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18 February 2008

Mrs Percy Ma  
Clerk to the Panel on Administration  
of Justice and Legal Services  
Legislative Council Building  
8 Jackson Road, Central  
Hong Kong

*Dear Percy,*

**Panel on Administration of Justice and Legal Services  
Meeting on 25 February 2008**


**Review of the non-commencement of ordinances**

Thank you for your letters of 3 December 2007 and 1 February 2008. For agenda item VII – “Review of the non-commencement of ordinances”, I attach a list setting out 29 ordinances enacted in 2004 or before (i.e. enacted for over three years) containing provisions that are yet to come into operation. The list sets out the following pieces of information as requested under points (a) to (c) in your letter of 3 December 2007 –

- (i) brief descriptions of the purposes of those provisions;
- (ii) the reasons for not yet bringing those provisions into operation; and
- (iii) the plans, if any, to bring them into operation.

In your letter of 3 December 2007, you also sought the Administration's views on the need for establishing a mechanism to facilitate Members to monitor the commencement of bills passed by the LegCo. In response to this suggestion, we are prepared to provide the Panel with an updated list once every two years.

Yours sincerely,



( K.C. Yau )

for Director of Administration

Encl.

**Ordinances enacted in 2004 or before and not yet in operation  
(Position as at January 2008)**

Item	Year in which ordinance was enacted	Ordinance	Provisions	Purpose of the Provisions	Reasons for not yet Bringing the Provisions into Operation	Plans to Bring the Provisions into Operation	Responsible/ Instructing Bureau
1	1962	38 of 1962 (Cap. 56) Boilers and Pressure Vessels Ordinance	Sections 19, 20, 21, 31, 49(3) and 50(3)	The provisions were made in the early sixties to govern the safe use of pressurised fuel containers (commonly known as “kerosene stove”). These provisions require the owner of such equipment to, among other things, register, appoint an examiner to test the equipment before first use and periodically, notify the Authority of the date of first use and subsequent sale or change of address.	The provisions have not been brought into effect for the following reasons –  (a) pressurised fuel containers are relatively safe to operate and no report of explosion or accident due to structural defects involving such equipment has been received since 1992;  (b) pressurised fuel containers are portable and mostly used by hawkers and cooked food stalls. It is very difficult to keep track of the owners and the equipment, and results in difficulty	The Labour and Welfare Bureau (LWB) / Labour Department (LD) has no plan to bring the provisions into operation.	LWB / LD

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					<p>in enforcement; and</p> <p>(c) the number of such equipment in use has been decreasing due to the advancement of technology. They have been largely replaced by cookers/stoves fueled by liquefied petroleum gas or by kerosene pumped directly to the burners by electric pump.</p>		
2	1975	55 of 1975 (Cap. 55) Labour Relations Ordinance (LRO)	Part V (sections 35 to 37)	Part V of the LRO on cooling-off period empowers the Chief Executive in Council to make a cooling-off period order, initially for a period not exceeding 30 days with a possible extension to a period not exceeding 60 days on the whole, where it appears to the Chief Executive in Council that –	<p>When the Legislative Council passed the LRO in 1975, it was decided that while Part V of the LRO should be legislated, it should be brought into effect only when there was a clear and publicly recognised need to do so.</p> <p>Since then, there has not been any major labour</p>	In light of the foregoing, LWB/LD currently has no plan to bring Part V into operation.	LWB / LD

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				<p>(a) a strike or a lock-out or any irregular industrial action short of a strike has begun or is likely to begin;</p> <p>(b) the situation arising out of the trade dispute is of such a nature, or on such a scale, as to be likely to disrupt the supply of goods or provision of services which might –</p> <p>(i) be gravely injurious to the economy of Hong Kong, or seriously affect the livelihood of a substantial number of persons, or create a serious risk of public disorder, or</p>	<p>dispute warranting the imposition of a cooling-off period. Therefore, Part V of the LRO has not yet been brought into operation.</p>		

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				<p>seriously jeopardise the internal security of Hong Kong; or</p> <p>(ii) endanger the lives of a substantial number of persons, or expose a substantial number of persons to serious risk of disease or personal injury; and</p> <p>(c) having regard to all the circumstances of the trade dispute, it would be conducive to its settlement by negotiation, conciliation, arbitration or the appointment of a board of inquiry if</p>			

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				<p>the industrial action were discontinued or deferred.</p> <p>The purpose is to have in place a mechanism for the Administration to invoke, where necessary and when there is a clear need, a cooling-off period when a major labour dispute is seriously affecting the welfare and livelihood of the public.</p>			
3	1988	75 of 1988 (Cap. 400) Noise Control Ordinance (NCO)	Section 7	Section 7 is a “catch-all” type of provision complementing those related provisions in operation. It provides for the control of noise problems caused by construction work unforeseen during the making of the NCO through new regulations made under section 27(1) of the NCO.	Section 6(2) of the NCO already provides for the control of certain prescribed construction works being carried out within designated areas during the restricted hours (1900 – 0700 hours during weekdays and anytime on a general holiday).  Consideration will be given to bringing section	Bringing the provision into operation would depend on the need, having regard to the control already in place.	ENB

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			Section 13(1)(b)	Section 13(1)(b) is a “catch-all” type of provision complementing those related provisions in operation. It enables the Authority, if found necessary, to specify certain noise standard/limit to control noise emanating from any industrial/ commercial premises.	<p>7 into operation when there are specific circumstances in which the noise problem could not be adequately addressed under the existing control.</p> <p>Section 13(1)(c) already provides for a Noise Abatement Notice to be issued where the Authority is satisfied that noise emanating from any industrial/ commercial premises does not comply with any noise standard/limit contained in Technical Memoranda issued under section 10(1) of the NCO.</p> <p>Consideration will be given to bringing section 13(1)(b) into operation when there are specific circumstances in which the noise problem could not be adequately</p>	Bringing the provision into operation would depend on the need, having regard to the control already in place.	



