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**Paper for the House Committee Meeting
on 22 May 2020**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 8 May 2020**

Tabling in LegCo : Council meeting of 13 May 2020

Amendment to be made by : Council meeting of 10 June 2020 (or that of 8 July 2020 if extended by resolution)

Building (Minor Works) (Amendment) Regulation 2020 (L.N. 60)

Building (Planning) (Amendment) Regulation 2020 (L.N. 61)

L.N. 60 and L.N. 61 are made by the Secretary for Development under section 38 of the Buildings Ordinance (Cap. 123) to amend the Building (Minor Works) Regulation (Cap. 123N) and the Building (Planning) Regulations (Cap. 123F) respectively.

L.N. 60

2. Cap. 123N provides for various matters relating to the implementation of the minor works control system ("MWCS") under which building owners may carry out designated minor works ("MW") in accordance with simplified requirements prescribed in the rules and regulations made under Cap. 123 without the need to obtain prior approval of plans and consent to the commencement of such works from the Building Authority ("BA"), i.e. the Director of Buildings (section 2(1) of Cap. 123). Currently, there are 126 items of building works designated as MW under Part 3 of Schedule 1 to Cap. 123N. These MW are classified into three classes¹ (i.e. Classes I, II and III, with more controlling measures imposed on Class I MW items) according to their scale, complexity and the safety risk that they may pose.

¹ Class I MW items include relatively complicated MW (e.g. Item 1.34: building works associated with removal of any stairlift or lifting platform). Class II MW items are mainly MW of comparatively low complexity and safety risk (e.g. Item 2.38: removal of any unauthorized structure hung underneath the soffit of, or fixed to, a balcony or canopy other than a cantilevered slab). Class III MW items are mainly common household MW (e.g. Item 3.10: removal of any supporting structure for an antenna or transceiver located on the roof of a building).

3. The main purpose of L.N. 60 is to amend Cap. 123N to extend the coverage of the MWCS to more small-scale building works. The major amendments to Cap. 123N by L.N. 60 include:

- (a) amendments to Schedule 1 to modify the description of certain existing MW items (e.g. amended item 1.7 relating to erection or alteration of solid fence wall), to group certain existing MW items into a single item (e.g. amended item 3.27 relating to erection, alteration or removal of metal supporting frame projecting from an external wall of a building), and to designate new MW (e.g. new item 1.45 relating to erection or alteration of trellis on a roof of a building);
- (b) addition of a new Type H MW (new Division 8 of Part 2 of Schedule 1) and certain new MW items (e.g. new item 1.46 relating to erection or alteration of metal ventilation duct) to Schedule 1 for carrying out works relating to ventilation systems inside a building;
- (c) amendments to Schedule 2 to modify the description of certain existing items of designated exempted works ("DEW")² (e.g. amended item 5 relating to removal of solid fence wall) and to prescribe new DEW (e.g. new item 16 relating to erection or alteration of external mesh fence or metal railing on-grade); and
- (d) other amendments:
 - (i) addition of a new Division 7 (sections 26B and 26C) to empower BA to amend the register of MW contractors, and to issue a new certificate of registration to a registered MW contractor to replace the contractor's existing certificate of registration, in circumstances that necessitate an amendment or replacement;
 - (ii) amendment to section 28 to provide for the appointment of a registered specialist contractor whose name is entered in the ventilation works category in the specialist contractors sub-register for the purpose of Cap. 123 in respect of the new Type H MW items referred to in paragraph 3(b) above; and
 - (iii) consequential amendments to the references to MW items in sections 28 and 62 as a result of the changes made to the list of MW in Schedule 1.

² DEW are building works that are very simple and of a very small scale. By virtue of section 41(3B) of Cap. 123, DEW prescribed in the rules and regulations under Cap. 123 may be carried out without the approval of plans, consent to commence works, or appointment of prescribed building professionals or registered contractors.

