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LC Paper No. LS55/15-16

**Paper for the House Committee Meeting
on 27 May 2016**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 20 May 2016**

Tabling in LegCo : Council meeting of 25 May 2016

Amendment to be made by : Council meeting of 22 June 2016 (or that of 13 July 2016 if extended by resolution)

PART I REGULATION OF DOG BREEDERS AND ANIMAL TRADERS

Public Health (Animals and Birds) (Animal Traders) (Amendment) Regulation 2016 (L.N. 64)

Specification of Public Offices (Amendment) Notice 2016 (L.N. 68)

L.N. 64

L.N. 64 is made by the Chief Executive in Council ("CE in Council") under section 3 of the Public Health (Animals and Birds) Ordinance (Cap. 139) to amend the Public Health (Animals and Birds) (Animal Traders) Regulations (Cap. 139B) in order to regulate the keeping and selling of dogs through licensing arrangement. The major amendments are summarized below:

- (a) a new regime to regulate dog breeders is introduced in addition to the existing regime for animal trading. Under the new regime, it is an offence to act or to keep dogs as a dog breeder without a licence (either category A¹ or B²). A one-off permit to sell dogs without a

¹ A dog breeder licence (category A) is for any individual who keeps four or fewer female dogs for breeding purposes at one premises, and sells, or offers to sell, those breeding dams or their Offspring.

² A dog breeder licence (category B) is for any person who keeps a number of female dogs for breeding purposes up to the limit provided for in the licence at one premises, and sells, or offers to sell, those breeding dams, their offspring or dogs from other approved sources.

licence may be granted subject to any conditions the Director of Agriculture, Fisheries and Conservation ("DAFC") thinks fit. The maximum penalty for any person who sells, or keeps for breeding and sells, a dog without a licence or an one-off permit is a fine at level 6 (i.e. \$100,000), and the maximum penalty for contravention of a condition attached to a licence or permit is increased to a fine at level 5 (i.e. \$50,000);

- (b) new exemptions from holding an animal trader licence for a person who is conducting genuine rehoming activities for animal welfare purposes on a non-profit-making basis are included;
- (c) sale of dogs to persons under 16 is prohibited, and the maximum penalty for contravention is a fine at level 5 (i.e. \$50,000);
- (d) a new Schedule is included, which sets out the fees for the grant and renewal of an animal trader licence and a dog breeder licence, and for the grant of a one-off permit; and
- (e) the title of Cap. 139B is amended to the Public Health (Animals and Birds) (Trading and Breeding) Regulations, and a consequential amendment is made to the Public Health (Animals and Birds) Regulations (Cap. 139A).

2. Members may refer to the LegCo Brief issued by the Food and Health Bureau of the Agriculture, Fisheries and Conservation Department in May 2016 (File Ref.: FH CR 3/3231/07) for further information.

3. As advised by the Clerk to the Panel on Food Safety and Environmental Hygiene, the Panel was consulted at its meeting on 16 April 2013 on the Administration's initial legislative proposals to amend Cap. 139B to better regulate animal trading and dog breeding activities. While expressing support for enhancing the regulatory regime for pet trading, members expressed various views on the proposed licence/permit system. Some members took the view that the Administration should introduce a single licence for dog breeders. On 8 July 2014, the Panel was consulted again on the finalized package of the legislative proposals. Some members expressed dissatisfaction with the Administration's reluctance to consider issuing a single licence applicable to dog breeders. Concern was raised as to whether the proposed amendments would lead to a significant increase in the number of "hobby-breeders" or "home-breeders". There was also a view that the Administration should consider extending the coverage of the regulation to cats and/or other pet animals.

4. L.N. 64 comes into operation on a day to be appointed by the Secretary for Food and Health by notice published in the Gazette.

L.N. 68

5. L.N. 68 is made by CE in Council under section 43 of the Interpretation and General Clauses Ordinance (Cap. 1) to amend the Schedule to the Specification of Public Offices Notice (Cap. 1C) such that in relation to the office of DAFC:

- (a) the reference to the title of Cap. 139B is updated to become the Public Health (Animals and Birds) (Trading and Breeding) Regulations (Cap. 139B) following the change of the title of Cap. 139B effected by L.N. 64 above; and
- (b) DAFC may delegate to other public officers the new powers and duties conferred and imposed by Cap. 139B.