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			Section 14(3)	Section 14(3) is a “catch-all” type of provision complementing those related provisions in operation. It enables the Authority, if necessary, to control the import, manufacture and supply of noisy products which are intended for use in Hong Kong and required by regulations made under section 27(1) of the NCO to be fitted with prescribed device or equipment to prevent, reduce or minimize noise emission; or fitted with plate, label, or marking relating to noise emission.	<p>addressed under the existing control.</p> <p>The current control under Part III of the NCO already requires any person who imports, manufactures, and supplies certain prescribed products intended for use in Hong Kong to ensure that such products comply with prescribed noise emission standards and be fitted with a noise emission label when being operated.</p> <p>Consideration will be given to bringing section 14(3) into operation when there are specific circumstances in which the noise problem could not be adequately addressed under the existing control.</p>	Bringing the provision into operation would depend on the need, having regard to the control already in place.	

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4	1990	51 of 1990 Laws (Loose-leaf Publication) Ordinance 1990 (the Loose-leaf Publication Ordinance)	Section 6	<p>The purpose of section 6 of the Loose-leaf Publication Ordinance is to repeal section 99 of the Interpretation and General Clauses Ordinance (Cap. 1). The latter section was enacted in 1966 to give statutory authority to the practice of reprinting individual ordinances. After the introduction of the loose-leaf edition of the Laws of Hong Kong, reprints of individual ordinances in booklet form would be made under section 2(3) of the Loose-leaf Publication Ordinance.</p>	<p>Section 6 of the Loose-leaf Publication Ordinance was originally intended to come into operation after the publication of the bilingual texts of all ordinances in the loose-leaf edition. Before the completion of such publication, it was necessary to retain section 99 of Cap. 1 to give statutory authority to the Government to reprint individual ordinances not yet published in the loose-leaf edition.</p> <p>However, it was subsequently concluded that the wording of section 2(3) of the Loose-leaf Publication Ordinance only allows an ordinance to be reprinted in booklet form after its publication in the loose-leaf edition.</p>	<p>After a careful review of the situation, we are of the view that section 99 of Cap. 1 still serves a useful purpose for authorizing the publication of copies of ordinances before their publication in the loose-leaf edition. It is also appropriate for such authorization to remain in Cap. 1 (rather than transferred to the Loose-leaf Publication Ordinance) as such publication is not a loose-leaf edition. To retain section 99 of Cap. 1, we will put forward an amendment to repeal section 6 of the Loose-leaf Publication Ordinance when a suitable opportunity arises.</p>	DoJ / LDD

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					As there is usually an interval of a few months between the enactment of an ordinance and its publication in the loose-leaf edition, section 99 of Cap. 1 may still serve a useful purpose if copies of the ordinance are to be published during such interval.		
5	1993	13 of 1993 Air Pollution Control (Amendment) Ordinance 1993	The part of section 33 that enacts the specified process numbered 31 in Schedule 1 to the principal Ordinance	The part of section 33 of the Air Pollution Control (Amendment) Ordinance 1993 that enacts item 31 in Schedule 1 'Specified Processes' to the principal Ordinance is to bring Paint Works – with the description as works in which the processing capacity exceeds 35 m <sup>3</sup> (expressed as coating products) and in which coating products including paints, varnishes and lacquers are produced or	Major paint manufacturing activities no longer exist in Hong Kong nowadays while the general provisions of the principal Ordinance could be used to deal with air pollution from smaller scale paint manufacturing activities, if there are any. As such, commencement of this provision will be considered only when there are situations whereby the air pollution problem could not be	There is no need to commence this provision until and unless there are major paint manufacturing activities with an individual processing capacity exceeding 35 m <sup>3</sup> taking place in Hong Kong.	ENB

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				manufactured – under the control of Part IV of the principal Ordinance.	adequately handled by the existing general provisions of the principal Ordinance.		
6	1994	105 of 1994 (Cap. 463) Sewage Services Ordinance	Section 3(5)	The purpose is to empower the Water Authority to increase the amount of water deposit required to pay by a customer with a view to covering any charge due arising from sewage charge.	We have reviewed the amount of water deposit and considered that there is presently no need to increase it in the context of covering the payment arising from sewage charge. Similar reviews were conducted in the past.	We will continue to review regularly the level of water deposit in the context of section 3(5) of the Sewage Services Ordinance. We will bring into operation the section as and when the need arises.	ENB
7	1995	18 of 1995 (Cap. 466) Dumping at Sea Ordinance (DASO)	Part V (sections 12 to 14)	Part V (sections 12 to 14) of the DASO aims to control marine pollution arising from maritime works activities related to dumping substances at sea, including marine construction work, dredging, marine borrowing, land reclamation and stock piling on the sea-bed. Part V of the DASO empowers the Director of	When the DASO was enacted in 1995, only the dumping permit control framework came into operation. In order to introduce Part V, a technical memorandum (TM) is statutorily required. Since the development of the TM would take considerable time, it was decided at the time when the DASO was enacted that the	There is presently no need to bring Part V of the DASO into operation.	ENB

