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**Paper for the House Committee Meeting
on 31 May 2013**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 24 May 2013**

Date of tabling in LegCo : 29 May 2013

Amendment to be made by : 26 June 2013 (or 17 July 2013 if extended by resolution)

PART I TRADE DESCRIPTIONS

Trade Descriptions Ordinance (Cap. 362)

Trade Descriptions (Unfair Trade Practices) (Amendment) Ordinance 2012 (25 of 2012)

Trade Descriptions (Powers Not Exercisable by Communications Authority) Notice (L.N. 71)

Trade Descriptions (Unfair Trade Practices) (Amendment) Ordinance 2012 (Commencement) Notice (L.N. 72)

Trade Descriptions (Unfair Trade Practices) (Amendment) Ordinance 2012 (Commencement) Notice (L.N. 72)

By L.N. 72, the Secretary for Commerce and Economic Development appoints 19 July 2013 as the day on which the Trade Descriptions (Unfair Trade Practices) (Amendment) Ordinance 2012 (25 of 2012) (the TD(A)O) comes into operation.

2. The Trade Descriptions (Unfair Trade Practices) (Amendment) Bill 2012 (enacted as TD(A)O) was passed by the Legislative Council (LegCo) on 17 July 2012 and the enacted Ordinance was published in the Gazette on 27 July 2012. Before the enactment of the TD(A)O, the Bill had been scrutinized by the Bills Committee on Trade Descriptions (Unfair Trade Practices) (Amendment) Bill 2012. Members may refer to the report of the Bills Committee to the Council dated 21 June 2012 (LC Paper No. CB(1)2204/11-12) for further information on the deliberation of the Bill.

3. The TD(A)O amends the Trade Descriptions Ordinance (Cap. 362) (TDO) to (a) extend its coverage to prohibit specified unfair trade practices in the market (i.e. false trade descriptions of services, misleading omissions, aggressive commercial practices, bait advertising, bait-and-switch and wrongly accepting payment) and (b) introduce a civil compliance-based mechanism to enhance the effectiveness of enforcement of the provisions of the TDO.

4. According to paragraph 3 of the LegCo Brief issued by the Commerce, Industry and Tourism Branch, Commerce and Economic Development Bureau on 22 May 2013 (File ref. CITBCR 05/08/1), since the enactment of the TD(A)O, the Administration has proceeded with certain preparatory work, including making the draft enforcement guidelines, preparing a memorandum of understanding to be entered into by the Commissioner of Customs and Excise (the Commissioner) and the Communications Authority (CA) for the purpose of coordinating the performance of their respective functions as the law enforcement agencies under the TD(A)O and making the Trade Descriptions (Powers Not Exercisable by Communications Authority) Notice (L.N. 71 reported below) to specify the powers that are not exercisable by the CA in its enforcement in respect of commercial practices over which it has concurrent jurisdiction with the Customs and Excise Department. According to the LegCo Brief, the enforcement guidelines and the aforesaid memorandum will be publicized upon the commencement of the TD(A)O (i.e. 19 July 2013). Members may wish to refer to the LegCo Brief for further information.

Trade Descriptions (Powers Not Exercisable by Communications Authority) Notice (L.N. 71)

5. Under the new section 16E(1) and (3) of the TDO (as added by section 27 of the TD(A)O), the CA may, subject to the new section 16E(2), exercise the powers conferred on an authorized officer under the TDO in relation to any commercial practices of licensees under the Telecommunications Ordinance (Cap. 106) (TO) or the Broadcasting Ordinance (Cap. 562) (BO) that are directly connected with the provision of a telecommunications service or broadcasting service under the relevant Ordinance. Under the new section 16E(2) of the TDO, the Chief Executive (CE) in Council may, by notice published in the Gazette, specify powers covered by the new section 16E(1) that are not exercisable by the CA.