6. Members may refer to the LegCo Brief mentioned in paragraph 2 above for background information.

7. L.N. 68 comes into operation on the day on which L.N. 64 comes into operation.

**PART II SUBSIDIARY LEGISLATION MADE UNDER THE
MERCHANT SHIPPING (SEAFARERS) ORDINANCE
(CAP. 478)**

**Merchant Shipping (Seafarers) (Working and Living
Conditions) Regulation (L.N. 69)**

**Merchant Shipping (Seafarers) (Allotments) (Amendment)
Regulation 2016 (L.N. 70)**

**Merchant Shipping (Seafarers) (Health and Safety: General
Duties) (Amendment) Regulation 2016 (L.N. 71)**

**Merchant Shipping (Seafarers) (Hours of Work)
(Amendment) Regulation 2016 (L.N. 72)**

**Merchant Shipping (Seafarers) (Crew Accommodation)
(Amendment) Regulation 2016 (L.N. 73)**

Merchant Shipping (Seafarers) (Medical Examination) (Amendment) Regulation 2016	(L.N. 74)
Merchant Shipping (Seafarers) (Official Log Books) (Amendment) Regulation 2016	(L.N. 75)
Merchant Shipping (Seafarers) (Repatriation) (Amendment) Regulation 2016	(L.N. 76)
Merchant Shipping (Seafarers) (Safety Officials and Reporting of Accidents and Dangerous Occurrences) (Amendment) Regulation 2016	(L.N. 77)
Merchant Shipping (Seafarers) (Medical Stores) (Amendment) Regulation 2016	(L.N. 78)
Merchant Shipping (Seafarers) (Code of Safe Working Practices) (Amendment) Regulation 2016	(L.N. 79)
Merchant Shipping (Seafarers) (Provisions and Water) Regulation (Repeal) Regulation	(L.N. 80)
Merchant Shipping (Seafarers) (Ships' Doctors) Regulation (Repeal) Regulation	(L.N. 81)
Merchant Shipping (Seafarers) (Fees) (Amendment) Regulation 2016	(L.N. 82)

8. L.N. 69 to L.N. 81 are made by the Secretary for Transport and Housing ("STH") under various sections of the Merchant Shipping (Seafarers) Ordinance (Cap. 478) to implement the Maritime Labour Convention, 2006 ("the Convention") adopted by the International Labour Organization ("ILO"), and to make consequential and related amendments. According to the Legislative Council ("the LegCo") Brief (File Ref: THB(T)PML CR 8/10/150/8) issued by the Transport and Housing Bureau in May 2016, the Convention has been ratified by China and will enter into force in the Mainland China on 12 November 2016. The Convention will be extended to Hong Kong after the Central People's Government has notified ILO and the making of the relevant subsidiary legislation. In gist:

- (a) L.N. 69 is a new regulation made to implement the major requirements of the Convention covering 16 areas applicable to certain seagoing ships engaged in commercial activities ("regulated ships") such as the minimum requirements for seafarers to work on

board a ship (for example, the age of work and hours of rest), the requirements relating to employment contracts and working conditions, the standard of accommodation, the provision of recreational facilities, medical care, food and catering, and financial security to provide assistance to seafarers when abandoned. It also contains the certification requirements and requirements for compliance reports for regulated ships, and provisions that deal with the enforcement and other powers of the Seafarers' Authority;

- (b) L.N. 70 amends the Merchant Shipping (Seafarers) (Allotments) Regulation (Cap. 478A) to provide that certain seafarers may allot all or a part of their wages to other persons under section 4 of Cap. 478A and that the restriction on the allotment of wages under section 5 of Cap. 478A only applies to seafarers employed to work on coastal-going ships but not to those employed to work on seagoing ships;
- (c) L.N. 71 amends the Merchant Shipping (Seafarers) (Health and Safety: General Duties) Regulation (Cap. 478C) to provide that the employer's duty under section 4(1) of Cap. 478C to ensure the health and safety of seafarers and other persons on board a ship is expanded to include the duty to adopt, implement and promote occupational safety and health policies and programmes, and the duty to adopt precautions to prevent occupational accidents, injuries and diseases on board the ship. It also makes certain drafting amendments;
- (d) L.N. 72 amends the Merchant Shipping (Seafarers) (Hours of Work) Regulation (Cap. 478D) to confine its application to coastal-going ships registered in Hong Kong or coastal-going ships within the waters of Hong Kong and to make other technical and drafting amendments. It also amends the title of Cap. 478D by replacing "hours of work" by "hours of rest";
- (e) L.N. 73 amends the Merchant Shipping (Seafarers) (Crew Accommodation) Regulation (Cap. 478I) mainly to provide that the existing requirements relating to the accommodation and recreational facilities for seafarers under Cap 478I applies to, among others, Hong Kong ships constructed before the date on which L.N. 73 comes into operation and to provide for offence provisions regarding the contravention of the existing requirements. The maximum penalty for the new offences is a fine at level 5 (\$50,000);
- (f) L.N. 74 amends the Merchant Shipping (Seafarers) (Medical Examination) Regulation (Cap. 478O) to update the medical