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				<p>Environmental Protection (DEP) to serve a marine pollution abatement notice to the concerned party if it could be determined that these activities are causing or contributing to existing or imminent marine pollution.</p>	<p>permit control component be made operational first and the implementation of Part V be postponed. In 1998, the Environmental Impact Assessment Ordinance (EIAO) came into operation. The purpose of the EIAO is to avoid, minimize and control any adverse impact on the environment of designated projects through the application of the environmental impact assessment process and the environmental permit system.</p> <p>The reasons for not yet bringing Part V of the DASO into operation are as follows :</p> <p>(i) All major maritime works that would be covered by Part V of</p>		

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					<p>the DASO are already covered by the EIAO. Maritime works that are not regarded as designated projects are mostly government works and are covered by an administrative system similar to the EIAO; and</p> <p>(ii) So far, the EIAO framework and the administrative system have worked well without Part V of the DASO being put into operation.</p>		
8	1995	56 of 1995 Wills (Amendment) Ordinance 1995	Sections 8 (new Part IIA) and 10	Sections 8 (new Part IIA) and 10 of the Wills (Amendment) Ordinance 1995 were then intended to implement the Convention Providing a Uniform Law on the Form of an International Will concluded at	The Convention is limited to states and hence Hong Kong cannot become a party to the Convention on its own. In the course of deliberation of the Amendment Bill in 1995, Legislative	There is presently no plan to bring the provisions into operation.	HAB

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				<p>Washington on 26 October 1973 (the Convention) by incorporating the Annex to the Convention in the Wills Ordinance (Cap. 30), so that wills made in accordance with the requirements under the Convention could be recognized in Hong Kong and in the Contracting States.</p>	<p>Council Members noted that as the United Kingdom had not ratified the Convention, the relevant provisions of the Bill were not put into operation. The People's Republic of China is not a signatory to the Convention.</p> <p>The Administration is of the view that it may not be necessary to bring the provisions into operation just for the sake of getting recognition by the Contracting States to the Convention (12 states so far, namely Belgium, Bosnia-Herzegovina, Canada, Cyprus, Ecuador, France, Italy, Libya, Niger, Portugal, Slovenia and Yugoslavia). Subject to the domestic law of the Contracting States, as long as a will complies with the requirements of</p>		

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					<p>an international will (e.g. by using the ‘standard’ form), it may be recognized internationally. As such, the public interest is not adversely affected if we choose to keep the status quo.</p>		
9	1995	81 of 1995 (Cap. 486) Personal Data (Privacy) Ordinance (PDPO)	Section 33	<p>Section 33 of the PDPO prohibits a data user from transferring personal data to a place outside Hong Kong except in specified circumstances. Such circumstances include, inter alia, where the place has been specified by the Privacy Commissioner for Personal Data (PC) as having in force any law which is substantially similar to the PDPO, or where the data subject has consented in writing to the transfer, or where the data user has taken all reasonable</p>	<p>Commencement of the operation of section 33 would have significant implications on trans-border data transfer activities of various business sectors, notably the banking and telecommunications sectors. The PC is reviewing the practicality of section 33 in the context of the review of the PDPO. The Constitutional and Mainland Affairs Bureau (CMAB) will work with the PC in mapping out the way forward, taking into account the relevant</p>	<p>CMAB will work with the PC to map out the way forward for bringing section 33 into operation, taking into account the relevant factors as mentioned in the column on the left.</p>	CMAB



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				<p>precautions to ensure that the data are afforded appropriate protection.</p>	<p>factors, including the protection of data privacy, the interests of relevant stakeholders, operation of international data traffic and e-commerce, and the readiness of the PC to gazette places with substantially similar legislation as the PDPO.</p> <p>Although section 33 is not yet in operation, we can rely on the existing provisions of the PDPO to regulate transfer of personal data to places outside Hong Kong. Use of personal data, including transfer, is regulated by Data Protection Principle 3 of the PDPO. A data user is not allowed to transfer personal data to a place outside Hong Kong without the consent of the data subject unless the transfer is for a</p>		

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					<p>purpose same as or directly related to the original purpose of collection of such data. A data user who has transferred personal data to a place outside Hong Kong must comply with the requirements of the PDPO if the data user can control the holding, processing or use of the data. Any act done or practice engaged in by a person as agent for another person with the authority of that other person shall be deemed under section 65 of the PDPO as done or engaged in by that other person as well as by him. The data user will therefore be accountable for any contravention of the PDPO committed by its offshore agent (e.g. a bank which commissions an offshore agent to process the personal data</p>		

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					of its customers on its behalf is accountable for any contravention of the PDPO committed by the agent).		
10	1997	48 of 1997 (Cap. 511) Estate Agents Ordinance	Sections 36, 37 and 44 to 48 (other than for the purposes of the application of those sections to and in relation to any property in Hong Kong used wholly or primarily for human habitation)	Sections 36, 37 and 44 to 48 of the Ordinance mainly provide for the regulation of the day-to-day practices of licensed estate agents in respect of property transactions (e.g. obtaining and providing information about the property to the client). These sections commenced operation on 1 November 1999 in relation to transactions of residential properties but the provisions have not been applied to non-residential property transactions.	As most of the problems relating to estate agent practices have come from residential property transactions and the parties to non-residential transactions often engage lawyers or surveyors to give them professional advice on the transactions, priority has been given to enhancing the regulation of estate agent practices in residential property transactions.	Application of the relevant sections to cover non-residential property transactions will be considered in due course in the light of the experience gained from the regulation of residential property transactions and the Estate Agents Authority's review on the need and timing for regulating estate agent practices in non-residential property transactions.	THB