6. By L.N. 71, the CE in Council specifies certain powers that are not exercisable by the CA. These powers include those relating to purchase, inspection, seizure, detention and removal of offending goods, use of force by an authorized officer under specified circumstances, locking or sealing of premises or containers, searching suspected vehicles and arrest of suspected persons. The power to enter non-domestic premises under section 15(1)(b) of the TDO may, however, be exercisable by an authorized officer of the CA for the purpose of ascertaining

whether any offence under the TDO has been or is being committed in relation to telecommunications and broadcasting services. Members may wish to refer to Annex B to the LegCo Brief (File ref. CITBCR 05/08/1) for further information.

7. L.N. 71 will come into operation on the day on which section 27 of the TD(A)O comes into operation (i.e. 19 July 2013).

8. As advised by the Clerk to the Panel on Economic Development, the Panel has not been consulted on L.N. 71 and L.N. 72 of 2013 but it deliberated the draft enforcement guidelines and other enforcement matters in respect of the fair trading provisions in the Trade Descriptions (Unfair Trade Practices) (Amendment) Ordinance 2012 on 11 December 2012. The major views expressed by members related to the delineation of work among the enforcement agencies (i.e. Customs and Excise Department, and the Office of Communications Authority) in dealing with complaint cases, the provision of training for enforcement staff, and publicity of the enforcement guidelines. In response to some members' concern about the absence of provisions on cooling-off period, the Administration advised that given the divergent views on the matter, further study was needed before addressing it by legislation.

PART II SIGNBOARD CONTROL SYSTEM

Buildings Ordinance (Cap. 123)

Building (Minor Works) Regulation (Cap. 123 sub. leg. N)

Building (Minor Works)(Amendment) Regulation 2013 (L.N. 73)

Buildings Legislation (Amendment) Ordinance 2012 (24 of 2012)

Buildings Legislation (Amendment) Ordinance 2012 (Commencement) Notice (L.N. 74)

Buildings Legislation (Amendment) Ordinance 2012 (Commencement) Notice (L.N. 74)

9. By L.N. 74, the Secretary for Development appoints 2 September 2013 as the day on which sections 3, 6, 7, 8, 9 and 10 (the relevant provisions) of the Buildings Legislation (Amendment) Ordinance 2012 (24 of 2012) (BL(A)O) come into operation.

10. The Buildings Legislation (Amendment) Bill 2011 (enacted as the BL(A)O) was passed by LegCo on 16 July 2012 and the enacted Ordinance was published in the Gazette on 20 July 2012. The BL(A)O amends the Buildings Ordinance (Cap. 123) (BO) to introduce certain legislative measures to further enhance building safety. The BL(A)O (except the relevant provisions) came into operation on 20 July 2012.

11. The relevant provisions which will come into operation on 2 September 2013 are enabling provisions for the introduction of a statutory control system for signboards. According to paragraph 2 of the LegCo Brief on L.N. 73 and L.N. 74 issued by the Development Bureau in May 2013 (File Ref.: DEVB (PL-B) 30/30/122), the details for the implementation of the signboard control system (SBCS) will be set out in subsidiary legislation. According to paragraph 9 of the LegCo Brief, the SBCS is to be introduced in a way similar to that for prescribed buildings or building works (e.g. unauthorized small canopies, drying racks and supporting frames for air-conditioners) under the Building (Minor Works) Regulation (Cap. 123 sub. leg. N) (B(MW)R).

Building (Minor Works)(Amendment) Regulation 2013 (L.N. 73)

12. Under section 39C(1A) of the BO, as amended by section 7 of the BL(A)O, the continued use of certain existing unauthorized signboards will be allowed after safety inspection, strengthening (if necessary), and certification by building professionals and/or registered contractors (the validation scheme).

