

立法會
Legislative Council

LC Paper No. LS15/10-11

**Paper for the House Committee Meeting
on 17 December 2010**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 10 December 2010**

Date of tabling in LegCo : 15 December 2010

Amendment to be made by : 12 January 2011 (or 16 February 2011 if extended by resolution)

PART I PUBLIC HEALTH AND MUNICIPAL SERVICES

Public Health and Municipal Services Ordinance (Cap. 132)

Public Health and Municipal Services (Designation of Public Swimming Pools) Order 2010 (L.N. 162)

Public Health and Municipal Services Ordinance (Amendment of Fourteenth Schedule) Order 2010 (L.N. 163)

Public Health and Municipal Services (Setting Aside Places for Use as Public Pleasure Grounds) Order 2010 (L.N. 164)

Public Health and Municipal Services Ordinance (Amendment of Fourth Schedule) (No. 2) Order 2010 (L.N. 165)

The Orders in L.N. 162 to 165 are made by the Director of Leisure and Cultural Services (the Director) for designating public swimming pools and setting aside places for use as public pleasure grounds under sections 42A and 106 of the Public Health and Municipal Services Ordinance (Cap. 132) (the Ordinance) respectively.

2. L.N. 162 designates the Siu Sai Wan Swimming Pool, Sun Yat Sen Memorial Park Swimming Pool and Tung Chung Swimming Pool as public swimming pools. L.N. 163 adds these three swimming pools to the Fourteenth Schedule to the Ordinance. The effect of both Orders is to vest the management and control of the designated public swimming pools in the Director.

3. L.N. 164 sets aside the 20 places specified in the Schedule to the Order for use as public pleasure grounds. It is stated in the LegCo Brief that thirteen of the twenty places specified are new venues opened or to be opened

for public use by the Leisure and Cultural Services Department (LCSD). The other seven venues are taken over by LCSD from the local District Councils.

4. L.N. 165 amends the Fourth Schedule to the Ordinance to -
 - (a) update the list of public pleasure grounds;
 - (b) rename "Western Park Sports Centre" as "Sun Yat Sen Memorial Park Sports Centre" to tally with the name of the Park where the Sports Centre is located; and
 - (c) regroup "Peninsula Lions Garden, Sha Tin Pass" from the heading under "New Territories" to "Kowloon" in line with the respective district boundary.
5. By setting aside and including the venues in the Fourth Schedule to the Ordinance, the Director as the Authority under the Ordinance will be able to manage them as public pleasure grounds and enforce the applicable regulations.
6. The four Orders came into operation on the date of publication in the Gazette, i.e. 10 December 2010.
7. Members may refer to the LegCo Briefs (File Ref: (6) in LCS 19/HQ 813/00(15)) issued by LCSD on 29 November 2010 for further information. According to the LegCo Briefs, the Administration has consulted the local District Councils and has their support for the proposals. The Panel on Home Affairs has not been consulted on the four Orders.

PART II HONG KONG SCIENCE AND TECHNOLOGY PARKS

Hong Kong Science and Technology Parks Corporation Ordinance (Cap. 565)

Hong Kong Science and Technology Parks Corporation Ordinance (Amendment of Schedule 1) Notice 2010 (L.N. 166)

8. The Notice was made by the Hong Kong Science and Technology Parks Corporation (HKSTPC) under section 27(2) of the Hong Kong Science and Technology Parks Corporation Ordinance (Cap. 565). The Notice amends Schedule 1 to the Ordinance by adding "Tai Po Town Lot No. 204, Pak Shek Kok, New Territories, Hong Kong (Phase 3)" to the list of premises where activities related to the purposes of HKSTPC are, or are to be, carried out. The effect of the Notice is to enable HKSTPC to manage and control the specified premises.
9. The Notice shall come into operation on 18 February 2011.

10. Members may refer to the LegCo Brief (File Ref: IN/308/16) issued by Innovation and Technology Commission in December 2010 for background and further information. The Panel on Commerce and Industry discussed the development of Science Park Phase 3 at its meeting on 16 March 2010 and the Finance Committee approved its funding arrangement on 23 April 2010.

PART III COMMENCEMENT NOTICES

Buildings Energy Efficiency Ordinance (18 of 2010)

Buildings Energy Efficiency Ordinance (Commencement) Notice 2010 (L.N. 167)

11. By the Notice made under section 1(2) of the Buildings Energy Efficiency Ordinance (18 of 2010) (the Ordinance), the Acting Secretary for the Environment has appointed 21 February 2011 as the day on which the Ordinance comes into operation except the following -

- (a) Part 2 (Prescribed buildings at design stage and occupation approval stage);
- (b) Part 3 (Major retrofitting works in prescribed buildings);
- (c) Part 4 (Energy Audit);
- (d) Part 5 (Improvement Notice); and
- (e) Part 6 (Enforcement).

