

**立法會**  
**Legislative Council**

LC Paper No. LS81/20-21

**Paper for the House Committee Meeting  
on 25 June 2021**

**Legal Service Division Report on  
Subsidiary Legislation Gazetted on 18 June 2021**

**Tabling in LegCo** : Council meeting of 23 June 2021

**Amendment to be made by** : Council meeting of 21 July 2021 (or that of 18 August 2021 if extended by resolution)

**PART I CONTROL OF DANGEROUS DRUGS AND CHEMICALS**

**Dangerous Drugs Ordinance (Amendment of First Schedule)  
Order 2021** (L.N. 90)

**Control of Chemicals Ordinance (Amendment of Schedule 2)  
Order 2021** (L.N. 91)

L.N. 90

L.N. 90 is made by the Chief Executive under section 50(1) of the Dangerous Drugs Ordinance (Cap. 134) after consultation with the Executive Council. It adds eight substances to Part I of the First Schedule to Cap. 134 as dangerous drug, namely, (a) Crotonylfentanyl; (b) Etizolam; (c) Flualprazolam; (d) Methyl 2-{{[1-(4-fluorobutyl)-1H-indazole-3-carbonyl]amino}-3,3-dimethylbutanoate}; (e) Methyl 2-{{[1-(5-fluoropentyl)-1H-indazole-3-carbonyl]amino}-3-methylbutanoate}; (f) Methyl 2-{{[1-(5-fluoropentyl)-1H-indole-3-carbonyl]amino}-3,3-dimethylbutanoate}; (g) Mitragynine; and (h) 7-Hydroxymitragynine.

2. The effect of L.N. 90 is that the newly added dangerous drugs will be subject to the control and regulation by the Director of Health under Cap. 134. In gist, a licence will be required for the manufacture, import, export and supply of dangerous drugs. Trafficking, manufacturing, possession or consumption of dangerous drugs in contravention of Cap. 134 on conviction is a criminal offence under Cap. 134.<sup>1</sup>

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<sup>1</sup> See sections 4, 6 and 8 of Cap. 134.

### L.N. 91

3. L.N. 91 is made by the Secretary for Security under section 18A(1) of the Control of Chemicals Ordinance (Cap. 145) to add Methyl alpha-phenylacetoacetate and its salts (whenever the existence of such salts is possible) to Schedule 2 to Cap. 145.

4. The effect of L.N. 91 is to subject the newly added substance to the control and regulation by the Commissioner of Customs and Excise under Cap. 145. In gist, possession, manufacture, transporting or distribution of the substance for the unlawful production of dangerous drugs, and import or export of the substance not under and in accordance with a licence are criminal offences punishable by imprisonment for 15 years and a fine of \$1 million (on conviction on indictment) or imprisonment for three years and a fine of \$500,000 (on summary conviction).<sup>2</sup>

### Consultation

5. For the harmful effects of the above substances, Members may refer to paragraphs 4 and 6 of the Legislative Council ("LegCo") Brief (File Ref: NCR 2/1/8 S/F(22) Pt. 4) issued by the Narcotics Division of the Security Bureau in June 2021. According to paragraphs 19 and 20 of the LegCo Brief, the Administration has consulted relevant stakeholders, including holders of licences issued under Cap. 134, Cap. 145 and the Pharmacy and Poisons Ordinance (Cap. 138), the logistics trade and relevant industry groups on the legislative proposals in August 2020 and February 2021. The Administration also consulted the Action Committee Against Narcotics which supported the proposed control of the relevant substances.

6. As advised by the Clerk to the Panel on Security, the Panel was briefed on the legislative proposal at its meeting on 9 April 2021. Members were supportive of the proposal but had enquired about the considerations for bringing the proposed new substances under legislative control.

### Commencement

7. L.N. 90 and L.N. 91 come into operation on 13 August 2021.

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<sup>2</sup> See section 15(1) of Cap. 145.

