

**立法會**  
***Legislative Council***

LC Paper No. LS4/13-14

**Paper for the House Committee Meeting  
on 18 October 2013**

**Legal Service Division Report on  
Subsidiary Legislation Gazetted on 11 October 2013**

**Tabling in LegCo** : Council meeting of 16 October 2013

**Amendment to be made by** : Council meeting of 13 November 2013 (or that of 4 December 2013 if extended by resolution)

**Road Traffic (Public Service Vehicles) (Amendment)  
Regulation 2013**

**(L.N. 151)**

L.N. 151 is made by the Chief Executive in Council under section 7(1C) of the Road Traffic Ordinance (Cap. 374). It amends Schedule 5 to the Road Traffic (Public Service Vehicles) Regulations (Cap. 374D) (the Regulations) to give effect to-

- (a) an increase of \$2 in flagfall and of \$0.10 in the incremental charge after flagfall for the hiring of urban (Hong Kong and Kowloon), the New Territories (NT) and Lantau taxis; and
- (b) an increase of \$1 (from \$4 to \$5) for NT taxis for:
  - (i) every article of baggage carried;
  - (ii) every animal or bird carried; and
  - (iii) every hiring arranged through telephone booking.

Details of the existing and the new flagfall charges and incremental charges after flagfall for the hiring of urban, NT and Lantau taxis are as follows-

	<b>Urban Taxi</b>	<b>NT Taxi</b>	<b>Lantau Taxi</b>
	<b>Flagfall charge for the first 2 km or any part thereof</b>		
<b>Existing fare</b>	\$20	\$16.50	\$15
<b>New fare</b>	\$22	\$18.50	\$17
	<b>Incremental charge for each 200 m travelled (i.e. per jump) after flagfall</b>		
<b>Existing fare</b>	<p>(a) \$1.50 for every further 200 m or any part thereof, until the chargeable amount reaches \$72.50</p> <p>(b) \$1 for every further 200 m or any part thereof, after the chargeable amount has reached \$72.50</p>	<p>(a) \$1.30 for every further 200 m or any part thereof, until the chargeable amount reaches \$55.50</p> <p>(b) \$1 for every further 200 m or any part thereof, after the chargeable amount has reached \$55.50</p>	<p>(a) \$1.30 for every further 200 m or any part thereof, until the chargeable amount reaches \$132</p> <p>(b) \$1.20 for every further 200 m or any part thereof, after the chargeable amount has reached \$132</p>
<b>New fare</b>	<p>(a) The incremental charge for every further 200 m or any part thereof is increased from \$1.50 to \$1.60 until the chargeable amount reaches \$78</p>	<p>(a) The incremental charge for every further 200 m or any part thereof is increased from \$1.30 to \$1.40 until the chargeable amount reaches \$60.50</p>	<p>(a) The incremental charge for every further 200 m or any part thereof is increased from \$1.30 to \$1.40 until the chargeable amount reaches \$143</p>

	<b>Urban Taxi</b>	<b>NT Taxi</b>	<b>Lantau Taxi</b>
<b>New fare</b>	(b) The incremental charge for every further 200 m or any part thereof remains to be \$1 after the chargeable amount has reached \$78	(b) The incremental charge for every further 200 m or any part thereof remains to be \$1 after the chargeable amount has reached \$60.5	(b) The incremental charge for every further 200 m or any part thereof remains to be \$1.20 after the chargeable amount has reached \$143
	<b>Waiting time</b>		
<b>Existing fare</b>	<p>(a) \$1.50 for every period of 1 minute, or any part thereof, during which the taxi is hired but not in motion (waiting time), until the chargeable amount reaches \$72.50</p> <p>(b) \$1 for every period of 1 minute, or any part thereof, during which the taxi is hired but not in motion (waiting time), after the chargeable amount has reached \$72.50</p>	<p>(a) \$1.30 for every period of 1 minute, or any part thereof, during which the taxi is hired but not in motion (waiting time), until the chargeable amount reaches \$55.50</p> <p>(b) \$1 for every period of 1 minute, or any part thereof, during which the taxi is hired but not in motion (waiting time), after the chargeable amount has reached \$55.50</p>	<p>(a) \$1.30 for every period of 1 minute, or any part thereof, during which the taxi is hired but not in motion (waiting time), until the chargeable amount reaches \$132</p> <p>(b) \$1.20 for every period of 1 minute, or any part thereof, during which the taxi is hired but not in motion (waiting time), after the chargeable amount has reached \$132</p>