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11	1997	82 of 1997 Nurses Registration (Amendment) Ordinance 1997	<p>Section 5</p> <p>Section 6</p> <p>Section 7</p> <p>Section 8</p> <p>Section 10</p>	<p>To provide a legal basis for the establishment of committees and subcommittees by the Nursing Council.</p> <p>To provide statutory power to the Nursing Council to order the removal from the register the name of any person who is not practising nursing in Hong Kong.</p> <p>To abolish the minimum age for registration.</p> <p>To allow limited registration.</p> <p>To require applicants for practising certificates to supply information on whether they have been convicted of criminal offences punishable with imprisonment in Hong Kong or elsewhere.</p>	<p>The subsidiary legislation required to be made to supplement the implementation of the amendment provisions is being drafted.</p>	<p>We will bring the provisions into operation after the relevant legislative procedure has been completed.</p>	<p>FHB</p>

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			Section 11	To provide statutory power to the Nursing Council to order the removal from the roll the name of any person who is not practising nursing in Hong Kong.			
			Section 12	To abolish the minimum age for enrolment.			
			Section 14	To require persons applying for the practising certificate to provide information on whether they have been convicted of criminal offences punishable with imprisonment in Hong Kong or elsewhere.			
			Section 15	To revise the penalties against persons who fail to give evidence during inquiry.			

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			<p>Section 16</p> <p>Section 17</p> <p>Section 18</p> <p>Section 19</p>	<p>To repeal the existing provision that no fee will be required for restoration of name to the register or roll upon the expiration of a specific period if the removal from the register or roll is ordered by the Nursing Council for such a period, and to include a new provision to require the payment of a fee under the above circumstances.</p> <p>To revise the penalties for falsification of the register or roll.</p> <p>To revise the penalties for assumption of the titles of registered nurses or enrolled nurses.</p> <p>To repeal the existing provision that full-time nurses employed by the Government can be exempted from</p>			

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			Section 24	<p>registration or enrolment.</p> <p>To repeal the Nurses (Registration and Disciplinary Procedure) Regulation and Enrolled Nurses (Enrolment and Disciplinary Procedure) Regulation.</p>			
12	1997	87 of 1997 (Cap. 525) Mutual Legal Assistance in Criminal Matters Ordinance	Sections 3, 11 and 15 of Schedule 3	The Ordinance permits the enforcement of external confiscation orders on crime proceeds. The relevant sections are consequential amendments to repeal provisions on the enforcement of external confiscation orders related to drug trafficking, including those in the Drug Trafficking (Recovering of Proceeds) Ordinance (Cap. 405).	The Ordinance does not apply to the provision or obtaining of assistance in criminal matters between Hong Kong and any other part of the Mainland. The relevant provisions in the Drug Trafficking (Recovery of Proceeds) Ordinance currently provide the only legal means to enforce external confiscation orders for drug cases issued by the Mainland authorities. If these provisions are repealed at this stage, Hong Kong will not be able to enforce	We should keep under review the need to retain the provisions on the enforcement of external confiscation orders related to drug trafficking.	SB

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					confiscation orders from the Mainland and this may attract drug proceeds to flow to Hong Kong.		
13	1997	89 of 1997 Crimes (Amendment) (No. 2) Ordinance 1997	The Ordinance	<p>Apart from the adaptation and technical amendments, the Crimes (Amendment) (No. 2) Ordinance 1997 makes two substantive changes to the Crimes Ordinance :</p> <p>(a) deletion of treasonable offences, but leaving intact the offence of treason; and</p> <p>(b) qualifying the offence of sedition by including the element of “intention of causing violence of creating public disorder or a public disturbance”.</p>	<p>The Crimes (Amendment) (No. 2) Ordinance 1997 deals with treason and sedition, but does not address secession and subversion as required under Article 23 of the Basic Law (BL23).</p> <p>The Administration introduced the National Security (Legislative Provisions) Bill in 2003 to give comprehensive effect to BL23, and subsequently deferred the resumption of the second reading debate on the Bill, having regard to the community’s views. The Bill lapsed at the end of the Legislative Council term in 2004.</p>	We have yet to draw up a timetable to legislate on BL23.	SB



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					<p>Although we do not have a specific timetable, it remains the Administration's plan to deal with offences under the Crimes (Amendment) (No.2) Ordinance 1997 in the context of enacting legislation to implement BL23.</p>		
14	1997	94 of 1997 Legal Services Legislation (Miscellaneous Amendments) Ordinance 1997	Sections 2 to 6, 15 and 21 (in respect of sections 1, 5 and 6 of Schedule 2 only)	The provisions relate to the establishment of solicitor corporations and foreign lawyer corporations as practice entities.	<p>The Law Society is considering issues relating to professional indemnity insurance in the case of solicitor corporations.</p> <p>The commencement of section 2 of the Law Amendment and Reform (Miscellaneous Provisions) Ordinance 2003 (item 22 in this table) is reviewed by the Law Society at the end of each year. The Law Society considers that the section should not</p>	Pending consideration of insurance issues by the Law Society Council.	DoJ / LPD

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					commence until the mandatory course in practice management is in place.		
15	1999	47 of 1999 (Cap. 549) Chinese Medicine Ordinance	(a) Section 90(8)	After the commencement of sections 108(1)(c) and (2), any person who, not being a listed or registered Chinese medicine practitioner, practises Chinese medicine shall be liable to be prosecuted. section 90(8) allows a person who continues to practise Chinese medicine by virtue of section 90(7) to practise Chinese medicine lawfully in the period from the commencement of section 108 to the expiry of the period of time for application to be listed Chinese medicine practitioners referred to in section 90(5).	Sections 108(1)(c) and (2) came into force on 1 March 2002, which is later than the expiry date for application to be listed Chinese medicine practitioners, i.e. 30 December 2000. Therefore, there is no need to implement section 90(8).	We do not need to implement this section.	FHB

