

立法會
Legislative Council

LC Paper No. LS38/18-19

**Paper for the House Committee Meeting
on 11 January 2019**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 4 January 2019**

Tabling in LegCo : Council meeting of 9 January 2019

Amendment to be made by : Council meeting of 30 January 2019 (or that of 27 February 2019 if extended by resolution)

Dutiable Commodities (Amendment) Regulation 2019 (L.N. 1)

Under section 6 of the Dutiable Commodities Ordinance (Cap. 109), the Chief Executive in Council may by regulation prescribe fees (other than those referred to in section 6A of Cap. 109 relating to fees for liquor licences). Pursuant to section 29A of the Interpretation and General Clauses Ordinance (Cap. 1), the Financial Secretary (which means also the Secretary for Financial Services and the Treasury ("SFST") under section 3 of Cap. 1) may vary fees which have previously been fixed by subsidiary legislation made by the Chief Executive in Council.

2. L.N. 1 is made by SFST under section 29A of Cap. 1 by virtue of section 6 of Cap. 109. It amends the Schedule to the Dutiable Commodities Regulations (Cap. 109A) to increase by 10% to 20% 14 items of fees payable for:

- (a) licence for traders of dutiable commodities (five items);
- (b) transfer of, or substitution or amendment in licences (two items);
- (c) certificates and storage of dutiable commodities (three items); and
- (d) bonded warehouse supervision (four items).

3. According to the Legislative Council ("LegCo") Brief (File Ref.: TsyB R 00/625-2/1/0 (C)) issued by Financial Services and the Treasury Bureau on 2 January 2019, the fees (last revised in 2015) are increased with a view to recovering the full cost of the public services provided. After the revision, the cost recovery rates of the 14 items of fees will range from 29.6% to 90.2%. Members may refer to Annex A to the LegCo Brief for details of the fee revision.

4. According to paragraph 9 of the LegCo Brief, stakeholders including the relevant traders and customer liaison groups were consulted on the fee revision in October and November 2018. No adverse feedback was received by the Administration.

5. As advised by the Clerk to the Panel on Financial Affairs, at the meeting on 18 December 2018, the Panel was briefed on the Administration's proposal to revise 14 items of fees specified in Cap. 109A. Panel members did not raise question on the proposal and had no objection to the proposed revision in fees.

6. L.N. 1 comes into operation on 1 March 2019.

Merchant Shipping (Safety) (Passenger Ship Construction) (Ships Built Before 1 September 1984) (Amendment) (No. 2) Regulation 2018 (Amendment) Regulation 2019 (L.N. 2)

7. By the Merchant Shipping (Safety) (Passenger Ship Construction) (Ships Built Before 1 September 1984) (Amendment) (No. 2) Regulation 2018 (L.N. 255 of 2018), the Secretary for Transport and Housing ("STH") amends the Merchant Shipping (Safety) (Passenger Ship Construction) (Ships Built Before 1 September 1984) Regulations (Cap. 369AL). L.N. 255 of 2018 adds, among others, new regulation 133B to Cap. 369AL. It is an offence for a non-Hong Kong passenger ship which contravenes any of the provisions specified under regulation 133B to proceed or attempt to proceed to sea. L.N. 255 of 2018 comes into operation on 1 March 2019.

8. L.N. 2 is made by STH to amend regulation 133B to include a reference to regulation 4 of Cap. 369AL which provides for the general requirement on the structural strength of all passenger ships to which Cap. 369AL apply. The effect of L.N. 2 is to make contravention of regulation 4 an offence in relation to non-Hong Kong registered passenger ships so as to align with the similar offence imposed on Hong Kong registered passenger ships.

9. Members may refer to the LegCo Brief (File Ref.: THB(T) PML CR 8/10/80/13) issued by Transport and Housing Bureau in January 2019 and the Legal Service Division's further report on L.N. 255 of 2018 (LC Paper No. LS37/18-19) issued on 3 January 2019 for more information.

10. As advised by the Clerk to the Panel on Economic Development, the Panel has not been consulted specifically on L.N. 2.

11. L.N. 2 comes into operation on 27 February 2019, i.e. before the commencement of L.N. 255 of 2018.

Pharmacy and Poisons (Amendment) Regulation 2019

(L.N. 3)

12. L.N. 3 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 two items of substances, namely, Brigatinib; its salts, and Letemovir; its salts; its esters; their salts ("the substances") to Division A of Schedule 1, Division A of Schedule 3 and Division A of Part 1 of the Poisons List set out in Schedule 10 ("Poisons List").

13. The effect of L.N. 3 is that the substances are subject to restrictions concerning their sale, supply, labelling and storage, and that 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 the 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.

14. According to paragraph 4 of the LegCo Brief (File Ref.: FHB/H/23/4) issued by the Food and Health Bureau in January 2019, PPB 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.

15. As advised by the Clerk to the Panel on Health Services, the Administration has not consulted the Panel on L.N. 3.

16. L.N. 3 came into operation on the date of publication in the Gazette, i.e. 4 January 2019.

Concluding observations

17. 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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