

**立法會**  
**Legislative Council**

LC Paper No. LS9/18-19

**Paper for the House Committee Meeting  
on 2 November 2018**

**Legal Service Division Report on  
Subsidiary Legislation Gazetted on 26 October 2018**

**Tabling in LegCo** : Council meeting of 31 October 2018

**Amendment to be made by** : Council meeting of 28 November 2018 (or that of 9 January 2019 if extended by resolution)

**Land (Miscellaneous Provisions) (Amendment) Regulation 2018 (L.N. 205)**

L.N. 205 is made by the Secretary for Financial Services and the Treasury to revise the fees and economic costs payable in respect of excavation permits relating to excavations in unleased land under section 29A(1) of the Interpretation and General Clauses Ordinance (Cap. 1) by virtue of section 19 of the Land (Miscellaneous Provisions) Ordinance (Cap. 28).<sup>1</sup>

2. L.N. 205 amends Schedule 3 to the Land (Miscellaneous Provisions) Regulations (Cap. 28A) to:

- (a) increase by 10% to 15% the fees payable for the issue of various types of excavation permits; and
- (b) increase by 7% to 8% the economic costs payable for extension of the validity period of such permits.

3. Details of the revised fees and economic costs are set out at Annex 1 to the Legislative Council ("LegCo") Brief (without file reference) issued by the Development Bureau in October 2018. The relevant fees and economic costs were last revised in 2015. According to paragraphs 2 and 3 of the LegCo Brief, the fees and economic costs are respectively revised to achieve full-cost recovery gradually in

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<sup>1</sup> Under section 19 of Cap. 28, the Chief Executive in Council may make regulations to prescribe the fees and economic costs in relation to excavations under Cap. 28. Pursuant to section 29A(1) of Cap. 1, the Financial Secretary (which means also the Secretary for Financial Services and the Treasury by virtue of section 3 of Cap. 1) may by similar subsidiary legislation increase or decrease, or otherwise vary, the amount of the fee or charge as prescribed in such regulations.

accordance with the "user-pays" principle and to reflect the updated economic loss due to traffic delay caused by the excavations.

4. As advised by the Clerk to the Panel on Development, the Administration provided an information paper (LC Paper No. CB(1)829/17-18(02)) on the proposed revision of fees and economic costs for excavations in unleased land under Cap. 28A. The paper was circulated to members of the Panel on 18 April 2018 and no requests were received from members to discuss the matter at a Panel meeting.

5. L.N. 205 will come into operation on 28 December 2018.

**Mutual Legal Assistance in Criminal Matters (Sweden) Order  
(Commencement) Notice (L.N. 206)**

6. Under section 1 of the Mutual Legal Assistance in Criminal Matters (Sweden) Order (Cap. 525AG), the Secretary for Security appoints 21 November 2018 as the day on which the Order comes into operation.

7. The Order was made in consequence of the arrangements for mutual legal assistance entered into between the Government of Hong Kong and the Government of the Kingdom of Sweden ("Sweden") and signed on 28 November 2013 ("the Sweden Agreement"). By the Order, which was approved by LegCo at its meeting of 22 June 2016, the Chief Executive in Council directs that, in relation to the Sweden Agreement annexed at Schedule 1 to the Order, the Mutual Legal Assistance in Criminal Matters Ordinance (Cap. 525), subject to certain modifications as specified in Schedule 2 to the Order, applies as between Hong Kong and Sweden. Pursuant to Article 20 of the Sweden Agreement, the Order will come into operation on the 30<sup>th</sup> day after the contracting parties have notified each other that their respective local requirements have been complied with.