	<b>Urban Taxi</b>	<b>NT Taxi</b>	<b>Lantau Taxi</b>
<b>New fare</b>	<p>(a) The charge for waiting time is increased from \$1.50 to \$1.60 until the chargeable amount reaches \$78</p> <p>(b) The charge for waiting time remains to be \$1 after the chargeable amount has reached \$78</p>	<p>(a) The charge for waiting time is increased from \$1.30 to \$1.40 until the chargeable amount reaches \$60.50</p> <p>(b) The charge for waiting time remains to be \$1 after the chargeable amount has reached \$60.50</p>	<p>(a) The charge for waiting time is increased from \$1.30 to \$1.40 until the chargeable amount reaches \$143</p> <p>(b) The charge for waiting time remains to be \$1.20 after the chargeable amount has reached \$143</p>
<b>Average rate of increase</b>	7.11%	9.04%	8.83%

2. According to paragraph 6 of the LegCo Brief (File Ref: THB(T)L 3/3/5) issued by Transport and Housing Bureau on 24 September 2013, the applications from the taxi trades for increasing their respective flagfall and incremental charges were made on grounds of rising operating costs, in particular the rising fuel expenses, vehicle maintenance and repair expenses, and insurance premium since the last taxi fare increase in July 2011 (L.N. 69 of 2011) as a result of increase in wages, prices of spare parts and inflation.

3. L.N. 151 comes into operation on 8 December 2013.

4. According to paragraph 8 of the LegCo Brief, the Transport Advisory Committee had no objection to the taxi fare increase applications.

5. As advised by the Clerk to the Panel on Transport, the Panel was consulted by the Administration on 21 June 2013 regarding the fare adjustment application made by the urban, NT and Lantau taxi trades. Members were

generally in support of the proposed taxi fare increase but some considered that the Administration should explore the possibility of introducing a fuel surcharge as an alternative to fare increase so as to avoid the speculative activity of the taxi licences due to the proposed fare increase. Some members were concerned that the taxi fare increase might trigger taxi rental increase by taxi owners and urged the Administration to ensure that the income of taxi drivers would not drop after the proposed fare increase.

**Country Parks (Designation) (Consolidation) (Amendment)  
Order 2013**

**(L.N. 152)**

6. L.N. 152 is made by the Chief Executive (CE) under section 14 of the Country Parks Ordinance (Cap. 208) after consultation with the Executive Council<sup>1</sup>. It amends the Country Parks (Designation) (Consolidation) Order (Cap. 208B) by replacing with new approved maps the original approved maps in respect of the following three country parks-

- (a) Kam Shan Country Park (KSCP) (Plan No. CP/KS1<sup>A</sup> approved on 14 June 1977 by the Governor in Council to be replaced by Plan No. CP/KS<sup>B</sup> approved on 7 May 2013 by CE in Council);
- (b) Sai Kung East Country Park (SKECP) (Plan No. CP/SK(E)<sup>A</sup> approved on 17 January 1978 by the Governor in Council to be replaced by Plan No. CP/SK(E)<sup>B</sup> approved on 7 May 2013 by CE in Council); and
- (c) Tai Lam Country Park (TLCP) (map CP/TL<sup>E</sup> approved on 21 March 1995 by the Governor in Council to be replaced by Plan No. CP/TL<sup>F</sup> approved on 7 May 2013 by CE in Council),

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<sup>1</sup> A recent example of orders made by CE under section 14 of Cap. 208 is the Country Parks (Designation) (Consolidation) (Amendment) Order 2010 (the 2010 Amendment Order). The 2010 Amendment Order amended the Country Parks (Designation) (Consolidation) Order (Cap. 208B) by replacing the original approved map in respect of Clear Water Bay Country Park (CWBCP) with a new approved map with the effect of carving out space in CWBCP for landfill purpose. A subcommittee was formed to study the Amendment Order 2010. During the course of study, the issue as to whether LegCo had the power to repeal an order made under section 14 of Cap. 208 was considered. Hon Tanya CHAN, Chairman of the Subcommittee, proposed on behalf of the Subcommittee to repeal the Amendment Order 2010. The proposed amendment which the President ruled to be in order was passed by LegCo at its meeting on 13 October 2010. Members may refer to the report of the subcommittee issued vide LC Paper No. CB(1)3017/09-10 for background information.

