

香港特別行政區政府
保安局



The Government of the
Hong Kong Special Administrative Region
Security Bureau

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(Translation)

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21 June 2018

Miss Betty Ma
Clerk to Subcommittee on Subsidiary Legislation
Relating to the Commissioning of the West Kowloon Station
of the Guangzhou-Shenzhen-Hong Kong Express Rail Link
and Gazetted on 1 June 2018
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Dear Miss Ma,

**Immigration (Places of Detention) (Amendment) Order 2018
(L.N. 109 of 2018)**

**Immigration Service (Designated Places) (Amendment) Order 2018
(L.N. 110 of 2018)**

**Cross-boundary Movement of Physical Currency and Bearer Negotiable
Instruments Ordinance (Amendment of Schedule 1) (No. 2) Notice 2018
(L.N. 111 of 2018)**

At the Subcommittee meeting on 20 June 2018 (“Subcommittee meeting”), a Member asked the Government to provide in writing examples of subsidiary legislation that had commenced before expiry of their full negative vetting periods. The Security Bureau (“SB”)’s replies are as follows.

Pursuant to section 28(3) of the Interpretation and General Clauses Ordinance (Cap. 1), subsidiary legislation comes into operation at the beginning of the day on which it is published in the Gazette if no provision is made for its

commencement. In normal circumstances, the Government will allow, wherever possible, the full negative vetting period under section 34 of Cap. 1 (i.e. generally 28 days + 21 days) to run its course before bringing subsidiary legislation into operation.

As pointed out in the replies from SB and the Customs and Excise Department dated 11 and 12 June 2018 respectively to the Legislative Council (“LegCo”) Assistant Legal Advisor (“LegCo ALA”) (LC Paper Nos. CB(2)1620/17-18(03) and CB(2)1620/17-18(04)) and confirmed by the LegCo ALA at the Subcommittee meeting, there is currently no mandatory requirement that subsidiary legislation can only come into force after expiry of the negative vetting period. There were previous occasions where the relevant subsidiary legislation, due to operational needs, had to commence before the full negative vetting period ended.

The Government tabled at LegCo the captioned three pieces of subsidiary legislation on 6 June 2018, which were made in preparation for the forthcoming commissioning of the West Kowloon Station of Hong Kong Section of Guangzhou-Shenzhen-Hong Kong Express Rail Link. These three pieces of subsidiary legislation shall therefore come into operation on the same date as the Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Ordinance becomes effective. Upon the agreement of the LegCo House Committee on 25 May 2018 for the Government to resume the Second Reading debate of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill, we arranged for gazettal on the immediate Friday (i.e. 1 June 2018) and tabling at the LegCo on 6 June 2018 so as to allow LegCo reasonable time to scrutinise the three pieces of subsidiary legislation prior to their anticipated commencement date (i.e. September 2018).

At the Subcommittee meeting, we quoted some examples of subsidiary legislation which, due to actual needs, commenced before expiry of their full negative vetting periods, including -

- Public Health and Municipal Services Ordinance (Public Pleasure Grounds) (Amendment of Fourth Schedule) Order 2017
- Industrial Training (Clothing Industry) Ordinance (Amendment of Schedule 2) Order 2017
- Pharmacy and Poisons (Amendment) (Regulation) 2018

All the above subsidiary legislation came into operation on the date of their publication in the Gazette (i.e. before their negative vetting periods ended). In addition, there were some occasions where the subsidiary legislation came into operation some time after their publication in the Gazette but before expiry of their negative vetting periods. Examples include the Import and Export (General) (Amendment) Regulation 2013 and the Rating (Exemption) Order 2018. Details are in Annex.

In determining the commencement date of each piece of subsidiary legislation, the Government takes into account the actual circumstances of each case, including the objective of the subsidiary legislation concerned and the time required for it to come into operation.



(Parson Lam)
for Secretary for Security

Examples of subsidiary legislation commencing before the full negative vetting period ends

Name of subsidiary legislation	Details	Gazettal date	Commencement date
Public Health and Municipal Services Ordinance (Public Pleasure Grounds) (Amendment of Fourth Schedule) Order 2017 (L.N. 134 of 2017)	<ul style="list-style-type: none"> ● Under the Public Health and Municipal Services Ordinance (Cap. 132), the Director of Leisure and Cultural Services, in her capacity as the Authority, manages the public pleasure grounds listed in the Fourth Schedule to the ordinance. ● The Public Health and Municipal Services Ordinance (Public Pleasure Grounds) (Amendment of Fourth Schedule) Order 2017 amends the Fourth Schedule to the ordinance to set aside places for use as public pleasure grounds, to cease to set aside a place for use as a public pleasure ground and to reflect the renaming of two public pleasure grounds. 	23 June 2017	23 June 2017
Industrial Training (Clothing Industry) Ordinance (Amendment of Schedule 2) Order 2017 (L.N. 138 of 2017)	<ul style="list-style-type: none"> ● The Industrial Training (Clothing Industry) Ordinance (Amendment of Schedule 2) Order 2017 was made under section 36(2) of the Industrial Training (Clothing Industry) Ordinance for the purpose of amending Schedule 2 to the ordinance to reflect the renaming of the Textile and Clothing Training Board as the Fashion and Textile Training Board. 	30 June 2017	30 June 2017
Pharmacy and Poisons (Amendment) Regulation 2018 (L.N. 10 of 2018)	<ul style="list-style-type: none"> ● Section 29(1B) of the Pharmacy and Poisons Ordinance (Cap. 138) empowers the Pharmacy and Poisons Board to make regulations to amend the Poisons List and any list of articles or substances in the Pharmacy and Poisons Regulations (Cap. 138A). ● Arising from applications for registration of nine pharmaceutical products, the Pharmacy and Poisons (Amendment) Regulation 2018 amends the related parts of the First, Third and Tenth Schedules to the Pharmacy and Poisons Regulations by adding the substances concerned thereto. The amendments impose appropriate control on pharmaceutical products containing these substances so that they can be sold in the market upon fulfillment of the relevant regulations. 	26 January 2018	26 January 2018

Name of subsidiary legislation	Details	Gazettal date	Commencement date
<p>Import and Export (General) (Amendment) Regulation 2013 (L.N. 25 of 2013)</p>	<ul style="list-style-type: none"> ● The object of the Import and Export (General) (Amendment) Regulation 2013 is to amend the Import and Export (General) Regulations (Cap. 60 sub. leg. A) to prohibit the export of powdered formula to any place outside Hong Kong, except under an export licence issued by the Director-General of Trade and Industry. ● The Subcommittee on Import and Export (General) (Amendment) Regulation 2013 held eight meetings to examine the subsidiary legislation, and the scrutiny period for such subsidiary legislation was extended to 17 April 2013. 	22 February 2013	1 March 2013
<p>Rating (Exemption) Order 2018 (L.N. 37 of 2018)</p>	<ul style="list-style-type: none"> ● The Rating (Exemption) Order 2018 is an order issued by the Chief Executive in Council under the Rating Ordinance (Cap. 116) to effect the proposal in the 2018-19 Budget about rate concession for four quarters of 2018-19. ● The Subcommittee on Rating (Exemption) Order 2018 held two meetings to examine the subsidiary legislation, and the scrutiny period for such subsidiary legislation was extended to 9 May 2018. 	28 February 2018	1 April 2018