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			<p>Section 119</p> <p>Section 129</p> <p>Section 143</p>	<p>Except under and in accordance with the Chinese Medicine Ordinance, no person shall sell, import or possess any proprietary Chinese medicine unless the proprietary Chinese medicine is registered.</p> <p>The Chinese Medicines Board may, upon application, issue a certificate for clinical trial and medicinal test for any proprietary Chinese medicine.</p> <p>No person shall sell or have in his possession for the purpose of selling any proprietary Chinese medicine unless the package of the proprietary Chinese medicine is labelled in the prescribed manner.</p>	<p>We are still processing the applications for registration of proprietary Chinese medicine.</p> <p>This section has to be implemented together with section 119.</p> <p>This section has to be implemented together with section 119.</p>	<p>We will evaluate the appropriate time for implementing the relevant provisions after we have finished processing all applications for registration of proprietary Chinese medicine.</p> <p>This section will be implemented together with section 119.</p> <p>This section will be implemented together with section 119.</p>	

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			<p>Section 144</p> <p>(b) Section 150(1) (other than in so far as it relates to the contravention of sections 109, 110, 111, 131, 134 and 142)</p> <p>(c) Section 155 (Except for contravention of sections 109, 110, 111, 131, 134, 142, 146(3) and (4), 153(3) and 154)</p>	<p>No person shall sell or have in his possession for the purpose of selling any proprietary Chinese medicine without a package insert which complies with the prescribed requirements.</p> <p>Where a servant of a holder of a licence commits an offence for contravening the sections concerned, the holder of the licence shall also be guilty of that offence but shall not be liable to any term of imprisonment.</p> <p>Any person who contravenes the sections concerned under the Ordinance commits an offence and shall be liable to a fine at level 6 and to imprisonment for 2 years.</p>	<p>This section has to be implemented together with section 119.</p> <p>This section has to be implemented together with section 119.</p> <p>This section has to be implemented together with section 119.</p>	<p>This section will be implemented together with section 119.</p> <p>This section will be implemented together with section 119.</p> <p>This section will be implemented together with section 119.</p>	

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			<p>(d) Section 156(2)</p> <p>(e) Section 158(4) (Except in relation to listed Chinese medicine practitioners)</p>	<p>In any proceedings for a contravention of section 119(1) of the Ordinance, it shall be a defence for a person charged to prove that he: (a) did not know; (b) had no reason to suspect; or (c) could not with reasonable diligence have discovered that the proprietary Chinese medicine was not registered.</p> <p>The section states the exemptions for a person who continues to practise Chinese medicine by virtue of section 90(7) of the Chinese Medicine Ordinance to obtain a retailer licence in Chinese herbal medicines.</p>	<p>This section has to be implemented together with section 119.</p> <p>A person who continues to practise Chinese medicine by virtue of section 90(7) of the Chinese Medicine Ordinance refers to any person who was practising Chinese medicine immediately prior to the commencement of section 90 (i.e. 16 August 2000) and continues to practise in accordance with the Chinese Medicine</p>	<p>This section will be implemented together with section 119.</p> <p>We do not need to implement this section.</p>	

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			(f) Section 158(5)	Nothing in section 119 of the Ordinance shall apply in respect of: (1) a proprietary Chinese medicine which is imported by a wholesaler in proprietary Chinese medicines for the purpose of re-exporting by the same wholesale dealer; or (2) a proprietary Chinese medicine which is imported by a holder of a valid certificate for clinical trial and medicinal test and to be used for the purposes of the clinical trial or	<p>Ordinance until the expiry of the period of time for application to be listed Chinese medicine practitioners (i.e. 30 December 2000). As this category of people no longer exists, there is no need to implement this part of the provision.</p> <p>This section has to be implemented together with section 119.</p>	<p>This section will be implemented together with section 119.</p>	

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			<p>(g) Section 158(6) (in so far as it relates to a proprietary Chinese medicine which is compounded by or under the supervision of a person who continues to practise Chinese medicine by virtue of section 90(7) at the premises where he practises.)</p> <p>(h) Section 164(a)(iii) (in so far as it relates to a person who</p>	<p>medicinal test to which the certificate relates.</p> <p>This section states the exemptions from the provisions of sections 119 and 131 of the Ordinance for a proprietary Chinese medicine which is compounded by or under the supervision of a person who continues to practise Chinese medicine by virtue of section 90(7) at the premises where he practises.</p> <p>Consequential amendments made to the Medical Registration Ordinance.</p>	<p>Please refer to the explanation for section 158(4).</p> <p>Please refer to the explanation for section 158(4).</p>	<p>Please refer to the explanation for section 158(4).</p> <p>Please refer to the explanation for section 158(4).</p>	

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			<p>continues to practise Chinese medicine by virtue of section 90(7)</p> <p>(i) Section 165 (in so far as it relates to a person who continues to practise Chinese medicine by virtue of section 90(7))</p> <p>(j) Section 168(a) (in so far as it relates to a person who continues to practise Chinese medicine by virtue of section 90(7))</p>	<p>Consequential amendments made to the Medical Registration Ordinance.</p> <p>Consequential amendments made to the Undesirable Medical Advertisements Ordinance.</p>	<p>Please refer to the explanation for section 158(4).</p> <p>Please refer to the explanation for section 158(4).</p>	<p>Please refer to the explanation for section 158(4).</p> <p>Please refer to the explanation for section 158(4).</p>	



