

立法會
Legislative Council

LC Paper No. LS26/06-07

**Paper for the House Committee Meeting
on 5 January 2007**

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

Date of Tabling in LegCo : 10 January 2007

Amendment to be made by : 7 February 2007 (or 28 February 2007 if extended by resolution)

PART I LANDS TRIBUNAL RULES

**Lands Tribunal Rules (Cap. 17 sub. leg. A)
Lands Tribunal (Amendment) Rules 2006 (L.N. 281)**

The Lands Tribunal (Amendment) Rules 2006 ("the Amendment Rules") are made by the Chief Justice under section 10(3) of the Lands Tribunal Ordinance (Cap. 17) ("the Ordinance") after consultation with the President of the Lands Tribunal to amend the Lands Tribunal Rules (Cap. 17 sub. leg. A) ("LTR") to, *inter alia*, streamline the application procedures for the repossession of premises, to expedite the processing of claims in the Lands Tribunal and to align the Lands Tribunal with other levels of court as to certain requirements. The amendments relate mainly to the interlocutory procedure, method of service, listing of hearing and notice of opposition.

2. At the meetings of the Panel on Administration of Justice and Legal Services on 29 January and 24 May 2004, the Judiciary Administration briefed the Panel on the measures introduced to streamline the court procedure for repossession of premises. The Judiciary Administration also informed the Panel that the Chief Justice had directed that LTR as a whole should be reviewed, and the Panel would be consulted when the review was completed.

3. The Judiciary Administration reverted to the Panel at its meeting on 25 April 2005 after completing the review of LTR. The Judiciary Administration advised that it would report to the Panel after consulting the two legal professional bodies.

4. At the meeting on 27 November 2006, the Judiciary Administration reported the outcome of its consultation with the two legal professional bodies on the review and the draft amendment rules to implement the recommendations arising from the review. The Panel urged the early introduction of the amendment rules into the LegCo. Members

present at the meetings on 25 April 2005 and 27 November 2006 did not raise objection to the recommendations made in the review. However, the Panel was not provided with the draft amendment rules.

5. Members may refer to the Review of the Lands Tribunal Ordinance (Cap. 17) and the Lands Tribunal Rules (Cap. 17A) issued by the Judiciary Administration in November 2006 (LC Paper No. CB(2)430/06-07(02)) for details of the aforesaid consultation and the LegCo Brief issued by the Judiciary Administration in December 2006 (ref. : SC101/19/6) for details of the amendments.

6. The Amendment Rules shall come into operation on a day to be appointed by the Chief Justice by notice published in the Gazette.

7. No difficulties have been identified in the legal and drafting aspects of the Amendment Rules.

PART II COMMENCEMENT NOTICES

Merchant Shipping (Local Vessels) Ordinance (Cap. 548)

Merchant Shipping (Local Vessels) Ordinance (Commencement) Notice (L.N. 282)

Merchant Shipping (Local Vessels) (Fees) Regulation (L.N. 212)

Merchant Shipping (Local Vessels) (Fees) Regulation (Commencement) Notice (L.N. 283)

Merchant Shipping (Local Vessels) (Safety and Survey) Regulation (L.N. 194)

Merchant Shipping (Local Vessels) (Safety and Survey) Regulation (Commencement) Notice(L.N. 284)

Merchant Shipping (Local Vessels) (Typhoon Shelters) Regulation (Cap. 548 sub. leg. E)

Merchant Shipping (Local Vessels) (Typhoon Shelters) Regulation (Commencement) Notice (L.N. 285)

Merchant Shipping (Local Vessels) (Works) Regulation (L.N. 196)

Merchant Shipping (Local Vessels) (Works) Regulation (Commencement) Notice (L.N. 286)

8. The Merchant Shipping (Local Vessels) Ordinance (Cap. 548) ("the Ordinance") was enacted in July 1999 to consolidate the provisions previously set out in different ordinances into one piece of legislation dedicated for local vessels. Its operation has been delayed until several pieces of subsidiary legislation have been made for the implementation of the Ordinance. These include-

- (a) Merchant Shipping (Local Vessels) (Fees) Regulation (L.N. 212), gazetted on 20 October 2006;
- (b) Merchant Shipping (Local Vessels) (Safety and Survey) Regulation (L.N.

- 194), gazetted on 6 October 2006;
- (c) Merchant Shipping (Local Vessels) (Typhoon Shelters) Regulation (Cap. 548 sub. leg. E);
 - (d) Merchant Shipping (Local Vessels) (Works) Regulation (L.N. 196), gazetted on 6 October 2006.

