

立法會
Legislative Council

LC Paper No. LS29/15-16

**Paper for the House Committee Meeting
on 29 January 2016**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 22 January 2016**

Tabling in LegCo : Council meeting of 27 January 2016

Amendment to be made by : Council meeting of 24 February 2016 (or that of 16 March 2016 if extended by resolution)

PART I ANTIQUITIES

**Antiquities (Excavation and Search) (Amendment)
Regulation 2016**

(L.N. 9)

L.N. 9 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 22 of the Antiquities and Monuments Ordinance (Cap. 53) to increase the fee payable on the grant or renewal of a licence to excavate and search for antiquities, specified in regulation 6 of the Antiquities (Excavation and Search) Regulations (Cap. 53A), from \$320 to \$2,520.

2. The licence fee payable under Cap. 53A was last revised to \$320 in 1995 under L.N. 190 of 1995. According to paragraph 4 of the Legislative Council (LegCo) Brief issued by the Development Bureau in January 2016 (without file reference), a recent review¹ on the licence fee at the 2015-16 price level shows that the cost recovery rate at the existing fee level is only 12.7%, and the fee revision is made with a view to recovering the full costs of providing the services in line with the Administration's "user pays" principle.

3. L.N. 9 comes into operation on 31 March 2016.

4. The Clerk to the Panel on Development has advised that the Administration briefed the Panel on the fee revision on 22 December 2015. Members did not raise any objections to the revision. In response to some

¹ The review was conducted by the Antiquities and Monuments Office of the Leisure and Cultural Services Department.

members' enquiries in relation to applicants for licence and offer of concessionary licence fees, the Administration advised that other than the applications from land developers and government departments, about two applications are received from academics each year, and that members of the public who are interested in archaeological surveys could take part in such activities through joining the Hong Kong Archaeological Society, which received government subvention to conduct archaeological field surveys and researches.

PART II ELECTORAL MATTERS

**Electoral Affairs Commission (Registration of Electors)
(Legislative Council Geographical Constituencies) (District
Council Constituencies) (Amendment) Regulation 2016** (L.N. 10)

**Electoral Affairs Commission (Registration) (Electors for
Legislative Council Functional Constituencies) (Voters for
Election Committee Subsectors) (Members of Election
Committee) (Amendment) Regulation 2016** (L.N. 11)

**Electoral Affairs Commission (Registration of Electors)
(Rural Representative Election) (Amendment) Regulation
2016** (L.N. 12)

5. L.N. 10 to L.N. 12 are made by the Electoral Affairs Commission under section 7 of the Electoral Affairs Commission Ordinance (Cap. 541) to amend the Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Constituencies) Regulation (Cap. 541A), the Electoral Affairs Commission (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) Regulation (Cap. 541B) and the Electoral Affairs Commission (Registration of Electors) (Rural Representative Election) Regulation (Cap. 541K) to -

- (a) advance the statutory deadline for applying for change of registration particulars to align with the deadline for new voter registration², so that all requests for updating of registration particulars filed in that voter registration (VR) cycle will be reflected in the provisional registers for public inspection; and

² The statutory deadline for change of particulars for geographical constituencies, functional constituencies and Election Committee subsectors elections is advanced from 25 June to 2 May for a non-District Council election year and from 25 August to 2 July for a District Council election year to align with the deadline for new VR. In relation to Rural Representative election, the statutory deadline for change of registration particulars is advanced from 9 September to 16 July to align with the deadline for new VR.

- (b) use surface mail instead of registered post for sending inquiry letters and other electoral notifications issued by the Electoral Registration Officer (ERO)³.
6. In addition to the amendments mentioned in paragraph 5 above, L.N. 11 and L.N. 12 repeal certain spent provisions in Cap. 541B and Cap. 541K respectively.
7. L.N. 10 to L.N. 12 come into operation on 18 March 2016.
8. According to the LegCo Brief (File Ref.: REO GC/51/0 C) issued by the Registration and Electoral Office in January 2016, the amendments in L.N. 10 to L.N. 12 are made to implement the proposed measures in the Consultation Report on Enhancement of Voter Registration System issued on 21 January 2016 following a public consultation exercise conducted from November 2015 to January 2016. According to the Administration, the amendment set out in paragraph 5(a) would address the potential problem arising from the time gap between the current statutory deadline for new registration and the deadline for change of registration particulars, while the amendment in paragraph 5(b) would minimize the risk of an elector losing his/her vote registration arising from failure to collect the registered mail and to respond to the ERO's inquiry letter.
9. The Clerk to the Panel on Constitutional Affairs has advised that the Administration consulted the Panel on 21 December 2015 on the proposals. Members in general did not raise objection.

PART III COMMENCEMENT NOTICES

**Administration of Justice (Miscellaneous Provisions)
Ordinance 2014 (Commencement) Notice** (L.N. 13)

**Hong Kong Court of Final Appeal Suitors' Funds Rules
(Commencement) Notice** (L.N. 14)

**High Court Suitors' Funds (Amendment) Rules 2015
(Commencement) Notice** (L.N. 15)

³ Under section 8 of the Interpretation and General Clauses Ordinance (Cap. 1), where any Ordinance requires any documents to be served or any notice to be given by post or by registered post, the service or notice shall be deemed to be effected by properly addressing, pre-paying the postage thereon and dispatching it by post or by registered post, as the case may be, to the last known postal address of the person to be served or given notice. As such, there would not be any difference in its legal effect by sending a correspondence by surface mail or registered post.

