

立法會
Legislative Council

LC Paper No. LS45/19-20

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 21 February 2020**

Tabling in LegCo : Council meeting of 26 February 2020

Amendment to be made by : Council meeting of 25 March 2020 (or that of 22 April 2020 if extended by resolution)

**Legislative Council Ordinance (Amendment of Schedule 5)
Order 2020** (L.N. 16)

**Maximum Amount of Election Expenses (Legislative Council
Election) (Amendment) Regulation 2020** (L.N. 17)

Background

Part 6A of the Legislative Council Ordinance (Cap. 542) provides for a financial assistance scheme in respect of election expenses incurred by candidates for a Legislative Council ("LegCo") election. An eligible candidate¹ (or an eligible list of candidates²) for the election is entitled to receive the lowest of the following amounts:

- (a) if the election is contested, the amount obtained by multiplying the total number of valid votes cast for the candidate or list of candidates by the specified rate (which is \$14 at present as specified in Schedule 5 to Cap. 542) or, if the election is uncontested, the amount obtained by multiplying 50% of the number of registered electors for the constituency by the specified rate;

¹ In gist, an eligible candidate means a candidate who is elected as a LegCo Member or, if the candidate is not elected as a LegCo Member, the candidate is not a disqualified candidate and obtains at least 5% of the total number of valid votes cast in the constituency concerned.

² In gist, an eligible list of candidates means at least one candidate on the list concerned is elected as a LegCo Member or, if no candidate on the list is elected as a LegCo Member, at least one candidate on the list is not a disqualified candidate and the total number of valid votes cast for the list represents at least 5% of the total number of valid votes cast in the constituency concerned.

- (b) 50% of the maximum amount of election expenses ("MEEs") that may be incurred by or on behalf of the candidate (or candidates on the list of candidates) under the Maximum Amount of Election Expenses (Legislative Council Election) Regulation (Cap. 554D);
- (c) the declared election expenses of the candidate or list of candidates.

L.N. 16 and L.N. 17

2. L.N. 16 is made by the Chief Executive ("CE") in Council under section 83A of Cap. 542 to increase the specified rate of financial assistance in Schedule 5 to Cap. 542 from \$14 to \$15 for elections for the seventh term of office of LegCo commencing in 2020 and any subsequent term of office. The rate for elections (including by-elections) for the sixth term (i.e. the current term) of office of LegCo remains at \$14.

3. L.N. 17 is made by CE in Council under section 45 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) to raise MEEs for a candidate or list of candidates at elections for the seventh term of office of LegCo commencing in 2020 and any subsequent term of office ("New MEEs") under Cap. 554D as follows:

Geographical constituencies	Current MEEs	New MEEs
Hong Kong Island	\$2,428,000	\$2,661,000
Kowloon East and Kowloon West	\$1,821,000	\$1,996,000
New Territories East and New Territories West	\$3,035,000	\$3,326,000
Functional constituencies ("FC")	Current MEEs	New MEEs
Heung Yee Kuk, Agriculture and Fisheries, Insurance, and Transport FCs	\$121,000	\$133,000
FCs other than Heung Yee Kuk, Agriculture and Fisheries, Insurance, and Transport FCs	Current MEEs	New MEEs
FCs with not more than 5 000 registered electors	\$194,000	\$213,000
FCs with 5 001 to 10 000 registered electors	\$388,000	\$425,000
FCs with over 10 000 registered electors	\$583,000	\$639,000
District Council (second) FC	\$6,936,000	\$7,602,000

MEEs for elections (including by-elections) for the current term of office of LegCo remain unchanged.

4. According to paragraph 1 of the LegCo Brief (File Ref.: CMAB C1/30/10) issued by the Constitutional and Mainland Affairs Bureau in February 2020, the adjustments in L.N. 16 and L.N. 17 are made on the basis of the latest estimated cumulative inflation rate from 2017 to 2020.

Consultation with LegCo Panel

5. As advised by the Clerk to the Panel on Constitutional Affairs, the Administration consulted the Panel on 16 December 2019 on its proposed adjustments to the subsidy rate of the financial assistance for candidates and the election expenses limits for the 2020 LegCo general election. While members in general expressed no strong view on the proposed adjustments, the Administration was suggested to review the mechanism for calculating the financial assistance with a view to increasing the maximum amount of financial assistance payable to eligible candidates.

Commencement

6. L.N. 16 and L.N. 17 come into operation on 1 May 2020.

Public Health and Municipal Services Ordinance (Public Pleasure Grounds) (Amendment of Fourth Schedule) Order 2020 (L.N. 18)

7. L.N. 18 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 14 places specified in Schedule 1 to L.N. 18 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;³ and

³ These 14 places are: Battery Path Sitting-out Area, Central and Western District Promenade—Western Wholesale Food Market Section, Pok Fu Lam No. 3 Service Reservoir Sitting-out Area, Sassoon Road Sitting-out Area, Kai Tak Promenade (Hong Kong Children's Hospital Section), Kai Tak Sky Garden, On Sau Road Park, Sham Mong Road Playground, Sham Shui Po Sports Centre, Shek Mun Riverside Garden, Tai Po Tau Road Sitting-out Area, Tin Shui Wai Cycling Entry/Exit Hub, Tuen Mun Cycling Entry/Exit Hub, and Yuen Long Town Cycling Entry/Exit Hub.

