

立法會
Legislative Council

LC Paper No. LS56/20-21

**Paper for the House Committee Meeting
on 26 March 2021**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 19 March 2021**

Tabling in LegCo : Council meeting of 24 March 2021

Amendment to be made by : Council meeting of 21 April 2021 (or that of 12 May 2021 if extended by resolution)

Sewage Services (Sewage Charge) (Amendment) Regulation 2021 (L.N. 36)

Waterworks (Amendment) Regulation 2021 (L.N. 37)

L.N. 36 and L.N. 37 are made by the Chief Executive in Council to extend the following concessions on sewage and fresh water supply charges (which are originally due to expire on 31 March 2021) until 30 November 2021¹:

- (a) the reduction of sewage charges under section 2A of the Sewage Services (Sewage Charge) Regulation (Cap. 463A) by 75% (subject to a daily cap of \$411.05, or a monthly cap of approximately \$12,500, for each meter covered by a water bill) in respect of fresh water supplied for certain non-domestic purposes; and
- (b) the reduction of the charges for fresh water supplied for certain non-domestic purposes under regulation 46AB of the Waterworks Regulations (Cap. 102A) by 75% (subject to a daily cap of \$657.68, or a monthly cap of approximately \$20,000, for each meter covered by a water bill).

¹ The concessionary periods were last extended in September 2020 (please see L.N. 178 and L.N. 179 of 2020 published in the Gazette on 25 September 2020 and Annex I to LC Paper No. LS125/19-20 for further details).

2. The above concessionary measures were announced by the Financial Secretary in the 2021-22 Budget Speech delivered on 24 February 2021.² Members may refer to the Legislative Council ("LegCo") Briefs (File Ref: EP CR L/M 1/2021 and DEVB(CR)(W)4-60/1) issued respectively by the Environment Bureau and the Development Bureau in March 2021 for further details. The LegCo Briefs do not state whether the public has been consulted on the above concessionary measures.

3. As advised by the Clerks to the Panel on Environmental Affairs, the Panel on Development and the Panel on Financial Affairs, these Panels have not been consulted on L.N. 36 or L.N. 37.

4. L.N. 36 and L.N. 37 come into operation on 1 April 2021.

Designation of Libraries (Amendment) Order 2021

(L.N. 38)

5. L.N. 38 is made by the Director of Leisure and Cultural Services ("Director") under section 105K of the Public Health and Municipal Services Ordinance (Cap. 132) to amend the Schedule to the Designation of Libraries Order (Cap. 132O) to:

- (a) cancel the designation of Shop 1, Block 20, Ground Floor, Sha Tau Kok Chuen, New Territories as a library ("old library"); and
- (b) designate Shop No. 3, the ground floor of Ying Hoi House, Sha Tau Kok Chuen, 23 Shun Hing Street, Sha Tau Kok, New Territories as a library ("new library").

6. The effect of L.N. 38 is that the management and control of the new library is vested in the Director and the old library ceases to be a library for the purposes of Cap. 132.

7. According to paragraph 3 of the LegCo Brief (no file reference) issued by the Leisure and Cultural Services Department ("LCSD") on 5 March 2021, the old library will be closed upon the opening of the new library for public use from 28 May 2021.

8. As advised by the Clerk to the Panel on Home Affairs ("HA Panel"), the Panel has not been consulted on L.N. 38.

9. L.N. 38 comes into operation on 28 May 2021.

² Please see paragraph 27(d) of the 2021-22 Budget Speech.

**Public Health and Municipal Services Ordinance
(Public Pleasure Grounds) (Amendment of Fourth
Schedule) Order 2021**

(L.N. 39)

10. L.N. 39 is made by the Director under section 106 of Cap. 132 to:
- (a) set aside five places specified in Schedule 1 to L.N. 39³ 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;
 - (b) provide that "Battery Path Sitting-out Area" specified in Schedule 2 to L.N. 39 ceases to be set aside for use as a public pleasure ground;
 - (c) rename "Dragon Road Sitting-out Area" as "Dragon Road Garden"; and
 - (d) update the list of public pleasure grounds specified in the Fourth Schedule to Cap. 132 to reflect the above changes.

11. According to paragraphs 5 and 6 of the LegCo Brief (with no file reference) issued by LCSD on 15 March 2021, while Battery Path Sitting-out Area cannot be opened for public use due to ongoing works in relation to the area and its associated facilities and is hence removed from the Fourth Schedule to Cap. 132, "Dragon Road Sitting-out Area" is renamed as "Dragon Road Garden" since active recreational facilities for children and fitness equipment for elderly persons are to be installed therein. Upon enquiry by the Legal Service Division ("LSD"), LCSD has clarified that save for the deletion of the Battery Path Sitting-out Area from the Fourth Schedule, it has consulted the respective District Councils on the amendments mentioned in paragraph 10 above and their views have been suitably considered by LCSD in making the above amendments.