## **PART II VETERINARY SURGEONS REGISTRATION ORDINANCE**

### **Veterinary Surgeons Registration Ordinance (Amendment of Schedule 2) Order 2021**

**(L.N. 92)**

8. Under the Veterinary Surgeons Registration Ordinance (Cap. 529), no person shall practise veterinary surgery or provide veterinary service in Hong Kong unless the person is a veterinary surgeon registered with the Veterinary Surgeons Board of Hong Kong ("the Board") and is the holder of a valid practising certificate. This requirement does not apply if the person is an exempted person listed in Schedule 2 to Cap. 529 ("exempted person"). Currently, an exempted person is permitted under sections 3A and 3B of Schedule 2 to Cap. 529 to perform certain veterinary acts on an animal ("exempted acts") under the direction or supervision, and on the premises of the practice, of a registered veterinary surgeon. These exempted acts include applying or administering medication or treatment; positioning for, or the taking of, medical images; and blood sampling from peripheral veins, etc.

9. L.N. 92 is made by the Secretary for Food and Health under section 29(2) of Cap. 529 to amend Schedule 2 to Cap. 529 to permit a student of a full-time course in veterinary surgery<sup>3</sup> ("veterinary student") as part of the clinical training required by the course to perform:

- (a) the exempted acts (but not including diagnosing, prescribing medication or performing a surgical operation on an animal) under the direction or supervision of a registered veterinary surgeon without being on the premises of the practice of a registered veterinary surgeon; and
- (b) any other acts of veterinary surgery or veterinary service under the direct and continuous supervision of a registered veterinary surgeon.

10. According to paragraph 8 of the LegCo Brief (File Ref: FHB/F/6/12/12) issued by the Food and Health Bureau ("FHB") in June 2021, FHB and the Agriculture, Fisheries and Conservation Department conducted a two-month public consultation from November 2020 to January 2021. A total of 66 written responses were received during the public consultation period. All respondents indicated general support for the proposal.

11. As advised by the Clerk to the Panel on Food Safety and Environmental Hygiene, the Panel was consulted on the proposal to amend

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<sup>3</sup> Such course in veterinary surgery is provided by the City University of Hong Kong or a university, college or school that awards a qualification recognized by the Board for the purpose of registration.

Schedule 2 to Cap. 529 at its meeting on 25 January 2021. The Administration briefed the Panel on the outcome of the public consultation exercise at the meeting on 9 March 2021. Members generally supported the proposed amendments which aimed to facilitate clinical training of veterinary students. Some members raised concerns about (a) the circumstances under which owner's consent must be sought before a veterinary student might perform any exempted veterinary acts on an animal; and (b) the level of supervision that would be required from a registered veterinary surgeon as a condition for the proposed exemptions for veterinary students.

12. L.N. 92 comes into operation on 1 September 2021.

### **PART III SUBSIDIARY LEGISLATION RELATING TO MINOR WORKS VALIDATION SCHEME**

**Building (Minor Works) (Amendment) Regulation 2021 (L.N. 93)**

**Buildings Ordinance—Resolution of the Legislative Council  
(Commencement) Notice (L.N. 94)**

#### L.N. 94

13. By L.N. 94, the Secretary for Development ("SEDV") appoints 1 September 2021 as the day on which the resolution made and passed by LegCo under section 2(3) of the Buildings Ordinance (Cap. 123) on 13 May 2021 and published in the Gazette as L.N. 69 of 2021 ("the Resolution") comes into operation.

14. The Resolution amends Schedule 8 to Cap. 123 to include an additional 11 types of existing unauthorized buildings or building works as prescribed buildings or building works ("PBWs"). The effect of the Resolution is to apply the minor works validation scheme provided in section 39C(1A) of Cap. 123 to these 11 types of PBWs such that enforcement action by the issue of a demolition order or warning notice under sections 24 and 24C of Cap. 123 respectively will not be taken by the Building Authority ("BA") against these 11 types of PBWs if they were completed before a date, and subject to compliance with the descriptions and requirements, to be prescribed by SEDV under the Building (Minor Works) Regulation (Cap. 123N). These 11 types of PBWs are (a) supporting structure or metal casing for a building services installation; (b) supporting structure for a radio base station; (c) supporting frame for an air-conditioning unit, or for a light fitting; (d) solid fence wall; (e) mesh fence or metal railing; (f) pole; (g) metal gate; (h) canopy; (i) retractable awning; (j) trellis; and (k) metal ventilation duct or any associated supporting frame.

15. A subcommittee was formed in March 2021 ("the Subcommittee") to study the proposed Resolution before it was passed by LegCo. Members may refer to the Report of the Subcommittee dated 21 April 2021 (LC Paper No. CB(1)807/20-21) for further details.

