

立法會
Legislative Council

LC Paper No. LS71/09-10

**Paper for the House Committee Meeting
on 11 June 2010**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 4 June 2010**

Date of tabling in LegCo : 9 June 2010

Amendment to be made by : 7 July 2010 (or the 1st meeting of next session if extended by resolution)

I. PENSIONS INCREASE

Pensions (Increase) Ordinance (Cap. 305)

Declaration of Increase in Pensions Notice 2010 (L.N. 73)

Widows and Orphans Pension (Increase) Ordinance (Cap. 205)

Widows and Orphans Pension (Increase) Notice 2010 (L.N. 74)

The Administration states that Government policy is to increase pensions and dependant pensions annually according to the Consumer Price Index (A) (CPI(A)) over a specified period when the Index registers an increase. Since 1993, the mechanism for determining pension increase has been provided statutorily in the Pensions (Increase) Ordinance (Cap. 305) and the Widows and Orphans Pension (Increase) Ordinance (Cap. 205) respectively.

2. Under Cap. 305, if the average monthly CPI(A) (Average Index) of a period of 12 months ending on 31 March of a year exceeds the Average Index of the immediately preceding 12 months by a percentage that is more than 0.1%, the basic pension to which the Ordinance applies must be increased by the same percentage. Similarly, under Cap. 205, if the Average Index of a period of 12 months ending on 31 March of a year exceeds the Average Index of the immediately preceding 12 months by a percentage that is more than 0.1%, the pensions described in Cap. 205 must be increased by the same percentage. Since the Average Index of the 12 months ending on 31 March 2010 exceeds the Average Index of the immediately preceding 12 months by 0.8%, the increase in respect of the pensions is accordingly 0.8%.

3. L.N. 73 and L.N. 74 seek to respectively declare and specify a 0.8% increase in pensions and dependant pensions with effect from 1 April 2010. Members may refer to the LegCo Brief (File Ref: CSBCR/AP/4-075-005/5 Pt. 13) issued by the Civil Service Bureau and dated 28 May 2010 for background information.

II. OTHERS

Country Parks Ordinance (Cap. 208)

Country Parks (Designation) (Consolidation) Order (Cap. 208 sub. leg. B)

Country Parks (Designation) (Consolidation) (Amendment) Order 2010 (L.N. 72)

4. This Order is made by the Chief Executive under section 14 of the Country Parks Ordinance (Cap. 208) after consultation with the Executive Council to amend the Country Parks (Designation) (Consolidation) Order (Cap. 208 sub. leg. B) by replacing the original approved map in respect of the Clear Water Bay Country Park (CWBCP) with a new approved map, i.e. map CP/CWB^D. It is to come into operation on 1 November 2010.

5. According to the Administration, the areas of CWBCP under the new approved map are approximately 5 hectares (ha) less than those shown in the replaced approved map. The 5 ha excised from CWBCP will form part of the 50 ha expanded area of the South East New Territories Landfill (SENTL). The expansion will extend the lifespan of SENTL by 6 years.

6. The Environment Protection Department (EPD) has completed the environmental impact assessment (EIA) of the proposed encroachment of the land of CWBCP and presented the outcome of EIA process to the Country and Marine Parks Board (CMPB) on 11 September 2008. CMPB recommended the excision of the proposed encroachment areas from the approved map of CWBCP by invoking the statutory procedure under section 15 of Cap. 208. Accordingly, a draft replacement map was prepared and made available for public inspection for 60 days from 14 November 2008. During that period, the Country and Marine Parks Authority (the Authority) received 3,105 objections to the draft map. The objections were heard by CMPB in compliance with section 11 of Cap. 208 in March 2009. After considering the written objections, the opinions submitted at the hearing sessions, the Authority's representations and the explanations of EPD, CMPB rejected all objections on 30 March 2009. The Panel on Environmental Affairs discussed the environmental impacts associated with the proposed extension of SENTL to CWBCP at its meeting on 27 October 2008.

7. The Administration states that as early as during the EIA process, EPD has adopted a “Continuous Public Involvement” approach. The suggestions of the Sai Kung District Council (SKDC) members, community organisations and rural committee or village representatives have been incorporated into the scope of the assessment. SKDC has been consulted on the proposed SENTL Extension project since April 2004 and again on 18 November 2008. SKDC’s Housing and Environmental Hygiene Committee has been briefed of the latest additional odour control enhancement measures at SENTL on 18 March 2010. Members may refer to the LegCo Brief (File Ref: EP CR 9/25/15) issued by EPD and the Agriculture, Fisheries and Conservation Department in June 2010 for background and further information.

Employees Retraining Ordinance (Cap. 423)
Employees Retraining Ordinance (Amendment of Schedule 2) Notice 2010 (L.N. 75)

8. By this Notice made by Employees Retraining Board (ERB) in accordance with section 31(2) of the Employees Retraining Ordinance (Cap. 423), the list of training bodies set out in Schedule 2 to Cap. 423 is amended by the addition of 14 organizations.

9. According to the Administration, ERB needs to collaborate with more training providers with different specialisation and background to support the development of the “Manpower Development Scheme”. Of the 14 organizations added, apart from the Youth Outreach, which is appointed to offer training courses under ERB’s “Youth Training Programme”, the remaining 13 organizations are appointed to offer non-placement-tied training courses of designated industries at assigned Qualifications Framework level under the “Skills Upgrading Scheme Plus”¹. Members may refer to the LegCo Brief (File Ref: ERB/D/LEGAL/001(2)) issued by the Employees Retraining Board Executive Office and dated 1 June 2010 for background and further information.

Concluding Observations

10. Neither the public nor any of the LegCo Panels have been consulted on the items of subsidiary legislation above reported. No difficulties have been

¹ For the service areas of each of the 13 training provider, please see paragraph 9 of the relevant LegCo Brief.

observed in the legal or drafting aspects of those items of subsidiary legislation.

Prepared by

KAU Kin-wah
Assistant Legal Adviser
Legislative Council Secretariat
7 June 2010

LS/S/28/09-10