

立法會
Legislative Council

LC Paper No. LS100/06-07

**Paper for the House Committee Meeting
on 6 July 2007**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 29 June 2007**

- Date of tabling in LegCo** : 4 July 2007
- Amendment to be made by** : 2nd meeting of next session (or 1st meeting after 21 days from the 2nd meeting of next session if extended by resolution)

PART I COMMENCEMENT NOTICES

Closed Area (Hong Kong Section of the Shenzhen Bay Bridge and Deep Bay Link Portion) Order (L.N. 69 of 2007)

Closed Area (Hong Kong Section of the Shenzhen Bay Bridge and Deep Bay Link Portion) Order (Commencement) Notice (L.N. 137)

Shenzhen Bay Port Hong Kong Port Area Ordinance (4 of 2007)

Shenzhen Bay Port Hong Kong Port Area Ordinance (Commencement) Notice (L.N. 138)

L.N. 137 appoints 1 July 2007 as the day on which the Closed Area (Hong Kong Section of the Shenzhen Bay Bridge and Deep Bay Link Portion) Order (L.N. 69 of 2007) came into operation.

2. L.N. 138 appoints 1 July 2007 as the day on which the Shenzhen Bay Port Hong Kong Port Area Ordinance (4 of 2007) (the Ordinance), other than sections 1 and 15 of the Ordinance, came into operation. Sections 1 (the short title and commencement provision) and 15 (exercise of statutory powers between publication of the Ordinance and commencement of operation of the Shenzhen Pay Port) have already come into operation upon publication of the Ordinance in the Gazette, i.e. 27 April 2007.

International Organizations (Privileges and Immunities) (United Nations and Associated Personnel) Order (L.N. 60 of 2007)

International Organizations (Privileges and Immunities) (United Nations and Associated Personnel) Order (Commencement) Notice (L.N. 139)

3. This Notice appoints 30 November 2007 as the day on which the International Organizations (Privileges and Immunities) (United Nations and Associated Personnel) Order (L.N. 60 of 2007) will come into operation.

Fugitive Offenders (Safety of United Nations and Associated Personnel) Order (L.N. 61 of 2007)

Fugitive Offenders (Safety of United Nations and Associated Personnel) Order (Commencement) Notice (L.N. 140)

4. This Notice appoints 30 November 2007 as the day on which the Fugitive Offenders (Safety of United Nations and Associated Personnel) Order (L.N. 61 of 2007) will come into operation.

PART II MISCELLANEOUS

Waste Disposal Ordinance (Cap. 354)

Waste Disposal (Charges for Disposal of Chemical Waste) (Amendment) Regulation 2007 (L.N. 133)

5. Schedule 1 to the Waste Disposal (Charges for Disposal of Chemical Waste) Regulation (the Regulation) provides for charges for disposal of chemical waste other than special chemical waste. Schedule 2 to the Regulation provides for charges for disposal of special chemical waste. These charges were first introduced in 1995 (L.N. 30 of 1995) and last revised in 1997 (L.N.231 of 1997).

6. This Regulation revises upwards the charges for disposal of chemical waste other than special chemical waste under Schedule 1 to the Regulation to achieve a higher cost recovery level with a view to increasing the charges gradually to achieve 100% recovery of variable operating cost over a four year period. The increase in charges is ranging between 3.7% and 29%. A comparison of the existing and proposed charges is in Table 1 of Annex B to the LegCo Brief (File Ref.: EP 161/C3/292(XIV)) on the Regulation.

7. This Regulation also revises downwards the charges for disposal of special chemical waste under Schedule 2 to the Regulation as a result of the decrease in operating cost paid to the Chemical Waste Treatment Centre (CWTC) contractor which is adjusted according to the Consumer Price Index. The decrease in charges is

ranging between 13.7% and 45%. A comparison of the existing and proposed charges is in Table 2 of Annex B to the LegCo Brief (File Ref.: EP 161/C3/292(XIV)) on the Regulation.

8. Members may refer to the LegCo Brief (File Ref.: EP 161/C3/292(XIV)) issued by the Environmental Protection Department in July 2007 for background information.

9. According to the LegCo Brief, the Environmental Affairs Panel was consulted on the proposal at its meeting on 21 December 2004. Members had no objection to the proposed revision of charges. The Advisory Council on the Environment was consulted on the proposal at its meeting on 17 January 2005. Members supported the fee revision proposals. A consultation paper on the proposed revision of charges was circulated to the stakeholders of the trade for comment in December 2004. The Administration received 22 written responses and 17 of them opposed the increase arguing that the pace and scale of the increase would hamper the trade's competitiveness. The Administration explained to the stakeholders concerned that even with the proposed increases, the chemical waste disposal services provided are still substantially subsidized by the Administration. The Administration further explained that the revision of charges would provide good incentives to users of the CWTC services to implement more efficient waste management strategy. The Administration has not received any further responses from the trade on its reply thereafter.