District Court Suitors' Funds (Amendment) Rules 2015 (Commencement) Notice	(L.N. 16)
Lands Tribunal (Suitors' Funds) Rules (Commencement) Notice	(L.N. 17)
Labour Tribunal (Suitors' Funds) (Amendment) Rules 2015 (Commencement) Notice	(L.N. 18)
Small Claims Tribunal (Suitors' Funds) (Amendment) Rules 2015 (Commencement) Notice	(L.N. 19)

L.N. 13

10. By L.N. 13, the Chief Justice appoints 1 April 2016 as the day on which Part 7 of the Administration of Justice (Miscellaneous Provisions) Ordinance 2014 (20 of 2014) (the Ordinance) comes into operation.

11. The Ordinance was enacted in 2014 to amend various legislation relating to the administration of justice by making provisions concerning the use of audio-visual facilities in criminal proceedings, calculation of qualifying experience for appointment of permanent magistrates, delivery of reasons for verdicts in writing in criminal proceedings in the District Court, abolition of the existing as-of-right appeal mechanism for civil causes or matters to the Hong Kong Court of Final Appeal (CFA), expansion of the Labour Tribunal's case management powers, and the power to make rules for the administration of suitors' funds in certain courts and tribunals.

12. The Ordinance (except for Part 7) came into operation upon its gazettal on 24 December 2014. The uncommenced Part 7 of the Ordinance relates to the rule-making powers for the administration of suitors' funds in certain courts and tribunals.

13. Members may refer to the report of the Bills Committee on Administration of Justice (Miscellaneous Provisions) Bill 2014 (LC Paper No. CB(4)211/14-15) dated 4 December 2014 for details.

14. The Clerk to the Panel on Administration of Justice and Legal Services (AJLS) has advised that the Panel had not been consulted on L.N. 13.

L.N. 14 to L.N.19

15. Pursuant to the enactment of the Ordinance, new suitors' funds rules for CFA and the Lands Tribunal, and amendments to the existing suitors' funds

rules for the High Court, the District Court, the Labour Tribunal and the Small Claims Tribunal have been made by the Chief Justice or the Chief Judge. These rules which were gazetted on 3 July 2015 are -

- (a) Hong Kong Court of Final Appeal Suitors' Funds Rules (L.N. 147 of 2015);
- (b) High Court Suitors' Funds (Amendment) Rules 2015 (L.N. 148 of 2015);
- (c) District Court Suitors' Funds (Amendment) Rules 2015 (L.N. 149 of 2015);
- (d) Lands Tribunal (Suitors' Funds) Rules (L.N. 150 of 2015);
- (e) Labour Tribunal (Suitors' Funds) (Amendment) Rules 2015 (L.N. 151 of 2015); and
- (f) Small Claims Tribunal (Suitors' Funds) (Amendment) Rules 2015 (L.N. 152 of 2015).

16. By L.N. 14 and L.N. 17 to L.N.19, the Chief Justice appoints 1 April 2016 as the day on which L.N. 147 and L.N. 150 to 152 of 2015 come into operation.

17. L.N. 147 of 2015 and L.N. 150 of 2015 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 funds made by the respective Registrars and the crediting of interest to the relevant suitors' funds accounts.

18. L.N. 151 of 2015 and L.N. 152 of 2015 amend the Labour Tribunal (Suitors' Funds) Rules (Cap. 25D) and the Small Claims Tribunal (Suitors' Funds) Rules (Cap. 338D) respectively. L.N. 151 of 2015 provides, among others, the power of the Labour Tribunal to accept movable properties as suitors' funds and to require that a register to be kept for all non-monetary funds and the relevant dealings. L.N. 152 of 2015 provides, among others, for the statement of accounts concerned to be signed by the Registrar of the District Court instead of the Registrar of the High Court.

19. By L.N. 15 and L.N. 16, the Chief Judge appoints 1 April 2016 as the day on which L.N. 148 and L.N. 149 of 2015 come into operation.

20. L.N. 148 of 2015 and L.N. 149 of 2015 were made by the Chief Judge to amend the High Court Suitors' Funds Rules (Cap. 4B) and the District Court Suitors' Funds Rules (Cap. 336E) respectively. The amendments relate to matters including the information which must be included in the receipts for money paid into the High Court and the District Court respectively, and the documentary proof required for listed and unlisted securities that are lodged in the respective courts.

21. A subcommittee has been formed to study the above suitors' funds rules. The Clerk to the Subcommittee on Rules on Suitors' Funds has advised that the Subcommittee had not specifically discussed matters relating to the commencements of the rules.

22. The Clerk to the Panel on AJLS has advised that the Panel had not been consulted on L.N. 14 to L.N. 19.

Concluding Observations

23. No difficulties have been identified in the legal and drafting aspects of L.N. 9 to L.N. 19.

Prepared by

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