13. L.N. 73 amends the B(MW)R to provide for the following matters for the implementation of section 39C(1A) of the BO in relation to unauthorized signboards:

- (a) the kinds of signboard to which section 39C(1A) of the BO applies are to be specified in the new Part 3 of Schedule 3 to the B(MW)R;
- (b) the validation scheme applies to the unauthorized signboards erected before 2 September 2013;
- (c) the persons who are required to be appointed to inspect the unauthorized signboards;
- (d) the person appointed to inspect the unauthorized signboard is required to submit to the Building Authority a notification;
- (e) the details and particulars to be provided in the notification and other documents to be submitted together with the notification; and
- (f) the requirements in sections 39C(2), (3) and (4) of the BO (i.e. safety inspection on and the necessary rectification works to the relevant signboards) are required to be periodically complied with for not more than every 5 years.

14. L.N. 73 will come into operation on the day on which the relevant provisions of BL(A)O come into operation (i.e. 2 September 2013).

15. As advised by the Clerk to the Panel on Development, the Administration briefed the Panel on 7 January 2013 on the subsidiary legislation for introducing the SBCS. Various concerns were expressed by Panel members on the Administration's enforcement action against the erection of unauthorized signboards, and the implementation of the validation scheme under the SBCS.

PART III SUBSIDIARY LEGISLATION MADE UNDER COMPANIES ORDINANCE (28 of 2012)

Companies Ordinance (28 of 2012)

Companies (Revision of Financial Statements and Reports) (Amendment) Regulation 2013 (L.N. 75)

Companies (Disclosure of Information about Benefits of Directors) (Amendment) Regulation 2013 (L.N. 76)

Companies (Model Articles) Notice (L.N. 77)

Company Records (Inspection and Provision of Copies) Regulation (L.N. 78)

Companies (Non-Hong Kong Companies) Regulation (L.N. 79)

Companies (Fees) Regulation (L.N. 80)

Background

16. The new Companies Ordinance (28 of 2012) (the new CO) was passed on 12 July 2012. The Administration has identified at least 13 pieces of subsidiary legislation that are required to implement the new CO. They are to be gazetted in batches. The first batch and the second batch were gazetted on 1 February 2013 and 22 March 2013 respectively. The third batch which was gazetted on 24 May 2013 is reported in the following paragraphs. Members may wish to note that subsidiary legislation relating to the new arrangement for inspection of the Companies Register under the new CO is not included in this batch.

Companies (Model Articles) Notice (L.N. 77)

17. L.N. 77 is made by the Financial Secretary (FS) under section 78 of the new CO prescribing three sets of model articles of association (the model articles) for public companies limited by shares (Schedule 1 of L.N. 77 consisting of 105 articles), private companies limited by shares (Schedule 2 of L.N. 77 consisting of 84 articles) and companies limited by guarantee (Schedule 3 of L.N. 77 consisting of 57 articles).

18. L.N. 77 will come into operation on the day on which section 78 of the new CO comes into operation.

19. Section 79 of the new CO provides that a company may adopt any or all of the provisions in the model articles prescribed for the type of company to which it belongs¹. Section 80 of the new CO provides that on the incorporation of a limited company, the model articles form part of the company's articles of association if the company's registered articles do not prescribe any regulations for the company or in so far as the company's registered articles do not exclude or modify the model articles. The topics covered in the model articles include –

- (a) directors and company secretary;
- (b) members' rights and the proceedings at general meetings;
- (c) shares and distributions; and
- (d) miscellaneous matters, including communications to and by the company.

20. The model articles do not affect existing companies which have adopted the standard articles currently provided in Schedule 1 to the existing Companies Ordinance (Cap. 32) (the existing CO).

Company Records (Inspection and Provision of Copies) Regulation (L.N. 78)

21. L.N. 78 is made by FS under sections 356 and 657 of the new CO. It contains provisions that –

- (a) prescribe a place in Hong Kong as the place for companies or registered non-Hong Kong companies to keep company records or make company records available for inspection under the new CO;
- (b) require companies and registered non-Hong Kong companies to make company records available for inspection during business hours (subject to any reasonable restrictions imposed by the company by resolution), and to allow at least 2 hours per day for inspection;
- (c) provide for the obligation of companies to provide copies of company records or trust deeds or any other documents securing the issue of debentures within 5 business days after the date of receipt of a request or payment of the prescribed fee (whichever is the later);
- (d) prescribe the fees payable for an inspection of company records at \$50; and

¹ It is provided in the new CO that the information specified in sections 81, 83, 84 and 85 of the new CO (as the case may be) must be stated in the articles of association of a company.

