

立法會
Legislative Council

LC Paper No. LS21/12-13

**Paper for the House Committee Meeting
on 8 February 2013**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 25 January 2013**

Date of tabling in LegCo : 30 January 2013

Amendment to be made by : 27 February 2013 (or 20 March 2013 if
extended by resolution)

Import and Export Ordinance (Cap. 60)
Import and Export (Fees) (Amendment) Regulation 2013 (L.N. 3)

L.N. 3 is made by the Secretary for Financial Services and the Treasury under section 29A of the Interpretation and General Clauses Ordinance (Cap. 1) by virtue of section 31 of the Import and Export Ordinance (Cap. 60) (IEO).

2. Section 31(1)(x) of IEO provides that the Chief Executive in Council may make regulations for prescribing fees to be collected by the Commissioner of Customs and Excise or the Director-General of Trade and Industry in respect of any matter arising under IEO. Under section 29A of the Interpretation and General Clauses Ordinance (Cap. 1), the Financial Secretary (which by virtue of section 3 of the same ordinance includes the Secretary for Financial Services and the Treasury) may vary fees which have been set by subsidiary legislation made by the Chief Executive in Council.

3. According to the Administration, it is government policy that fees charged for various services should in general be set at levels sufficient to recover the full costs of providing the services. A recent review on the strategic commodities-related fees concludes that the fees for two items payable under the Import and Export (Fees) Regulations (Cap. 60 sub. leg. B) are not adequate to recover the full costs of providing the services. L.N. 3 amends the Schedule to the Regulations to increase the fees for these two items to gradually achieve full costs recovery –

- (a) the fee for the issue of a delivery verification certificate for the certification of delivery of strategic commodities into Hong Kong (item 10A), which is increased from \$260 to \$285; and
 - (b) the fee for the issue of an international import certificate (item 10C), which is increased from \$87 to \$96.
4. Members may refer to the LegCo Brief (File Ref: CITB CR 13/39/3 (14)) issued by Commerce and Economic Development Bureau in January 2013 for further information.
5. As advised by the Clerk to the Panel, at the meeting of the Panel on Commerce and Industry held on 18 December 2012, the Administration briefed members on the proposal to adjust the fees in respect of the two items. The Panel supported in principle the Administration's proposal and the necessary legislative amendments to implement the proposed fee adjustments.
6. L.N. 3 will come into operation on 22 March 2013.

Public Health and Municipal Services Ordinance (Cap. 132)
Public Health and Municipal Services Ordinance (Public Pleasure Grounds)
(Amendment of Fourth Schedule) Order 2013 (L.N. 4)

7. L.N. 4 is made by the Director of Leisure and Cultural Services (the Director) under section 106 of the Public Health and Municipal Services Ordinance (Cap. 132) (PHMSO).
8. Schedule 1 to L.N. 4 sets aside the following 10 venues for use as public pleasure grounds. Schedule 3 to L.N. 4 adds these venues to the list of public pleasure grounds in the Fourth Schedule to PHMSO (the Fourth Schedule) –
- (a) Cape Collinson Road Sitting-out Area;
 - (b) Ho Man Tin East Sitting-out Area;
 - (c) Shun On Road Sitting-out Area;
 - (d) Chung Wai Street Children's Playground;
 - (e) Hung Tai Road Sitting-out Area;
 - (f) Kin Tak Street Basketball Court;
 - (g) Sai Tai Road Fitness Corner;
 - (h) Tai San Back Street Sitting-out Area;
 - (i) Tong Ming Street Park; and
 - (j) Yuk Nga Lane Community Garden.

9. According to the Administration, items (d), (g), (h), (i) and (j) above are newly completed venues that are or will be open for public use by the Leisure and Cultural Services Department (LCSD). The remaining five venues are taken over from the Home Affairs Department for management by LCSD. The effect of setting aside and including the venues in the Fourth Schedule is to vest the general management and control of the 10 venues in the Director.

10. Schedule 2 to L.N. 4 provides that the following two venues cease to be public pleasure grounds. Schedule 3 to L.N. 4 removes them from the Fourth Schedule –

- (a) Lower Ngau Tau Kok Estate Playground No. 8; and
- (b) Mong Kok Market Children's Playground.

11. According to the Administration, item (a) in paragraph 10 above will be handed over to the Housing Department for public housing estate construction whereas item (b) will be handed over to the Lands Department for land sale respectively in March 2013.

12. Members may refer to the LegCo Brief (File Ref: L/M (1) in LCS 19/HQ 813/00(19)) issued by Leisure and Cultural Services Department on 18 January 2013 for further information.

13. The Panel on Home Affairs has not been consulted. According to the LegCo Brief, the Administration had consulted the respective District Councils, which supported the proposals.

14. L.N. 4 will come into operation on 22 March 2013.

Personal Data (Privacy) Ordinance (Cap. 486)

Personal Data (Privacy) (Amendment) Ordinance 2012 (Commencement) Notice (L.N. 5)

15. L.N. 5 was made by the Secretary for Constitutional and Mainland Affairs (the Secretary) under section 1(3) of the Personal Data (Privacy) (Amendment) Ordinance 2012 (18 of 2012) (the Amendment Ordinance) to appoint 1 April 2013 as the day on which sections 20, 21, 38(2), 39 and 43 of the Amendment Ordinance come into operation. The other provisions of the Amendment Ordinance not covered by L.N. 5 were brought into operation on 1 October 2012 by section 1(2) of the Amendment Ordinance.

16. Section 21 of the Amendment Ordinance introduces a new Part VIA to the Personal Data (Privacy) Ordinance (Cap. 486) (PDPO), which provides for a statutory scheme to regulate the use of personal data by a data user in direct marketing and the provision of personal data by a data user to another person for use by that other person in direct marketing. Section 34 of PDPO, the existing provision governing the use of personal data in direct marketing, is repealed by section 20 of the Amendment Ordinance.

17. Sections 38(2), 39 and 43 of the Amendment Ordinance empower the Privacy Commissioner for Personal Data (the Commissioner) to provide legal assistance to aggrieved data subjects who intend to institute legal proceedings pursuant to section 66 of PDPO and provide for related amendments. Assistance may include the giving of advice and any other form of assistance which the Commissioner may consider appropriate.

18. No LegCo Brief on L.N. 5 has been issued by the Administration. However, as advised by the Clerk to the Panel, the Constitutional Affairs and Mainland Bureau has issued a paper in January 2013 to the Panel on Constitutional Affairs (LC Paper No. CB(2)483/12-13(02)) and briefed the Panel at its meeting on 21 January 2013 on the preparatory work made by the Administration and the Commissioner for bringing those five sections into operation on 1 April 2013. Some members urged the Administration to provide adequate resources for the Commissioner to cope with the additional work.

Concluding Remarks

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

Prepared by

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LS/S/12/12-13