standards, requirements and criteria for seafarers and the requirements on the issuance of medical fitness certificates;

- (g) L.N. 75 amends the Merchant Shipping (Seafarers) (Official Log Books) Regulation (Cap. 478P) mainly to update the entries required to be made in official log books kept in ships in the Schedule to Cap. 478P consequential to the provisions in L.N. 69;
- (h) L.N. 76 amends the Merchant Shipping (Seafarers) (Repatriation) Regulation (Cap. 478Q) to implement the requirements of the Convention regarding repatriation of seafarers. The amendments include providing for additional circumstances under which seafarers are entitled to be repatriated (such as the expiry of the crew agreement) and the employers' obligations in repatriation, and requiring a copy of Cap. 478Q to be kept on board Hong Kong ships;
- (i) L.N. 77 amends the Merchant Shipping (Seafarers) (Safety Officials and Reporting of Accidents and Dangerous Occurrences) Regulation (Cap. 478R) to implement certain requirements of the Convention relating to the health and safety protection of seafarers such as the duty to report occupational diseases contracted by the seafarers employed on certain seagoing ships that arise out of their employment. The title of Cap. 478R is also amended to reflect that Cap. 478R also deals with the reporting of occupational diseases;
- (j) L.N. 78 amends the Merchant Shipping (Seafarers) (Medical Stores) Regulation (Cap. 478X) to update, in compliance with the latest international standards, the requirements relating to medicines and medical stores. The amendments provide, among others, that seagoing ships, and passenger-carrying ships that only trade within river trade limits, must keep on board medicines and medical stores in compliance with the prescribed requirements and expired medicines and medical stores must be taken to a pharmacy for destruction;
- (k) L.N. 79 amends the Merchant Shipping (Seafarers) (Code of Safe Working Practices) Regulation (Cap. 478M) to reflect the change in title of Cap. 478R as mentioned in paragraph 8(i) above; and
- (l) L.N. 80 and L.N. 81 respectively repeal the Merchant Shipping (Seafarers) (Provisions and Water) Regulation (Cap. 478E) and the Merchant Shipping (Seafarers) (Ships' Doctors) Regulation (Cap. 478H), as the updated requirements have been provided in L.N. 69.

9. L.N. 82 is made by the Secretary for Financial Services and the Treasury under sections 133 and 134 of Cap. 478 to amend the Merchant Shipping (Seafarers) (Fees) Regulation (Cap. 478AB) to provide for fees payable for the inspection of ships and the issue of certain certificates under L.N. 69, to update the definition of office hours and make related amendments, and to amend the fees payable for certain examinations.

10. It is noted that the Administration has adopted an approach of making direct reference to provisions of international conventions such as the Convention and the Seafarers' Training, Certification and Watchkeeping Code published by the International Maritime Organization in some of the above regulations³. According to paragraph 8 of the LegCo Brief, that approach is adopted to keep the local legislation in tandem with the new requirements under the Convention.

11. As stated in paragraph 17 of the LegCo Brief, the Administration has consulted shipowners' and seafarers' organizations which are supportive of the legislative proposals for implementing the Convention. Further, other advisory committees such as the Seafarers' Advisory Board, the Shipping Consultative Committee and the Committee on the Implementation of International Labour Standards under the Labour Advisory Board have also been consulted and all of them have no objection to the proposals.