4. Members may refer to Appendix II to the Legislative Council ("LegCo") Brief (without file reference) issued by the Development Bureau on 6 May 2020 for a summary of amendments to MW items in Schedule 1 and DEW items in Schedule 2 to Cap. 123N.

5. L.N. 60 also adds a new Part 11 to Cap. 123N to provide for transitional arrangements for:

- (a) certain building works already commenced before the commencement date of L.N. 60 ("commencement date") to remain as MW or DEW on and after the commencement date;
- (b) a pre-existing registration as a registered MW contractor before the commencement date to continue to have effect for the remaining part of its validity period that falls on or after the commencement date; and
- (c) an application for registration as a registered MW contractor made and pending immediately before the commencement date to be regarded as an application made under the amended Cap. 123N.

L.N. 61

6. Section 31(1)(a) of Cap. 123 provides that no building or other structure shall be erected in, over, under or upon any portion of any street unless the building or other structure complies with the relevant criteria stipulated in Part II of Cap. 123F. Regulation 7 of Cap. 123F sets out the criteria for eaves, cornices, mouldings, other architectural projections, pipes, gutters, drying racks and supporting structures for air-conditioning units.

7. L.N. 61 amends Cap. 123F by replacing the existing regulation 7 with a new one to include the criteria for the following structures newly added to regulation 7:

- (a) supporting frames for light fitting, or antennae or transceivers for public telecommunications services;
- (b) retractable awnings; and
- (c) metal ventilation ducts (including their associated supporting frames).

Consultation

8. According to paragraphs 5 and 12 of the LegCo Brief, the Development Bureau consulted the Building Sub-Committee of the Land and Development Advisory Committee, the Authorized Persons, Registered Structural Engineers and Registered Geotechnical Engineers Committee, and

the Technical Committee of the MWCS on the proposed amendments on several occasions with the latest one in November 2019, and members of the abovementioned committees were generally supportive of the amendments.

9. As advised by the Clerk to the Panel on Development, the Panel was consulted on the legislative proposal at its meeting held on 26 February 2019. Members generally welcomed the inclusion of more MW items into the MWCS, but were concerned about the regulation of MW, including whether the Administration had adequate manpower to carry out audit checks/site inspections against irregularities and non-compliant cases after the expansion of MW items.

Commencement of L.N. 60 and L.N. 61

10. L.N. 60 and L.N. 61 come into operation on 1 September 2020 which, according to paragraph 9 of the LegCo Brief, is more than three months after the date of gazettal with a view to allowing sufficient time for publicity and public education.

Companies (Fees) (Amendment) Regulation 2020 (L.N. 62)

11. L.N. 62 is made by the Financial Secretary ("FS") under section 26 of the Companies Ordinance (Cap. 622) and section 29 of the Interpretation and General Clauses Ordinance (Cap. 1) to amend the Companies (Fees) Regulation (Cap. 622K) to:

- (a) add a new section 6 (which expires at midnight on 30 September 2022) to the effect that the annual registration fees specified in Schedule 1 to Cap. 622K and payable for annual returns of private companies, public companies, companies limited by guarantee and registered non-Hong Kong companies are waived for two years if the annual returns are delivered to the Registrar of Companies ("Registrar") on time (i.e. within 42 days after the company's return date for a private company, public company and company limited by guarantee, or within 42 days after the anniversary of registration of a registered non-Hong Kong company), and within the concession period (i.e. from 1 October 2020 to 30 September 2022 (both dates inclusive))³; and
- (b) amend Schedule 1 to reduce by about 10% the fees payable in relation to the registration of companies and the registration of increases in the number of members of companies limited by

³ Currently, the registration fees for annual returns of private companies, public companies, companies limited by guarantee and registered non-Hong Kong companies under Schedule 1 to Cap. 622K are \$105, \$140, \$105 and \$180 respectively.

guarantee in cases where the relevant documents (such as the incorporation forms and copies of the articles of association of the companies intended to be formed, and notices of the increase in number of members) are delivered to the Registrar in electronic form.

