

LEGISLATIVE COUNCIL BRIEF

Miscellaneous Licences Ordinance
(Chapter 114)

MISCELLANEOUS LICENCES (AMENDMENT) REGULATION 1999

INTRODUCTION

At the meeting of the Executive Council on 25 May 1999, the Council ADVISED and the Chief Executive ORDERED that the Miscellaneous Licences (Amendment) Regulation 1999 (“the Amendment Regulation”) at the Annex should be made under section 3 of the Miscellaneous Licences Ordinance.

2. The Amendment Regulation amends regulation 17 of the Miscellaneous Licences Regulations by deleting the references to the offences and penalties related to the operation of physiotherapy clinics. It is a consequential amendment upon the commencement of statutory control over the practice of physiotherapy with effect from 1 July 1999.

BACKGROUND AND ARGUMENT

Application of the Supplementary Medical Professions Ordinance to Physiotherapists

3. The Supplementary Medical Professions Ordinance (SMPO), Cap. 359, provides for registration, Discipline and management of persons engaged in certain professions supplementary to medicine. Physiotherapists are one of the five groups of professionals placed under the jurisdiction of the SMPO.

4. Relevant provisions in the SMPO and in the Physiotherapists (Registration and Disciplinary Procedure) Regulation related to registration of physiotherapists came into effect on 1 April 1997. We have not, however, brought into operation the other legislative provisions related to statutory control over the practice of physiotherapy in Hong Kong. A person not registered under the SMPO as a physiotherapist may still practise physiotherapy.

5. As the registration of serving physiotherapists has now been largely completed, the Chief Executive, after consultation with the Executive Council, made the Supplementary Medical Professions Ordinance (Application) Order 1999 on 26 May 1999. It stipulates that the remaining provisions in the SMPO should commence to apply to the physiotherapy profession with effect from 1 July 1999. Through a similar commencement notice, the Secretary for Health and Welfare brings into operation, also on 1 July 1999, the remaining provisions in the Physiotherapists (Regulation and Disciplinary Procedure) Regulation. Together these provisions prohibit the practice of physiotherapy by unregistered persons and impose disciplinary control on registered physiotherapists.

Commencement of Consequential Amendments

6. After the commencement of statutory control over the practice of physiotherapy, physiotherapists will have to be registered under the SMPO, and the premises they use for their practice will be subject to statutory control under the SMPO. The current requirement that physiotherapy clinics should be controlled and registered under the Miscellaneous Licences Ordinance (MLO) and Miscellaneous Licences Regulations (MLR) will become redundant. The provisions relating to the licensing of physiotherapy clinics under the MLO and MLR need to be repealed.

7. The existing Massage Establishments Ordinance (MEO) and Medical Clinics Ordinance (MCO) contain references to physiotherapy clinic licensed under the MLO. Following the repeal of the provisions relating to the licensing of physiotherapy clinics in the MLO and MLR as mentioned above, it is necessary to repeal these references in MEO and MCO and to make corresponding amendments.

8. These consequential amendments have been provided for in the Supplementary Medical Professions, Midwives Registration and Nurses Registration (Amendment) Ordinance 1985 (“the Amendment Ordinance”). Supplementary Medical Professions, Midwives Registration and Nurses Registration (Amendment) Ordinance 1985 (67 of 1995) (Commencement) Notice 1999, made by the Chief Executive on 26 May 1999 after consultation with Executive Council, brings these amendments into operation with effect from 1 July 1999.

Amendment Regulation to the Miscellaneous Licences Regulations

9. Subsequent to the enactment of the Amendment Ordinance in 1985, the MLR was amended by another legislation. As a result, some of the original consequential amendments cannot take the intended effect. It is necessary to introduce a separate amendment regulation to the MLR, i.e. the Amendment Regulation at Annex, to rectify the problem. Details are described in the next paragraph.

10. A provision in the Amendment Ordinance seeks to repeal part of regulation 17 of the MLR, namely, deleting “137, 145, 146”. This amendment serves to delete from the MLR the references to the offences and penalties related to the operation of physiotherapy clinics. The wording of this part of regulation 17, however, has been revised, following another legislative amendment, to “137, 145 or 146”. This textual mismatch makes this particular consequential amendment inoperable. The Amendment Regulation will achieve the same effect as the original provision in the Amendment Ordinance.

THE REGULATION

11. Clause 1 provides that the Amendment Regulation shall come into operation on 1 July 1999. Clause 2 amends Regulation 17 of the MLR by deleting the references to the offences and penalties related to the operation of physiotherapy clinics.

BASIC LAW IMPLICATIONS

12. The Department of Justice advises that the Amendment Regulation is consistent with the Basic Law.

HUMAN RIGHTS IMPLICATIONS

13. The Department of Justice advises that the Amendment Regulation has no human rights implications.

BINDING EFFECT

14. The Amendment Regulation will not affect the current binding effect of the MLR.

FINANCIAL AND STAFFING IMPLICATIONS

15. There are no additional financial or staffing implications.

PUBLIC CONSULTATION

16. The Supplementary Medical Professions Council and the Physiotherapists Board have been informed of the proposed date of the application of the SMPO to physiotherapists and the commencement of the relevant provisions in the Amendment Ordinance. There is no objection.

PUBLICITY

17. The Amendment Regulation is published in the Gazette on 28 May 1999. A press release is issued on the same day. The Supplementary Medical Professions Council Secretariat will be available to handle media and public enquiries.

ENQUIRY

18. For any enquiries on the brief, please contact Mr Fletch CHAN, Assistant Secretary for Health and Welfare at 2973 8118.

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Health and Welfare Bureau
28 May 1999
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MISCELLANEOUS LICENCES (AMENDMENT) REGULATION 1999

(Made by the Chief Executive in Council under section 3 of the Miscellaneous Licences Ordinance (Cap. 114))

1. Commencement

This Regulation shall come into operation on 1 July 1999.

2. Offences and penalties

Regulation 17 of the Miscellaneous Licences Regulations (Cap. 114 sub. leg.) is amended by repealing ", 128(1), 137, 138, 139, 140, 141, 142, 143, 144, 145 or 146" and substituting "or 128(1)".

Clerk to the Executive Council

COUNCIL CHAMBER
1999

Explanatory Note

This Regulation amends regulation 17 of the Miscellaneous Licences Regulations (Cap. 114 sub. leg.) consequent on the repeal of Part XIII thereof by the Supplementary Medical Professions, Midwives Registration and Nurses Registration (Amendment) Ordinance 1985 (67 of 1985).

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