12. As advised by the Clerk to the Panel on Economic Development, the Panel was consulted on the Administration's proposal to amend Cap. 478 and its subsidiary legislation, and to make a new subsidiary legislation under Cap. 478 for implementing the requirements under the Convention at the meeting on 11 December 2012. While members were generally supportive of the proposal, concerns were raised about the timely implementation of the proposal before the Convention took effect in August 2013. The Administration explained that under such circumstances, it would authorize recognized organizations to issue provisional compliance certificates to ships which met the requirements stipulated under the Convention. Subsequently, the Administration introduced the Merchant Shipping (Seafarers) (Amendment) Bill 2013 into the LegCo in April 2013. The Bills Committee formed to study the Bill noted the Administration's plan to amend the subsidiary legislation under Cap. 478 and took the opportunity to examine the working and living conditions of seafarers proposed to be introduced under the subsidiary legislation. The Bill was passed by LegCo on 6 November 2013.

³ Section 134(3A) of Cap. 478 as added by the Merchant Shipping (Seafarers) (Amendment) Ordinance 2013 (Ord. 16/2013) empowers STH to adopt such an approach in making regulations under Cap. 478.

13. L.N. 69 to L.N. 82 come into operation on a day to be appointed by STH by notice published in the Gazette.

PART III SUBSIDIARY LEGISLATION CONCERNING FEES AND CHARGES

Travel Agents (Fee Concessions) Regulation 2016

(L.N. 65)

14. L.N. 65 is made by CE in Council under section 50(2) of the Travel Agents Ordinance (Cap. 218) and section 29 of 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 of 12 months from 20 November 2016 ("the concession period") as part of the short-term measures announced by the Financial Secretary in his 2016-2017 Budget to reduce the costs of operation of the tourism industry. Details of the concessions are set out below:

- (a) the fee of HK\$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 HK\$5,820 (i.e. HK\$485 (per month) x 12) in aggregate;
- (c) the fee of HK\$665 for amending a licence to permit the carrying on of the business of the travel agent at an additional address from a date within the concession period is waived; and
- (d) the fee of HK\$925 for the issue of a duplicate of a licence to permit the carrying on of the business of the travel agent at more than one address is waived if the term or renewed term of the licence indicated on the duplicate begins within the concession period, or if the duplicate is for display at an additional address permitted, from a date within the concession period, for carrying on the business of the travel agent.

15. According to paragraph 5 of the LegCo Brief dated 17 May 2016 (File Ref: TAR CR 4/60/1 Pt.1) issued by the Commerce and Economic Development Bureau, fees are proposed to be waived for one year because the effect of the negative factors mentioned in paragraph 3 of the LegCo Brief such as the less-than-certain global economic situation, keen competition in the region and the changing travel pattern of Mainland visitors is expected to last for a longer, perhaps even continuous, period.

16. As advised by the Clerk to the Panel on Economic Development, the Administration did not brief the Panel on L.N. 65.

17. L.N. 65 comes into operation on 20 November 2016.

**Public Health and Municipal Services (Fees and Charges)
(Museums) (Amendment) Regulation 2016**

(L.N. 84)

18. L.N. 84 is made by the Secretary for Home Affairs under section 124J(1) of the Public Health and Municipal Services Ordinance (Cap. 132) to amend the Public Health and Municipal Services (Fees and Charges) (Museums) Regulation (Cap. 132CK) to provide for the fees payable for entries to certain museums as follows:

- (a) the charges of annual museum passes are reduced by 50% and all other museum passes such as half-yearly, monthly and weekly passes are abolished;
- (b) full-time students are allowed free admission to permanent exhibitions of the Hong Kong Science Museum (and for visitors other than full-time students, the fees are reduced by 20%) and Hong Kong Space Museum (except its Space Theatre); and
- (c) all visitors are allowed free admission to permanent exhibitions of all designated museums (except the two museums mentioned in (b) above).

19. According to paragraph 3 of the LegCo Brief (File Ref: SF(4) HAB/CR 6/5/313 (C2) III) issued by the Home Affairs Bureau in May 2016, the above arrangements are made to implement the Government's proposal as announced by CE in his 2016 Policy Address to make free admission to permanent exhibitions of designated museums of the Leisure and Cultural Services Department a standing practice.

20. As advised by the Clerk to the Panel on Home Affairs, the Administration consulted the Panel on 17 May 2016 on the above proposals and the proposed fee levels upon implementation of the initiative of free admission. Members in general were supportive of the proposed arrangements and fee levels.

