

**立法會**  
**Legislative Council**

LC Paper No. LS89/19-20

**Paper for the House Committee Meeting  
on 5 June 2020**

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

**Tabling in LegCo** : Council meeting of 3 June 2020

**Amendment to be made by** : Council meeting of 24 June 2020 (or the first meeting of the next session if extended by resolution)

**PART I WAIVER OF REGISTRATION AND RELATED FEES FOR  
HEALTHCARE PROFESSIONALS**

<b>Dentists (Fee Concessions) Regulation 2020</b>	<b>(L.N. 98)</b>
<b>Dental Hygienists (Fee Concessions) Regulation 2020</b>	<b>(L.N. 99)</b>
<b>Medical Practitioners (Fee Concessions) Regulation 2020</b>	<b>(L.N. 100)</b>
<b>Midwives (Fee Concessions) Regulation 2020</b>	<b>(L.N. 101)</b>
<b>Registered Nurses (Fee Concessions) Regulation 2020</b>	<b>(L.N. 102)</b>
<b>Enrolled Nurses (Fee Concessions) Regulation 2020</b>	<b>(L.N. 103)</b>
<b>Medical Laboratory Technologists (Fee Concessions) Regulation 2020</b>	<b>(L.N. 104)</b>
<b>Occupational Therapists (Fee Concessions) Regulation 2020</b>	<b>(L.N. 105)</b>
<b>Optometrists (Fee Concessions) Regulation 2020</b>	<b>(L.N. 106)</b>
<b>Radiographers (Fee Concessions) Regulation 2020</b>	<b>(L.N. 107)</b>
<b>Physiotherapists (Fee Concessions) Regulation 2020</b>	<b>(L.N. 108)</b>
<b>Chiropractors (Fee Concessions) Regulation 2020</b>	<b>(L.N. 109)</b>

**Chinese Medicine Practitioners (Fee Concessions)  
Regulation 2020** (L.N. 110)

**Revenue (Reduction of Fees for Pharmacists' Certificates of  
Registration and Practising Certificates) Order 2020** (L.N. 111)

L.N. 98 to L.N. 111 are made by the Chief Executive ("CE") in Council<sup>1</sup> under various Ordinances to provide for certain fee concessions to the following healthcare professionals with the effect that the statutory fees payable in respect of their registrations or enrolments, and/or the issuance or renewal of the relevant practising certificates, are waived for three years from 1 July 2020 to 30 June 2023, both dates inclusive ("concession period"). Details of the fee concessions and the professionals to which these concessions are applicable are provided at the Annex. In gist:

- (a) L.N. 98 and L.N. 99 are made under section 29(1) of the Dentists Registration Ordinance (Cap. 156) to provide fee concessions for dentists and dental hygienists;
- (b) L.N. 100 is made under section 33(1) of the Medical Registration Ordinance (Cap. 161) to provide fee concessions for medical practitioners;
- (c) L.N. 101 is made under section 23(1) of the Midwives Registration Ordinance (Cap. 162) to provide fee concessions for midwives;
- (d) L.N. 102 and L.N. 103 are made under section 27(1) of the Nurses Registration Ordinance (Cap. 164) to provide fee concessions for registered and enrolled nurses respectively;
- (e) L.N. 104 to L.N. 108 are made under section 29(1) of the Supplementary Medical Professions Ordinance (Cap. 359) to provide fee concessions for medical laboratory technologists, occupational therapists, optometrists, radiographers and physiotherapists respectively;
- (f) L.N. 109 is made under section 27(a) of the Chiropractors Registration Ordinance (Cap. 428) to provide fee concessions for chiropractors;

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<sup>1</sup> Section 3 of the Interpretation and General Clauses Ordinance (Cap. 1) provides that CE in Council means CE acting after consultation with the Executive Council.

- (g) L.N. 110 is made under section 161(1) of the Chinese Medicine Ordinance (Cap. 549) to provide fee concessions for Chinese medicine practitioners; and
- (h) L.N. 111 is made under section 39A(a) of the Public Finance Ordinance (Cap. 2) to provide fee concessions for pharmacists.

2. However, the above concessions are not applicable in certain situations such as:

- (a) where a person whose name has been removed or deleted from a register or roll (whether the deletion or removal occurs before or during the concession period) applies, during the concession period, for his name to be re-entered onto the register or roll concerned (see, for example, L.N. 98 to L.N.100 and L.N. 111);
- (b) where a person whose name is already in the Specialist Register under Cap. 156 during the concession period (L.N. 98); or where a person is already registered for limited registration under Part III of the General Register provided under Cap. 161 and applies for one or more further limited registrations under Cap. 161 (L.N. 100); and
- (c) any extra number of practising certificates (not being a duplicate) of the same type beyond that required under the relevant Ordinance which are issued or renewed during the concession period.

