

**立法會**  
**Legislative Council**

LC Paper No. LS76/14-15

**Legal Service Division Report on  
Subsidiary Legislation Gazetted on 3 July 2015**

**Tabling in LegCo** : Council meeting of 8 July 2015

**Amendment to be made by** : Council meeting of 28 October 2015 (or that of 18 November 2015 if extended by resolution)

**PART I FEES AND TOLLS ADJUSTMENTS**

**Travel Agents (Fee Concessions) Regulation 2015 (L.N. 130)**

L.N. 130 is made by the Chief Executive in Council (CE in Council) under section 50(2) of the Travel Agents Ordinance (Cap. 218) and section 29 of the Interpretation and General Clauses Ordinance (Cap. 1). It provides for concessions on certain fees payable by a travel agent under the First Schedule to Travel Agents Regulations (Cap. 218A) within the period from 20 November 2015 to 19 November 2016 (the concession period). Details of the concessions are set out below:

- (a) the fee of \$630 for an application for a travel agent's licence is fully waived if the application is made within the concession period;
- (b) the fee for a licence or the renewal of a licence is waived if the term of the licence or renewed licence begins within the concession period, subject to a maximum amount of \$2,910 (i.e. \$485 (per month) x 6) in aggregate;
- (c) the fee of \$665 for amending a licence to permit the carrying on of the business of the travel agent at an additional address and the fee of \$925 for the issue of a duplicate of the amended licence is fully waived, if both the amendment date and the earliest date on which the business is permitted to be carried on at the address fall within the concession period; and

- (d) half of the fee of \$925 (i.e. \$462.5) for the issue of a duplicate of a renewed licence that permits the carrying on of the business of the travel agent at more than one address is waived if the duplicate is to be issued within the concession period, and the fee for the renewed licence referred to in paragraph (b) above within the concession period is waived.

2. According to LegCo Brief dated 29 June 2015 (File Ref: LM(1) to TAR CR 4/60/1 Pt.8) issued by the Commerce and Economic Development Bureau, the concessions are part of the short-term measures announced by the Financial Secretary in his 2015-2016 Budget to support the tourism sector which has been affected by the "Occupy Movement". The concessions will cost the Government about \$5.8 million.

3. As advised by the Clerk to the Panel on Economic Development, the Panel has not been consulted on L.N. 130.

4. L.N. 130 comes into operation on 20 November 2015.

**Dentists (Registration and Disciplinary Procedure)  
(Amendment) Regulation 2015 (L.N. 131)**

**Ancillary Dental Workers (Dental Hygienists)  
(Amendment) Regulation 2015 (L.N. 132)**

**Medical Registration (Fees) (Amendment) Regulation 2015 (L.N. 133)**

**Midwives Registration (Fees) (Amendment)  
Regulation 2015 (L.N. 134)**

**Nurses (Registration and Disciplinary Procedure)  
(Amendment) Regulation 2015 (L.N. 135)**

**Enrolled Nurses (Enrolment and Disciplinary Procedure)  
(Amendment) Regulation 2015 (L.N. 136)**

**Medical Laboratory Technologists (Registration and  
Disciplinary Procedure) (Amendment) Regulation 2015 (L.N. 137)**

**Occupational Therapists (Registration and Disciplinary  
Procedure) (Amendment) Regulation 2015 (L.N. 138)**

**Optometrists (Registration and Disciplinary Procedure)  
(Amendment) Regulation 2015** (L.N. 139)

**Radiographers (Registration and Disciplinary Procedure)  
(Amendment) Regulation 2015** (L.N. 140)

**Physiotherapists (Registration and Disciplinary Procedure)  
(Amendment) Regulation 2015** (L.N. 141)

**Chiropractors Registration (Fees) (Amendment)  
Regulation 2015** (L.N. 142)

**Chinese Medicine Practitioners (Fees) (Amendment)  
Regulation 2015** (L.N. 143)

5. Section 29A of Cap. 1 empowers the Financial Secretary<sup>1</sup> to vary fees which were previously fixed by subsidiary legislation made by CE in Council. Pursuant to section 29A of Cap. 1, the Secretary for Financial Services and the Treasury (SFST) has made L.N. 131 to L.N. 143 to revise 118 items of fees. These fees relate to, among others, the following matters:

- (a) registration in respect of dentists, medical practitioners, midwives, nurses, medical laboratory technologists, occupational therapists, optometrists, radiographers, physiotherapists, chiropractors and registered Chinese medicine practitioners;
- (b) enrollment as enrolled nurses and dental hygienists;
- (c) alteration to the registers of the relevant health professionals;
- (d) duplicate or certified copies of certificates;
- (e) issue of certificates verifying registration or enrollment;
- (f) issue of practising certificates or certificates of standing; and
- (g) entrance for examination relating to the above healthcare professionals.

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<sup>1</sup> Under section 3 of Cap. 1, "Financial Secretary" means Financial Secretary of the HKSAR and the Secretary for Financial Services and the Treasury.

Details of the fee revisions are set out in Annex N to the LegCo Brief dated 30 June 2015 (File Ref: FH CR 1/3/3921/89 Pt.16) issued by the Department of Health (DH) of the Food and Health Bureau.

6. According to the LegCo Brief, the fee revision is made with a view to recovering the full costs of providing services in line with the Government's "user pays" principle. Among the 118 fee items to be revised, 117 fees are to be increased by 7% to 20%, while the fee relating to restoration to the Register of Chinese Medicine Practitioners is to be reduced by 14%. According to paragraph 8 of the LegCo Brief, if the adjustments to the 118 fee items are implemented, the estimated net increase in revenue is about \$3.5 million per annum.

7. According to paragraph 10 of the LegCo Brief, the Administration has sought the views of the relevant healthcare professional bodies on the proposed fee adjustments. The relevant professional bodies have no objection to the proposal.

8. As advised by the Clerk to the Panel on Health Services, at its meeting on 20 April 2015 the Panel was consulted on the aforesaid proposal to revise the 118 fee items under the purview of DH. Members raised no objection to the proposal which should have relatively little impact on the general public or general business activities. However, Members made enquiries regarding the computation methodology in respect of the costs of those fee items and took the view that the Administration should reduce the costs as far as practicable.

9. L.N. 131 to L.N. 143 come into operation on 1 January 2016.

**Tate's Cairn Tunnel Ordinance (Amendment of Schedule)  
Notice 2015**

**(L.N. 153)**

10. L.N. 153 is made by the Commissioner for Transport (the Commissioner) under section 36(7) of the Tate's Cairn Tunnel Ordinance (Cap. 393). It seeks to replace the Schedule to Cap. 393 with a new one in order to reflect the increase of the tolls payable under Cap. 393.

11. Under section 36 of Cap. 393, the tolls which may be collected for the use by motor vehicles of the Tate's Cairn Tunnel are those specified in the Schedule to Cap. 393. The tolls may be varied by agreement between the CE in Council and Tate's Cairn Tunnel Company Limited (TCTCL). If an agreement cannot be reached, then either party may submit the question of variation of tolls to arbitration. After such an agreement or arbitral award is made, the

Commissioner shall, as soon as is practicable, by notice in the Gazette amend the Schedule.

12. According to paragraphs 6, 7 and 9 of the LegCo Brief (File Ref: THB(T)CR 1/4651/94) issued by the Transport and Housing Bureau in July 2015, the CE in Council and TCTCL have reached an agreement to increase the tolls. With effect from 1 January 2016, the toll adjustments are as follows:

- (a) no increase for public light buses and all types of goods vehicles;
- (b) \$1 increase for single-decker and double-decker buses;
- (c) no increase for private light buses;
- (d) \$2 increase for motorcycles;
- (e) \$3 increase for private cars, taxis and every additional axle.

