

立法會

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Paper for the House Committee meeting on 20 November 2020

Report of the Subcommittee on Five Pieces of Subsidiary Legislation Relating to the Extension of Waivers of Government Fees and Charges to Support the Maritime and Logistics Sectors

Purpose

This paper reports on the deliberations of the Subcommittee on Five Pieces of Subsidiary Legislation Relating to the Extension of Waivers of Government Fees and Charges to Support the Maritime and Logistics Sectors ("the Subcommittee").

Background

2. The Financial Secretary ("FS") announced a package of relief measures on 15 August 2019 with a view to countering the challenging external economic environment and softening local economy. The relief measures included waiver and reduction of various government fees and charges for one year in different sectors.¹

3. On 15 September 2020, the Administration announced the extension of the waivers or concessions of government fees and charges implemented in 2019 and the introduction of new waivers to sustain the support for businesses and relieve individuals' financial burden in view of the impact of the Coronavirus Disease 2019 ("COVID-19"). There are 31 items of subsidiary legislation made by the Chief Executive ("CE") in Council, the relevant Directors of Bureaux and the Construction Industry Council to give effect to the extension of the existing waivers or concessions and to provide legal backing for new waivers.

¹ Members may refer to the Legislative Council Brief issued by the Financial Services and the Treasury Bureau on 25 September 2019 (File Ref.: L/M 10 in TsyB MA 00/625-1/2/0 (C) Pt. 25) and LC paper No. LS92/18-19 issued on 10 October 2019 for details of the waivers and concessions announced by FS on 15 August 2019.

4. L.N. 167 to L.N. 169 and L.N. 190 to L.N. 191 are subsidiary legislation made to give effect to the extension of the existing waivers of government fees and charges to support the maritime and logistics sectors. L.N. 167 to L.N. 169 were made by CE in Council and L.N. 190 to L.N. 191 were made by the Secretary for Financial Services and the Treasury.

Shipping and Port Control (Amendment) Regulation 2020 (L.N. 167)

5. L.N. 167 was made under section 80 of the Shipping and Port Control Ordinance (Cap. 313) to extend the waiving of the port facilities and light dues payable for ocean-going vessels and high speed crafts for one more year during the period from 1 October 2020 to 30 September 2021.

6. L.N. 167 came into operation on 1 October 2020.

Port Control (Cargo Working Areas) (Amendment) Regulation 2020 (L.N. 168) and Port Control (Cargo Working Areas) (Amendment) (Fee Concessions) Regulation 2019 (Amendment) Regulation 2020 (L.N. 169)

7. L.N. 168 and L.N. 169 were made under section 6 of the Port Control (Cargo Working Areas) Ordinance (Cap. 81) to extend the waiving of the fees payable for one more year during the period from 1 October 2020 to 30 September 2021 in respect of vehicle entry ticket for the first hour payable by trucks entering the Public Cargo Working Areas ("PCWAs") and operation area permit payable by PCWA operators.

8. L.N. 168 came into operation upon gazettal on 25 September 2020, except that the relevant provision extending the concession period came into operation on 1 October 2020. L.N. 169 makes a technical amendment to the Port Control (Cargo Working Areas) (Amendment) (Fee Concessions) Regulation 2019 (L.N. 100 of 2019) so that the provision amending a cross-reference to restore the position where there is no fee concession comes into operation on 1 October 2021. L.N. 169 came into operation upon gazettal on 25 September 2020.

Merchant Shipping (Local Vessels) (Fees) (Amendment) (No. 3) Regulation 2020 (L.N. 190) and Merchant Shipping (Local Vessels) (Fees) (Amendment) (Fee Concessions) Regulation 2019 (Amendment) Regulation 2020 (L.N. 191)

9. L.N. 190 and L.N. 191 were made under section 88 of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548) and section 29 of the Interpretation and General Clauses Ordinance (Cap. 1) to extend the waiving of fees payable for one more year during the period from 1 November 2020 to 31 October 2021 in respect of permits to remain and vessels licences.

10. L.N. 190 came into operation upon gazettal on 25 September 2020, except that the relevant provisions for extending the concession period come into operation on 1 November 2020. L.N. 191 makes a technical amendment to the Merchant Shipping (Local Vessels) (Fees) (Amendment) (Fee Concessions) Regulation 2019 (L.N. 112 of 2019) so that the provisions amending cross-references to restore the position where there is no fee concession come into operation on 1 November 2021. L.N. 191 came into operation upon gazettal on 25 September 2020.

The Subcommittee

11. At the House Committee meeting held on 16 October 2020, Members agreed to form a subcommittee to study the above five pieces of subsidiary legislation relating to the extension of waivers of government fees and charges to support the maritime and logistics sectors. The membership list of the Subcommittee is in the **Appendix**.

