

立法會
Legislative Council

LC Paper No. LS48/19-20

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 13 March 2020**

Tabling in LegCo : Council meeting of 18 March 2020

Amendment to be made by : Council meeting of 1 April 2020 (or that of 6 May 2020 if extended by resolution)

Public Health (Animals and Birds) (Licensing of Livestock Keeping) (Amendment) Regulation 2020 **(L.N. 23)**

L.N. 23 is made by the Chief Executive in Council under section 3 of the Public Health (Animals and Birds) Ordinance (Cap. 139) to amend section 4 of the Public Health (Animals and Birds) (Licensing of Livestock Keeping) Regulation (Cap. 139L) to revise the statutory requirements for premises used for keeping poultry, i.e. chickens, ducks, geese, pigeons and quails ("specified birds").

2. Under section 3(1)(b) of Cap. 139L, no person shall keep livestock (including specified birds) in or on any premises within a livestock waste control area specified in Schedule 1 to Cap. 139L unless he does so under and in accordance with a licence issued by the Director of Agriculture, Fisheries and Conservation ("Livestock Keeping Licence"). A Livestock Keeping Licence shall not be granted unless the conditions or requirements as set out in section 4(2A) of Cap. 139L are met.

3. L.N. 23 amends Cap. 139L as follows:

- (a) repeals section 4(2A)(a) to remove the requirement that the relevant premises must have been continuously used for keeping specified birds for at least 12 months before 13 February 2006;¹ and
- (b) amends section 4(2A)(b) so that a Livestock Keeping Licence shall not be granted if ex gratia payment ("EGP") for cessation of the keeping of specified birds in or on the relevant premises has been made by the Government after 14 December 2001 (instead of after 13 February 2006).

¹ 13 February 2006 was the commencement date of the Public Health (Animals and Birds) (Licensing of Livestock Keeping) (Amendment) Regulation 2006.

4. According to paragraph 12 of the Legislative Council ("LegCo") Brief issued by the Food and Health Bureau and the Agriculture, Fisheries and Conservation Department in March 2020 (File Ref: FH CR 1/2526/17), the removal of the requirement as stated in paragraph 3(a) above would allow the existing chicken farms to be relocated to other premises within the livestock waste control areas irrespective of whether the premises have been previously used for chicken keeping, so long as they have not received EGP before. According to paragraph 13 of the LegCo Brief, the amendment set out in paragraph 3(b) above is made to reflect the fact that the earliest cases of granting EGP for cessation of poultry keeping business took place after the commencement of the Public Health (Animals and Birds) (Amendment) Regulation 2001 on 14 December 2001.

Commencement

5. L.N. 23 comes into operation on 1 July 2020.

Consultation

6. According to paragraph 19 of the LegCo Brief, various advisory bodies including the Advisory Council on Food and Environmental Hygiene, the Livestock Subcommittee of the Advisory Committee of Agriculture and Fisheries, and the trade were consulted and they in general welcomed the legislative proposal.

7. As advised by the Clerk to the Panel on Food Safety and Environmental Hygiene, the Panel was briefed on the Administration's proposal to relax the restrictions on relocating chicken farms licensed under Cap. 139L on 10 July 2018. While Panel members in general supported the proposal, concerns were expressed over the Administration's overarching policies to maintain the current cap on the total rearing capacity of local chicken farms and not to issue any new Livestock Keeping Licence after expiry of existing ones. There was a view that the Administration should review and relax the control in order to increase the local chicken supply.

Concluding observations

8. No difficulties have been identified in the legal and drafting aspects of L.N. 23.

Prepared by

Cliff IP
Assistant Legal Adviser
Legislative Council Secretariat
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