13. TCTCL has also agreed to provide \$3 promotional discount for empty taxis between midnight and 6 a.m. for six months after the new tolls become effective, with the possibility of further extension subject to review. TCTCL also agreed that it would not submit any further toll increase application during the current franchise period, which is due to expire in July 2018. A comparison of the current and new tolls is set out below:

	Motor-cycles	Private cars & taxis	Private & light buses	Public light buses	Light goods vehicles	Medium & heavy goods vehicles	Single-decker buses	Double-decker buses	Additional axle
Existing tolls	\$13	\$17	\$24	\$23	\$24	\$28	\$31	\$34	\$21
New tolls	\$15	\$20	\$24	\$23	\$24	\$28	\$32	\$35	\$24
Increase % (Increase magnitude)	15% (\$2)	18% (\$3)	0% (-)	0% (-)	0% (-)	0% (-)	3% (\$1)	3% (\$1)	14% (\$3)

14. According to section 34(2) of Cap. 1, the LegCo's power to amend subsidiary legislation should be consistent with the power to make such subsidiary legislation. As section 36 of Cap. 393 provides that the tolls could only be varied either by agreement or arbitral award, and that the power of the Commissioner is merely to amend the Schedule to reflect such an agreement or arbitral award, it seems the Commissioner may not have the power to determine the toll levels or the timing for implementation of the new tolls. Consequently, there is little room for LegCo to repeal or amend L.N. 153 other than making minor technical amendments to the Schedule. Subcommittees which were formed to study notices made by the Commissioner under section 36(7) of Cap. 393 in 2005, 2008, 2010 and 2013 also noted such restrictions.

15. Members may refer to the LegCo Brief and its annexes for further details.

16. According to paragraph 24 of the LegCo Brief, the Transport Advisory Committee (TAC) was consulted on 21 April 2015. TAC is of the view that TCTCL's application for toll increase is not unreasonable and is justified.

17. As advised by the Clerk to the Panel on Transport, the Panel was briefed by the Administration on TCTCL's application for toll increase at its meeting on 17 April 2015. Members in general did not support the proposed toll increase. Various concerns were raised including concerns that TCTCL is already charging tolls higher than those of its alternative tunnels. There were also concerns that the proposed toll increase might cause motorists to switch to use the Lion Rock Tunnel, thereby aggravating the congestion there.

18. L.N. 153 comes into operation on 1 January 2016.

## **PART II GIVING OF EVIDENCE VIA A LIVE TELEVISION LINK**

**Live Television Link (Witnesses outside Hong Kong) Rules (L.N. 145)**

**Rules of the High Court (Amendment) (No. 2) Rules 2015 (L.N. 146)**

### Background on L.N. 145

19. Before the Evidence (Miscellaneous Amendments) Ordinance 2003 (Ord. No. 23 of 2003) was enacted, there were no provisions in the Criminal Procedure Ordinance (Cap. 221) allowing for the taking of evidence from witnesses outside Hong Kong by way of a live television (TV) link for the purposes of criminal proceedings in Hong Kong. Ord. No. 23 of 2003 provides, among other things, for a witness who is located outside Hong Kong and is willing to give evidence in criminal proceedings which take place in Hong Kong to give evidence via a live TV link if certain conditions are satisfied<sup>2</sup>.

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<sup>2</sup> Members may wish to refer to the LegCo Brief (File Ref: LP 911/00/1C/LP911/00/2C) issued by the Department of Justice in May 2002 on the Evidence (Miscellaneous Amendments) Bill 2002 for further information. According to paragraph 16 of the LegCo Brief, the arrangement was intended to reduce the inconvenience and travelling cost that a witness located overseas would have to bear if the witness is required to appear in a Hong Kong court to give live evidence. The Bill, enacted as the Evidence (Miscellaneous Amendments) Ordinance 2003, was passed by LegCo on 23 June 2003 and gazetted on 4 July 2003.