#### L.N. 93

16. L.N. 93 is made by SEDV under section 38 of Cap. 123 to amend Cap. 123N mainly to prescribe various matters in relation to the additional 11 types of PBWs erected before 1 September 2020. These matters include descriptions of these 11 types of PBWs (as detailed in 21 items of works in the new Part 4 of Schedule 3 to Cap. 123N) to be covered by the minor works validation scheme and certain requirements relating to inspection and certification of these new items of PBWs. The effect of L.N. 93 is that if these 21 items of works meet the prescribed descriptions and requirements as to inspection and certification, the enforcement action referred to in paragraph 14 will not be taken by BA against these items of works.

#### Consultation

17. According to paragraph 10 of the LegCo Brief (without file reference) issued by the Development Bureau in June 2021, the Administration consulted the Building Sub-Committee of the Land and Development Advisory Committee, the Authorized Persons, Registered Structural Engineers and Registered Geotechnical Engineers Committee and the Technical Committee of Minor Works Control System on the legislative amendments. Members of these committees, comprising different professional bodies, associations of the building and construction industry and trade associations generally supported the legislative amendments.

18. As advised by the Clerk to the Panel on Development, the Administration consulted the Panel on 26 February 2019 on the proposals to revamp Cap. 123N including the proposal of designating additional types of existing minor amenity features as PBWs under the minor works validation scheme by making corresponding amendments to Schedule 8 to Cap. 123. The Panel raised no objection to the proposal. During the deliberation in the Subcommittee, members suggested that more commonly used minor amenity features should be incorporated into the validation scheme to enable more building owners or occupants to benefit from the scheme. The Administration responded that it would review the list of minor amenity features from time to time in accordance with the risk-based approach.

#### Commencement

19. L.N. 93 comes into operation on 1 September 2021.

## **PART IV SUBSIDIARY LEGISLATION RELATING TO THE COMPANIES ORDINANCE**

**Companies Ordinance (Commencement) Notice 2021** (L.N. 95)

**Companies Ordinance (Commencement) (No. 2) Notice 2021** (L.N. 96)

**Companies Ordinance (Commencement) (No. 3) Notice 2021** (L.N. 97)

**Companies (Residential Addresses and Identification Numbers) Regulation** (L.N. 98)

**Company Records (Inspection and Provision of Copies) (Amendment) Regulation 2021** (L.N. 99)

**Companies (Non-Hong Kong Companies) (Amendment) Regulation 2021** (L.N. 100)

**Companies Ordinance (Amendment of Schedule 11) Notice 2021** (L.N. 101)

### Background

20. The Companies Ordinance (Cap. 622) was enacted in 2012. Before the enactment of Cap. 622, a Bills Committee was formed to study the Companies Bill and Members may refer to the report of the Bills Committee (LC Paper No. CB(1)2221/11-12) for details. Under section 1(2) of Cap. 622, Cap. 622 comes into operation on a day to be appointed by the Secretary for Financial Services and the Treasury ("SFST") by notice published in the Gazette. Most of the provisions of Cap. 622 commenced operation on 3 March 2014. Provisions regarding the new inspection arrangements of the Companies Register concerning addresses of company directors and identification numbers of individuals etc. ("New Inspection Regime") and those concerning uncertificated securities<sup>4</sup> are not yet in operation. L.N. 95 to L.N. 101 are made to implement the New Inspection Regime in three phases.<sup>5</sup>

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<sup>4</sup> Section 908 of, and Schedule 8 to, Cap. 622 contain provisions relating to uncertificated securities. They are to be repealed pursuant to sections 48 and 49 of the Securities and Futures and Companies Legislation (Amendment) Ordinance 2021 (Ord. No. 17 of 2021). Such repeal is to commence on a day to be appointed by SFST by notice published in the Gazette pursuant to section 1(3) of Ord. No. 17 of 2021.

<sup>5</sup> Pursuant to sections 49(8) and (9), 51(5), 58(5), 657, 805, 910(b) and 913(2) of Cap. 622, the Financial Secretary ("FS") is empowered to make relevant subsidiary legislation in connection with the implementation of the New Inspection Regime. FS is defined under section 3 of the Interpretation and General Clauses Ordinance (Cap. 1) to mean FS of the Hong Kong Special Administrative Region and SFST.

