

**立法會**  
**Legislative Council**

LC Paper No. LS69/19-20

**Paper for the House Committee Meeting  
on 8 May 2020**

**Legal Service Division Report on  
Subsidiary Legislation Gazetted on 29 April 2020**

**Tabling in LegCo** : Council meeting of 6 May 2020

**Amendment to be made by** : Council meeting of 3 June 2020 (or that of 24 June 2020 if extended by resolution)

**PART I CONCESSIONS ON SEWAGE AND FRESH WATER CHARGES**

**Sewage Services (Sewage Charge) (Amendment) (Charge Concessions) Regulation 2020** (L.N. 53)

**Waterworks (Amendment) (Charge Concessions) Regulation 2020** (L.N. 54)

L.N. 53 and L.N. 54 are made by the Chief Executive ("CE") in Council to provide for concessions on the sewage charge and charge for fresh water supply respectively during the period between 1 December 2019 and 30 November 2020 as follows:

- (a) L.N. 53 is made under section 12 of the Sewage Services Ordinance (Cap. 463) and section 29 of the Interpretation and General Clauses Ordinance (Cap. 1) to amend the Sewage Services (Sewage Charge) Regulation (Cap. 463A) in order to reduce the sewage charge by 75% (subject to a daily cap of \$411.05, or a monthly cap of approximately \$12,500,<sup>1</sup> for each meter covered by a water bill) in respect of fresh water supplied for construction, trade and certain shipping purposes specified in Part 3 of Schedule 1 to the Waterworks Regulations (Cap. 102A) ("specified purposes"); and

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<sup>1</sup> According to the Administration, the monthly cap is calculated by using the formula under the new section 2A(3) added to Cap. 463A by L.N. 53 and on the basis that "4 months shall be read as 121.64 days" pursuant to paragraph 2 of Part 3 of Schedule 1 to Cap. 102A.

- (b) L.N. 54 is made under section 37 of the Waterworks Ordinance (Cap. 102) and section 29 of Cap. 1 to amend Cap. 102A in order to reduce the charge for supply of fresh water for the specified purposes by 75% (subject to a daily cap of \$657.68, or a monthly cap of approximately \$20,000,<sup>2</sup> for each meter covered by a water bill).

2. In addition to the above amendments, L.N. 53 and L.N. 54 also provide for the refund of any excess payment of sewage charge or fresh water charge billed before 29 April 2020 and subsequently paid for any specified purpose in the light of the above concessions.

3. With respect to L.N. 53, under section 3(1) of Cap. 463, a consumer whose premises are connected to a communal drain or a communal sewer which is vested in and maintained by the Government for removing wastewater therefrom shall pay (or if there is a communal service, the agent of that service shall pay) to the Government a sewage charge at a prescribed rate based on the volume of water supplied to the premises by the Water Authority (i.e. the Director of Water Supplies ("DWS")), other than water supplied specifically for flushing purposes. According to section 12 of Cap. 463, CE in Council may make regulations prescribing the rate to be used for sewage charges. The prescribed rate (currently at \$2.92 per cubic meter of water supplied) is set out in Schedule 1 to Cap. 463A. Section 29 of Cap. 1 provides that where provision is made by subsidiary legislation in respect of fees or other charges, such subsidiary legislation may also provide for, among other matters, the reduction, waiver or refund (in whole or in part) of any such fee or charge.

4. Insofar as L.N. 54 is concerned, under section 20 of Cap. 102, unless otherwise expressly provided in Cap. 102, all charges arising in connexion with or in consequence of a supply of water provided by DWS from the waterworks shall be payable by the consumer (or, in case of a communal service, the agent of that service). According to section 37 of Cap. 102, CE in Council may make regulations for, among other matters, the charges payable under Cap. 102. Under regulation 46 of Cap. 102A, DWS shall charge the rates specified in Part 3 of Schedule 1 to Cap. 102A for fresh water supplied under Cap. 102.

5. The above concessionary measures were announced by the Financial Secretary ("FS") on 4 December 2019 and in the 2020-21 Budget Speech delivered on 26 February 2020, and by the Government or CE on 8 April 2020. Members may refer to the Legislative Council ("LegCo") Brief (File Ref: EP CR L/M 1/2020) issued by the Environment Bureau in April 2020 for further details on L.N. 53, and the LegCo Brief (no file reference) issued by the Development Bureau in April 2020

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<sup>2</sup> According to the Administration, the monthly cap is calculated by using the formula under the new section 46AB(3) added to Cap. 102A by L.N. 54 and on the basis that "4 months shall be read as 121.64 days" pursuant to paragraph 2 of Part 3 of Schedule 1 to Cap. 102A.

for further details on L.N. 54. Upon enquiry by Legal Service Division ("LSD"), the Administration has explained that it has received certain views from the public in relation to the above concessions and has taken these views into account when devising such concessions.

6. As advised by the Clerks to the Panel on Environmental Affairs and the Panel on Development respectively, neither Panel has been consulted or briefed on L.N. 53 or L.N. 54.