3. The above concessions were announced by CE in April 2020. Members may refer to the Legislative Council ("LegCo") Brief (File Ref: FHB/H/16/123/7) issued by the Food and Health Bureau dated 27 May 2020 for further details. Upon enquiry by the Legal Service Division ("LSD"), the Administration has confirmed that no public consultation has been conducted in relation to L.N. 98 to L.N. 111, as the relevant concessions are initiated by the Government as a token of appreciation towards the healthcare professionals in the fight against the COVID-19 epidemic.

4. As advised by the Clerk to the Panel on Health Services, the Administration has not consulted the Panel on the above items of subsidiary legislation.

5. L.N. 98 to L.N. 111 will come into operation on 1 July 2020 and expire at midnight on 30 June 2023.

## **PART II TAX EXEMPTION FOR BUSINESSES AND INDIVIDUALS AFFECTED BY THE COVID-19 EPIDEMIC**

### **Exemption from Salaries Tax and Profits Tax (Anti-epidemic Fund) Order (L.N. 112)**

6. L.N. 112 is made by CE in Council under section 87 of the Inland Revenue Ordinance (Cap. 112) to provide exemption from payment of salaries tax or profits tax for the year of assessment 2019-2020 and subsequent years in respect of certain sums provided under the Anti-epidemic Fund ("Fund").

7. In order to provide financial assistance or relief to enterprises and members of the public affected by the COVID-19 epidemic, the Government established the Fund by a Declaration of Trust made by The Financial Secretary Incorporated on 21 February 2020 with a commitment of \$30 billion approved by the LegCo Finance Committee ("FC"). FC further approved the injection of \$120.5 billion into the Fund in April 2020. The payments made under the Fund will by default entail certain tax liabilities in that financial assistance or relief provided to business sectors will be deemed as trading receipts pursuant to section 15(1)(c) of Cap. 112 and will therefore be subject to profits tax. Similarly, financial assistance or relief provided to employees will be considered as forming part of "income from employment" and therefore subject to salaries tax under section 8(1) of Cap. 112.

8. The effect of L.N. 112 is as follows:

- (a) a benefitted party (i.e. a person or class of persons who is provided with financial assistance or relief by way of payments under the Fund, or a person or class of persons who, by virtue of such payments is to provide financial assistance or relief to another person) is exempt from the payment of salaries tax or profits tax (whichever is applicable) for the year of assessment commencing on 1 April 2019 and for all subsequent years of assessment in respect of sums received by or accrued to him/her under the Fund;
- (b) the exemption does not apply if the sums received by or accrued to the person as trading receipts arising in or derived from Hong Kong from a trade, profession or business carried on in Hong Kong, which include proceeds of sale of goods (e.g. sales proceeds from sales of masks), consideration for provision of services (e.g. administrative fees received by service contractors for implementing the Fund), and rental incomes (e.g. reimbursements received by landlords and operators of arts spaces for offering rental waivers to their tenants); and

- (c) if sums are paid under the Fund to recipients on a matching arrangement<sup>2</sup>, such sums will also be exempt from tax even if they are trading receipts.

9. Upon enquiry by LSD on the reason for applying the tax exemption in L.N. 112 for the year of assessment commencing on 1 April 2019 and for all subsequent years of assessment, the Administration has explained as follows:

- (a) firstly, amongst the two rounds of financial assistance or relief measures rolled out since the establishment of the Fund on 21 February 2020, some involved the grant of financial assistance within the year of assessment commencing on 1 April 2019, while financial assistance for the majority of measures will be granted in the year of assessment commencing on 1 April 2020; and
- (b) secondly, it is the Administration's policy intent that the tax exemption will apply to further measures under the Fund as appropriate (see paragraph 12 of the LegCo Brief (File Ref.: TsyB R 183/700-6/10/0(C)) issued by the Financial Services and the Treasury Bureau in May 2020). As the Administration cannot preclude the possibility that further relief measures would be implemented for which the distribution of financial assistance would go beyond the 2019-2020 and 2020-2021 years of assessment, L.N. 112 is made to apply in relation to salaries tax and profits tax arising from certain sums provided under the Fund that are chargeable for the year of assessment commencing on 1 April 2019 and for all subsequent years of assessment so as to consistently reflect such policy intent.

10. According to paragraphs 16 and 18 of the LegCo Brief, the Administration is of the view that the overall financial impact of the proposal should not be significant, and no public consultation is considered necessary.

11. As advised by the Clerk to the Panel on Financial Affairs, the Panel has not been consulted on L.N. 112.

12. L.N. 112 came into operation on the date of its publication in the Gazette (i.e. 29 May 2020).

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<sup>2</sup> "Matching arrangement" means "matching a financial commitment made by a person under a fund programme (excluding any financial commitment that is to be fully reimbursed under the fund programme), with reference to (a) a percentage of; or (b) a ratio of, the financial commitment". An example is the financial assistance received by the MTR Corporation Limited, which is subject to a 50:50 matching arrangement for providing a 20% fare concession to passengers.

