

立法會
Legislative Council

LC Paper No. LS128/20-21

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 15 October 2021**

Tabling in LegCo : Council meeting of 20 October 2021

Amendment to be made by : Second meeting of the Council in the next session (or the first meeting held not earlier than the 21st day after the second meeting of the next session if extended by resolution)

**Prevention and Control of Disease (Use of Vaccines)
(Amendment) Regulation 2021**

(L.N. 234)

The Prevention and Control of Disease (Use of Vaccines) Regulation (Cap. 599K) provides the legal framework for emergency authorization of COVID-19 vaccines by the Secretary for Food and Health ("SFH"). Under section 9(2) of Cap. 599K, members of the advisory panel appointed by the Chief Executive ("CE") are immune from civil liability in relation to the giving of advice to SFH regarding the authorization of COVID-19 vaccines. Cap. 599K will expire at midnight on 23 December 2021, but the immunity under section 9(2) will continue to have effect after the expiry of Cap. 599K.

2. L.N. 234 is made by CE in Council under section 8 of the Prevention and Control of Disease Ordinance (Cap. 599) to amend Cap. 599K to:

- (a) add a new section 9A to provide an immunity similar to the one provided in section 9(2) of Cap. 599K to members of three other committees established by the Department of Health and one panel appointed by CE for giving advice to CE in respect of COVID-19¹ so that they are not civilly liable for an act done or omitted to be done by the members in good faith in relation to the giving of advice to the Government in respect of:

¹ The three committees established by the Department of Health are the Expert Committee on Clinical Events Assessment Following COVID-19 Immunisation, the Scientific Committee on Emerging and Zoonotic Diseases and the Scientific Committee on Vaccine Preventable Diseases. The Chief Executive's Expert Advisory Panel is appointed by CE for giving advice to CE in respect of COVID-19.

- (i) the use of an authorized vaccine for the purpose of carrying out a Government vaccination programme or a reasonable purpose specified by SFH ("specified purpose"); or
 - (ii) any clinical event that occurs to a recipient in Hong Kong to whom an authorized vaccine was administered for a specified purpose;
- (b) extend the expiry date of Cap. 599K from midnight on 23 December 2021 to midnight on 23 December 2022; and
- (c) provide that the immunity provisions in section 9(2) and the new section 9A of Cap. 599K will continue to have effect after the expiry of Cap. 599K as extended by L.N. 234.

3. According to paragraphs 16 and 19 of the Legislative Council Brief issued by the Food and Health Bureau in October 2021 (no file reference), as Hong Kong has a genuine need to continue the core COVID-19 vaccination programme and to roll out a booster programme for providing additional dose(s) of COVID-19 vaccines to our population in the future, it is necessary to extend the expiry date of Cap. 599K to provide for the necessary legal framework for authorization of COVID-19 vaccines in Hong Kong. To ensure that members of the additional committees and panel covered by L.N. 234 can tender to the Government professional, fair and unhindered advice in respect of matters relating to authorization, conditions of authorization and revocation of authorization of COVID-19 vaccines without worries of possible claims of civil liability, the Administration considers it necessary to provide civil immunity to these members.

4. As advised by the Clerk to the Panel on Health Services, the Panel has not been consulted on L.N. 234.

5. L.N. 234 came into operation on the date of its publication in the Gazette, i.e. 15 October 2021.

6. No difficulties have been identified in the legal and drafting aspects of L.N. 234.

Prepared by

Doreen WAN
Assistant Legal Adviser
Legislative Council Secretariat
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