21. L.N. 84 comes into operation on 1 August 2016.

Pilotage (Dues) (Amendment) Order 2016

(L.N. 88)

22. Under section 22 of the Pilotage Ordinance (Cap. 84), the Pilotage Authority, who is the Director of Marine, may by order published in the Gazette provide for the amount of pilotage dues charged by licensed pilots for the provision of pilotage services after consultation with the Pilotage Advisory Committee. The current pilotage dues are those specified in the Schedule to the Pilotage (Dues) Order (Cap. 84D).

23. L.N. 88 is made by the Pilotage Authority to amend the Schedule to Cap. 84D to:

- (a) increase the standard pilotage due from HK\$4,400 to HK\$4,700 and the scale of additional standard pilotage due for ships of different gross tonnage;
- (b) increase the additional pilotage dues, which are payable for various pilotage services or under various service conditions; and
- (c) increase the pilotage due payable where the engagement of a pilot is cancelled from HK\$4,400 to HK\$4,700.

24. The pilotage dues were last revised in 2012. The percentage of the above increases ranges from 4% to 20%. According to paragraph 2 of the LegCo Brief (File Ref: THB(T)PML 8/10/50/1) issued by the Transport and Housing Bureau in May 2016, the levels of pilotage dues are reviewed periodically taking into account a number of factors including inflation and market situation and mutually agreed between the Hong Kong Pilots Association Limited representing all pilots and the Hong Kong Liner Shipping Association representing users of pilotage services. Members may refer to the LegCo Brief for further information.

25. As advised by the Clerk to the Panel on Economic Development, the Panel was consulted on the Administration's proposal to revise the amount of pilotage dues at the meeting on 19 April 2016. Members were generally supportive of the proposal, which was mutually agreed by both the Hong Kong Pilots Association Limited and the Hong Kong Liner Shipping Association.

26. L.N. 88 comes into operation on 18 July 2016.

PART IV DECLARATION OF PUBLIC CARGO WORKING AREAS AND HISTORICAL BUILDINGS

Port Control (Public Cargo Working Area) Order 2016 (L.N. 85)

Port Control (Public Cargo Working Area) (No. 2) Order 2016 (L.N. 86)

27. Section 3(1) of the Port Control (Cargo Working Areas) Ordinance (Cap. 81) empowers STH to declare by an order published in the Gazette any area of unleased Government land and any area of water adjoining any such area to be a public cargo working area ("PCWA").

28. L.N. 85 declares the new boundaries for the Western District PCWA as delineated on the plan numbered HKM8800b by the Deputy Director of Lands (Survey and Mapping) on behalf of the Director of Lands on 12 May 2016 and deposited in the Land Registry. It also amends section 7B of the Port Control (Public Cargo Working Area) (Consolidation) Order (Cap. 81B) to reflect the new boundaries of the Western District PCWA.

29. L.N. 86 declares the new boundaries for the Stonecutters Island PCWA as delineated on the plan numbered KTM2104a by the Deputy Director of Lands (Survey and Mapping) on behalf of the Director of Lands on 4 May 2016 and deposited in the Land Registry. It also amends section 12 of Cap. 81B to reflect the new boundaries of the Stonecutters Island PCWA.

30. According to paragraphs 4 to 6 of the LegCo Brief (File Ref: THB PML CR 8/40/4) issued by the Transport and Housing Bureau and the Marine Department in May 2016, the area of the new boundaries for the Western District PCWA will be reduced by 7,700 square metres in order to release Berth No. 1, 2 and 3 of the Western District PCWA for other use, and the area of the new boundaries for the Stonecutters Island PCWA will be reduced by 6,159 square metres in order to upgrade the Stonecutters Island PCWA to a modern container handling facility to support the operation of Kwai Tsing Container Terminals.

31. As advised by the Clerk to the Panel on Economic Development, the Panel was briefed on the outcome of the Review on PCWA at the meeting on 24 March 2016. Members noted the Administration's proposal to release a portion of Western District PCWA and Stonecutters Island PCWA for other uses. On the latter, a member queried the justifications for the Administration's proposal to release a portion of Stonecutters Island PCWA for container handling, given its high occupancy rate in the past. Views had been expressed that the Administration should explore other alternative locations in the area for container handling. To ensure the sustainability of PCWA operation, additional berths should be provided in the vicinity for use by the trades. The Administration

advised that it had been looking for suitable sites for logistics uses, including potential sites in the Tuen Mun area.