8. No LegCo Brief has been issued by the Administration on L.N. 206.

9. As advised by the Clerk to the Panel on Security, the Panel has not been consulted on L.N. 206.

**Foreign Lawyers Practice (Amendment) Rules 2018  
(Commencement) Notice (L.N. 207)**

**Solicitors' Practice (Amendment) Rules 2018  
(Commencement) Notice (L.N. 208)**

**Summary Disposal of Complaints (Solicitors) (Amendment)  
Rules 2018 (Commencement) Notice (L.N. 209)**

10. By L.N. 207 to L.N. 209, the President of The Law Society of Hong Kong ("Law Society") has appointed 4 February 2019 as the day on which the following Rules (gazetted on 9 March 2018) come into operation:

- (a) Foreign Lawyers Practice (Amendment) Rules 2018 (L.N. 39 of 2018);
- (b) Solicitors' Practice (Amendment) Rules 2018 (L.N. 40 of 2018); and
- (c) Summary Disposal of Complaints (Solicitors) (Amendment) Rules 2018 (L.N. 41 of 2018).

11. L.N. 39 of 2018 amends the Foreign Lawyers Practice Rules (Cap. 159R) to provide that a principal of a foreign firm must not, except with the written approval of the Council of the Law Society, knowingly employ any unqualified person<sup>2</sup> who is in the part-time or full-time employment of a Hong Kong firm or another foreign firm. L.N. 40 of 2018 amends the Solicitors' Practice Rules (Cap. 159H) to provide that a Hong Kong firm must not, except with the written approval of the Council of the Law Society, knowingly employ any unqualified person who is in the part-time or full-time employment of another Hong Kong firm or a foreign firm. L.N. 41 of 2018 amends the Summary Disposal of Complaints (Solicitors) Rules (Cap. 159AD) to empower the Tribunal Convenor of the Solicitors Disciplinary Tribunal Panel to deal with a breach of the new provision to Cap. 159R added by L.N. 39 of 2018 in a summary manner and to provide for the fixed penalty and fixed investigation cost relating to the breach.

12. Members may refer to the LegCo Brief (without file reference) issued by the Law Society dated 26 October 2018 for more information on the Rules mentioned above.

13. As advised by the Clerk to the Administration of Justice and Legal Services, the Panel has not been consulted on L.N. 207 to L.N. 209.

### **Pharmacy and Poisons (Amendment) (No. 6) Regulation 2018 (L.N. 210)**

14. L.N. 210 is made by the Pharmacy and Poisons Board ("the Board") 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 12 items<sup>3</sup> of substances to Division A of

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<sup>2</sup> For the purposes of Cap. 159R and Cap. 159H, "unqualified person" means a person who is (a) not a foreign lawyer and (b) not qualified to act as solicitor under section 7 of Cap. 159 respectively.

<sup>3</sup> The 12 items are: (1) Aceclofenac; its salts; (2) Allergen extract of *Dermatophagoides farinae*; (3) Avelumab; (4) Benralizumab; (5) Bictegravir; its salts; (6) Brodalumab; (7) Dupilumab; (8) Lipegfilgrastim; (9) Olaratumab; (10) Pimobendan; its salts; (11) Ponatinib; its salts; and (12) Porfimer; its salts.

Schedule 1, Division A of Schedule 3 and Division A of Part 1 of the Poisons List set out in Schedule 10 to Cap. 138A.

15. The effect of L.N. 210 is that the newly added drug substances are subject to restrictions concerning their sale, supply, labelling and storage, and they can only be sold by retail upon a prescription given by a registered medical practitioner, registered dentist or registered veterinary surgeon. Further, the inclusion of those substances in the Poisons List means that they 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.

16. According to paragraph 4 of the LegCo Brief (File Ref.: FHB/H/23/4) issued by the Food and Health Bureau in October 2018, the Board considers the amendments appropriate in view of the potency, toxicity and potential side effects of the substances. Members may refer to Annex B to the LegCo Brief for details of the substances.

17. As advised by the Clerk to the Panel on Health Services, the Administration has not consulted the Panel on L.N. 210.

18. L.N. 210 came into operation on the day on which it was published in the Gazette, i.e. 26 October 2018.

### **Concluding observations**

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

Prepared by

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