## L.N. 95

21. L.N. 95 is made by SFST under section 1(2) of Cap. 622 to appoint 23 August 2021 as the day on which sections 643(1)(a)(ii), (2)(b) and (3)(b) (in so far as it relates to a correspondence address), 643(5), 644, 651 and 657(2)(g) of Cap. 622 come into operation. These provisions relate to the requirements for the register of directors of a company to contain the correspondence addresses of its directors and (if applicable) its reserve directors. A company may, in the prescribed manner and to the prescribed extent (see L.N. 99 below), withhold the usual residential address and the number of the identity card or passport of a director or reserve director contained in its register of directors, and the number of the identity card or passport of a company secretary contained in its register of company secretaries, from a person who inspects or requests for a copy of the register concerned.

## L.N. 96

22. L.N. 96 is made by SFST under section 1(2) of Cap. 622 to appoint 24 October 2022 as the day on which certain provisions of Cap. 622 come into operation, namely, Subdivision 2 of Division 7 of Part 2 (i.e. sections 53 to 59, except section 54(1)(a)(ii))<sup>6</sup>, sections 645(5), 647(4) and (5), 791(4), 802(4) and (5), section 3(1)(a)(iii) and (2) of Schedule 2, and sections 3 and 4 of Schedule 6. In gist, these provisions relate to the requirements for the Registrar of Companies ("Registrar") not to make the following information available for public inspection:

- (a) the usual residential address of a director or reserve director of a company and the full number of the identity card or passport of any person contained in a document that is delivered to the Registrar for registration under specified ordinances including Cap. 622 ("Protected Information"), subject to certain exceptions, such as a disclosure to a specified person upon application ("Section 58 Application") (see L.N. 98 below); and
- (b) the usual residential address and the full number of the identity card or passport of a director or reserve director of a company contained in an index of directors or reserve directors of a company required to be kept by the Registrar.

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<sup>6</sup> Section 54(1)(a)(ii) of Cap. 622 deals with a document delivered to the Registrar for registration in respect of a company under a provision of the Companies Ordinance (Cap. 32) as in force from time to time before 3 March 2014 having a continuing effect under Schedule 11 to Cap. 622 or by virtue of section 23 of Cap. 1 and is in a form specified under section 914(6)(a) or (8)(a) of Cap. 622. Upon our enquiry, the Administration has confirmed that section 54(1)(a)(ii) is an outdated provision and it is not necessary to bring it into operation.

L.N. 97

23. L.N. 97 is made by SFST under section 1(2) of Cap. 622 to appoint 27 December 2023 as the day on which sections 47, 49, 50, 51 and 52 of Cap. 622 come into operation. These provisions relate to the withholding from public inspection by the Registrar, upon an application made by a relevant person ("Section 49 Application") (see L.N. 98 below), such as a director or a former director of a company, the relevant person's usual residential address or the full number of the identity card or passport contained in a document delivered to the Registrar for registration under specified Ordinances including Cap. 622 before, on or after 27 December 2023 ("Withheld Information"). They also deal with the restriction on the use or disclosure of the Withheld Information by the Registrar subject to certain exceptions, such as a disclosure to a specified person upon application ("Section 51 Application") (see L.N. 98 below).

L.N. 98

24. L.N. 98 is made by SFST under sections 49(8) and (9), 51(5), 58(5) and 910(b) of Cap. 622 mainly to:

- (a) provide for the information to be contained in, the form of, and the documents to accompany, a Section 49 Application;
- (b) provide for the information to be contained in, the form of, and the documents and fees (if applicable) to accompany, a Section 51 Application and to specify the persons to whom the Withheld Information may be disclosed (including a solicitor or certified public accountant (practising)), and to provide for the conditions in accordance with which the Withheld Information may be disclosed to those persons; and
- (c) provide for the information to be contained in, the form of, and the documents and fees (if applicable) to accompany, a Section 58 Application and to specify the persons to whom the Protected Information may be disclosed, and to provide for the conditions in accordance with which the Protected Information may be disclosed to those persons.

25. Parts 1, 4 and 5 (except section 13(1)) of, and the Schedule to, L.N. 98 (i.e. provisions relating to Section 58 Application) come into operation on the day on which section 58(5) of Cap. 622 comes into operation (i.e. 24 October 2022). Parts 2 and 3 and section 13(1) of L.N. 98 (i.e. provisions relating to Section 49 Application and Section 51 Application) come into operation on the day on which sections 49(8) and (9) and 51(5) of Cap. 622 come into operation (i.e. 27 December 2023).