12. Under the chairmanship of Hon Jeremy TAM Man-ho, the Subcommittee has held a meeting with the Administration to examine the subsidiary legislation. To allow time for the Subcommittee to complete its work, the Subcommittee Chairman gave notice to move a proposed resolution at the Council meeting of 11 November 2020 to extend the scrutiny period of the subsidiary legislation to 2 December 2020. However, the proposed resolution was not dealt with before adjournment of the said Council meeting. As such, the period for amending the subsidiary legislation expired at the Council meeting of 11 November 2020.

Deliberations of the Subcommittee

13. Members in general support the five pieces of subsidiary legislation to extend the existing waivers of government fees and charges provided to the maritime and logistics sectors. Members have also taken the opportunity to discuss the difficulties faced by the sectors and supporting measures to help them cope with the current challenges. The major deliberations of the Subcommittee are set out in the ensuing paragraphs.

14. There is a suggestion that the Administration can consider introducing administrative measures to effect the waivers of government fees and charges instead of through legislative amendments. This will allow greater flexibility and speedy implementation under the current economic environment. The Administration explains that this will fundamentally change the existing legal framework which will require further legislative amendments to process. A member opines that the subcommittees on legislative proposals provide an

ideal channel for Members to bring up the trade's views for the Administration's consideration and thus administrative means may not be the best option.

15. Some members consider that the proposed extension of the existing waivers of government fees and charges under the subsidiary legislation are far from adequate to assist the trade to tide over this difficult time which is unprecedented. Due to the global economy shrinkage and the adverse impact caused by COVID-19 on almost all kinds of economic activities, the viability of PCWA operators, who are mainly small and medium enterprises are subject to great uncertainties. Some members also point out that the low-skilled workers working in PCWAs may not be able to benefit from the proposed measures.

16. The Administration advises that the extension of the existing waivers of government fees and charges under the subsidiary legislation aims to assist small and medium enterprises to cope with the operating pressure in the current economic environment and safeguard jobs. Other measures to support PCWA operators include reduction of rental for tenancy of PCWA berths which is not covered by the subsidiary legislation.

17. In the course of discussion, a member also highlights the current difficulties and tough operating environment faced by PCWA operators. He considers that suitable measures should be put in place to assist the trade. These include extending the tenure of the current Berth Licence Agreements ("BLAs") from currently five to at least seven years so that PCWA operators will have greater certainty in running their business and encourage them to invest on equipment and facilities. The Administration takes note of members' views and advises that it will take the opportunity of the tendering exercise of PCWA berths next year to review the tenure of BLAs.

Recommendation

18. The Subcommittee has completed scrutiny of the five pieces of subsidiary legislation. Neither the Subcommittee nor the Administration will propose amendments to the subsidiary legislation.

Advice sought

19. Members are invited to note the deliberations of the Subcommittee.

**Subcommittee on Five Pieces of Subsidiary Legislation Relating to
the Extension of Waivers of Government Fees and Charges to
Support the Maritime and Logistics Sectors**

Membership list*

Chairman (Vacant)

Members Hon Abraham SHEK Lai-him, GBS, JP
Hon Frankie YICK Chi-ming, SBS, JP

(Total : 2 members)

Clerk Ms Shirley CHAN

Legal Adviser Miss Rachel DAI

* Changes in membership are set out in **Annex to Appendix**

Annex to Appendix

Subcommittee on Five Pieces of Subsidiary Legislation Relating to the Extension of Waivers of Government Fees and Charges to Support the Maritime and Logistics Sectors

Changes in membership

Member	Relevant date
Hon SHIU Ka-chun	Up to 4 November 2020
Dr Hon Fernando CHEUNG Chiu-hung	Up to 8 November 2020
Hon LAM Cheuk-ting	Up to 8 November 2020
Hon HUI Chi-fung	Up to 8 November 2020
Prof Hon Joseph LEE Kok-long, SBS, JP	Up to 10 November 2020
Hon IP Kin-yuen	Up to 10 November 2020
Hon Jeremy TAM Man-ho (Chairman)	Up to 11 November 2020
Hon James TO Kun-sun	Up to 12 November 2020
Hon WU Chi-wai, MH	Up to 12 November 2020
Dr Hon Helena WONG Pik-wan	Up to 12 November 2020
Hon Andrew WAN Siu-kin	Up to 12 November 2020
Hon KWONG Chun-yu	Up to 12 November 2020
Hon LEUNG Yiu-chung	Up to 15 November 2020

[According to the announcement made by the Hong Kong Special Administrative Region Government on 11 November 2020 pursuant to the Decision of the Standing Committee of the National People's Congress on Issues Relating to the Qualification of the Members of the Legislative Council of the Hong Kong Special Administrative Region, Kenneth LEUNG, KWOK Ka-ki, Dennis KWOK Wing-hang and Alvin YEUNG were disqualified from being a member of LegCo on 30 July 2020.]