- (e) prescribe the fees payable for provision of a copy of company records as follows: –
 - (i) for a copy of company records that is a register, the prescribed fee is the aggregate of the following –
 - (A) for the first 2 000 of the entries, \$5 for each 10 entries (or any part of those 10 entries);
 - (B) for the remainder of the entries, \$1 for each 100 entries (or any part of those 100 entries); and
 - (C) any reasonable costs to be incurred by the company in delivering the copy to the person requesting it; and
 - (ii) for a copy of company records that is not a register, the prescribed fee is the aggregate of the following –
 - (A) \$5 for each page (or a portion of a page) of the company records requested to be copied; and
 - (B) any reasonable costs to be incurred by the company in delivering the copy to the person requesting it.

22. L.N. 78 will come into operation on the day on which section 356 of the new CO comes into operation.

Companies (Non-Hong Kong Companies) Regulation (L.N. 79)

23. Part 16 of the new CO makes provisions for non-Hong Kong companies, being companies incorporated in a place outside Hong Kong that have established a place of business in Hong Kong. L.N. 79 is made by FS under sections 804 and 805 of the new CO to provide for the various particulars and documents to be provided to the Registrar of Companies in respect of a non-Hong Kong company as required under the relevant provisions of the new CO.

24. L.N. 79 will come into operation on the day on which sections 804 and 805 of the new CO come into operation.

Companies (Fees) Regulation (L.N. 80)

25. L.N. 80 is made by FS under sections 26 and 909 of the new CO providing for the fees payable to the Registrar in respect of the performance of the Registrar's functions under the new CO or in respect of the provision of services or facilities by the Registrar and miscellaneous fees.

26. L.N. 80 will come into operation on the day on which the above-mentioned sections of the new CO come into operation.

27. According to the Administration, the items under L.N. 80 are in line with the corresponding items or fee levels as stipulated in the existing CO, except companies limited by guarantee are now also made subject to an escalating scale applicable to private companies limited by shares for late filing of annual returns. Certain existing fee items, for example those concerning an increase in nominal share capital or shares issued at a premium, have become obsolete and are not included in L.N. 80.

28. On the above items of subsidiary legislation, the Clerk to the Panel on Financial Affairs has advised that the Panel was consulted at the meeting on 7 January 2013. At the House Committee meeting held on 8 February 2013, members agreed to form a single subcommittee to study the subsidiary legislation to be made under the new CO. At the House Committee meeting held on 3 May 2013, members noted that the Administration would table the third batch of subsidiary legislation before LegCo before end of May 2013. The Subcommittee would meet to start the scrutiny of the subsidiary legislation as soon as possible.

29. Members may wish to refer to the LegCo Brief issued by the Financial Services and the Treasury Bureau on 22 May 2013 (File Ref. : CBT/7/6C) for further information.

Companies (Revision of Financial Statements and Reports) (Amendment) Regulation 2013 (L.N. 75)

Companies (Disclosure of Information about Benefits of Directors) (Amendment) Regulation 2013 (L.N. 76)

30. For the implementation of the new CO, FS has made the Companies (Revision of Financial Statements and Reports) Regulation (L.N. 34 of 2013) and the Companies (Disclosure of Information about Benefits of Directors) Regulation (L.N. 35 of 2013) which were gazetted on 22 March 2013. The Subcommittee on Subsidiary Legislation Made under the New Companies Ordinance (the Subcommittee) has held two meetings to scrutinize L.N. 34 and L.N. 35 of 2013. In response to the views of Members and the Legal Adviser of the Subcommittee, the Administration has proposed to make a number of amendments to L.N. 34 and L.N. 35 of 2013 pursuant to section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) at the Council meeting of 15 May 2013, i.e. the last sitting before the expiry of the extended scrutiny period. However, since the motion for extension of the scrutiny period could not be dealt with at the meeting of 24 April 2013, it was no longer possible to amend L.N. 34 and L.N. 35 of 2013 under section 34(2) of Cap. 1. The Administration subsequently wrote to the Clerk to the Subcommittee on 14 May 2013 indicating that they would introduce the proposed amendments to