12. The Ordinance, passed on 24 November 2010 and gazetted on 3 December 2010, requires compliance with codes of practice promulgated by the Electrical and Mechanical Services Department concerning the energy efficiency of air-conditioning installations, electrical installations, lift and escalator installations and lighting installations and energy audits in respect of certain types of buildings.

13. No LegCo Brief has been issued by the Environment Bureau. Upon enquiry with the Environment Bureau, we have been informed that the provisions in Parts 2 to 6 of the Ordinance are not yet ready for operation, pending the making of subsidiary legislation on the fees prescribed under the Ordinance and on registration of Registered Energy Assessors. The Notice brings into operation Parts 1, 7 to 11 and Schedules 1 to 5 of the Ordinance, which include the necessary empowering provisions for making the subsidiary legislation.

**Business Registration (Amendment) Ordinance 2010 (13 of 2010)
Business Registration (Amendment) Ordinance 2010 (Commencement)
Notice (L.N. 168)**

14. By the Notice made under section 2 of the Business Registration (Amendment) Ordinance 2010 (13 of 2010) (the Amendment Ordinance), the Secretary for Financial Services and the Treasury has appointed 21 February 2011 as the day on which the Amendment Ordinance comes into operation.

15. The Amendment Ordinance, passed on 7 July 2010 and gazetted on 16 July 2010, amends the Business Registration Ordinance (Cap. 310) to provide for simultaneous business registration applications on incorporation or application for non-Hong Kong company registration under the Companies Ordinance (Cap. 32).

**Companies (Amendment) Ordinance 2010 (12 of 2010)
Companies (Amendment) Ordinance 2010 (Commencement) (No. 2) Notice
2010 (L.N. 169)**

16. By the Notice made under section 2 of the Companies (Amendment) Ordinance 2010 (12 of 2010) (the Amendment Ordinance), the Secretary for Financial Services and the Treasury has appointed 21 February 2011 as the day on which Parts 2 (amendments relating to company formation) and 5 (amendments relating to electronic communications with Registrar of Companies) of the Amendment Ordinance come into operation.

17. Under L.N. 132 of 2010 gazetted on 15 October 2010, most of the provisions of the Amendment Ordinance were brought into operation on 10 December 2010 except provisions in Parts 2, 5 and 7. Upon enquiry with the Financial Services and the Treasury Bureau, we have been informed that Part 7 (amendments relating to paperless holding and transfer of shares and debentures) is not yet ready for operation, pending the enactment of relevant amendments to the Securities and Futures Ordinance (Cap. 571).

**Genetically Modified Organisms (Control of Release) Ordinance (7 of 2010)
Genetically Modified Organisms (Control of Release) Ordinance
(Commencement) Notice (L.N. 170)**

**Genetically Modified Organisms (Documentation for Import and Export)
Regulation (L.N. 96 of 2010)
Genetically Modified Organisms (Documentation for Import and Export)
Regulation (Commencement) Notice (L.N. 171)**

18. By L.N. 170 and L.N. 171, the Secretary for the Environment has respectively appointed 1 March 2011 as the day on which the Genetically Modified Organisms (Control of Release) Ordinance (7 of 2010) (the Ordinance)

and the Genetically Modified Organisms (Documentation for Import and Export) Regulation (L.N. 96 of 2010) (the Regulation) come into operation.

19. The Ordinance, passed on 10 March 2010 and gazetted on 19 March 2010, gives effect to the Cartagena Protocol on Biosafety to the Convention on Biological Diversity¹ and controls the release of genetically modified organisms (GMO) into the environment and the import and export of GMO.

20. The Regulation, made by the Secretary for the Environment under section 50(1) of the Ordinance, provides for the detailed documentation requirements in relation to the import and export of GMOs intended to be used for the purposes set out in section 26(1) of the Ordinance². The Regulation was gazetted on 9 July 2010 and a subcommittee to study the Regulation was formed on 8 October 2010. During its deliberations, the Subcommittee noted the Administration's plan to bring the Ordinance and the Regulation into operation on the same date around March 2011.

21. The relevant LegCo Panels have not been consulted on the above commencement notices.

Concluding Observations

22. No difficulties have been identified in the legal and drafting aspects of the above items of subsidiary legislation.

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¹ The Cartagena Protocol on Biosafety under the Convention on Biological Diversity was adopted in 2000 to provide for the safe transfer, handling, storage and use of GMOs that may have adverse effects on the conservation and sustainable use of biological diversity, taking into account risks to human health.

² Section 26(1) of the Ordinance provides that GMOs that are intended for direct consumption as food or feed or for processing (FFP), contained use, and release into the environment must be accompanied by prescribed documents when being imported into or exported from Hong Kong.