After the amendments, the country park enclaves<sup>2</sup> of Kam Shan, Tai Long Sai Wan and Yuen Tun will be incorporated into the boundaries of the above designated country parks. The legal effect is that the control and management of the three country parks as shown in the new approved maps will be vested in the Country and Marine Parks Authority, i.e. Director of Agriculture, Fisheries and Conservation.<sup>3</sup>

7. According to paragraphs 4 to 9 of the LegCo Brief (File Ref: EP CR 9/15/9) issued by the Agriculture, Fisheries and Conservation Department and Environmental Protection Department on 17 July 2013, the statutory procedures for designation of country parks under Part III of Cap. 208, including preparation of the draft maps of KSCP, SKECP and TLCP for public inspection, hearing of the objections to the draft maps of SKECP and TLCP by the Country and Marine Parks Board, approval of the draft maps of KSCP, SKECP and TLCP by CE in Council and deposit of the approved maps of KSCP, SKECP and TLCP in the Land Registry, have been properly followed.

8. L.N. 152 comes into operation on 30 December 2013.

9. Paragraphs 14 to 17 of the LegCo Brief have summarised the views expressed on the draft maps of SKECP, TLCP and KSCP gauged at different stages of public consultation.

10. The Clerk to the Panel on Environmental Affairs (EA Panel) has advised as follows:

- (a) In view of wide public concern over the protection of country park enclaves against incompatible development since many of them are of high landscape, ecological and aesthetic value, the EA Panel and the Panel on Development held a joint meeting on 28 July 2010 (joint Panel meeting) to discuss the related matters.
- (b) In his 2010-11 Policy Address, the Chief Executive announced that the Government would either include the enclaves into country parks, or determine their proper uses through statutory planning to

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<sup>2</sup> According to Footnote 1 of the LegCo Brief, country park enclaves are sites that are surrounded by or are adjacent to the country parks, but are not part of the country parks. Most of these country park enclaves comprise both private and government land. Control on developments on private land at these country park enclaves relies on the terms and conditions of the land leases, Buildings Ordinance (Cap. 123) and, if available, Development Permission Area plans or Outline Zoning Plans (OZP) under the Town Planning Ordinance (TPO) (Cap. 131).

<sup>3</sup> According to paragraph 12 of the LegCo brief, developments of private land that fall within a designated or proposed country park are also subject to the control of the Buildings Ordinance (Cap. 123), and the terms and conditions of the concerned land lease. Developments of New Territories Exempted Houses are subject to the control of the Buildings Ordinance (Application to the New Territories) Ordinance (Cap. 121).

meet conservation and social development needs. At the meeting of the EA Panel held on 22 October 2010, the Secretary for the Environment briefed members on the related initiative among other things.

- (c) In the course of deliberations at the joint Panel meeting, various concerns were expressed by members. The major ones included the conflict between public aspiration on nature conservation and landowners' rights for development, the compensation arrangements for affected land owners, and the need for the Administration to take an expeditious and proactive approach in protecting sites with high conservative value.

11. On 15 October 2013, the Secretariat received a letter from a solicitors' firm informing us that judicial review proceedings have been initiated against the decision of CE in Council to approve the draft map of SKECP.

**Arbitration (Amendment) Ordinance 2013  
(Commencement) Notice**

**(L.N. 153)**

12. Under section 1(3) of the Arbitration (Amendment) Ordinance 2013 (7 of 2013) (the Amendment Ordinance), the Secretary for Justice has appointed 16 December 2013 as the day on which sections 3, 9(1), 18 and 22(3), (6) and (9) (the relevant provisions) of the Amendment Ordinance will come into operation.

13. The purpose of the Amendment Ordinance is to implement the Arrangement Concerning Reciprocal Recognition and Enforcement of Arbitral Awards Between the Hong Kong Special Administrative Region and Macao Special Administrative Region (the Arrangement) concluded in January 2013. According to section 1(2) of the Amendment Ordinance, the Amendment Ordinance, other than the relevant provisions, has already come into operation on the day on which the Amendment Ordinance was published in the Gazette on 19 July 2013. The relevant provisions that will come into operation on 16 December 2013 mainly relate to the procedures for enforcement of Macao arbitral awards in Hong Kong courts.

14. As advised by the Clerk to Panel on Administration of Justice and Legal Services (AJLS Panel), in the course of scrutinizing the Arbitration (Amendment) Bill 2013 (the Bill), the Administration had advised the Bills Committee concerned that the Bill, if enacted, would come into operation by two phases as explained in paragraph 13 above. The second phase would come

into operation after discussion with the Macao authorities on the timing to implement the Arrangement. Members of the Bills Committee concerned did not raise any query to these arrangements. The AJLS Panel has not been consulted on L.N. 153.

### **Concluding Observations**

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

Prepared by

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LS/S/2/13-14