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			<p>(k) Section 170(a) (in so far as it relates to a person who continues to practise Chinese medicine by virtue of section 90(7))</p> <p>(l) Section 170(b) (in so far as it relates to a person who continues to practise Chinese medicine by virtue of section 90(7))</p>	<p>Consequential amendments made to the Medical Clinics Ordinance.</p> <p>Consequential amendments made to the Medical Clinics Ordinance.</p>	<p>Please refer to the explanation for section 158(4).</p> <p>Please refer to the explanation for section 158(4).</p>	<p>Please refer to the explanation for section 158(4).</p> <p>Please refer to the explanation for section 158(4).</p>	
16	2000	17 of 2000 (Cap. 558) International Organizations (Privileges and Immunities) Ordinance	Sections 6(a), 7(a), 9(a), 10, 11, 12 and 13	The purpose of the Ordinance is to provide a framework under which privileges and immunities conferred upon an international organization may be given the force of law in	The said provisions relate to the repeal of those provisions of Cap. 190 which deal with privileges and immunities notifications in respect of international	In respect of those international organizations listed in the notifications under Cap. 190, new orders will be made under the Ordinance as and when additional privileges and	Adm Wing

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				<p>the HKSAR by way of orders to be made by the Chief Executive in Council under the Ordinance.</p> <p>The Ordinance was enacted in 2000 in order to provide a flexible legislative framework for enacting subsidiary legislation to confer privileges and immunities on international organisations in the HKSAR. Prior to enactment of the Ordinance, the main piece of legislation giving effect to the privileges and immunities of international organizations in the HKSAR was the International Organizations and Diplomatic Privileges Ordinance (Cap. 190).</p>	<p>organizations, amendment of its long and short titles, and consequential amendments in other legislation.</p> <p>Our intention is that when an order is made under the Ordinance in respect of an international organization, the notification under Cap. 190 in respect of the same organization (if any) will be repealed. The remaining provisions of the Ordinance can be brought into operation after the repeal of all those notifications.</p>	<p>immunities are granted to them in accordance with international agreements concluded by the HKSAR or applied to the HKSAR by the CPG. Upon the making of these new orders, the relevant notifications under Cap. 190 will be repealed. The remaining provisions of the Ordinance will be brought into operation after the repeal of all existing notifications under Cap. 190.</p>	

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				The legislative framework under Cap. 190 was specific and prescriptive, and cannot fully address the range of privileges and immunities which may be conferred on international organisations in Hong Kong.			
17	2000	47 of 2000 (Cap. 561) Human Reproductive Technology Ordinance	Section 33(4)(a)	Section 33(4) provides that an adult may enquire with the Council of Human Reproductive Technology (the Council) whether he was born out of reproductive technology procedures through donated gametes, and if so, may ask the Council for certain prescribed information. Section 33(4)(a) provides that, apart from the information already prescribed in the Ordinance, the Secretary	The Council has advised that no information about the gamete donors other than those already prescribed in section 33(4) of the Ordinance should be disclosed to an adult making such request for information. There is thus no need to make any regulation under section 45(1)(d) and to bring into operation section 33(4)(a) at this juncture.	We will keep section 33(4)(a) of the Ordinance under review on the advice of the Council, and consider making regulation under section 45(1)(d) and bring section 33(4)(a) into operation when it is considered that information about the gamete donors other than those already specified in section 33(4) of the Ordinance should be disclosed.	FHB

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				for Food and Health may also prescribe by regulations to be made by the Secretary for Food and Health under section 45(1)(d) other information concerning the gamete donors that the adult may ask from the Council.			
18	2000	56 of 2000 Adaptation of Laws (No. 9) Ordinance 2000 (Adaptation Ordinance)	Sections 9 and 10 of Schedule 1	The Adaptation Ordinance was enacted to effect necessary adaptations that are mainly terminological changes to ten labour-related Ordinances, including the Labour Relations Ordinance (LRO) to bring them into conformity with the Basic Law and with the status of Hong Kong as a Special Administrative Region of the People's Republic of China. Sections 9 and 10 of Schedule 1 of the	As Part V of the LRO (sections 35 to 37) has yet to come into operation, sections 9 and 10 of Schedule 1 to the Adaptation Ordinance shall only come into operation on the day appointed for the commencement of Part V of the LRO (See item 2 above).	LWB/LD currently has no plan to bring sections 9 and 10 of Schedule 1 to the Adaptation Ordinance into operation.	LWB / LD

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				Adaptation Ordinance amend sections 35 and 36 of the LRO by replacing “Governor” and “Governor in Council” with “Chief Executive” and “Chief Executive in Council” respectively. Section 2(2) of the Adaptation Ordinance also stipulates that Sections 9 and 10 of Schedule 1 shall come into operation on the day appointed for the commencement of Part V of the LRO.			
19	2000	69 of 2000 Building Management (Amendment) Ordinance 2000 (Amendment Ordinance)	Sections 10(a) and 12	Section 12 of the Amendment Ordinance introduces a new section (section 28) to the Building Management Ordinance (BMO) which requires an owners’ corporation (OC) to procure third party risks insurance in relation to the common parts of the building and the property	To implement the provisions, the Building Management (Third Party Risks Insurance) Regulation (the Regulation) was drafted to set out the detailed requirements for OCs to procure third party risks insurance. The Regulation was gazetted on 6 July 2007 and was	We hope to bring into effect the relevant provisions on 1 January 2009. However, we will keep in view the situation and decide on the actual commencement date having regard to the prevailing circumstances.	HAB / HAD