20. In particular, section 17 of Ord. No. 23 of 2003 adds a new Part IIIB (sections 79H to 79L) to Cap. 221 relating to taking evidence from witnesses outside Hong Kong by a live TV link. The new section 79L of Cap. 221 empowers the Chief Justice to make rules or give directions respecting the giving of evidence by way of a live TV link under Part IIIB. Subsequently, section 17 of Ord. No. 23 of 2003 was amended by the Statute Law (Miscellaneous Provisions) Ordinance 2005 (Ord. No. 10 of 2005) to empower the Chief Judge instead of the Chief Justice to make the rules according to section 79L of Cap. 221. Part IIIB of Cap. 221 has not been brought into operation pending the making of the relevant court rules.

### L.N. 145

21. L.N. 145 is made by the Chief Judge under section 79L of Cap. 221 to introduce rules concerning the giving of evidence to the court<sup>3</sup> by way of a live TV link from a country or territory outside Hong Kong under Part IIIB of Cap. 221. The key provisions of L.N. 145 include rules which set out certain definitions, provisions in respect of an application for a witness to give evidence by a live TV link from a place outside Hong Kong under section 79I<sup>4</sup> of Cap. 221, the determination of the application and rules in respect of the putting of documents to a witness who gives evidence via a live TV link. Members may refer to LegCo Brief on L.N. 145 and L.N. 146 (File Ref: LP 911/00/2C XX) issued by the Department of Justice in June 2015 for further details.

### Background on L.N. 146

22. Part VIII (which consists of sections 74 to 77D) of the Evidence Ordinance (Cap. 8) provides for the power of the Court of First Instance (CFI) to make an order for providing assistance to a court or tribunal (the requesting court) exercising jurisdiction in a country or territory outside Hong Kong for the purposes of civil and criminal proceedings instituted before the requesting court. Order 70 of the Rules of the High Court (Cap. 4A) provides for the relevant procedures for the application for such an order. Under section 76(2)(a) and (3) of Cap. 8, the court order may make provisions for the examination of witnesses, either orally or in writing and may require a person to give testimony, either orally or in writing. Section 13 of Ord. No. 23 of 2003 amends section 76(2)(a) and (3) of Cap. 8 to allow examination of witnesses by way of a live TV link. Section 13 of Ord. No. 23 of 2003 has not been brought into operation pending the making of the court rules relating to live TV link.

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<sup>3</sup> According to section 2 of L.N. 145, *court* includes the District Court and a magistrate.

<sup>4</sup> Section 79I(2) provides for the conditions that the court has to be satisfied in order to grant an application for giving evidence to the court by way of a live TV link from a place outside Hong Kong.

## L.N. 146

23. L.N. 146 is made by the Rules Committee of the High Court under section 54 of the High Court Ordinance (Cap. 4) to amend Order 70 to provide for the procedures in respect of the taking of evidence by way of a live TV link by a requesting court so that CFI will be able to give the relevant assistance when the relevant provisions of Ord. No. 23 of 2003 come into operation. In addition, L.N. 146 amends the references to "foreign court or tribunal" and other similar references to "requesting court" in Order 70 so as to achieve consistency with Part VIII of Cap. 8 in which the term "requesting court" is used. L.N. 146 also adds certain provisions in respect of the drawing up, certification and transmission of minutes upon the conclusion of a live TV link examination.

## Legal Service Division (LSD)'s enquiries with the Administration

24. In response to LSD's enquiries in respect of the time taken to prepare for the making of L.N. 145 and L.N. 146 of 2015 since the enactment of Ord. No. 23 of 2003, the Administration explained that a number of drafts of the rules had been prepared since 2003. Further, extensive discussions had been held by the Administration with the Law Society of Hong Kong on its concerns about the relevant rules. In addition, the Administration had also taken time to liaise with the Judiciary Administrator and other enforcement agencies on costs sharing arrangements in relation to the use of live TV link at court. The Administration admitted that owing to the technical nature of the rules and the time taken to consult relevant parties, the preparation of the rules has taken longer than expected and they hope to bring the relevant sections of Ord. No. 23 of 2003 and the rules into operation as soon as practicable.