L.N. 34 and L.N. 35 of 2013 by way of amendment regulations. L.N. 75 is made by FS under section 450 and L.N. 76 under sections 451 and 452(2) of the new CO to effect the proposed amendments to L.N. 34 and L.N. 35 of 2013 respectively. The proposed amendments were considered by the Subcommittee when scrutinizing L.N. 34 and L.N. 35 of 2013. No member raised any objection. Members may refer to the LegCo Brief (File Ref.: CBT/7/6C) and the Second Report of the Subcommittee (LC Paper No. CB(1)949/12-13) for further information on these amendments.

31. L.N. 75 will come into operation on the day on which L.N. 34 of 2013 comes into operation, and L.N. 76 will come into operation on the day on which L.N. 35 of 2013 comes into operation.

PART IV ALIGNMENT OF FEES AND CHARGES FOR MUNICIPAL SERVICES

Public Health and Municipal Services Ordinance (Cap. 132)

Public Health and Municipal Services (Fees and Charges) (Leisure Facilities) (Amendment) Regulation 2013 (L.N. 81)

Public Health and Municipal Services (Fees and Charges) (Places of Amusement Licences) Regulation (L.N. 82)

Public Health and Municipal Services (Fees) (Amendment) Regulation 2013 (L.N. 84)

Food Business (Amendment) Regulation 2013 (L.N. 85)

Frozen Confections (Amendment) Regulation 2013 (L.N. 86)

Milk (Amendment) Regulation 2013 (L.N. 87)

Places of Public Entertainment Ordinance (Cap. 172)

Places of Public Entertainment (Licences) (Fees) Regulation (L.N. 83)

Dutiable Commodities Ordinance (Cap. 109)

Dutiable Commodities (Liquor Licences) (Fees) Regulation (L.N. 88)

Background

32. Prior to 2000, levels of fees and charges for municipal facilities and services in the urban area and the New Territories were respectively set by the two former Municipal Councils (MCs), i.e. the Urban Council and the Regional Council. Due to the differences in pricing policies of the two former MCs, demand and supply conditions and costs of services, there exists different levels of fees and charges for similar facilities and services between the urban area and the New Territories. Despite the abolition of the two MCs in 2000, the situation has remained unchanged.

33. In the 2013 Policy Address, the Chief Executive announced, among others, a plan to amend the relevant legislation to align the different levels of fees and charges for similar municipal facilities and services in the urban area and the New Territories based on the lower of the two levels. L.N. 81 to L.N. 88 implements the plan.

Public Health and Municipal Services (Fees and Charges) (Leisure Facilities) (Amendment) Regulation 2013 (L.N. 81)

Public Health and Municipal Services (Fees and Charges) (Places of Amusement Licences) Regulation (L.N. 82)

Places of Public Entertainment (Licences) (Fees) Regulation (L.N. 83)

34. L.N. 81 is made by the Secretary for Home Affairs (SHA) under section 124J of the Public Health and Municipal Services Ordinance (Cap. 132) (PHMSO) to amend the Public Health and Municipal Services (Fees and Charges) (Leisure Facilities) Regulation (Cap. 132 sub. leg. CN). L.N. 81 seeks to align the fee or charge for a leisure facility or service in the urban area and the New Territories based on the lower rate and to introduce non-peak hour rates to facilities in the urban area according to the charging mode in the New Territories in respect of the following fees payable by an individual as a member of the public –

- (a) the fee for a single entry into a public swimming pool;
- (b) the fee for the hire of a tennis court, basketball court, squash court, football pitch, table tennis table or badminton court in a public pleasure ground; and
- (c) the camp fee for a holiday camp on a public pleasure ground.

