

立法會
Legislative Council

LC Paper No. LS9/06-07

**Paper for the House Committee Meeting
on 17 November 2006**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 10 November 2006**

Date of Tabling in LegCo : 15 November 2006

Amendment to be made by : 13 December 2006 (or 10 January 2007 if extended by resolution)

PART I PUBLIC HEALTH AND MUNICIPAL SERVICES

Public Health and Municipal Services Ordinance (Cap. 132)

Public Health and Municipal Services (Setting Aside Places for Use as Public Pleasure Grounds) (No. 3) Order 2006 (L.N. 245)

Public Health and Municipal Services Ordinance (Amendment of Fourth Schedule) (No. 3) Order 2006 (L.N. 246)

The Order (L.N. 245) is 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") may, from time to time, by order set aside places for use as public pleasure grounds, and to specify the purpose for which such grounds or any part thereof shall be used. Section 1 of the Order set aside the following places as public pleasure grounds:-

On the Island of Hong Kong	Green Lane Service Reservoir Sitting-out Area Siu Sai Wan Road Garden
In Kowloon	Man Cheong Street Community Garden Tsim Sha Tsui East Waterfront Podium Garden
In the New Territories	Ha Wan Tsuen Garden Tong Yan San Tsuen Garden

2. The setting aside as public pleasure grounds of the specified places allows the Director to assume the general control and management of the places pursuant to section 107 of the Ordinance and to make regulations for such purposes.

3. Section 2 of the Order specified the following places listed in Schedule 2 as ceasing to be set aside for use as public pleasure grounds:-

On the Island of Hong Kong	Ap Lei Chau Playground Wong Chuk Hang Temporary Cycling Area
In Kowloon	Wing On Plaza Garden

4. Corresponding amendments to the Fourth Schedule to the Ordinance reflecting the above changes are made by the Amendment Order (L.N. 246).

5. The Panel on Home Affairs has not discussed the two orders.

6. The Order and Amendment Order are effective as from the date of gazettal.

PART II DEPOSIT PROTECTION SCHEME

Deposit Protection Scheme Ordinance (Cap. 581)

Deposit Protection Scheme (Asset Maintenance) Rules (L.N. 247)

7. The Rules (L.N. 247) are made under section 53 of the Deposit Protection Scheme Ordinance (Cap. 581) ("the Ordinance") by the Monetary Authority ("MA"). Section 53 provides that MA, after consultation with the Hong Kong Association of Banks ("HKAB"), may make rules for the purpose of requiring a member of the Deposit Protection Scheme ("Scheme Member") to maintain sufficient assets in Hong Kong in circumstances prescribed by the Rules. In general, by section 12 of the Ordinance, all banks holding a valid banking licence are Scheme Members. If compensation is paid to a depositor of a failed Scheme Member under the Deposit Protection Scheme, the sufficiency of assets in Hong Kong will, *inter alia*, enable the Hong Kong Deposit Protection Board ("HKDPB") which operates the Scheme to recover its payment more expediently with less cost. The amount of assets to be maintained in Hong Kong will be determined by MA on a case-by-case basis according to the calculation set out in the Rules.

8. During a briefing by HKDPB to the Panel on Financial Affairs on 6 March 2006 regarding its preparation on the launch of the Deposit Protection Scheme, the Panel was briefed about the Rules but no draft Rules have been submitted to the Panel during the briefing (see LC Paper No. CB(1)997/05-06(06) for detail).

9. In the LegCo Brief on the Rules (File Ref. B9/2/2C), it is mentioned that HKAB has been consulted in accordance with section 53 of the Ordinance and its

comments have been taken on board as appropriate. The Rules shall come into effect on 15 January 2007.

10. The Legal Service Division is continuing scrutiny of the Rules and will seek clarification from the Administration on a number of drafting points. A further report will be made, if necessary.

PART III COMMENCEMENT NOTICE

Mutual Legal Assistance in Criminal Matters (Belgium) Order (Cap. 525 sub. leg. Q)

Mutual Legal Assistance in Criminal Matters (Belgium) Order (Commencement) Notice (L.N. 248)

11. Mutual Legal Assistance in Criminal Matters (Belgium) Order (Cap. 525 sub. leg. Q) ("the Order") was made by the Chief Executive in Council under section 4 of the Mutual Legal Assistance Ordinance (Cap. 525). Pursuant to section 1 of the Order and by the Commencement Notice (L.N. 248), the Secretary for Security appoints 1 December 2006 as the day on which the Order shall come into operation.

12. The Panel on Security has not been consulted on the Commencement Notice. The Subcommittee on Mutual Legal Assistance in Criminal Matters (Belgium) Order has studied the Belgium Order and supported it (see the Report of the Subcommittee for detail, file ref. CB(2)2027/04-05). The Subcommittee has not expressed any view on its commencement.

13. No difficulties in relation to the legal and drafting aspects of the above items of subsidiary legislation, except L.N. 247, have been identified.

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