

立法會
Legislative Council

LC Paper No. LS28/13-14

**Paper for the House Committee Meeting
on 28 February 2014**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 21 February 2014**

Tabling in LegCo : Council meeting of 26 February 2014

Amendment to be made by : Council meeting of 26 March 2014 (or that of 16 April 2014 if extended by resolution)

Prevention and Control of Disease (Amendment) Regulation 2014 (L.N. 22)

**Prevention and Control of Disease Ordinance
(Amendment of Schedules 1 and 2) Notice 2014** (L.N. 23)

L.N. 22

At present, for the purpose of Part 12 of the Prevention and Control of Disease Regulation (Cap. 599A), section 56 of Cap. 599A prescribes four "scheduled infectious diseases" as "specified diseases". These are specified in Schedule 1 to the Prevention and Control of Disease Ordinance (Cap. 599).

2. Under section 57 of Cap. 599A, "if a health officer has reason to believe that a person is suffering from a specified disease or has been exposed to the risk of infection of a specified disease, a health officer may, by order in writing, prohibit the person from leaving Hong Kong without the written permission of a health officer during a period specified in the order". A person, who knowingly contravenes the order or fails to comply with a condition attached to the permission, commits an offence and is liable on conviction to a fine at level 2 (i.e. \$5,000) and to imprisonment for six months.

3. L.N. 22 was made by the Secretary for Food and Health under section 7 of Cap. 599 to amend section 56 of Cap. 599A by replacing "Influenza A (H2), Influenza A (H5), Influenza A (H7), Influenza A (H9) or Swine Influenza" in the list of "specified diseases" with "Novel influenza A infection" in order to include all subtypes of novel influenza infections in humans.

L.N. 23

4. L.N. 23, made by the Director of Health (the Director) under section 15 of Cap. 599, amends Schedule 1 (scheduled infectious diseases) to Cap. 599 by repealing "Influenza A (H2), Variant Influenza A (H3N2), Influenza A (H5), Influenza A (H7), Influenza A (H9)" from the list of scheduled infectious diseases and adding "Novel influenza A infection" in order to include all subtypes of novel influenza infections in humans. It also amends Schedule 2 (scheduled infectious agents) to Cap. 599 by replacing "Influenza virus type A (subtype H2, H5 and H7)" in the list of scheduled infectious agents with "Influenza virus type A (subtype H2, H5, H7 and H10)".

5. The effect of L.N. 23 is that:

- (a) a medical practitioner is required under section 4 of Cap. 599A to notify the Director immediately if the medical practitioner has reason to suspect the existence of a case of novel influenza A infection; and
- (b) the owner or the person in charge of a laboratory is required under section 43 of Cap. 599A to notify the Director immediately if it comes to the knowledge of that person that there is a leakage of influenza virus type A (subtype H2, H5, H7 and H10) that may pose a public health risk.

6. A person who fails to notify the Director as required or knowingly gives false information to the Director under sections 4 and 43 of Cap. 599A commits an offence and is liable on conviction to a fine at level 2 (i.e. \$5,000) and to a fine at level 2 (i.e. \$5,000) and to imprisonment for six months respectively.

7. L.N. 22 and L.N. 23 come into operation on 21 February 2014.

8. Members may refer to the LegCo Brief (File ref: FH CR 4/3231/96) issued by the Food and Health Bureau and the Department of Health in February 2014 for background information about L.N. 22 and L.N. 23.

9. The Clerk to the Panel on Health Services has advised that the Panel has not been consulted on L.N. 22 and L.N. 23.

10. It is noted that in the amended paragraph (b) of the definition of *specified disease* under section 2 of L.N. 22, the phrase "Novel influenza A infection" (emphasis added) is used in the English text whereas the phrase "新型甲型流行性感冒" is used in the Chinese text. The same phrases are also used in the new item 25A in Schedule 1 to Cap. 599 as added by section 2(2) of L.N. 23. Upon the Legal Service Division's enquiry, the Administration replied that the Chinese name "新型甲型流行性感冒" is not directly translated from its English name "Novel influenza A infection" but is a name commonly adopted in medical profession.

Resolution of the Board of Directors of the Po Leung Kuk

(L.N. 24)

11. Paragraph 1 of the Schedule to the Po Leung Kuk Ordinance (Cap. 1040) sets out the objects of the Po Leung Kuk. Section 9 of Cap. 1040 provides that the board of directors of the Po Leung Kuk may amend the Schedule by resolution with the prior approval of the advisory board of the Po Leung Kuk. Such a resolution is required to be published in the Gazette and shall come into operation on the day of publication unless otherwise provided.

12. L.N. 24 amends the Schedule to Cap. 1040 with effect from 1 June 2014 to enable the Po Leung Kuk to establish, maintain and manage medical and health care institutions in Hong Kong, and to provide all kinds of medical and health services (including dental services) for the Hong Kong community.

13. Members may refer to the LegCo Brief (File Ref.: HAD HQ CR/11/16/1/4SF1/(C)) issued by the Home Affairs Department in February 2014 for background information about L.N. 24.

14. The Clerk to the Panel on Home Affairs (the HA Panel) has advised that on 6 January 2014, the Administration issued to the HA Panel, the Panel on Health Services and the Panel on Welfare Services an information paper on the proposal to amend the Schedule to Cap. 1040 to enable the Po Leung Kuk to expand its scope of services to medical and health services for the general public (LC Paper No. CB(2)605/13-14(01)). At the HA Panel meeting on 10 January 2014, members noted that there was no request from members of the three Panels for discussion of the proposal at a Panel meeting, and did not raise any query on the paper.

Concluding Observations

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

Prepared by

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