

立法會
Legislative Council

LC Paper No. LS15/12-13

**Paper for the House Committee Meeting
on 4 January 2013**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 21 December 2012**

Date of tabling in LegCo : 9 January 2013

Amendment to be made by : 6 February 2013 (or 27 February 2013 if extended by resolution)

**PART I WITHDRAWAL OF LICENSING EXEMPTION FOR
CERTAIN RADIOCOMMUNICATIONS APPARATUS**

**Telecommunications Ordinance (Cap. 106)
Telecommunications (Telecommunications Apparatus) (Exemption from
Licensing) (Amendment) Order 2012 (L.N. 190)**

Under section 8(1) of the Telecommunications Ordinance (Cap. 106) (the Ordinance), licences are required for establishing or maintaining any means of telecommunications, or possessing, or using, dealing in the course of trade or business, or demonstrating, with a view to sale in the course of trade or business, radiocommunications apparatus. Under section 9 of the Ordinance, save under and in accordance with a permit granted by the Communications Authority, no person shall import into Hong Kong or export therefrom any radiocommunications transmitting apparatus unless he is the holder of a licence authorizing him to deal in the course of trade or business in such apparatus. Section 39 of the Ordinance provides that the Chief Executive in Council may by order exempt any person or any class of persons from any of the provisions of the Ordinance as he thinks fit. The Telecommunications (Telecommunications Apparatus) (Exemption from Licensing) Order (Cap. 106 sub. leg. Z) (the principal Order), which is made under section 39 of the Ordinance, exempts, among others, persons from the obligation to hold a licence under the Ordinance in respect of certain telecommunications apparatus operating within the 1895-1906.1 MHz frequency band (the 1895-1906.1 MHz apparatus).

2. This Order amends the principal Order to withdraw the licensing exemptions for selling, importing or exporting the 1895-1906.1 MHz apparatus and provide transitional arrangement for the existing licensing exemptions in respect of establishment or maintenance, and possession or use of such apparatus. Under the Order, the licensing exemptions in respect of selling, importing or exporting the 1895-1906.1 MHz apparatus will cease upon the commencement of the Order. As regards the establishment or maintenance, and possession or use of the 1895-1906.1 MHz apparatus, the licensing exemptions will be withdrawn after midnight on the date immediately before the third anniversary of the commencement date of the Order.

3. Members may refer to the LegCo Brief (File Ref : 7/5/11/3) (the Brief) of December 2012 issued by Communications and Technology Branch (Communications and Technology Branch) for background information.

4. According to paragraphs 2 to 6 of the Brief, the 1895 – 1906.1 MHz band has been used predominately for home cordless telephone through the Personal Handy Phone System (PHS) since 1997. The Administration considers that the allocation of the above frequency band for PHS should be withdrawn in view of the limited supply of PHS apparatus in the market and the scanty deployment of such apparatus in Hong Kong. According to the Administration, part of the vacated frequency band can be re-planned to meet the growing demand for mobile communications services, for example 3G or 4G services.

5. According to paragraphs 14 and 15 of the Brief, the stakeholders in the communications industry, including the Radio Spectrum Advisory Committee, were consulted on and were supportive in general of the proposals in the Order.

6. As advised by the Clerk to the Information Technology and Broadcasting Panel, the Panel has not been consulted on the Order.

7. This Order comes into operation on a day to be appointed by the Director-General of Communications by notice published in the Gazette.

PART II COMMENCEMENT NOTICES

Allowances to Jurors (Amendment) Order 2012 (L.N. 170 of 2012)
Allowances to Jurors (Amendment) Order 2012 (Commencement) Notice (L.N. 191)

Criminal Procedure (Witnesses' Allowances (Amendment) Rules 2012 (L.N. 182 of 2012)

Criminal Procedure (Witnesses' Allowances) (Amendment) Rules 2012 (Commencement) Notice (L.N. 192)

Coroners (Witnesses' Allowances) (Amendment) Rules 2012 (L.N. 184 of 2012)

Coroners (Witnesses' Allowances) (Amendment) Rules 2012 (Commencement) Notice (L.N. 193)

L.N. 191

8. L.N. 191 appoints 11 February 2013 as the day on which the Allowances to Jurors (Amendment) Order 2012 (L.N. 170 of 2012) will come into operation. The Allowances to Jurors (Amendment) Order 2012, which was gazetted on 9 November 2012, amends the principal Order to increase the allowance and the maximum rate of additional allowance payable to jurors from \$360 to \$410 a day (or part of a day).

L.N. 192 and L.N. 193

9. L.N. 192 and L.N. 193 appoint 11 February 2013 as the day on which the Criminal Procedure (Witnesses' Allowances) (Amendment) Rules 2012 (L.N. 182 of 2012) and Coroners (Witnesses' Allowances) (Amendment) Rules 2012 (L.N. 184 of 2012) (collectively referred to as "Amendment Rules") will come into operation.

10. The Amendment Rules were approved by the Legislative Council at its meeting on 28 November 2012 pursuant to a motion moved by the Chief Secretary for Administration. They increase the maximum rates of allowances payable to witnesses in criminal proceedings under the Criminal Procedure (Witnesses' Allowances) Rules (Cap. 221 sub. leg. B) and coroners' inquests under the Coroners (Witnesses' Allowances) Rules (Cap. 504 sub. leg. E) respectively as follows-

- (a) ordinary witnesses from \$360 to \$410 (a day) and \$180 to \$205 (not exceeding 4 hours); and
- (b) expert/professional witnesses from \$2,170 to \$2,355 (a day) and \$1,085 to \$1,175 (not exceeding 4 hours).

11. There is no LegCo Brief issued on the three Commencement Notices.

12. As advised by the Clerk to the Panel on Administration of Justice and Legal Services, the Panel has not been consulted on the three Commencement Notices.

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

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2 January 2013

LS/S/10/12-13