## **PART III TAX RESERVE CERTIFICATES**

### **Tax Reserve Certificates (Rate of Interest) (Consolidation) (Amendment) (No. 3) Notice 2020**

**(L.N. 113)**

13. L.N. 113 is made by the Secretary for Financial Services and the Treasury under rule 7(2)(h) of the Tax Reserve Certificates (Fourth Series) Rules (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 1 June 2020 shall be 0.2000% per annum. The rate of interest was last fixed at 0.2333% per annum and took effect on 29 April 2020 under the Tax Reserve Certificates (Rate of Interest) (Consolidation) (Amendment) (No. 2) Notice 2020 (L.N. 58 of 2020) published in the Gazette on the same day.

14. No LegCo Brief has been issued for L.N. 113. 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, and the Administration considers it unnecessary to issue a LegCo Brief or to consult the public.

15. As advised by the Clerk to the Panel on Financial Affairs, the Panel has not been consulted on L.N. 113.

16. L.N. 113 came into operation on the date of its publication in the Gazette (i.e. 29 May 2020).

### **Concluding observations**

17. In relation to L.N. 98 to L.N. 111, LSD is seeking clarifications from the Administration on certain drafting issues and will make a further report, if necessary. Subject to Members' views on the matters set out in paragraph 9, no difficulties in the legal and drafting aspects of L.N. 112 and L.N. 113 have been identified.

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4 June 2020

**Table of concessions provided to healthcare professionals under L.N. 98 to L.N. 111**

<b>L.N. No</b>	<b>Healthcare professional</b>	<b>Subsidiary legislation under which the legal notice provides for the fee concessions</b>	<b>Concession/Fee waived</b>
98	Dentists	Dentists (Registration and Disciplinary Procedure) Regulations (Cap. 156A)	Fees payable in respect of the following: (a) registration (\$2,170); (b) inclusion of a dentist's name in the Specialist Register pursuant to section 12B of Cap. 156(\$2,170); and (c) issuance of practising certificates (\$290-\$580).
99	Dental Hygienists	Ancillary Dental Workers (Dental Hygienists) Regulations (Cap. 156B)	Enrolment fee (\$2,040) payable by a person to have the person's name recorded in the roll maintained by the Registrar under regulation 4(2) of Cap. 156B.
100	Medical Practitioners	Medical Registration (Fees) Regulation (Cap. 161C)	Fees payable in respect of the following: (a) registration in Part I of the General Register ("GR") under Cap. 161 (\$1,220); (b) provisional registration in Part II of GR (\$400); (c) registration in Part III of GR(\$1,270); (d) inclusion of names in the Specialist Register kept under Cap. 161 (\$1,220); and (e) issuance of practising certificates (\$300 - \$405).
101	Midwives	Midwives Registration (Fees) Regulation (Cap. 162B)	Fees payable for first registration (\$350-\$1,150) and the issuance of practising certificates (\$260).
102	Registered Nurses	Nurses (Registration and Disciplinary Procedure) Regulations (Cap. 164A)	Fees payable for registration (\$415-\$1,190) and the issuance of practising certificates (\$230).

<b>L.N. No</b>	<b>Healthcare professional</b>	<b>Provisions amended by the legal notice to provide for the concession</b>	<b>Concession/Fee waived</b>
103	Enrolled Nurses	Enrolled Nurses (Enrolment and Disciplinary Procedure) Regulations (Cap. 164B)	Fees payable for enrolment (\$415-\$1,190) and the issuance of practising certificates (\$230).
104	Medical Laboratory Technologists	Medical Laboratory Technologists (Registration and Disciplinary Procedure) Regulations (Cap. 359A)	Fees payable for registration (\$1,330) and the issuance of practising certificates (\$435).
105	Occupational Therapists	Occupational Therapists (Registration and Disciplinary Procedure) Regulations (Cap. 359B)	Fees payable for registration (\$1,330) and the issuance of practising certificates (\$435).
106	Optometrists	Optometrists (Registration and Disciplinary Procedure) Regulation (Cap. 359F)	Fees payable for registration (\$1,330) and the issuance of practising certificates (\$435).
107	Radiographers	Radiographers (Registration and Disciplinary Procedure) Regulation (Cap. 359H)	Fees payable for registration (\$1,330) and the issuance of practising certificates (\$435).
108	Physiotherapists	Physiotherapists (Registration and Disciplinary Procedure) Regulation (Cap. 359J)	Fees payable for registration (\$1,330) and the issuance of practising certificates (\$435).
109	Chiropractors	Chiropractors Registration (Fees) Regulation (Cap. 428A)	Fees payable for: (a) application for registration (\$4,030); (b) application for the issuance or renewal of practising certificates (\$1,500); and (c) certificates of registration (\$2,870).
110	Chinese Medicine Practitioners	Chinese Medicine Practitioners (Fees) Regulation (Cap. 549B)	Fees payable for any of the following applications: (a) registration as a registered Chinese medicine practitioner (\$1,020); (b) application for or renewal of registration as a Chinese medicine practitioner with limited registration (\$1,100); and (c) issuance or renewal of practising certificates (\$1,330).
111	Pharmacists	Pharmacy and Poisons Regulations (Cap. 138A)	Fees payable for the issuance of the certificate of registration (\$790) and practising certificates (\$520).