9. By L.N. 282 to 285, the Secretary for Economic Development and Labour appoints 2 January 2007 as the day on which the Ordinance and items of subsidiary legislation set out in paragraph 8(a) to (c) above shall come into operation.

10. L.N. 286 appoints two commencement dates for L.N. 196 (item at paragraph 8(d) above) so that it shall come into operation by 2 stages; first on 2 January 2007, second on 2 July 2007. The Administration has confirmed that the purpose of the two-stage implementation is to allow time for certain requirements under that item to be complied with before 2 July 2007.

**Merchant Shipping (Prevention of Pollution by Sewage) Regulation
(Cap. 413 sub. leg. K)
Merchant Shipping (Prevention of Pollution by Sewage) Regulation
(Commencement) Notice (L.N. 287)**

11. The Merchant Shipping (Prevention of Pollution by Sewage) Regulation was made under section 3(2) of the Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap. 313) to give effect to the requirements of Annex IV to the International Convention for the Prevention of Pollution from Ships. Members may refer to the LegCo Brief issued by the Economic Development and Labour Bureau dated 12 January 2005 (ref. : MA90/6/3) for further information on the Regulation. By the Commencement Notice, 2 February 2007 has been appointed as the day on which the Regulation shall come into operation.

**Shipping and Port Control (Amendment) Ordinance (70 of 1999)
Shipping and Port Control (Amendment) Ordinance 1999 (Commencement) Notice
2006 (L.N. 288)**

**Shipping and Port Control (Cargo Handling) (Repeal) Regulation (L.N. 192)
Shipping and Port Control (Cargo Handling) (Repeal) Regulation (Commencement)
Notice(L.N. 289)**

**Shipping and Port Control (Works) Regulation (L.N. 191)
Shipping and Port Control (Works) Regulation (Commencement) Notice (L.N. 290)**

12. The Shipping and Port Control (Amendment) Ordinance (70 of 1999) makes a number of miscellaneous amendments to the Shipping and Port Control Ordinance (Cap. 313) to improve the safety protection of workers engaged in marine works. The Amendment Ordinance has come into force on 17 December 1999 except sections 9, 10(c), 11-14, 20, 21(c), and 22 to 25 (by L.N. 319 of 1999) which revise the penalty of certain offences in the Shipping and Port Control Ordinance (Cap. 313) and the Merchant

Shipping (Local Vessels) Ordinance (Cap. 548).

13. The Shipping and Port Control (Cargo Handling) (Repeal) Regulation (L.N. 192) and the Shipping and Port Control (Works) Regulation (L.N. 191) were both gazetted on 6 October 2006.

14. By L.N. 288 and 289, the Secretary for Economic Development and Labour appoints 2 January 2007 as the day on which the outstanding sections of the Amendment Ordinance and L.N. 192 shall come into operation.

15. L.N. 290 appoints two commencement dates for L.N.191 so that it shall come into operation on stages; first on 2 January 2007, second 2 July 2007. The purpose of the two-stage implementation is to allow time for certain requirements in the Works Regulation to be complied with before 2 July 2007.

Human Organ Transplant (Amendment) Ordinance (29 of 2004)

Human Organ Transplant (Amendment) Ordinance 2004 (Commencement) Notice 2006 (L.N. 291)

16. The Human Organ Transplant Ordinance (Cap. 465) ("the Ordinance") prohibits commercial dealings in human organs for transplant. The Human Organ Transplant (Amendment) Ordinance (29 of 2004) ("the Amendment Ordinance") was enacted on 22 July 2004 to provide for, *inter alia*, an exemption mechanism for organ product from the application of the Ordinance and an associated appeal mechanism to handle appeals against decisions on exemption. The Amendment Ordinance has not come into operation.

17. By the Commencement Notice, 15 February 2007 has been appointed as the day on which provisions of the Amendment Ordinance which revise the function, constitution of the Human Organ Transplant Board and protect the Board members from personal liability, shall come into operation. The Panel on Health Services has not discussed the Notice.

18. The remaining provisions of the Amendment Ordinance, which mainly deals with the application and grant of exemption, the establishment of an Appeal Board to handle appeals against decisions on exemption, have not yet been scheduled for commencement. According to an information paper issued by the Health, Welfare and Food Bureau in December 2006 (LC Paper No. CB(2)555/06-07(06)), the Panel on Health Services was informed that the Amendment Ordinance will come into force together with the subsidiary legislation to provide for the rules and procedure for appeal, which will be tabled in the first half of 2007.

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