## Public Consultation

25. According to paragraph 14 of the LegCo Brief, the Department of Justice has consulted the Hong Kong Bar Association and the Law Society of Hong Kong. The Hong Kong Bar Association had no objection to the rules under L.N. 145 and L.N. 146. The Law Society of Hong Kong raised certain concerns in respect of the rules, including the criteria for admissibility of evidence given via a live TV link and the right of appeal of an applicant whose application for giving evidence via a live TV link from a place outside Hong Kong has been refused by the court. The Department of Justice has responded to the objections. Members may refer to paragraph 14 of the LegCo Brief for further details.



### Consultation with LegCo Panel

26. As advised by the Clerk to the Panel on Administration of Justice and Legal Services (AJLS Panel), at its meeting on 24 November 2014, members were briefed on the draft L.N. 145 and L.N. 146. Members generally did not object to the Administration tabling the relevant draft rules at LegCo for negative vetting. Further, in view of the concern expressed by the Law Society of Hong Kong that the draft L.N. 145 would grant greater benefit to the prosecution side, the Administration was asked to consider making section 79I(2)(a) to (e) of Cap. 221 more stringent to safeguard the interests of all parties to criminal proceedings. Questions were also raised in respect of the legal consequences that a witness might face if the witness concerned gave false evidence in a place outside Hong Kong to a Hong Kong court via a live TV link and the means which the relevant Hong Kong authority would employ to ensure that the witness was aware of the relevant consequences.

### Commencement

27. L.N. 145 will come into operation on the day on which section 17 of Ord. No. 23 of 2003 comes into operation. L.N. 146 will come into operation on the day on which section 13 of Ord. No. 23 of 2003 comes into operation. According to paragraph 18 of the LegCo Brief, the Department of Justice aims to bring sections 13 and 17 of Ord. No. 23 of 2003 into operation as soon as practicable after negative vetting of L.N. 145 and L.N. 146.

## **PART III SUITORS' FUNDS RULES**

<b>Hong Kong Court of Final Appeal Suitors' Funds Rules</b>	<b>(L.N. 147)</b>
<b>High Court Suitors' Funds (Amendment) Rules 2015</b>	<b>(L.N. 148)</b>
<b>District Court Suitors' Funds (Amendment) Rules 2015</b>	<b>(L.N. 149)</b>
<b>Lands Tribunal (Suitors' Funds) Rules</b>	<b>(L.N. 150)</b>
<b>Labour Tribunal (Suitors' Funds) (Amendment) Rules 2015</b>	<b>(L.N. 151)</b>
<b>Small Claims Tribunal (Suitors' Funds) (Amendment) Rules 2015</b>	<b>(L.N. 152)</b>

Background on L.N. 147 to L.N. 152

28. At present, suitors' funds are administered in the Court of Final Appeal (CFA), the High Court, the District Court, the Lands Tribunal, the Labour Tribunal and the Small Claims Tribunal. With the exception of the suitors' funds for CFA and the Lands Tribunal (which are operated administratively), there are dedicated suitors' funds rules for the other courts or tribunals. Members may refer to the LegCo Brief (File Ref: SC 101/33/11) issued by the Judiciary Administration in June 2015 for further details.

L.N. 147 and L.N. 150

29. L.N. 147 is made by the Chief Justice under section 40A of the Hong Kong Court of Final Appeal Ordinance (Cap. 484). L.N. 150 is made by the Chief Justice after consulting the president of the Lands Tribunal under section 10AA of the Lands Tribunal Ordinance (Cap. 17). Section 40A of Cap. 484 and section 10AA of Cap. 17 were added by the Administration of Justice (Miscellaneous Provisions) Ordinance 2014 (Ord. No. 20 of 2014) and they have not been brought into operation. According to the Administration, the commencement of the relevant sections are pending the making of the relevant rules.