12. The above concessionary measures were announced by FS in the 2020-21 Budget.⁴ Members may refer to the LegCo Brief (File Ref: CR/1/4C(2020)Pt. 2) dated 6 May 2020 issued by the Financial Services and the Treasury Bureau for further details.

13. As advised by the Clerk to the Panel on Financial Affairs, the Administration has provided an information paper to the Panel on the proposed waiver of registration fees for annual returns and reduction of certain fees prescribed in Cap. 622K. The paper was circulated to Panel members vide LC Paper No. CB(1)537/19-20(01) on 14 April 2020. No member has raised enquiries on the paper.

14. Save for section 4(2) (relating to a consequential amendment to Schedule 1 to Cap. 622K after the expiry of the new section 6 as stated in paragraph 11(a) above) which comes into operation on 1 October 2022, L.N. 62 comes into operation on 1 October 2020.

Registration of Persons (Application for New Identity Cards) Order 2018 (Amendment) Order 2020 (L.N. 63)

15. The replacement of Hong Kong identity cards ("HKID") under the Territory-wide Identity Card Replacement Exercise ("Replacement Exercise") has been interrupted due to the suspension of service of smart identity card replacement centres to contain the coronavirus disease 2019 (COVID-19). L.N. 63 is made by the Secretary for Security under section 7B(1) of the Registration of Persons Ordinance (Cap. 177) to amend the Registration of Persons (Application for New Identity Cards) Order 2018 (Cap. 177J). It revises the implementation of the second and the third cycles of the Replacement Exercise by L.N. 50 of 2019 and L.N. 168 of 2019 respectively which directed that, among others, holders of valid identity cards who were born in 1957 to 1963 or in 1970 to 1976 must apply for a new identity card within specified periods.

16. L.N. 63 provides for new specified periods in column 2 of Schedule 2 to Cap. 177J for the holders of valid identity cards who were born in 1957 to 1963 and in 1970 to 1976 to apply for new HKIDs. It also provides for substituted application periods ("substituted periods") in column 3

⁴ Paragraph 27(e) of the 2020-21 Budget Speech.

of Schedule 2 to Cap. 177J if none of the replacement centres is in service for public health reasons for 21 working days or more during the period from 11 May 2020 to 27 July 2020. The new specified periods and the substituted periods as specified in L.N. 63 are as follows:

Year of birth	Original specified period	New specified period	Substituted period
1957, 1958 or 1959	From 16 November 2019 to 17 February 2020	From 16 November 2019 to 27 July 2020	From 16 November 2019 to 22 September 2020
1960 or 1961	From 18 February 2020 to 20 April 2020	From 18 February 2020 to 27 July 2020	From 18 February 2020 to 22 September 2020
1962 or 1963	From 21 April 2020 to 24 June 2020	From 28 July 2020 to 22 September 2020	From 23 September 2020 to 21 November 2020
1970, 1971 or 1972	From 26 June 2020 to 16 September 2020	From 23 September 2020 to 7 December 2020	From 23 November 2020 to 5 February 2021
1973 or 1974	From 17 September 2020 to 13 November 2020	From 8 December 2020 to 28 January 2021	From 6 February 2021 to 30 March 2021
1975 or 1976	From 14 November 2020 to 8 January 2021	From 29 January 2021 to 19 March 2021	From 31 March 2021 to 22 May 2021

17. L.N. 63 further provides for the new specified period (from 18 February 2020 to 27 July 2020, instead of the original period from 18 February 2020 to 20 April 2020) and substituted period (from 18 February 2020 to 22 September 2020) in section 5(3) of Cap. 177J for certain members of District Councils⁵ to apply for new HKIDs.

18. Under section 7B(3) of Cap. 177, a person who without reasonable excuse fails to apply for a new identity card in accordance with the requirements under Cap. 177J commits an offence and is liable to a fine at level 2 (currently \$5,000).

