

立法會
Legislative Council

LC Paper No. LS85/08-09

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 12 June 2009**

Date of tabling in LegCo : 17 June 2009

Amendment to be made by : 2nd meeting of LegCo in the next session (or the 1st meeting after 21 days from the 2nd meeting of the next session if extended by resolution)

**Public Health and Municipal Services Ordinance (Cap. 132)
Public Health and Municipal Services (Setting Aside Places for Use as Public
Pleasure Grounds) (No. 2) Order 2009 (L.N. 124)
Public Health and Municipal Services Ordinance (Amendment of Fourth
Schedule) (No. 2) Order 2009 (L.N. 125)**

L.N. 124 is made by the Director of Leisure and Cultural Services (the Director) under section 106(1) of the Public Health and Municipal Services Ordinance (Cap. 132) (the Ordinance). It provides that eleven places specified in the Schedule to the Order are set aside for use as public pleasure grounds.

2. It is stated in the LegCo Brief that ten of the eleven places specified are new venues opened or to be opened for public use by the Leisure and Cultural Services Department (LCSD). Another one venue is taken over by LCSD from the Yuen Long District Council.

3. L.N. 125 which is made by the Director under section 106(6) of the Ordinance amends the Fourth Schedule to the Ordinance in order to update the list of public pleasure grounds correspondingly, and to rename "Pok Fu Lam Village Temporary Sitting-out Area" as "Pok Fu Lam Village Sitting-out Area No.1".

4. According to the Administration, the renaming is to better reflect the nature of the venue, which is no longer a temporary facility. This is supported by the Southern District Council.

5. The eleven new venues so set aside and included in the Fourth Schedule to the Ordinance will enable the Director as the Authority under the Ordinance to manage them as public pleasure grounds and enforce the applicable regulations.

6. According to the LegCo Brief, the Administration has consulted the relevant District Councils and has their support for the proposals on the addition and renaming of the relevant public pleasure grounds. The Panel on Home Affairs has not been consulted on the two Orders.

7. The two Orders came into operation on the date of publication in the Gazette, i.e. 12 June 2009.

8. Members may wish to refer to the LegCo Brief (File Ref: (10) in LM(2) in LCS 19/HQ 813/00(12)) issued by LCSD on 3 June 2009 for background information.

Pensions (Increase) Ordinance (Cap. 305)

Declaration of Increase in Pensions Notice 2009 (L.N. 126)

Widows and Orphans Pension (Increase) Ordinance (Cap. 205)

Widows and Orphans Pension (Increase) Notice 2009 (L.N. 127)

9. L.N. 126 is made under section 4(1B) of the Pensions (Increase) Ordinance (Cap. 305) (P(I)O) to declare a 2.5% increase in the basic pension payable to ex-officers and dependants eligible for pension under the various pension ordinances as specified in Schedule 1 of P(I)O.

10. L.N. 127 is made under section 3(3) of the Widows and Orphans Pension (Increase) Ordinance (Cap. 205) (WOP(I)O) to specify a 2.5% increase in dependant pensions payable to widows and orphans as defined under WO(I)O.

11. According to the Administration, the Commissioner for Census and Statistics has recently announced that the average monthly Consumer Price Index (A) (CPI(A)) for the period of 1 April 2008 to 31 March 2009, as compared with the average monthly CPI(A) for the previous 12 months, has increased by 2.5%. Under P(I)O and WOP(I)O, if in any year, the average monthly CPI(A) of the period of 12 months beginning on 1 April of the previous year and ending on 31 March of the year in question exceeds the average monthly CPI(A) of the period of 12 months immediately preceding that period by more than 0.1%, the Chief Executive shall declare or specify a percentage of increase in the respective pensions equal to the excess expressed as a percentage as soon as practicable by notice in the Gazette.

12. The two notices both specify 1 April 2009 as the effective date for the increase.

13. According to the LegCo Brief issued by the Civil Service Bureau on 5 June 2009 (File Ref. CSBCR/AP/4-075-005/5 Pt. 12), no consultation with pensioners and dependants is required as pension increase in accordance with the increase in CPI(A) is a statutory entitlement. Members may refer to the LegCo Brief for further information.

14. The Panel on Public Service has not been consulted on the two notices.

Concluding observation

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

Prepared by

LO Wing-yee, Winnie
Assistant Legal Adviser
Legislative Council Secretariat
16 June 2009