35. L.N. 82 is made by SHA under section 124L of PHMSO to provide for the fees payable in connection with –

- (a) the grant or renewal of a billiard establishment licence, public bowling-alley licence and public skating rink licence; and
- (b) the issue of a duplicate of, or amendment to, the above licences.

36. L.N. 83 is made by SHA under section 7 of the Places of Public Entertainment Ordinance (Cap. 172) to set out the fees payable in connection with –

- (a) the grant or renewal of a licence in respect of premises specially designed as a theatre or cinema;
- (b) the grant or renewal of a licence in respect of a place of public entertainment not specially designed as a theatre or cinema;

- (c) the grant or renewal of a licence in respect of a place of public entertainment to be kept or used by a body or organization (e.g. religious, charitable, welfare or educational organizations) mentioned in regulation 178 of the Places of Public Entertainment Regulations (Cap. 172 sub. leg. A); and
- (d) the issue of a duplicate of, or amendment to, the above licences.

37. Members may refer to the LegCo Brief (no file reference) issued by Home Affairs Bureau in May 2013 for a comparison of the existing and proposed fee levels of the services and facilities covered by L.N. 81 to L.N. 83 and other information.

38. The Panel on Home Affairs was consulted on the Administration's proposals at its meeting of 15 April 2013. Members in general were supportive of the proposals to align the fees and charges for the same types of municipal facilities and services in the urban area and the New Territories based on the lower of the two levels. As regards the introduction of non-peak hour rates to facilities in the urban area by making reference to the charging mode in the New Territories, members were advised that after the implementation of the fee alignment exercise, the Administration would conduct a comprehensive review on the structures and levels of fees and charges for various leisure facilities and services, including the charging arrangements for peak and non-peak hours.

Public Health and Municipal Services (Fees) (Amendment) Regulation 2013 (L.N. 84)

Food Business (Amendment) Regulation 2013 (L.N. 85)

Frozen Confections (Amendment) Regulation 2013 (L.N. 86)

Milk (Amendment) Regulation 2013 (L.N. 87)

Dutiable Commodities (Liquor Licences) (Fees) Regulation (L.N. 88)

39. L.N. 84 is made by the Secretary for Food and Health (SFH) under section 124I of PHMSO to amend the Public Health and Municipal Services (Fees) Regulation (Cap. 132 sub. leg. CJ) to provide the fees in respect of –

- (a) certain matters relating to hawker licences, hawker pitches or stalls;
- (b) licences and permissions under the Food Business Regulation (Cap. 132 sub. leg. X);
- (c) licences under the Frozen Confections Regulation (Cap. 132 sub. leg. AC);
- (d) licences under the Milk Regulation (Cap. 132 sub. leg. AQ);

- (e) matters relating to Government crematoria, columbaria, public cemeteries, gardens of remembrance or the exhumation of human remains;
- (f) licences and examination under the Slaughterhouses Regulation (Cap. 132 sub. leg. BU); and
- (g) licences for commercial bathhouses, funeral parlours, offensive trades, swimming pools and undertakers of burials.

40. Consequent on the making of L.N. 84 which prescribes, among others, the fee for the grant and renewal of provisional food licences, the existing provisions on the fee for provisional food licences are proposed to be amended from "half of the prescribed fee for a full licence" to "the prescribed fee". Accordingly, L.N. 85 to L.N. 87 are made by SFH under section 124I of PHMSO to respectively amend section 33C(6) of the Food Business Regulation, section 40(2A) of the Frozen Confections Regulation and section 39(2A) of the Milk Regulation.

41. L.N. 88 is made by SFH under section 6A of the Dutiable Commodities Ordinance (Cap. 109) to provide for the fees payable for the issue, renewal, transfer and amendment of a liquor licence, and the issue of a duplicate licence.