19. According to paragraph 12 of the LegCo Brief (no file reference) issued by the Security Bureau in May 2020, a press release on the new arrangement of the Replacement Exercise will be issued by the Immigration Department. If the new arrangement has to be adjusted for public health reasons as mentioned in paragraph 16 above, the Immigration Department will inform the public through various channels in advance as far as possible.

⁵ Under section 5(4) of Cap. 177J, these members do not include those with target identity cards showing the following year of birth – 1955, 1956, 1957, 1958, 1959, 1960, 1961, 1964, 1965, 1966, 1967, 1968, 1969, 1985 or 1986.

20. As advised by the Clerk to the Panel on Security, the Panel has not been consulted on L.N. 63. A subcommittee was formed to study the Registration of Persons (Application for New Identity Cards) Order 2018 (Amendment) Order 2019 in relation to the launch of the second cycle of the Replacement Exercise. Members may wish to refer to the report of the Subcommittee (LC Paper No. CB(2)1506/18-19) for details of its deliberation.

21. L.N. 63 came into operation on 11 May 2020.

Designation of Libraries (Amendment) Order 2020 (L.N. 64)

22. L.N. 64 is made by the Director of Leisure and Cultural Services ("Director") under section 105K of the Public Health and Municipal Services Ordinance (Cap. 132) to amend the Schedule to the Designation of Libraries Order (Cap. 132O) to:

- (a) cancel the designation of the ground and mezzanine floors of the building known as Yau Ma Tei Multi-storey Car Park, situated at Yau Ma Tei, Kowloon as a library ("old library"); and
- (b) designate Block A of the ground floor of, and the first to third floors of, No. 251, Shanghai Street, Yau Ma Tei, Kowloon as a library ("new library").

23. The effect of L.N. 64 is that the management and control of the new library is vested in the Director and the old library ceases to be a public library.

24. According to paragraph 3 of the LegCo Brief (no file reference) dated 4 May 2020 issued by the Leisure and Cultural Services Department, the old library will be closed and cease operation upon the commissioning of the new library. The new library will be opened for public use with effect from 28 December 2020.

25. As advised by the Clerk to the Panel on Home Affairs, the Panel has not been consulted on L.N. 64.

26. L.N. 64 comes into operation on 28 December 2020.

Practising Certificate (Solicitors) (Amendment) Rules 2020 (L.N. 65)

27. Under section 73 of the Legal Practitioners Ordinance (Cap. 159), the Council of The Law Society of Hong Kong ("the Council") may, subject to the prior approval of the Chief Justice, make rules regulating the issue to

solicitors of practising certificates and providing for the fees payable for solicitors' practising certificates.

28. L.N. 65, made by the Council under section 73 of Cap. 159 with the prior approval of the Chief Justice, amends the Practising Certificate (Solicitors) Rules (Cap. 159L) to:

- (a) reduce the fee payable for an application for a solicitor's practising certificate for the practice year beginning on 1 January 2021 and ending on 31 December 2021 from \$6,500 to \$1,950; and
- (b) increase the fee payable for an application for a solicitor's practising certificate for the practice year beginning on or after 1 January 2022 from \$1,950 to \$6,500.

29. According to Part C of the LegCo Brief (with no file reference) issued by The Law Society of Hong Kong ("Law Society") on 8 May 2020, the businesses of law firms have been adversely affected by the economic downturn and the prolonged adjournment of court proceedings which have only resumed from 4 May 2020. To alleviate their cash flow problem, the Law Society proposes to amend Cap. 159L to effect a substantial reduction of the fee payable for an application for a solicitor's practising certificate for 2021.

30. As advised by the Clerk to the Panel on Administration of Justice and Legal Services, the Panel has not been consulted on L.N. 65.

31. Save for rule 4 (relating to the amendment as stated in paragraph 28(b) above) which comes into operation on 1 January 2022, L.N. 65 came into operation on the day on which it is published in the Gazette (i.e. 8 May 2020).