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				of the OC. Section 10(a) of the Amendment Ordinance makes consequential amendment to section 18 of the BMO.	amended by a LegCo resolution passed on 7 November 2007. In order to give the OCs sufficient time to familiarise themselves with the new requirements and to arrange for procurement of third party risks insurance for their buildings, the captioned provisions of the Amendment Ordinance are not yet to come into effect.		
20	2002	4 of 2002 Dangerous Goods (Amendment) Ordinance 2002	The Ordinance	The Ordinance aims to improve the regulatory framework of dangerous goods and bring it in line with commonly adopted international standards.	The Ordinance has not yet commenced operation pending detailed control mechanism to be set out in subsidiary legislation. The relevant subsidiary legislation is currently being drafted. We aim at introducing it into the Legislative Council in the 2008-09 legislative year.	We plan to bring the Ordinance together with its subsidiary legislation into operation in the first half of 2009.	SB

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21	2002	27 of 2002 (Cap. 575) United Nations (Anti-Terrorism Measures) Ordinance	(a) Sections 5, 6, 8, 13, 14(2) and (3), 15, 17 and 18 (b) Section 3 in so far as it relates to section 8 (c) Section 14(1) in so far as it relates to section 8	These provisions relate to the specification of terrorists / terrorist associates / terrorist property not designated by the United Nations, freezing and forfeiture of terrorist property and law enforcement powers under the Ordinance.	We need to put in place the necessary rules of court to provide for procedural matters regarding the provisions on the specification of terrorists / terrorist associates / terrorist property not designated by the United Nations, and the freezing and forfeiture of terrorist property as well as the code of practice regarding the exercise of certain law enforcement powers under the Ordinance before the above provisions may be brought into operation.	The rules of court are subsidiary legislation to be made by the Rules Committee of the High Court and are subject to the Legislative Council's negative vetting. The code of practice is also subject to approval by the Legislative Council. We are preparing the draft rules in consultation with the Rules Committee of the High Court. The draft code of practice is nearing completion. We will consult the Panel on Security as soon as the draft rules of court and the draft code of practice are ready.	SB

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22	2003	14 of 2003 Law Amendment and Reform (Miscellaneous Provisions) Ordinance 2003	(a) Section 2	Section 2 of this Ordinance amends section 6 of the Legal Practitioners Ordinance (Cap. 159) to provide that, notwithstanding compliance with the 2 year prior employment requirement before a solicitor may practise on his own account or in partnership (section 6(6)), the Law Society Council may also require an applicant for the first issue of a practising certificate to have successfully completed a mandatory course in practice management provided or approved by the Society (unless the Council, where it considers appropriate, exempts an applicant wholly or partly from the mandatory course requirement).	<p>The Law Society is considering issues relating to professional indemnity insurance in the case of solicitor corporations.</p> <p>The commencement of section 2 of this Ordinance is reviewed by the Law Society at the end of each year. The Law Society considers that the section should not commence until the mandatory course in practice management is in place.</p>	Subject to review by the Law Society.	DoJ / LPD



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			(b) Section 3 shall come into operation on the day appointed for the commencement of section 4 of the Legal Services Legislation (Miscellaneous Amendments) Ordinance 1997 (94 of 1997)	This provision relates to the establishment of solicitor corporations and foreign lawyer corporations as practice entities.	Please refer to item 14.	Pending consideration of insurance issues by the Law Society Council.	
23	2003	23 of 2003 Evidence (Miscellaneous Amendments) Ordinance 2003	Sections 12 to 19, 23 and 24	These sections concern the taking of evidence from abroad by live television link. The Secretary for Justice appointed 3 March 2003 as the day for commencement of the sections concerning requests to Hong Kong to take evidence by live television links from a person outside Hong Kong. The sections	Draft Live Television Link (Witnesses outside Hong Kong) Rules and draft High Court (Amendment) Rules have been prepared following extensive consultation and detailed analysis. The draft rules have been referred to the Judiciary Administrator for consideration for the purposes of seeking	Pending consideration by Judiciary Administrator of draft rules for live television link.	DoJ / LPD

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				which have not yet commenced relate to outgoing requests.	approval in principle from the relevant rule making authorities.		
24	2003	28 of 2003 Companies (Amendment) Ordinance 2003	Section 67	To expand the scope of the index of directors under the Companies Ordinance to cover any person who is nominated by a one-member/ director company in general meeting to act in place of the sole member/director of the company upon the latter's death (i.e. a reserve director).	The provisions can only be implemented after the completion of the necessary enhancements to the Companies Registry (CR)'s Integrated Companies Registry Information System ("ICRIS") to cater for the inclusion of reserve directors of companies in the directors' index maintained by the Registrar of Companies as well as the new incorporation procedures of companies. As the CR has to assign priority to improving the system stability of the online search functions under ICRIS and modifying ICRIS to cater for the improved registration system for non-Hong	The relevant enhancement works to ICRIS are expected to be completed by mid-2008. Upon completion, the Secretary for Financial Services and the Treasury will prescribe a date by notice published in the Gazette as the implementation date of these provisions.	FSTB

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					Kong companies, the relevant enhancement works could only start in late 2007 and are expected to be completed by mid-2008.		
25	2004	18 of 2004 (Cap. 583) Construction Workers Registration Ordinance	(a) Section 3(2), (3) and (4)  (b) Section 4  (c) Section 5 (in so far as it relates to employing a person to personally	(a) To prohibit construction workers not registered against designated trades under Schedule 1 of the Ordinance from carrying out on construction sites construction work of the related trades  (b) To provide for exemptions from prohibitions under section 3  (c) To prohibit employers from employing workers under (a) above	In the light of the complexity in bringing the Ordinance into force, the Construction Workers Registration Authority (CWRA) proposed in early 2007 to proceed with the implementation in phases. The Panel on Planning, Lands and Works was consulted on 24 April 2007 and Members present expressed support for the proposal.  Phase one prohibition came into operation on 1 September 2007. For the implementation of the remaining phase of prohibition, there are	Due to the concerns expressed, we are working closely with the CWRA to have active discussion with stakeholders to sort out the outstanding issues so as to allow the remaining phase of prohibition to be implemented as soon as possible.	DEVB / WB