42. For a comparison of the existing and proposed fee levels of fees and charges covered by L.N. 84 to L.N. 88 and other information, Members may refer to the LegCo Brief (no file reference) issued by Food and Health Bureau and Food and Environmental Hygiene Department on 22 May 2013.

43. The Administration briefed the Panel on Food Safety and Environmental Hygiene at its meeting on 16 April 2013 on the proposal. At the meeting, some members expressed concern about the publicity arrangements for the alignment of fees and charges as well as the conduct of a comprehensive review by the Food and Environmental Hygiene Department of its fee levels and charging policy after the alignment exercise.

Commencement

44. L.N. 81 will come into operation on 1 August 2013. L.N. 82 to L.N. 88 will come into operation on 19 July 2013.

PART V IMPORT AND EXPORT RELATED MATTERS

Import and Export Ordinance (Cap. 60)

Import and Export (Strategic Commodities) Regulations (Cap. 60 sub. leg. G)

Import and Export (Strategic Commodities) Regulations (Amendment of Schedule 1) Order 2013 (L.N. 89)

45. L.N. 89 was made by the Director-General of Trade and Industry (DGTI) under section 6B of the Import and Export Ordinance (Cap. 60) to amend Schedule 1 to the Import and Export (Strategic Commodities) Regulations (Cap. 60, sub. leg. G) (the SC Regulations). Schedule 1 to the SC Regulations specifies the articles of strategic commodities under control, including munitions and commodities which can be used for both industrial and military purposes (dual-use commodities). A person shall not import and export any article specified in Schedule 1 except under and in accordance with an import or export licence issued by DGTI.

46. L.N. 89 amends Schedule 1 to the SC Regulations to reflect the latest changes in the control lists of strategic commodities adopted by various international non-proliferation regimes. According to paragraph 5 of the LegCo Brief issued by the Trade and Industry Department on 22 May 2013 (File Ref. : TRA CR 1506/2), those changes generally reflect the on-going relaxation of control on strategic commodities which are mainly used for industrial purposes but which can also be applied to military uses, while strengthening control on more sensitive items, of which trading activities in Hong Kong are insignificant. L.N. 89 also makes certain textual amendments concerning the description of some items as set out in Schedule 1 for the sake of consistency.

47. L.N. 89 will come into operation on a day to be appointed by the DGTI by notice published in the Gazette. According to paragraph 8 of the LegCo Brief, to enable the trade to benefit from the relaxation of control at the earliest opportunity, the Administration plans to bring the L.N. 89 into effect on 8 July 2013 upon gazettal of a commencement notice on 5 July 2013.

48. As advised by the Clerk to the Panel on Commerce and Industry, the Panel has not been consulted on L.N. 89.

Import and Export Ordinance (Cap. 60)

Import and Export (General) Regulations (Cap. 60 sub. leg. A)

Import and Export (General) Regulations (Amendment of Schedule 7) Notice 2013 (L.N. 90)

49. L.N. 90 is made by DGTI under regulation 7(2) of the Import and Export (General) Regulations (Cap. 60 sub. leg. A) (the General Regulations).

50. L.N. 90 adds the Kingdom of Cambodia, the Republic of Kazakhstan and the Republic of Panama to the list of specified countries or places in Schedule 7 to the General Regulations. Part 6 of and Schedule 7 to the General Regulations implement in Hong Kong an international certification scheme for rough diamonds known as the Kimberley Process Certification Scheme² (the Scheme). The amendment made by L.N. 90 has the effect that trade in rough diamonds with the Kingdom of Cambodia, the Republic of Kazakhstan and the Republic of Panama under the Scheme may be lawfully carried on in Hong Kong.

51. According to paragraph 3 of the LegCo Brief issued by the Trade and Industry Department on 21 May 2013 (File Ref. : TRA CR 1651/3/1), the Scheme was implemented in Hong Kong from 2 January 2003 by way of legislation in order to safeguard Hong Kong's interest as a trading hub of diamonds in the region, and to minimize disruption to the local diamond industry. Members may wish to refer to the LegCo Brief for further information.