32. L.N. 85 and L.N. 86 come into operation on 1 August 2016.

Antiquities and Monuments (Declaration of Monuments and Historical Buildings) (Consolidation) (Amendment) Notice 2016 (L.N. 89)

33. L.N. 89 is made by the Secretary for Development under section 3(1) of the Antiquities and Monuments Ordinance (Cap. 53) after consultation with the Antiquities Advisory Board ("AAB") and with the approval of CE. It declares Blocks 7, 10 and 25 at the old Lei Yue Mun Barracks at 75 Chai Wan Road, Chai Wan, Hong Kong as historical buildings for the purposes of Cap. 53. Paragraph 3 of the Antiquities and Monuments (Declaration of Monuments and Historical Buildings) (Consolidation) Notice (Cap. 53B) is amended accordingly.

34. The effect of L.N. 89 is that the carrying out of activities such as excavation, building or other works and demolition on the newly declared historical buildings is prohibited, except in accordance with a permit granted by the Secretary for Development. Under section 19(2) of Cap. 53, any person who contravenes the above requirement is guilty of an offence and shall be liable on conviction to a fine of \$100,000 and imprisonment for one year.

35. Members may refer to the LegCo Brief issued by the Development Bureau dated 17 May 2016 (File Ref.: DEVB/CHO/1B/CR 141) for background information. According to paragraph 12 of the LegCo Brief, the relevant buildings have been accorded with a Grade 1 status (which denotes historical buildings of outstanding merit) by AAB having regard to the recommendations of an independent assessment panel under the existing administrative grading mechanism. AAB has been consulted on the proposed declaration as required under section 3(1) of Cap. 53 and rendered its support.

36. As advised by the Clerk to the Panel on Development, at its meeting on 23 June 2015, the Administration updated members on the progress of its work on heritage conservation. Members did not raise any concern on the Administration's work on declaration of government-owned buildings as statutory monuments. The Panel has not been consulted on L.N. 89.

37. L.N. 89 came into operation on the day it was published in the Gazette, i.e. 20 May 2016.

PART V MISCELLANEOUS

Immigration (Unauthorized Entrants) (Amendment) Order 2016 (L.N. 66)

38. L.N. 66 is made by CE in Council under section 37B of the Immigration Ordinance (Cap. 115) to amend the Immigration (Unauthorized Entrants) Order (Cap. 115D) to extend the scope of unauthorized entrants provided in Part VIIA of Cap. 115 to include persons resident or formerly resident in Afghanistan, Bangladesh, India, Nepal, Nigeria, Pakistan, Somalia and Sri Lanka. The effect of L.N. 66 is that the smuggling of illegal immigrants from these countries is subject to the offence provisions under Part VIIA including those relating to arranging and assisting in carrying unauthorized entrants⁴ and assisting unauthorized entrants to remain in Hong Kong⁵.

39. According to the LegCo Brief issued by the Security Bureau dated 18 May 2016 (File Ref.: SBCR 3/3221/15), the number of non-ethnic Chinese illegal immigrants smuggled into Hong Kong has drastically increased in the past few years. L.N. 66 is made to enhance the penalties against smuggling of unauthorized entrants in terms of the scope of punishable acts as well as the level of punishment to achieve the deterrent effect. Members may refer to the LegCo Brief for background information

40. As advised by the Clerk to the Panel on Security, the Panel was consulted at its meeting on 12 April 2016 on the Administration's proposals in L.N. 66. While expressing general support for the proposals, some members enquired about the list of countries to be covered and the effect on non-ethnic Chinese illegal immigrants. Some members also expressed concern about the lack of sufficient time for scrutiny of the proposed amendments which would come into operation on the date of gazettal, as it would be subject to negative vetting procedure.

41. L.N. 66 came into operation on the day of publication in the Gazette, i.e. 20 May 2016.

Prevention of Bribery Ordinance (Amendment of Schedules 1 and 2) Order 2016

(L.N. 67)

42. L.N. 67 is made by CE in Council under section 35 of the Prevention of Bribery Ordinance (Cap. 201) to amend Schedule 1 to Cap. 201 to specify Hong

⁴ Under section 37C of Cap. 115, the maximum penalty is imprisonment for 14 years and a fine of \$5,000,000.

⁵ Under section 37DA of Cap. 115, the maximum penalty is imprisonment for 10 years and a fine of \$500,000.

