

立法會
Legislative Council

LC Paper No. LS77/09-10

**Paper for the House Committee Meeting
on 25 June 2010**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 18 June 2010**

Date of tabling in LegCo : 23 June 2010

Amendment to be made by : 2nd meeting of LegCo in the next session (or the 1st meeting after 21 days from the 2nd meeting of the next session if extended by resolution)

Waste Disposal Ordinance (Cap. 354)

Waste Disposal (Clinical Waste) (General) Regulation (L.N. 83)

Waste Disposal (Charge for Disposal of Clinical Waste) Regulation (L.N. 84)

Waste Disposal (Amendment) Ordinance 2006 (6 of 2006)

Waste Disposal (Amendment) Ordinance 2006 (Commencement) Notice 2010 (L.N. 87)

Background

The Waste Disposal (Amendment) Ordinance 2006 (6 of 2006) (Amendment Ordinance), gazetted on 7 April 2006, amends the Waste Disposal Ordinance (Cap. 354) (the Ordinance) to, inter alia, implement the Clinical Waste Control Scheme (Control Scheme).

2. L.N. 83 and L.N. 84 are regulations made by the Chief Executive in Council after consultation with the Advisory Council on the Environment under section 33 of the Ordinance to set out the detailed regulatory control for the implementation of the Control Scheme. L.N. 87 is a commencement notice for relevant provisions in the Amendment Ordinance.

3. Two sets of Code of Practice for the Management of Clinical Waste were also gazetted on 18 June 2010 (G.N. 3562) to provide guidance to the clinical waste producers and waste collectors. The Codes of Practice are prepared by the Secretary for the Environment after consultation with Advisory Council on the Environment under section 35 of the Ordinance.

The Regulations

4. The Waste Disposal (Clinical Waste) (General) Regulation (the General Regulation) sets out the regulatory requirements for the disposal and delivery of clinical waste as follows -

- (a) clinical waste producers are required to dispose of clinical waste through licensed waste collectors or the collection authority and to keep records of the waste consigned to licensed waste collectors for inspection when so required;
- (b) licensed waste collectors are required to deliver the collected clinical waste within 24 hours to a licensed disposal facility;
- (c) small clinical waste producers may collect small quantities of clinical waste from other small waste producers for consigning to a licensed waste collector collectively if authorization is obtained from the Director of Environmental Protection (the Director) to set up an on-site collection point;
- (d) healthcare professionals* are exempted from licensing when delivering clinical waste of not more than five kilograms per trip to a licensed disposal facility or an authorized collection point set up by waste collectors or individual waste producers; and
- (e) under an emergency involving clinical waste, the Director is empowered to authorize, with terms and conditions, the collection or removal of clinical waste without licence, or the disposal of clinical waste at the specified land or premises without licence.

5. The General Regulation also sets out the offences for not complying with the Control Scheme with maximum fines ranging from HK\$50,000 to HK\$200,000 and imprisonment for six months.

6. The Waste Disposal (Charge for Disposal of Clinical Waste) Regulation requires that any person who delivers clinical waste to the Chemical Waste Treatment Centre for disposal must pay a charge to the Director calculable at the specified unit rate of HK\$2,715 per 1,000 kg of clinical waste.

7. The two Regulations (except section 8 of the General Regulation) will come into operation on a day to be appointed. Section 8 of the General Regulation, which sets out circumstances under which waste disposal licence is to be granted, will come into operation on the day appointed for the commencement of sections 14 and 20 of the Amendment Ordinance, that is, 19 November 2010 as provided in the ensuing Commencement Notice.

* Healthcare professional is defined in section 2 of the General Regulation to mean a registered medical practitioner, dentist or veterinary surgeon; a registered or listed Chinese medicine practitioner; or a registered or enrolled nurse.

The Commencement Notice

8. By the Waste Disposal (Amendment) Ordinance 2006 (Commencement) Notice 2010 made under section 1(2) of the Amendment Ordinance, the Secretary for Environment, has appointed 19 November 2010 as the commencement date for following licensing provisions in relation to clinical waste -

- (a) sections 2, 4(b), 14, 15, 20 and 21; and
- (b) section 24 (in so far as it relates to the new Schedule 8).

9. By Waste Disposal (Amendment) Ordinance 2006 (Commencement) Notice 2007 (L.N. 184 of 2007), provisions of the Amendment Ordinance relating to the disposal of imported non-hazardous waste and the granting of licences under the Ordinance came into operation on 1 December 2007 and 1 April 2008 respectively.

10. According to the Administration, the coming into operation of the licensing provisions as stipulated in this Commencement Notice and the General Regulation will allow clinical waste collectors and disposal facilities operator to obtain relevant licences before the commencement of the Control Scheme. It is intended that the remaining provisions of the Amendment Ordinance will come into operation in early 2011 when the Control Scheme is fully implemented.

