

立法會
Legislative Council

LC Paper No. LS104/20-21

**Further Report by Legal Service Division on
Dangerous Goods (Miscellaneous Amendments) Bill 2021**

Members may recall from LC Paper No. LS94/20-21 dated 14 July 2021 and issued to Members vide LC Paper No. CB(2) 1296/20-21 that the Legal Service Division ("LSD") was scrutinizing the legal and drafting aspects of the Bill and would report further, if necessary. At the meeting of the House Committee on 16 July 2021, Members decided not to form a Bills Committee to study the Bill. This paper sets out LSD's further observations on the Bill.

2. To recap, the Bill seeks to amend the Dangerous Goods Ordinance (Cap. 295) primarily to empower the Secretary for Security ("Secretary") to amend by notice published in the Gazette certain technical matters relating to dangerous goods ("DG") contained in the Schedules to the regulations made under Cap. 295; and to empower public officers who may issue licences to specify the forms of licences instead of requiring the forms to be provided by the regulations. The Bill also seeks to make technical and related amendments to various enactments consequential to the change of the regulatory and classification system of DG.

3. LSD has sought clarifications from the Security Bureau ("the Bureau") on certain legal aspects of the Bill. LSD's enquiries and the Bureau's response are summarized below.

Clause 6 of the Bill

4. Under the proposed new section 8A of Cap. 295, the form of a licence may be specified by the relevant public officer empowered to issue the licence. In specifying the form of the licence, the public officer must make copies of the form available at his office during normal office hours and "in any other way" he considers appropriate. In response to LSD's enquiry, the Bureau has replied that the public officer may make a soft copy of the form available on the internet for download by the public.

Transitional Period

5. LSD notes that there is a proposed 24-month transitional period for certain prohibitions in relation to the control of vehicles carrying DG¹ while there is no similar transitional arrangement for other prohibitions and requirements proposed in the Bill. The Bureau has explained that:

¹ Clauses 33, 35, 42, 49, 52, 58 and 71 in Part 3 of the Bill seek to add new provisions to seven items of subsidiary legislation relating to road tunnels and traffic control to provide for transitional arrangements in relation to the control of vehicles carrying DG.

- (a) under the proposed new regulatory regime, as the number of DG regulated under Cap. 295 would increase from around 1,100 to around 2,300, it is necessary to provide the 24-month transitional period for the trades and relevant sectors to apply for licences in respect of the newly added DG; and
- (b) Part 8 of the Dangerous Goods (Control) Regulation (Cap. 295G) also provides for various transitional arrangements, such as the arrangement under which storage or conveyance of the newly added DG without a licence during the 24-month transitional period does not constitute an offence, provided that the relevant act or omission, had it happened before the commencement date of Cap. 295G to be appointed by the Secretary by notice published in the Gazette, would not have constituted a contravention of the relevant section.

6. The Bureau has further explained that transitional arrangements are not required for other clauses of the Bill which propose technical and related amendments mainly to substitute references or repeal obsolete provisions.

Commencement Date

7. In response to LSD's enquiries on the reasons for not bringing into operation the Dangerous Goods (Amendment) Ordinance 2002 (Ord. No. 4 of 2002), the Dangerous Goods (Application and Exemption) Regulation 2012 (Cap. 295E) and the Dangerous Goods (Shipping) Regulation 2012 (Cap. 295F) earlier, the Bureau has explained that:

- (a) the legislative amendment exercise relating to Cap. 295 and its subsidiary legislation is massive and complex, involving myriads of technical details which are interrelated, such that it is operationally infeasible to commence the operation of some pieces of legislation while the other pieces of legislation are pending amendments; and
- (b) the Administration has also taken considerable time to consult and liaise with relevant industries and sectors to devise a regulatory regime that aligns with international standards and suits the local situation and circumstances.

8. LSD has completed the scrutiny of the Bill. No difficulties relating to the legal and drafting aspects of the Bill have been identified. Subject to Members' views on the above matters, the Bill is ready for resumption of Second Reading debate.

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