

立法會
Legislative Council

LC Paper No. LS82/18-19

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

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 5 July 2019**

Tabling in LegCo : Council meeting of 16 October 2019

Amendment to be made by : Council meeting of 13 November 2019 (or that of 4 December 2019 if extended by resolution)

**Public Health and Municipal Services Ordinance (Public
Pleasure Grounds) (Amendment of Fourth Schedule)
(No. 2) Order 2019** **(L.N. 91)**

L.N. 91 is made by the Director of Leisure and Cultural Services ("Director") under section 106 of the Public Health and Municipal Services Ordinance (Cap. 132) to:

- (a) set aside nine places specified in Schedule 1 to L.N. 91 for use as public pleasure grounds with the effect that the general management and control of these new public pleasure grounds is vested in the Director;¹
- (b) provide that Hoi Bun Road Sitting-out Area specified in Schedule 2 to L.N. 91 ceases to be set aside for use as public pleasure ground;² and

¹ These nine places are: Eastern District Cultural Square, Kennedy Town Swimming Pool Sitting-out Area, Oil Street Sitting-out Area, Sheung On Street Pet Garden, Cattle Depot Art Park, Tit Shu Street Sitting-out Area, Tai Po Central Sitting-out Area, Tai Wai Soccer Pitch and Wu Tip Shan Sitting-out Area.

² According to paragraph 5 of the LegCo Brief, Hoi Bun Road Sitting-out Area has been integrated into the Kwun Tong Promenade.

- (c) update the list of public pleasure grounds specified in the Fourth Schedule to Cap. 132 to reflect the above changes.
- 2. According to paragraph 8 of the Legislative Council ("LegCo") Brief (with no file reference) issued by the Leisure and Cultural Services Department on 12 July 2019, the Administration has consulted the respective District Councils and they supported the amendments.
- 3. As advised by the Clerk to the Panel on Home Affairs, the Panel has not been consulted on L.N. 91.
- 4. L.N. 91 came into operation on the day of publication in the Gazette, i.e. 5 July 2019.

**Stamp Duty (Specification of Instruments) (Amendment)
Notice 2019**

(L.N. 92)

- 5. L.N. 92 is made by the Collector of Stamp Revenue ("Collector") under section 18F of the Stamp Duty Ordinance (Cap. 117). It amends the Schedule to the Stamp Duty (Specification of Instruments) Notice (Cap. 117B) by adding two kinds of instruments, namely, contract note of Hong Kong stock and its duplicate or counterpart chargeable with stamp duty under the First Schedule to Cap. 117 and instrument of transfer of Hong Kong stock and its duplicate or counterpart chargeable with stamp duty under that First Schedule (collectively "Instruments of Stock Transactions").
- 6. Under section 18F(1) of Cap. 117, a person may, in respect of an instrument specified in Part 1 of the Schedule to Cap. 117B, apply to the Collector for stamping the instrument without presenting it. At present, Part 1 of that Schedule consists of instruments related to property transactions only, namely conveyance on sale, agreement for sale and lease. The effect of L.N. 92 is to allow application for stamping of Instruments of Stock Transactions to be made without presenting them.
- 7. According to paragraphs 3 and 4 of LegCo Brief (File Ref: TsyB R 244/765-3-7/9/0(C)) issued by Financial Services and the Treasury Bureau on 3 July 2019, the Administration makes L.N. 92 in order to expand the e-Stamping services to cover Instruments of Stock Transactions so that stamping application can be made without presenting the original documents and stamp certificates can be generated electronically.

8. As advised by the Clerk to the Panel on Financial Affairs, the Panel was consulted at the meeting on 1 April 2019 on the Administration's proposal to amend Cap. 117B for implementing e-Stamping of the chargeable instruments of stock transactions. Members had no objection to the proposal and enquired about the benefits of the e-Stamping services, the types of instruments to be covered, and the implementation details.

9. L.N. 92 comes into operation on 16 December 2019.

Travel Industry Ordinance (Commencement) Notice 2019 (L.N. 93)

10. The Travel Industry Ordinance (Cap. 634) was published in the Gazette as Ord. No. 37 of 2018 on 7 December 2018 after the Travel Industry Bill was passed by LegCo on 29 November 2018. The main objects of Cap. 634 are to repeal the Travel Agents Ordinance (Cap. 218) and to establish a Travel Industry Authority ("TIA"); to provide for the licensing of travel agents, tourist guides and tour escorts and regulation of the activities of the licensees; to provide for the administration of the Travel Industry Compensation Fund, imposition of levies on travel agents and related matters. Before its enactment, a Bills Committee was formed to scrutinize the Travel Industry Bill ("Bills Committee"). Members may wish to refer to the Report of the Bills Committee (LC Paper No. CB(4)236/18-19) for further information on the scrutiny of the Bill. No provisions of Cap. 634 have been brought into operation so far.

11. L.N. 93 is made by the Secretary for Commerce and Economic Development ("Secretary") under section 1(2) of Cap. 634 to appoint 2 December 2019 as the day on which certain provisions of Cap. 634 come into operation. These provisions provide for various matters including the establishment of TIA, the establishment of a disciplinary committee by TIA for handling cases of complaint or suspected misconduct against the licensees further to TIA's investigation, empowering the Secretary to amend Schedules 1 to 9, which relate to the suitability requirements for travel agent licences or renewal of such licences and the qualification requirements for the authorized representative of travel agents, and related amendments to other Ordinances.

12. No LegCo Brief has been issued in respect of L.N. 93.

13. The Administration has previously advised members of the Bills Committee that Cap. 634 would be commenced in two phases. The Secretary would first appoint by a notice published in Gazette (i.e. L.N. 93) a day on which the provisions of Cap. 634 for establishing TIA come into operation.

Pending the formulation of relevant subsidiary legislation under Cap. 634 by the newly established TIA and the Secretary respectively, the remaining provisions of Cap. 634 will be brought into operation at a later stage. Members may wish to refer to paragraphs 127 to 129 of the Report of the Bills Committee for further details on the arrangements for the commencement of Cap. 634.

14. As advised by the Clerk to the Panel on Economic Development, the Panel has not been consulted on L.N. 93 and members of the Bills Committee had not expressed any objection to the commencement of Cap. 634 proposed by the Administration.

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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