30. L.N. 147 and L.N. 150 introduce specific rules for suitors' funds lodged into CFA and the Lands Tribunal respectively. These rules include provisions in respect of the duties of the Registrar of CFA and the Lands Tribunal in relation to suitors' funds that are lodged with the respective Registrars, the details of paying the relevant funds and costs out of CFA and the Lands Tribunal respectively, the investment of the funds made by the respective Registrars and the crediting of interest to the relevant suitors' funds accounts. In particular, specific rules are added by L.N. 150 to Cap. 17 to deal with funds that are lodged in the form of securities. L.N. 147 and L.N. 150 also align the payment-out hours of the suitors' funds with the opening hours of the accounts offices and provide for transitional provisions to deal with the existing funds immediately before the commencement of L.N. 147 and L.N. 150.

L.N. 148 and L.N. 149

31. L.N. 148 and L.N. 149 are made by the Chief Judge under section 57 of Cap. 4 and section 73 of the District Court Ordinance (Cap. 336) respectively to make certain amendments to the High Court Suitors' Funds Rules (Cap. 4B) and the District Court Suitors' Funds Rules (Cap. 336E) respectively. The amendments include specifying the information which must be included in the receipts for money paid into the High Court and the District Court respectively, and specifying the documentary proof that are required for

listed and unlisted securities that are lodged in the respective courts. L.N. 148 and L.N. 149 also align the payment-out hours of the suitors' funds with the opening hours of the accounts offices of the relevant courts. Further, the period before interest begins to accrue for individual accounts is shortened from 14 days to three business days. However, interests for sanctioned payments<sup>5</sup> relating to costs<sup>6</sup> continue to start to accrue after the expiry date for acceptance of such payments by the other party.

32. In addition, transitional arrangements are provided under L.N. 148 and L.N. 149 in respect of suitors' funds which are paid into the relevant courts before the commencement dates of L.N. 148 and L.N. 149.

#### L.N. 151 and L.N. 152

33. L.N. 151, which is made by the Chief Justice under section 45 of the Labour Tribunal Ordinance (Cap. 25), amends the Labour Tribunal (Suitors' Funds) Rules (Cap. 25D). The amendments include enabling the Labour Tribunal to accept movable properties as suitors' funds which are lodged into the Tribunal and to require that a register to be kept for all non-monetary funds and the relevant dealings.

34. Amendments made by L.N. 152 (which is made by the Chief Justice under section 36 of the Small Claims Tribunal Ordinance (Cap. 338)) to amend the Small Claims Tribunal (Suitors' Funds) Rules (Cap. 338D) include providing that the statement of accounts concerned must be signed by the Registrar of the District Court instead of the Registrar of the High Court.

35. In addition, L.N. 151 and L.N. 152 align the payment-out hours of the suitors' funds with the opening hours of the accounts offices of the respective Tribunals.

#### LSD's enquiries with the Administration

36. Upon enquiries made by LSD, the Administration has provided justifications for the differences in the handling of suitors' funds in various courts and tribunals. Such differences include the acceptance of "movable property" or "securities" as a kind of suitors' funds only by some of the courts or tribunals concerned and the different mechanisms for payment into and out of the suitor's funds administered in various courts or tribunals. According to the

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<sup>5</sup> In gist, sanctioned payment is a kind of payment which is lodged in a court by a suitor to act as an incentive for the relevant litigating parties to settle disputes at an early stage.

<sup>6</sup> For sanctioned payments relating to costs under Order 62A of Cap. 4A and the Rules of the District Court (Cap. 336H), L.N. 148 and L.N. 149 provide respectively that interest starts to accrue on the 14<sup>th</sup> day after the day on which the money is paid into the court concerned.

Administration's reply, the differences reflect the different operational needs of the courts or tribunals concerned.