7. L.N. 53 and L.N. 54 came into operation on the day of their publication in the Gazette (i.e. 29 April 2020).

**PART II ABOLITION OF EMBARKATION FEES FOR  
CROSS-BOUNDARY FERRY PASSENGERS**

**Shipping and Port Control (Ferry Terminals)  
(Amendment) Regulation 2020 (L.N. 55)**

**Merchant Shipping (Local Vessels) (Ferry Terminals)  
(Amendment) Regulation 2020 (L.N. 56)**

**Merchant Shipping (Local Vessels) (Fees) (Amendment)  
Regulation 2020 (L.N. 57)**

L.N. 55

8. Under regulation 34 of the Shipping and Port Control (Ferry Terminals) Regulations (Cap. 313H), the passenger embarkation fee prescribed in Part 3 of Schedule 2 to Cap. 313H shall be paid by the owner of a ferry vessel in respect of each passenger embarking on the ferry vessel at a terminal. Such fee applies to, among others, a cross-boundary ferry vessel which plies regularly from a terminal for the conveyance of passengers between (a) Hong Kong and Macau and (b) Hong Kong and any other place in China ("Cross-boundary Ferry").<sup>3</sup> Under section 80 of the Shipping and Port Control Ordinance (Cap. 313), CE in Council may make regulation for, among other matters, the port dues, fees and charges payable in respect of vessels and port facilities under Cap. 313.

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<sup>3</sup> According to paragraph 2 of the LegCo Brief (File Ref: THB(T) CR 1/5481/98) issued by the Transport and Housing Bureau and the Marine Department on 28 April 2020, the Hong Kong-Macau Ferry Terminal and China Ferry Terminal currently provide a total of 13 routes of Cross-boundary Ferry services connecting Hong Kong, Macau and 11 Mainland cities, whereas Tuen Mun Ferry Terminal provides Cross-boundary Ferry services connecting Hong Kong and Macao.

9. L.N. 55 is made by CE in Council under section 80 of Cap. 313 primarily to repeal regulation 34 of and Part 3 of Schedule 2 to Cap. 313H thereby abolishing the embarkation fee(s) prescribed therein.

L.N. 56 and L.N. 57

10. Under section 29 of the Merchant Shipping (Local Vessels) (Ferry Terminals) Regulation (Cap. 548B), the owner of a Cross-boundary Ferry or his agent shall pay the passenger embarkation fee(s) in respect of each passenger embarking on the vessel at a terminal. The amounts of such fees are prescribed in section 3(4) of the Merchant Shipping (Local Vessels) (Fees) Regulation (Cap. 548J). Under section 88 of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548), FS may make regulation to prescribe or provide for, among others, fees in respect of the grant of facilities under or in connection with Cap. 548. Further, the Secretary for Transport and Housing ("STH") is empowered under section 89 of Cap. 548 to make regulations for certain matters including the provision of port facilities and control over their use, and regulation of embarkation of persons.

11. L.N. 56 is made by STH under section 89 of Cap. 548 primarily to repeal section 29 of Cap. 548B. Consequentially, L.N. 57 is made by the Secretary for Financial Services and the Treasury ("SFST")<sup>4</sup> under section 88 of Cap. 548 to repeal section 3(4) of Cap. 548J. The effect of repealing the aforesaid provisions is to abolish the embarkation fee(s) payable under section 29 of Cap. 548B.

12. According to paragraph 16 of the LegCo Brief (File Ref: THB(T) CR 1/5481/98) issued by the Transport and Housing Bureau and the Marine Department on 28 April 2020, the Cross-boundary Ferry operators have been consulted and welcome the proposed fee waiver. Members may refer to the LegCo Brief for further details.

13. As advised by the Clerk to Panel on Transport, the Panel was consulted by the Administration on the proposal together with other initiatives in the 2019 Policy Address at the Panel meeting on 25 October 2019. Members did not raise any objection to the legislative proposal.

14. L.N. 55 to L.N. 57 will come into operation on 1 August 2020.

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<sup>4</sup> By virtue of section 3 of Cap. 1, FS means FS and SFST.

### **PART III ADJUSTMENT OF INTEREST ON TAX RESERVE CERTIFICATES**

#### **Tax Reserve Certificates (Rate of Interest) (Consolidation) (Amendment) (No. 2) Notice 2020**

**(L.N. 58)**

15. Under rule 7(2)(h) of the Tax Reserve Certificates (Fourth Series) Rules (Cap. 289A), in relation to a tax reserve certificate issued by the Commissioner of Inland Revenue on or after 11 April 1980, the rate of interest payable on any such certificate accepted for payment of tax is such as may be fixed by FS from time to time and is in force at the date of issue of the relevant tax reserve certificate. Under rule 7(2A) of Cap. 289A, notice of the rate of interest so fixed shall be published in the Gazette.

16. L.N. 58 is made by SFST under rule 7(2)(h) of Cap. 289A to amend the Schedule to the Tax Reserve Certificates (Rate of Interest) (Consolidation) Notice (Cap. 289B) to specify that the rate of interest payable on tax reserve certificates issued on or after 4 May 2020 shall be 0.2333% per annum. The rate of interest was last fixed at 0.3167% per annum and took effect on 31 January 2020 under the Tax Reserve Certificates (Rate of Interest) (Consolidation) (Amendment) Notice 2020 (L.N. 11 of 2020) published in the Gazette on the same day.

17. No LegCo Brief has been issued for L.N. 58. Upon enquiry by LSD, the Administration has advised that the adjustment is a routine exercise to update the interest rate payable on tax reserve certificates, for which the Administration considers it unnecessary to issue a LegCo Brief or to consult the public.

18. As advised by the Clerk to the Panel on Financial Affairs, the Panel has not been consulted on L.N. 58.

19. L.N. 58 came into operation on the day of its publication in the Gazette (i.e. 29 April 2020).

20. 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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