

**立法會**  
**Legislative Council**

LC Paper No. LS2/20-21

**Paper for the House Committee Meeting  
on 16 October 2020**

**Legal Service Division Report on  
Subsidiary Legislation Gazetted on 9 October 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)

**Smoking (Public Health) (Designation of No Smoking Areas) (Amendment) Notice 2020** **(L.N. 204)**

L.N. 204 is made by the Director of Health under section 3(1AB) of the Smoking (Public Health) Ordinance (Cap. 371) to amend the Schedule to the Smoking (Public Health) (Designation of No Smoking Areas) Notice (Cap. 371D) ("the Schedule") by:

- (a) adding five new public transport facilities ("PTFs")<sup>1</sup> to the Schedule with the effect that such facilities are designated as no smoking areas ("NSAs") in PTFs under Cap. 371;
- (b) updating the details of six existing PTFs specified in the Schedule; and
- (c) removing one PTF (i.e. Hung Hom Ferry Pier Public Transport Interchange) from the Schedule with the effect that this area ceases to be a designated NSA in PTFs under Cap. 371.

2. According to paragraph 6 of the Legislative Council ("LegCo") Brief (File Ref: FH CR 7/52/581/89) issued by the Food and Health Bureau and

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<sup>1</sup> These facilities are Chuen On Road Bus Terminus, Tai Po; Container Port Road Public Transport Interchange, Kwai Chung; Sea Crest Villa Bus Terminus, Tsing Lung Tau; Tin Shui Wai Station Public Transport Interchange and Yuen Chau Kok Bus Terminus, Sha Tin.

the Department of Health on 7 October 2020, the five new PTFs are added because they meet the criteria specified in section 3(1AB) of Cap. 371. Further, the details of six existing PTFs are updated owing to changes in their location, physical features and settings. In addition, one PTF is removed from the Schedule because it no longer meets the criteria owing to changes in transport arrangement.

3. Under section 7(1) of Cap. 371, any person who smokes or carries a lighted cigarette, cigar or pipe in a designated NSA commits an offence and is liable on summary conviction to a fine of \$5,000. Smoking in an NSA is also a scheduled offence in respect of which a public officer may give the offender a notice under section 3 of the Fixed Penalty (Smoking Offences) Ordinance (Cap. 600) offering him an opportunity to discharge his liability to conviction for the offence by payment of a fixed penalty (currently fixed at \$1,500) within 21 days from the date of the giving of the notice.

4. According to paragraph 13 of the LegCo Brief, the Administration has issued information papers on the details of the amendments to 18 District Councils. Further, all plans of the NSAs in PTFs have been deposited in the Land Registry for inspection by the public. They will also be posted on the Tobacco and Alcohol Control Office's website before L.N. 204 comes into operation.

5. As advised by the Clerk to the Panel on Health Services, the Administration has not consulted the Panel on L.N. 204.

6. L.N. 204 comes into operation on 31 December 2020.

## **Employment (Amendment) Ordinance 2020 (Commencement) Notice**

**(L.N. 205)**

7. L.N. 205 is made by the Secretary for Labour and Welfare under section 1(2) of the Employment (Amendment) Ordinance 2020 (Ord. No. 13 of 2020) to appoint 11 December 2020 as the day on which the Ordinance comes into operation.

8. Ord. No. 13 of 2020 was published in the Gazette on 17 July 2020 after the Employment (Amendment) Bill 2019 ("Bill") was passed by LegCo on 9 July 2020. It amends the Employment Ordinance (Cap. 57) mainly to extend the statutory maternity leave ("ML") by four weeks, and to introduce a cap on ML pay in respect of the extension of ML. Before the enactment of Ord. No. 13 of 2020, the Bill was referred to the Panel on Manpower ("the Panel") by a motion passed by LegCo in accordance with Rule 54(4) of the Rules of Procedure. Members may refer to the Report of the Panel on issues

relating to the Bill for submission to LegCo on 17 June 2020 (LC Paper No. CB(2)1219/19-20) for further details.

9. No LegCo Brief has been issued for L.N. 205.

10. As advised by the Clerk to the Panel, the Panel has not been consulted on L.N. 205. During discussion of issues relating to the Bill at the special meetings of the Panel between March and May 2020, the Administration advised members that the implementation of the Bill would tie in with the development of the Government's scheme for the reimbursement of the additional ML pay which was expected to be put in place by end-2021. Some members considered that the lead time for developing the new reimbursement arrangement was too long. They urged the Administration to expedite the relevant preparatory work so that eligible employees could be entitled to the extended ML and the additional ML pay as early as practicable.

### **Concluding observations**

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

Prepared by

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