### Public Consultation

37. According to paragraph 21 of the LegCo Brief, the Judiciary has consulted various stakeholders, including the Hong Kong Bar Association, the Law Society of Hong Kong and the Hong Kong Law Costs Draftsmen Association. They support the legislative amendments.

### Consultation with LegCo Panel

38. As advised by the Clerk to AJLS Panel, the Panel noted at its meeting held on 27 April 2015 an information paper entitled "Proposed Legislative Amendments relating to Suitors' Funds Rules" provided by the Judiciary Administration. The paper sets out the proposals of the Judiciary to (a) prepare new dedicated suitors' funds rules for CFA and the Lands Tribunal; and (b) amend the existing suitors' funds rules for the High Court, the District Court, the Labour Tribunal and the Small Claims Tribunal, as appropriate, to refine the operations. The Panel did not raise any queries on the paper.

### Commencement

39. L.N. 147 and L.N. 150 to L.N. 152 will come into operation on a day to be appointed by the Chief Justice by notice published in the Gazette. L.N. 148 and L.N. 149 will come into operation on a day to be appointed by the Chief Judge by notice published in the Gazette.

## **PART IV COMMENCEMENT NOTICE**

### **Waste Disposal (Designated Waste Disposal Facility) (Amendment) Regulation 2013 (Commencement) Notice 2015**

**(L.N. 154)**

### Background

40. The Waste Disposal (Designated Waste Disposal Facility) (Amendment) Regulation 2013 (L.N. 188 of 2013) was made by the CE in Council after consultation with the Advisory Council on the Environment to amend the Waste Disposal (Designated Waste Disposal Facility) Regulation (Cap. 354L) to specify the South East New Territories (SENT) Landfill as a designated waste disposal facility accepting only construction waste that

contains not more than 50% by weight of inert construction waste<sup>7</sup>. Further, a new provision was also added by L.N. 188 of 2013 to Cap. 354L to require that refuse collection vehicles (RCVs) driven into a specified landfill or refuse transfer station must be equipped with a metal tailgate cover and a waste water sump tank that comply with specific standards. Members may refer to the LegCo Brief (File Ref: (7) in EP CR 9/150/38) issued by the Environment Bureau (EB) and the Environmental Protection Department (EPD) jointly in November 2013 for further information. A subcommittee was formed to study L.N. 188 of 2013<sup>8</sup>.

41. By the Waste Disposal (Designated Waste Disposal Facility) (Amendment) Regulation 2013 (Commencement) Notice 2014<sup>9</sup> (L.N. 154 of 2014), L.N. 188 of 2013 (except sections 3 and 7) came into operation on 1 April 2015. The effect is that with effect from 1 April 2015, RCVs entering a specified landfill or refuse transfer station are to be equipped with certain devices and compliance checks can be conducted on such RCVs. A subcommittee was formed to study L.N. 154 of 2014<sup>10</sup>. As advised by the Clerk to the Subcommittee, at the Subcommittee's meeting on 9 January 2015, the Subcommittee noted that the commencement of sections 3 and 7 of L.N. 188 of 2013 would depend on the re-routing of the waste collection service (waste collection service) provided by the Food and Environmental Hygiene Department. Further, the Administration has advised that since the waste collection trade would need a few more months after mid-2015 to adjust to using the West Kowloon Transfer Station and Shatin Transfer Station, sections 3 and 7 of L.N. 188 of 2013 (relating to SENT Landfill) are anticipated to be brought into operation towards the end of 2015<sup>11</sup>.

#### L.N. 154 of 2015

42. L.N. 154 is made by the Secretary for the Environment under section 1 of L.N. 188 of 2013 to appoint 6 January 2016 as the day on which sections 3 and 7 of L.N. 188 of 2013 come into operation so that, with effect from 6 January 2016, the SENT Landfill is specified to receive only construction waste that contains not more than 50% by weight of inert construction waste. With the coming into operation of L.N. 154 of 2015, L.N. 188 of 2013 will come into full operation. Members may wish to refer to

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<sup>7</sup> Please refer to item 1 of Schedule 2 to Cap. 354L.