- (b) update the list of public pleasure grounds specified in the Fourth Schedule to Cap. 132 to reflect the above changes and the change of the names of two existing public pleasure grounds from "Lok Shan Road Playground" to "Lok Shan Road Sitting-out Area" and from "銀礦灣觀景台" to "銀鑛灣觀景台".

8. According to paragraph 9 of the LegCo Brief (with no file reference) issued by the Leisure and Cultural Services Department on 17 February 2020, the Administration has consulted the respective District Councils and they supported the amendments.

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

10. L.N. 18 came into operation on the day of publication in the Gazette, i.e. 21 February 2020.

Toys and Children's Products Safety Ordinance (Amendment of Schedules 1 and 2) Notice 2020 (L.N. 19)

11. L.N. 19 is made by the Secretary for Commerce and Economic Development under section 37 of the Toys and Children's Products Safety Ordinance (Cap. 424) to update certain safety standards for toys and eight classes of children's products⁴ as specified in Schedules 1 and 2 to Cap. 424 respectively.

12. Under sections 3 and 5 of Cap. 424, no person shall manufacture, import or supply any toy or children's product unless the toy or product complies with all the applicable requirements in at least one relevant safety standard specified in Schedule 1 or Schedule 2 to Cap. 424 respectively.⁵

13. According to paragraph 4 of the LegCo Brief (File Ref.: CITB CR 08/18/3) issued by the Commerce, Industry and Tourism Branch of the Commerce and Economic Development Bureau in February 2020, the revision introduced in L.N. 19 is to apply the standards updated by the standards institutions since the last amendment to the two Schedules in 2019. According

⁴ The eight classes of children's products are "babies' dummies", "baby walking frames", "child safety barriers for domestic use", "children's cots for domestic use", "children's high chairs and multi-purpose high chairs for domestic use", "children's paints", "playpens for domestic use" and "wheeled child conveyances".

⁵ Sections 3(1) and 5(3) of Cap. 424 provide that goods in transit, goods in the course of transshipment or goods manufactured for export are not subject to the said statutory requirement.

to paragraph 8 of the LegCo Brief, the Administration consulted some 50 major trade associations and organizations advocating children welfare in December 2019 and posted a gist of the proposed updates on the relevant Government websites. The Administration has received one submission, which did not raise any objection to the proposal.

14. As advised by the Clerk to the Panel on Economic Development, the Panel has not been consulted on L.N. 19.

15. L.N. 19 comes into operation on 1 October 2020.

**Veterinary Surgeons Registration (Amendment) Ordinance
2015 (Commencement) Notice 2020 (L.N. 20)**

16. L.N. 20 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) to appoint 24 April 2020 as the day on which certain provisions of Ord. No. 6 of 2015 come into operation. Ord. No. 6 of 2015 was published in the Gazette on 27 March 2015 after the Veterinary Surgeons Registration (Amendment) Bill 2014 was passed by LegCo on 18 March 2015. It 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, such as the establishment of a panel of assessors and preliminary investigation committees.

17. The provisions of Ord. No. 6 of 2015 that will come into operation on 24 April 2020 provide for matters relating to the election of the six members to VSB, including adding new definitions of terms to Cap. 529 (such as "elected member"), requiring the declaration of the election results to be notified in the Gazette, providing for the term of office of elected members and the circumstances where a vacancy of such an office is to occur, and empowering SFH to make regulations providing for matters concerning an election of members to VSB.⁶

⁶ SFH has made such a regulation, namely, the Veterinary Surgeons Board (Election of Members) Regulation (L.N. 161 of 2019) gazetted on 8 November 2019. Members may refer to the Legal Service Division Report (LC Paper No. LS19/19-20) and the Further Report by Legal Service Division on L.N. 161 of 2019 (LC Paper No. LS26/19-20) for information. L.N. 161 of 2019 comes into operation on the day on which the provision on SFH's regulation-making power in Ord. No. 6 of 2015 comes into operation, i.e. 24 April 2020.

18. Before its enactment, a Bills Committee was formed to scrutinize the Veterinary Surgeons Registration (Amendment) Bill 2014 ("Bills Committee"). Members may refer to the Report of the Bills Committee (LC Paper No. CB(3)507/14-15) ("BC Report") for details. As stated in paragraph 52 of the BC Report, it is the Administration's plan to bring Ord. No. 6 of 2015 into operation in stages.

19. According to paragraph 4 of the LegCo Brief (File Ref.: FHB/F/6/12/12) issued by the Food and Health Bureau on 19 February 2020, only provisions relating to the election of the six members to VSB would commence operation to enable the conduct of the first election without affecting the membership and operation of the existing VSB. As stated in paragraphs 3 and 5 of the LegCo Brief, when the elected members are in place, the Administration will bring Ord. No. 6 of 2015 into full operation so that the newly constituted VSB will come into operation, which is targeted to take place in the fourth quarter of 2020.

20. As advised by the Clerk to the Panel on Food Safety and Environmental Hygiene, the Panel has not been consulted on L.N. 20.

Concluding observations

21. No difficulties have been identified in relation to the legal and drafting aspects of the above items of subsidiary legislation.

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