Kong Green Building Council Limited ("HKGBCL") and BEAM Society Limited ("BSL") as public bodies. It also amends Schedule 2 to Cap. 201 to add the two entities to that Schedule. The effect is that office holders of the two entities (other than honorary office holders) and members of any council, board, committee or other body of the two entities which is vested with any responsibility for the conduct or management of the affairs of the respective entity fall within the definition of "public servant" under Cap. 201.

43. According to the LegCo Brief issued by the Development Bureau in May 2016 (File Ref.: DEVB/(PL-B)25/03/37), HKGBCL is a leading industry-based body in developing and promoting practical solutions, standards and guidelines of green construction, retrofitting, operation and maintenance for Hong Kong's built environment. It was founded in November 2009 with four founding members including BSL. BSL is a non-profit organisation incorporated in November 2010 that seeks to, among others, promote and develop Building Environmental Assessment Method for building assessment and administers a professional training scheme in the interest of fostering an eco-friendly living environment.

44. As advised by the Clerk to the Panel on Development, the Panel has not been consulted on L.N. 67.

45. L.N. 67 comes into operation on 15 July 2016.

Pharmacy and Poisons (Amendment) (No. 3) Regulation 2016 (L.N. 83)

46. L.N. 83 is made by the Pharmacy and Poisons Board ("the Board") under section 29(1B) of the Pharmacy and Poisons Ordinance (Cap. 138) with the approval of the Secretary for Food and Health.

47. L.N. 83 amends the Pharmacy and Poisons Regulations (Cap. 138A) to:

- (a) add three substances ("the Three Substances") to, and replaces an existing entry of one substance with a new entry ("the replaced substance") in, Division A of Schedule 1 and Division A of Schedule 3 to Cap. 138A. Substances included in Schedule 1 to Cap. 138A are subject to restrictions concerning their sale, supply, labelling and storage. Substances included in Schedule 3 to Cap. 138A can only be sold by retail upon a prescription given by a registered medical practitioner, registered dentist or registered veterinary surgeon; and

- (b) add the Three Substances and the replaced substance to Division A of Part 1 of the Poisons List set out in Schedule 10 to Cap. 138A so that poisons containing those substances can only be sold on registered premises of an authorized seller of poisons by a registered pharmacist or in the presence and under the supervision of a registered pharmacist.

48. According to paragraph 5 of the LegCo Brief (File Ref: FHB/H/23/4) issued by the Food and Health Bureau in May 2016, the Board considers the amendments appropriate in view of the potency, toxicity and potential side effects of the Three Substances and the replaced substance. Members may refer to Annex B to the LegCo Brief for details of these substances.

49. As advised by the Clerk to the Panel on Health Services, the Administration has not consulted the Panel on L.N. 83.

50. L.N. 83 came into operation on the day of publication in the Gazette, i.e. 20 May 2016.

Designation of Libraries (Amendment) Order 2016

(L.N. 87)

51. L.N. 87 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) to designate two premises, namely Shop Nos. G15 and G16, Ground Floor, Dawning Views Shopping Plaza, 23 Yat Ming Road, Fanling and the ground Floor, Room 201 of second floor, the third to fifth Floors of the High Block of Yuen Chau Kok Complex, 35 Ngan Shing Street, Sha Tin as libraries. The Schedule to the Designation of Libraries Order (Cap. 132O) is amended accordingly. The effect of L.N. 87 is that the management and control of the new libraries are vested in the Director.

52. According to paragraph 3 of the LegCo Brief (no reference number provided) issued by the Leisure and Cultural Services Department on 16 May 2016, the premises in Fanling will be open for public use in 3rd quarter 2016 and the premises in Shatin will be open for public use in phases with the Students' Study Room in 4th quarter 2016 and the full library in 1st quarter 2017. According to paragraph 6 of the LegCo Brief, the North District Council and the Sha Tin District Council supported the early commissioning of the two new libraries in Fanling and Sha Tin respectively.

53. As advised by the Clerk to the Panel on Home Affairs, the Panel has not been consulted on L.N. 87.

54. L.N. 87 comes into operation on 1 August 2016.

Concluding Observations

55. The Legal Service Division is scrutinizing L.N. 69 to L.N. 82 and a further report will be made if necessary.

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

Prepared by

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26 May 2016