<sup>8</sup> Members may wish to refer to the relevant report of the Subcommittee (LC Paper No. CB(1)726/13-14) for further information.

<sup>9</sup> Members may wish to refer to the LegCo Brief (File Ref: EP 193/10/01/06) issued by EB and EPD in December 2014 for further information on L.N. 154 of 2014.

<sup>10</sup> Members may wish to refer to the relevant report of the Subcommittee (LC Paper No. CB(1) 456/14-15) for further information.

<sup>11</sup> Members may wish to refer to paragraph 15 of the Legal Service Division Report on Subsidiary Legislation Gazetted on 12 December 2014 (LC Paper No. LS21/14-15) for further information.

the LegCo Brief (File Ref: EP 193/10/01/06) issued by EB and EPD in June 2015 for further information.

### Public Consultation

43. According to paragraphs 17 and 18 of the LegCo Brief, a working group was set up by the Administration with the representatives from the waste collection trade, property management and government departments in March 2014 to reflect the traders' concerns. Further, briefing or discussion sessions in respect of the measures of the Waste Diversion Plan (WDP) associated with the SENT Landfill were held by the Administration with stakeholders such as waste collectors and property management companies.

### Consultation with LegCo Panel

44. As advised by the Clerk to the Panel on Environmental Affairs, the Administration consulted the Panel at its meeting on 22 June 2015 on the commencement date of sections 3 and 7 of L.N. 188 of 2013. Members of the Panel raised no objection to designate 6 January 2016 to be the commencement date. Members made enquiries on issues including progress of the waste collection service and renewal of related contracts for implementation of waste diversion from the SENT Landfill, reduction in the number of refuse collection vehicular trips to the Landfill since 2015, timing of closing down the Landfill as well as the potential impact on the WDP arising from applications made by citizens for judicial review regarding extension of the Landfill.

## **PART V MISCELLANEOUS**

### **Dangerous Drugs Ordinance (Amendment of First Schedule) Order 2015 (L.N. 144)**

45. L.N. 144 is made by the Chief Executive under section 50(1) of the Dangerous Drugs Ordinance (Cap. 134) after consultation with the Executive Council. It amends Part I of the First Schedule to Cap. 134 in order to impose control on the following substances which are capable of being abused:

- (a) certain types of synthetic substances that are commonly known as NBOMe compounds;
- (b) certain other types of synthetic substances that are commonly known as synthetic cannabinoids.

46. Under Cap. 134, substances included in Part I of the First Schedule are dangerous drugs and are subject to the control of a licensing scheme administered by the Department of Health. Illicit trafficking and manufacturing of the substances will be subject to a maximum penalty of life imprisonment and a fine of \$5 million. Possession, consumption and supply of the substances would also constitute criminal offences.

47. According to the LegCo Brief (File Ref: NCR 2/1/8 S/F 12) issued by the Narcotics Division of the Security Bureau in June 2015, the Administration has consulted the relevant traders, as well as licensees under Cap. 134 and the Pharmacy and Poisons Ordinance (Cap. 138). The said traders and licensees have no objection to the proposal. The Administration has also consulted the Action Committee Against Narcotics on 27 March 2015. The said Committee supported the proposal.

48. As advised by the Clerk to the Panel on Security, the Panel was briefed by the Administration at its meeting on 10 April 2015 regarding the proposed amendments to the First Schedule to Cap. 134. Members supported the proposal and urged the Administration to keep monitoring local drug abuse trend and overseas development closely with a view to bringing newly emerging drugs under legislative control in a timely manner.

49. L.N. 144 comes into operation on 27 November 2015.

### **Concluding Observations**

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

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13 August 2015

LS/S/35/14-15