52. L.N. 90 will come into operation on 19 July 2013.

53. As advised by the Clerk to the Panel on Commerce and Industry, the Panel has not been consulted on L.N. 90.

PART VI OTHERS

Business Registration Ordinance (Cap. 310)

Business Registration Ordinance (Amendment of Schedule 2) Order 2013 (L.N. 91)

54. L.N. 91 reduces the levy payable under the Business Registration Ordinance (Cap. 310) (BRO) in relation to the registration of a business and a branch of a business. Under section 21 of BRO, all money received from the levy shall be paid to the Protection of Wages on Insolvency Fund (the Fund).

55. The effect of L.N. 91 is that on or after 19 July 2013, the levy for the registration of a business and a branch of a business is reduced from \$1,350 to \$750, if an election is made for a three-year business registration certificate under section 6(5C) of the BRO, and from \$450 to \$250 (for a one-year business registration certificate) if there is no such election. The rate of the levy was last revised in 2008.

² The Scheme was developed by the Kimberley Process, an international negotiating forum that seeks to stop trade in rough diamonds used by rebel movements or their allies to finance conflicts aimed at undermining legitimate governments. Under the Scheme, participating economies cannot trade rough diamonds with non-participants.

56. Members may wish to refer to the LegCo Brief issued by the Labour and Welfare Bureau, Labour Department in May 2013 (File Ref. : LD WS 27/801) for details.

57. L.N. 91 will come into operation on 19 July 2013.

58. As advised by the Clerk to the Panel on Manpower, the Panel was consulted on 19 February 2013 in respect of the proposal to revise the rate of Business Registration Certificate levy for the Fund from the current level of \$450 to \$250 per annum. Most members expressed no objection to the proposed reduction. Some members considered that in the light of the improved and stable financial position of the Fund, the Administration should review the scope and coverage of the Fund to better protect employees' right under the Employment Ordinance.

Road Traffic Ordinance (Cap. 374)

Road Traffic (Breath Analysing Instruments, Screening Devices and Pre-screening Devices) Notice (Cap. 374 sub. leg. S)

Road Traffic (Breath Analysing Instruments, Screening Devices and Pre-screening Devices) (Amendment) Notice 2013 (L.N. 92)

59. L.N. 92 amends the Road Traffic (Breath Analysing Instruments, Screening Devices and Pre-screening Devices) Notice (Cap. 374 sub. leg. S) (the principal Notice) by re-enacting Schedules 1, 2 and 3 to the principal Notice for the following purposes –

- (a) to add Alcotest 9510 (in Schedule 1) manufactured by Dräger Safety AG & Co. KGaA in Lübeck, Germany, as an approved breath analysing instrument for analysing the proportion of alcohol in a specimen of a person's breath; and
- (b) to make technical amendments to standardize the style in which the manufacturers of the other approved apparatuses are described (in all Schedules).

60. According to paragraphs 8 to 10 of the LegCo Brief issued by the Hong Kong Police Force in May 2013 (File Ref: LM (5/12) in CP SUP T/3-70/6), the Department of Chemistry of the Hong Kong University of Science and Technology had been engaged to conduct the accuracy and reliability test on the Alcotest 9510, and the test result shows that Alcotest 9510 is an accurate and reliable device suitable to perform evidential breath tests. Members may wish to refer to the LegCo Brief for further information.

61. L.N. 92 will come into operation on 19 July 2013.

62. As advised by the Clerk to the Panel on Transport, the Administration has not consulted the Panel on L.N. 92.

Concluding Remarks

63. The Legal Service Division is still scrutinizing the legal and drafting aspect of L.N. 75 to L.N. 80 and is seeking clarification from the Administration on a legal issue in respect of L.N. 88. No difficulties have been identified in relation to the legal or drafting aspects of L.N. 71 to L.N. 74, L.N. 81 to L.N. 87 and L.N. 89 to L.N. 92.

Prepared by

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