Consultation with Legislative Council

11. The Panel on Environmental Affairs was briefed on the legislative proposal for the Regulations and Codes of Practice at its meeting on 22 February 2010. Members raised no objection to the proposal but some members expressed concern on the implementation of the Control Scheme and the possible adverse environmental impact arising from the treatment of clinical waste at the Chemical Waste Treatment Centre at Tsing Yi. The Panel on Environmental Affairs has not been consulted on the Commencement Notice.

12. Members may wish to refer to the LegCo Brief issued by the Environmental Protection Department on 18 June 2010 (File Ref. : EP170/3P/051) for further information .

Child Abduction and Custody Ordinance (Cap. 512) Child Abduction and Custody (Parties to Convention) (Amendment) Order 2010 (L.N.85)

13. This Amendment Order is made by the Chief Executive under section 4 of the Child Abduction and Custody Ordinance (Cap. 512) after consultation with the Executive Council to amend the Child Abduction and Custody (Parties to Convention) Order (Cap. 512 sub. leg. A) (the Order) to -

- (a) add four countries, namely, the Republic of Albania, the Republic of Armenia, the Republic of San Marino and the Republic of Seychelles to the list of Contracting States to the Convention on the Civil Aspects of International Child Abduction (the Convention); and
- (b) replace the Federal Republic of Yugoslavia (FRY) in the list of Contracting States in the Order with Montenegro and the Republic of Serbia.

14. The Convention, which was signed at the Hague in 1980 and is now in force in 82 States, provides an international mechanism for the swift return of children wrongfully removed from their place of habitual residence to another Contracting State in violation of custodial rights. The Convention does not apply to the Mainland but an agreement was reached at the Sino-British Joint Liaison Group in September 1996 on the continued application of the Convention to Hong Kong after 30 June 1997 and that the declaration of acceptance of new accessions would be made by the Central People's Government (CPG) on behalf of Hong Kong.

15. According to Article 38 of the Convention, the Convention shall enter into force for a State acceding to it on the first day of the third calendar month after the deposit of its instrument of accession. CPG deposited its acceptance on behalf of the Hong Kong Special Administration Region of the accession of the four newly acceding States on 7 January 2010. The Convention therefore came into force between HKSAR and the four newly acceding States on 1 April 2010. Accordingly, the Amendment Order specifies 1 April 2010 as the date on which the Convention comes into force as between Hong Kong and the four newly acceding States.

16. For Montenegro and the Republic of Serbia, since they have succeeded to the rights and obligations of FRY under the Convention and will replace FRY in the Order, the dates of the coming into force of Convention as between Hong Kong and these two States as stated in the Order are the same as that of FRY (i.e. 1 September 1997).

17. Members may wish to refer to the LegCo Brief issued by the Labour and Welfare Bureau on 15 June 2010 (File Ref. : LWB CR 1/3281/86) for further information.

18. The Panel on Welfare Services has not been consulted on the Amendment Order.

**Public Health and Municipal Services Ordinance (Cap. 132)
Designation of Libraries (No. 3) Order 2010 (L.N. 86)**

19. This Order is made by the Director of Leisure and Cultural Services (the Director) under Section 105K of the Public Health and Municipal Services Ordinance (Cap. 132) (the Ordinance) to -

- (a) cancel the designation of Shop No. 211, second floor, Yat Tung Shopping Centre, Yat Tung (1) Estate, Tung Chung as a library;
- (b) cancel the designation of The Students' Study Room on the first floor of Tung Chung Municipal Services Building, 39 Man Tung Road, Tung Chung as a library; and
- (c) designate parts of the ground and first floors of Tung Chung Municipal Services Building, 39 Man Tung Road, Tung Chung as a library.

20. The effect of the designation is to vest the management and control of the new library on the Director. It also enables the Director to exercise his other statutory functions under the Ordinance in respect of the new library. The Order will come into operation on 27 July 2010.

21. During the deliberations of the Subcommittee on Designation of Libraries Order 2010 (L.N. 22 of 2010) in March 2010, members noted the Administration's plan to open a new district library with a full range of library services and facilities (including a Student's Study Room) in the Tung Chung Municipal Services Building around mid 2010 (items (b) and (c) above). While members held no strong view on the opening of the new library, they expressed reservation about the closure of the existing library at Yat Tung (1) Estate, Tung Chung (item (a) above) upon the opening of the new library. To address members' concern, the Administration undertook to enlist partnership of a non-governmental organization to continue the operation of a community library at Yat Tung (1) Estate. As advised by the Administration, the community library will be open on 28 July 2010.

Concluding remarks

22. No difficulties relating to the legal and drafting aspects of L.N. 85 to L.N. 87 of 2010 have been identified. The scrutiny of L.N. 83 and L.N. 84 is continuing. The Legal Service Division will report further if necessary.

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