

立法會
Legislative Council

LC Paper No. LS46/16-17

**Paper for the House Committee Meeting
on 24 March 2017**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 17 March 2017**

Tabling in LegCo : Council meeting of 22 March 2017

Amendment to be made by : Council meeting of 12 April 2017 (or that of 10 May 2017 if extended by resolution)

Pharmacy and Poisons (Amendment) (No. 2) Regulation 2017 (L.N. 38)

L.N. 38 is made by the Pharmacy and Poisons Board ("PPB") under section 29(1B) of the Pharmacy and Poisons Ordinance (Cap. 138) with the approval of the Secretary for Food and Health. It amends the Pharmacy and Poisons Regulations (Cap. 138A) by adding five items of substances ("the relevant substances") to Division A of Schedule 1 to Cap. 138A, Division A of Schedule 3 to Cap. 138A and Division A of Part 1 of the Poisons List set out in Schedule 10 to Cap. 138A ("Poisons List").

2. The effect of the above amendments is that the substances included in Schedule 1 to Cap. 138A are subject to restrictions concerning their sale, supply, labelling and storage, and the substances 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. Further, the substances included in the Poisons List 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.

3. According to paragraph 4 of the Legislative Council ("LegCo") Brief (File Ref.: FHB/H/23/4) issued by the Food and Health Bureau in March 2017, PPB considers that the amendments are appropriate in view of the potency, toxicity and potential side effects of the relevant substances. Members may refer to Annex B to the LegCo Brief for details of the relevant substances.

4. As advised by the Clerk to the Panel on Health Services, the Administration has not consulted the Panel on L.N. 38.

5. L.N. 38 came into operation on 17 March 2017 (i.e. the day on which it was published in the Gazette).

Designation of Libraries (Amendment) Order 2017

(L.N. 39)

6. L.N. 39 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 amend the Schedule to the Designation of Libraries Order (Cap. 132O) to designate "the ground and first floors of Yuen Long Leisure and Cultural Building, 52 Ma Tin Road, Yuen Long" as a library ("the new Library") and to repeal the existing designation of the 1st floor of the building known as Yuen Long Government Offices, 2 Kiu Lok Square, Yuen Long as a library ("the old Library"). The effect of L.N. 39 is that the management and control of the new Library is vested in the Director and the old Library ceases to be a public library.

7. According to paragraph 3 of the LegCo Brief (no reference number provided) issued by the Leisure and Cultural Services Department on 3 March 2017, the old Library will be closed and ceased operation upon the commissioning of the new Library which will be opened for public use with effect from 19 June 2017. According to paragraph 6 of the LegCo Brief, the Yuen Long District Council supported the early commissioning of the new Library.

8. As advised by the Clerk to the Panel on Home Affairs, the Panel has not been consulted on L.N. 39.

9. L.N. 39 comes into operation on 19 June 2017.

**Smoking (Public Health) (Designation of No Smoking Areas)
(Amendment) Notice 2017**

(L.N. 40)

10. Under section 3(1AB) of the Smoking (Public Health) Ordinance (Cap. 371), the Director of Health ("DH") may, by notice published in the Gazette, designate as a no smoking area ("NSA") the whole or a part of:

- (a) any area that consists of the termini of two or more modes of public transport and is used for effecting and facilitating interchange between them; or
- (b) any bus terminus of more than one specified route as defined in section 2 of the Public Bus Services Ordinance (Cap. 230).

11. Each of these termini and bus terminus is referred to as a "public transport facility" in the Smoking (Public Health) (Designation of No Smoking Areas)

Notice (Cap. 371D) ("the Designation Notice"). The designated NSAs in public transport facilities ("PTFs") are set out in the Schedule to the Designation Notice.

12. L.N. 40 is made by DH to amend the Schedule to the Designation Notice to (a) designate eight new PTFs as NSAs, (b) amend the extent of 10 NSAs already designated in PTFs, and (c) remove nine PTFs from the Schedule. The relevant areas in the PTFs designated as NSAs and the boundaries of the existing NSAs as revised by L.N. 40 are shown and delineated on the respective plans signed by DH and deposited in the Land Registry.

13. Under section 7(1) of Cap. 371, any person who smokes or carries a lighted cigarette, cigar or pipe in an NSA commits an offence and is liable on summary conviction to a fine of \$5,000. Smoking in an NSA is also a scheduled offence in respect of which a public officer may give the offender a notice under section 3 of the Fixed Penalty (Smoking Offences) Ordinance (Cap. 600) offering him an opportunity to discharge his liability to conviction for the offence by payment of a fixed penalty (currently fixed at \$1,500) within 21 days from the date of the notice.

14. According to paragraphs 4 and 5 of the LegCo Brief (File Ref.: FH CR 52/581/89) issued by the Food and Health Bureau and the Department of Health in March 2017, the amendments are made to reflect the changes at the relevant PTFs revealed by the site visits conducted at PTFs by the Tobacco Control Office ("TCO") since the last designation exercise in 2014 and after consultation with the Transport Department.

15. According to paragraph 12 of the LegCo Brief, an information note on the details of the amendments has been issued to the 18 District Councils and the plans of the NSAs of PTFs concerned will be posted on TCO's website for public information before the designation takes effect.

16. As advised by the Clerk to the Panel on Health Services, the Panel has not been consulted on L.N. 40.

17. L.N. 40 comes into operation on 31 July 2017.

18. No difficulties have been identified in the legal and drafting aspects of L.N. 38 to L.N. 40.

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22 March 2017