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			<p>carry out on a construction site construction work in contravention of section 3(2), (3) or (4))</p> <p>(d) Section 6(1)(in so far as it relates to the contravention of section 3(2), (3) or (4))</p> <p>(e) Section 6(2)(in so far as it relates to the contravention of section 5 (to the extent that it is in operation under paragraph (c)))</p>	<p>(d), (e), (f) &amp; (g) To stipulate offences in contravention of prohibitions under (a) and (c) above</p>	<p>complex issues which require detailed deliberation with various stakeholders. In the past year or so, we have been discussing with parties concerned including relevant trade unions and associations. They have offered useful views on how implementation should proceed, striking a balance between the need to take into account circumstances surrounding very experienced workers and the need to maintain/enhance quality of works.</p>		

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			<p>(f) Section 6(4)(in so far as it relates to the contravention of section 3(2), (3) or (4) or the contravention of section 5 (to the extent that it is in operation under paragraph (c)))</p> <p>(g) Section 6(8)(b), (c) and (d)</p> <p>(h) Section 48(1)(b), (c) and (d)</p>	<p>(h) To stipulate the requirement for registered construction workers of designated trades to carry registration card when they personally carry out construction work of that particular trade</p>			

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26	2004	21 of 2004 United Nations (Anti-Terrorism Measures) (Amendment) Ordinance 2004	<p>(a) Sections 5, 7, 12, 13, 14(1), 15, 16, 17, 18, 21(2) and 23</p> <p>(b) Section 14(3) in so far as it relates to the addition of section 14(7E), (7F), (7G), (7H), (7I) and (7J) of the principal Ordinance</p> <p>(c) Section 21(1) in so far as it relates to sections 5, 6, 13, 17 and 18 of the principal Ordinance</p>	Please refer to Item 21.	Please refer to Item 21.	Please refer to Item 21.	SB
27	2004	26 of 2004 (Cap. 585) Land Titles Ordinance	The Ordinance	To introduce a system for registration of title to land in place of the deeds registration system now	The Land Titles Ordinance was enacted in 2004, subject to an agreement that the	We aim to introduce an amendment bill into the Legislative Council in the 2008/09 legislative	DEVB / PLB

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				operating under the Land Registration Ordinance (Cap 128).	Administration would review a range of issues and report back to the Legislative Council before seeking to bring the Ordinance into operation. In May 2007 the Administration submitted a report to the Panel on Planning, Lands and Works. In the report, the Administration advised that the review had identified a need to make amendments to the Land Titles Ordinance before its commencement and that an amendment bill would be introduced in due course.	session. Assuming that the amendment bill can be enacted by the end of 2009, the Land Titles Ordinance may come into effect by the end of 2010 the earliest.	
28	2004	29 of 2004 Human Organ Transplant (Amendment) Ordinance 2004	Section 3, 4(a) & (b), 4(c) (only in relation to the definition of "Appeal Board"), 5, 7 (except in relation to the new sections 3A, 3B	These sections are related to the amended provisions to introduce an exemption mechanism for certain organ products that are captured by the definition of human	The commencement of the provisions is pending the making of subsidiary legislation providing for rules and procedures for appeal under the exemption mechanism for use of organ	We will bring the provisions into operation in conjunction with the making of the relevant subsidiary legislation.	FHB

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			and 3C), 8, 9, 10, 11, 12 (except in relation to the new section 9), 13, 16, 17, 18, 19, 20, 21 and 22	organs but are commonly manufactured and sold commercially for medical treatment from the prohibition under the Ordinance of commercial dealings in human organs intended for transplant which currently restrict transplantation using such organ products.	products, and the amendments to the Human Organ Transplant Regulation revising the statutory forms prescribed for the purpose of obtaining information with respect to organ transplants that are proposed to be or have been carried out by the Human Organ Transplant Board.		
29	2004	30 of 2004 Companies (Amendment) Ordinance 2004	(a) Section 2 (insofar as it relates to sections 1 (insofar as it relates to the definitions of “electronic record”, “founder member” and “incorporation form” in subsection (2), and subsection (3)), 2, 3, 4, 5,	To facilitate electronic incorporation of companies and streamline the incorporation procedures of companies.	Please refer to Item 24.	Please refer to Item 24.	FSTB



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			<p>6, 7, 8, 9, 10, 11, 12, 16, 18, 19, 20, 21, 22, 24, 48, 49, 50(1) and 51(b) and (e) of Schedule 2)</p> <p>(b) Section 3 (insofar as it relates to section 3 (insofar as it relates to the repeal of paragraph 4 of the Companies (Forms) Regulations (Cap. 32 sub. leg. B)) of Part 2 of Schedule 4)</p> <p>(c) Sections 1 (insofar as it relates to the definitions of “electronic record”,</p>				

<b>Item</b>	<b>Year in which ordinance was enacted</b>	<b>Ordinance</b>	<b>Provisions</b>	<b>Purpose of the Provisions</b>	<b>Reasons for not yet Bringing the Provisions into Operation</b>	<b>Plans to Bring the Provisions into Operation</b>	<b>Responsible/ Instructing Bureau</b>
			<p>“founder member” and “incorporation form” in subsection (2), and subsection (3)), 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 16, 18, 19, 20, 21, 22, 24, 48, 49, 50(1) and 51(b) and (e) of Schedule 2</p> <p>(d) Section 3 (insofar as it relates to the repeal of paragraph 4 of the Companies (Forms) Regulations (Cap. 32 sub. leg. B)) of Part 2 of Schedule 4</p>				