Import and Export (General) Regulations (Amendment of Schedule 7) Notice 2020 (L.N. 66)

32. Part 6 of and Schedule 7 to the Import and Export (General) Regulations (Cap. 60A) implement an international certificate scheme known as the Kimberley Process Certification Scheme ("Scheme")⁶ in Hong Kong. Regulation 6DE in Part 6 of Cap. 60A provides, among other things, that no person shall import rough diamonds from, or export rough diamonds to, a country or place other than a specified country or place. Schedule 7 specifies

⁶ The Scheme was developed by the Kimberley Process, an international negotiating forum that seeks to stop trade in rough diamonds used by rebel movements or their allies to finance conflicts aimed at undermining legitimate governments. Under the Scheme, participating economies cannot trade rough diamonds with non-participants.

the countries or places for which the Scheme is effective, and other countries or places that are permitted by the Kimberley Process to trade rough diamonds with those countries or places. "Swaziland" is at present one of the countries specified in Schedule 7 to Cap. 60A.

33. L.N. 66 is made by the Director-General of Trade and Industry under regulation 7(2) of Cap. 60A to delete "Swaziland" from, and add "Eswatini" to, the English text of Schedule 7 to Cap. 60A to reflect the change of the English name of "Swaziland" to "Eswatini". The effect is that rough diamond traders registered under regulation 6DD of Cap. 60A may lawfully trade in rough diamonds with Eswatini (which was renamed from Swaziland) under the Scheme.

34. According to paragraph 4 of the LegCo Brief (File Ref: TRA CR 1651/3/1) dated 6 May 2020 issued by the Trade and Industry Department, Swaziland was renamed as Eswatini in April 2018 while its Chinese name remains unchanged. The change was duly noted at the Kimberley Process Plenary Meeting held in New Delhi in November 2019.

35. As advised by the Clerk to the Panel on Commerce and Industry, the Panel has not been consulted on L.N. 66.

36. L.N. 66 comes into operation on 10 July 2020.

**Veterinary Surgeons Registration (Amendment) Ordinance
2015 (Commencement) (No. 2) Notice 2020 (L.N. 67)**

37. L.N. 67 is made by the Secretary for Food and Health ("SFH") under section 1(2) of the Veterinary Surgeons Registration (Amendment) Ordinance 2015 (Ord. No. 6 of 2015) ("Amendment Ordinance") to appoint 1 October 2020 as the day on which the uncommenced provisions of the Amendment Ordinance come into operation.

38. The Amendment Ordinance amends the Veterinary Surgeons Registration Ordinance (Cap. 529) to broaden the membership of the Veterinary Surgeons Board ("VSB"), including the inclusion of six elected members who are registered veterinary surgeons. Other amendments to Cap. 529 include the revision of the complaint-handling framework against registered veterinary surgeons. A Bills Committee was formed to scrutinize the Veterinary Surgeons Registration (Amendment) Bill 2014. Members may wish to refer to the Report of the Bills Committee (LC Paper No. CB(3)507/14-15) for further information.

39. By L.N. 20 of 2020, certain provisions of the Amendment Ordinance that provide for matters relating to the election of the six members

to VSB were brought into operation on 24 April 2020. The uncommenced provisions of the Amendment Ordinance that are brought into operation by L.N. 67 relate mainly to the membership of VSB, the terms of office of Chairperson and members appointed by SFH to VSB ("appointed members"), and the complaint-handling framework against registered veterinary surgeons.

40. According to paragraph 4 of the LegCo Brief (File Ref: FHB/F/6/12/12) dated 6 May 2020 issued by the Food and Health Bureau, the election results of the six members to VSB are expected to be ready for announcement in September 2020 so that the newly constituted VSB comprising both appointed members and elected members can come into operation in full in October 2020.

41. As advised by the Clerk to the Panel on Food Safety and Environmental Hygiene, the Panel has not been consulted on L.N. 67.

Concluding observations

42. The Legal Service Division is scrutinizing the legal and drafting aspects of L.N. 60 and will report further, if necessary. No difficulties have been identified in relation to the legal and drafting aspects of L.N. 61 to L.N. 67.

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