10. This Regulation will come into operation on 9 November 2007.

Interpretation and General Clauses Ordinance (Cap. 1)

Interpretation and General Clauses Ordinance (Replacement of Schedule 6) Order 2007 (L.N. 134)

11. This Order repeals the existing Schedule 6 to the Interpretation and General Clauses Ordinance (Cap. 1) and replaces it with a new Schedule for the purpose of specifying the list of public officers empowered to signify the exercise of statutory powers and the performance of statutory duties by the Chief Executive with effect from 1 July 2007.

12. Members may refer to the LegCo Brief (File Ref.: CAB F19/6/3/2(2007)) issued by the Constitutional Affairs Bureau dated 27 June 2007 for background information.

13. According to the LegCo Brief, the Order, in draft form, had been considered by a Subcommittee of House Committee which was formed to study the legislative amendments relating to the proposed re-organisation of policy bureaux of the Government Secretariat. Members had no particular comment on the draft Order.

14. This Order came into operation on 1 July 2007.

**Public Health and Municipal Services Ordinance (Cap. 132)
Designation of Museum (Fireboat Alexander Grantham Exhibition Gallery)
Order (L.N. 135)**

15. This Order designates the Fireboat Alexander Grantham Exhibition Gallery as a museum for the purposes of the Public Health and Municipal Services Ordinance (Cap. 132).

16. This Order will come into operation on 1 August 2007.

**Legal Officers Ordinance (Cap. 87)
Official Languages (Alteration of Text under Section 4D) (Miscellaneous) Order
2007 (L.N. 136)**

17. Section 4D of the Official Languages Ordinance (Cap. 5) (the OLO) empowers the Secretary for Justice to make formal alterations to the text of an Ordinance in one official language to achieve consistency between a word, expression or phrase and another word, expression or phrase where both such words, expressions or phrases purport to be the equivalent of the same word, expression or phrase in the other official language in the same context. The Secretary for Justice has authorized the Law Draftsman pursuant to section 7 of the Legal Officers Ordinance (Cap. 87) to make such formal alterations.

18. Divisions 1 and 2 of Part 2 make formal alterations to the Chinese text of various items of legislation by repealing "出庭代訟人", "代言人" and "代訟人" and substituting "訟辯人", and repealing "出庭代訟" and "代訟" and substituting "訟辯" in certain provisions respectively. The alterations will achieve consistency between the Chinese equivalent of "advocate" and "advocacy" in the Chinese text of those items of legislation and that in the Chinese text of other items of legislation.

19. Part 3 makes formal alterations to the Chinese text of the Patents Ordinance (Cap. 514) and the Patents (General) Rules (Cap. 514 sub. leg. C) by repealing "科技" in certain provisions and substituting "技術" so as to achieve consistency between the Chinese equivalent of "art" in the Chinese text of those provisions and that in the Chinese text of other provisions of that Ordinance and those Rules.

20. Part 4 makes formal alterations to the Chinese text of The Ombudsman Ordinance (Cap. 397) by repealing "香港輔助警隊" in Schedules 1 and 2 to that Ordinance and substituting "香港輔助警察隊" so as to achieve consistency between the Chinese equivalent of "Hong Kong Auxiliary Police Force" in the Chinese text of

that Ordinance and that in the Chinese text of the Hong Kong Auxiliary Police Force Ordinance (Cap. 233).

21. Part 5 makes formal alterations to the Chinese text of the Peak Tramway Ordinance (Cap. 265) and The Methodist Church, Hong Kong, Incorporation Ordinance (Cap. 1133) by repealing "郊區建屋地段" in certain provisions and substituting "鄉郊區建屋地段" so as to achieve consistency between the Chinese equivalent of "Rural Building Lot" in the Chinese text of those Ordinances and that in the Chinese text of the Antiquities and Monuments (Declaration of Proposed Monument) (No. 128 Pok Fu Lam Road) Notice (L.N. 59 of 2007).

22. Part I provides for the commencement of this Order which is 26 November 2007. Section 4D(2) of the OLO provides that no order made under subsection 1 of the provision will come into operation before the expiry of the period within which a resolution providing for the amendment of the order may be passed in accordance with section 34 of the Interpretation and General Clauses Ordinance (Cap. 1) (the IGCO). Since the notice for the date of beginning of the 2007/2008 ordinary session of the LegCo has not yet been published under section 9(2) of the Legislative Council Ordinance (Cap. 542), the best possible way to describe the deadline for amendment to the Order is as follows:- 2nd meeting of next session (or 1st meeting after 21 days from the 2nd meeting of next session if extended by resolution). It appears from previous experience that session of LegCo will usually begin in early October of the year. Taking that into account, it appears that the commencement date in Part I would fall outside the last possible deadline for amendment to the Order under section 34 of the IGCO.

23. Upon our enquiries, the Administration has agreed to substitute "出庭代
言人" by "訟辯人" in section 1 of the Supply of Services (Implied Terms) (Exclusion)
Order 1995 (Cap. 457 sub. leg. A) (1995 Order) in order to achieve consistency
between the Chinese equivalent for "advocate" in section 1 of the 1995 Order and that
in other items of legislation. The Administration will effect such amendment in the
next order to be made under section 4D of the OLO.

24. With the proposed amendment to the 1995 Order, no further difficulties
have been identified in relation to the legal or drafting aspect of the above items of
subsidiary legislation.

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