(W)1-10/8) dated 13 October 2005 and issued by the Environment, Transport and Works Bureau for further and background information.

9. The Legal Service Division has made a number of observations on the drafting of the Regulation. In response, the Administration has agreed to move a motion to amend sections 9(1)(a) and 10(1)(a) by replacing “at the same date” with “at the same time” to improve the effectiveness of the relevant provisions and to add in section 13(1)(b) the word “expiry” before “date” where the latter first appears to facilitate easy understanding of the provision. Also sections 9(2) and 10(2) will be amended by replacing “in any other case” with “in the case where the fee so prescribed for each application is not of the same amount”.

**Construction Workers Registration Ordinance (Cap. 583)
Construction Workers Registration Ordinance (Commencement) Notice 2005
(L.N. 167)**

10. By this Notice made under section 1(2) of the Construction Workers Registration Ordinance (Cap. 583) (the Ordinance), the Secretary for the Environment, Transport and Works has appointed 29 December 2005 as the date for the coming into operation of sections 38 to 47, 49 to 57, 59 and 69 of the Ordinance.

11. The Ordinance implements the statutory scheme of registration for construction workers and prohibits any person who is not a registered construction worker from carrying out construction work on a construction site. Two earlier commencement notices, i.e. L.N. 147 and 196 of 2004, have already brought into operation most of the other sections of the Ordinance. Only sections 3 to 6, 48, 58 and item 51 (structural steel welder) of Part 1 of Schedule 1 of the Ordinance have not come into operation.

PART III MISCELLANEOUS

**Legal Practitioners Ordinance (Cap. 159)
Barristers (Admission) (Amendment) Rules 2005 (L.N. 168)**

12. By these Amendment Rules made by the Chief Justice under section 72 of the Legal Practitioners Ordinance (Cap. 159), the Barrister (Admission) Rules (Cap. 159 sub. leg. AA) is amended as follows:-

Amendments	Effect
In section 2(2)(a), "30" is repealed and substituted by "14".	A motion in respect of a person seeking admission as barrister may now be heard by the Court of First Instance on a date not less than 14 days (instead of 30 days) after the filing of the notice of the motion.
In section 3(1), the words "the Secretary for Justice or any" are added before "counsel" and in section 3(2), "the Secretary for Justice or" are added before "such counsel".	They make clear that the Secretary for Justice may move the Court of First Instance on a motion seeking the admission and enrollment of a person as a barrister.

13. The Amendment Rules are to come into operation on 9 December 2005.

Import and Export (General) Regulations (Cap. 60 sub. leg. A)
Import and Export (General) Regulations (Amendment of Seventh Schedule)
(Lebanon) Notice 2005 (L.N. 169)

14. By this Notice made by the Director-General of Trade and Industry under regulation 7(2) of the Import and Export (General) Regulations (Cap. 60 sub. leg. A) (the Regulations), the Seventh Schedule to the Regulations is amended by adding “Lebanon”.

15. This Notice adds “Lebanon” to the list of specified countries or places set out in the Seventh Schedule, with which countries and places trade in rough diamonds may be carried on under the Kimberley Process Certification Scheme. The Scheme is designed to prevent diamonds mined in war zone from entering the main stream market.

Concluding Observations

16. Save as above expressly mentioned (paragraphs 4 and 5), neither the public nor any LegCo Panel has been consulted on the subsidiary legislation above reported. Unless otherwise specifically stated (paragraph 9), no difficulties have been identified in the legal or drafting aspects of the reported legislation.

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