12. As advised by the Clerk to the HA Panel, the Panel has not been consulted on L.N. 39.

13. L.N. 39 came into operation on the day of publication in the Gazette, i.e. 19 March 2021.

³ These places are Quarry Bay Park Community Garden, Victoria Road/Consort Rise Sitting-out Area, Choi Wing Road Sports Centre, Kai Tak East Park and Wo Mei Playground.

Admission and Registration (Amendment) Rules 2021

(L.N. 40)

14. L.N. 40 is made by the Chief Justice under section 72 of the Legal Practitioners Ordinance (Cap. 159) to amend Form 4 (Application for a Certificate of Eligibility for Admission as a Solicitor on the basis of compliance with section 4(1)(a)⁴ – Trainee Solicitors) in the Schedule to the Admission and Registration Rules (Cap. 159B). It adds "international law" to paragraph 8 of part (a) of the Form to the effect that a trainee solicitor may confirm, for the purposes of the application for admission as a solicitor, that international law is one of the basic legal topics in which the trainee has gained proper training and experience. L.N. 40 also makes a textual amendment to the Chinese text of the Form.

15. According to Part E of the LegCo Brief (with no file reference) issued by The Law Society of Hong Kong ("the Society") on 19 March 2021, the relevant proposal has been considered and approved by the Council of the Society.

16. As advised by the Clerk to the Panel on Administration of Justice and Legal Services, the Panel has not been consulted on L.N. 40.

17. L.N. 40 comes into operation on a day to be appointed by the President of the Society by notice published in the Gazette.

Employees Compensation Assistance Ordinance (Amendment of Schedule 4) Notice 2021

(L.N. 41)

18. Under section 20A of the Employees Compensation Assistance Ordinance (Cap. 365), injured employees and other eligible persons may, in accordance with sections 20B and 20C of and Schedule 4 to Cap. 365 ("Schedule 4"), apply for relief payment from the Employees Compensation Assistance Fund ("Fund") in relation to unpaid damages⁵ for which employers are liable ("Unpaid Amount") pursuant to a judgment or order of a court of

⁴ Under section 4(1)(a) of Cap. 159, the Court of First Instance may admit as a solicitor of the High Court a person who the Court considers is a fit and proper person to be a solicitor, and who has complied with prescribed requirements with respect to, among others, employment as a trainee solicitor.

⁵ Under Cap. 365, "damages" means any damages recoverable by an employee independently of the Employees' Compensation Ordinance (Cap. 282) in the case of personal injury to the employee by accident arising out of and in the course of his employment but, for the purposes of determining the amount of a relief payment, excludes any interest payable on any amount and any costs arising from proceedings in respect of any damages or compensation claim.

competent jurisdiction in Hong Kong. Where the Unpaid Amount does not exceed the prescribed relief payment ("PRP") specified in Schedule 4, the Unpaid Amount will be settled in full in one go. However, if the Unpaid Amount exceeds PRP, the Unpaid Amount will be settled by first paying an amount equivalent to PRP, followed by subsequent payment(s) of the prescribed monthly amount ("PMA") or the monthly earnings of the injured employee at the time of the accident (whichever is the higher), together with the prescribed monthly amount (extra) ("PMA(E)") in case the employee is severely injured,⁶ as specified in Schedule 4 until, subject to certain exceptions, the Unpaid Amount is fully settled. The amounts specified in Schedule 4 were determined in 2002 and have not been adjusted since.

19. L.N. 41 is made by the Secretary for Labour and Welfare under section 45A of Cap. 365 to amend Schedule 4 by increasing PRP, PMA and PMA(E) by 300% as follows:

Item under Schedule 4	Current amount (HK\$)	New amount (HK\$)
PRP	\$1,500,000	\$6,000,000
PMA	\$10,000/month	\$40,000/month
PMA(E)	\$10,000/month	\$40,000/month

20. Upon LSD's enquiry on why the above three items have not been adjusted since 2002, the Administration has explained that the Fund started to become more financially stable from around 2015 so that it is now capable of substantially increasing the levels of relief payments.

21. According to paragraph 14 of the LegCo Brief (File Ref: LD ECS2/68/2 (C)) issued by the Labour and Welfare Bureau and the Labour Department in March 2021, the proposal was discussed by the Labour Advisory Board and was unanimously supported by all members present at the meeting held on 25 November 2020.

22. As advised by the Clerk to the Panel on Manpower, the Panel was briefed on the legislative proposal on 7 January 2021. Members were supportive of the proposal and were advised that the increase in the levels of the above three relief payment items would not result in additional expenditure being incurred in excess of the damages awarded by the court, nor would they have any adverse financial impact on the Fund.

23. L.N. 41 comes into operation on 14 May 2021.

⁶ I.e. a paraplegic or quadriplegic employee who is unable to perform the essential actions of life and has been awarded expenses for the care and attention by another person in respect of the period after the award is made.

Concluding observations

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

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