

**立法會**  
**Legislative Council**

LC Paper No. LS117/19-20

**Legal Service Division Report on  
Subsidiary Legislation Gazetted on 7 August 2020**

**Tabling in LegCo** : Council meeting of 14 October 2020

**Amendment to be made by** : Council meeting of 11 November 2020 (or that of 2 December 2020 if extended by resolution)

**Medical Laboratory Technologists (Special Exemptions)  
Regulation** **(L.N. 153)**

Under section 20(2) of the Supplementary Medical Professions Ordinance (Cap. 359), a company (registered under the Companies Ordinance (Cap. 622) or the Companies Ordinance (Cap. 32) ("registered company") as in force at the time of registration) may carry on the business of practising the profession of medical laboratory technologist ("MLT") ("specified profession") if, among others, all persons practising that profession who are employed by the company are registered in respect of that profession.<sup>1</sup> Under section 20(4) of Cap. 359, contravention of the relevant requirement by a registered company is an offence and every director and manager thereof commits the like offence. Further, under section 21(1) of Cap. 359, it is an offence for a person to practise the specified profession without being registered. Under section 29(1A)(d) of Cap. 359, the Secretary for Food and Health ("SFH") may by regulation exempt any specified class of persons from all or any of the provisions of Cap. 359.

2. L.N. 153 is made by SFH under section 29(1A) of Cap. 359 to:
  - (a) exempt a member of the National accredited laboratory testing personnel arranged by the National Health Commission of the People's Republic of China ("specified person") to conduct nucleic acid tests for detecting COVID-19 ("specified tests") in Hong Kong

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<sup>1</sup> Persons holding the relevant degrees, diplomas and other documents issued by the relevant examining body and/or have the relevant experience are qualified to be registered as a MLT pursuant to section 12(1) of Cap. 359 and regulations 4 and 5 of the Medical Laboratory Technologists (Registration and Disciplinary Procedure) Regulations (Cap. 359A).

for the Government from the offence provision in section 21(1) of Cap. 359 (regarding the non-compliance with the registration requirement in relation to the specified profession) while the specified person is conducting specified tests for the Government; and

- (b) exempt a registered company which carries on the business of practising the specified profession ("specified company") from section 20 of Cap. 359 to the effect that the requirement of employing registered MLTs to practise the specified profession and the related offence in relation to non-compliance with such requirement does not apply to a specified company which employs a specified person to conduct the specified tests for the Government.

3. As of the date of this report, no Legislative Council Brief has been issued by the Administration on L.N. 153.

#### Enquiries with the Administration

4. The Legal Service Division has made enquiries with the Administration on certain matters relating to L.N. 153. These matters include: (a) the justifications for granting exemptions to the specified persons and the specified companies as set out in paragraph 2 above; (b) the qualifications, experience or training required for qualifying as a specified person for conducting the specified tests in Hong Kong for the Government; (c) whether there would be any mechanisms to deal with complaints against the specified persons in relation to their conduct of the specified tests; and (d) whether a specified company would be exempt from the application of section 21(2) of Cap. 359 which prohibits the employment of any person who is not a registered MLT to practise the specified profession.

#### Consultation

5. As advised by the Clerk to the Panel on Health Services, the Panel has not been consulted on L.N. 153.

#### Commencement and expiry

6. L.N. 153 came into operation on 8 August 2020 and expires at midnight on 7 October 2020.

Concluding observations

7. As at the date of issue of this report, we have not received the Administration's reply to our enquiries in paragraph 4 above. We will report further after considering the Administration's reply.

Prepared by

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