#### L.N. 99

26. L.N. 99 is made by SFST under section 657 of Cap. 622 to amend the Company Records (Inspection and Provision of Copies) Regulation (Cap. 622I). It adds a new Part 5 to Cap. 622I to prescribe the extent to which a company may withhold the number of the identity card or passport of a director or reserve director in its register of directors, or that of a company secretary in its register of company secretaries, from inspection (e.g. in case the number comprises a sequence of an even number of alphanumeric characters, by withholding the number except the first half of the sequence).

27. L.N. 99 comes into operation on the day on which section 657(2)(g) of Cap. 622 comes into operation (i.e. 23 August 2021).

#### L.N. 100

28. L.N. 100 is made by SFST under section 805 of Cap. 622 to amend the Companies (Non-Hong Kong Companies) Regulation (Cap. 622J) to the effect that:

- (a) an application to the Registrar for registration as a registered non-Hong Kong company is required to contain a correspondence address of each of the company's directors who is a natural person; and
- (b) an annual return of a registered non-Hong Kong company which is required to be delivered to the Registrar is not required to contain the usual residential address of a director and the full identity card or passport number of a director, company secretary or authorized representative who is a natural person.

29. L.N. 100 comes into operation on the day on which section 54(2) of Cap. 622 comes into operation (i.e. 24 October 2022).

#### L.N. 101

30. L.N. 101 is made by SFST under section 913(2) of Cap. 622 to amend Schedule 11 to Cap. 622 to provide for the transitional arrangements on:

- (a) the treatment of the correspondence address of the directors and reserve directors of certain companies and non-Hong Kong companies in the Companies Register on the commencement of Subdivision 2 of Division 7 of Part 2 (except section 54(1)(a)(ii)) of Cap. 622 (i.e. 24 October 2022); and

- (b) the requirement for a company's register of directors to contain a correspondence address with respect to its directors and reserve directors, for delivering a relevant notice to the Registrar for registration in respect of the correspondence address, and for containing the correspondence address in the company's annual return.

31. All provisions of L.N. 101, except section 3(1), come into operation on the day on which section 643(1)(a)(ii), (2)(b) and (3)(b) (in so far as it relates to a correspondence address) of Cap. 622 comes into operation (i.e. 23 August 2021). Section 3(1) of L.N. 101 (i.e. the provision dealing with the transitional arrangements stated in paragraph 30(a) above) comes into operation on the day on which section 54(2) of Cap. 622 comes into operation (i.e. 24 October 2022).

### Consultation

32. According to paragraph 19 of the LegCo Brief (File Ref: CO/2/20C(2021) Pt. 9) issued by the Financial Services Branch of the Financial Services and the Treasury Bureau on 16 June 2021, the Administration has communicated with relevant stakeholders, including the financial sector and the professional services sector, to listen to their views with a view to refining implementation details of the New Inspection Regime. According to the Administration, stakeholders were generally supportive of implementing the relevant arrangements but some of them raised a number of concerns (including whether displaying partial identification numbers on the Register might render identification of directors' identity infeasible). According to the Administration, they have thoroughly considered views expressed by stakeholders in finalizing the legislative proposal, with suitable amendments made.

33. As advised by the Clerk to the Panel on Financial Affairs, the Administration briefed the Panel at its meeting on 9 April 2021 on its proposal to bring into operation the New Inspection Regime. Panel members generally supported the New Inspection Regime and raised enquiries on a number of issues including how the Companies Registry would ensure the accuracy and validity of the information filed by companies, the list of specified persons who could access Protected Information of company directors, and measures to enhance the reliability of the search services of the New Inspection Regime. Members called on the Administration to enhance publicity of the New Inspection Regime and address concerns of stakeholders and members of the public on the new inspection arrangement, as well as develop measures to facilitate access to Protected Information by genuine users with legitimate purposes.

## **Concluding observations**

34. The Legal Service Division is scrutinizing the legal and drafting aspects of L.N. 95 to L.N. 101 and will report further, if necessary. No difficulties have been identified in relation to the legal and drafting aspects of L.N. 90 to L.N. 94.

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