

立法會
Legislative Council

LC Paper No. LS23/20-21

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 11 December 2020**

Tabling in LegCo : Council meeting of 16 December 2020

Amendment to be made by : Council meeting of 13 January 2021 (or that of 3 February 2021 if extended by resolution)

Pharmacy and Poisons (Amendment) (No. 5) Regulation 2020 (L.N. 252)

L.N. 252 is made by the Pharmacy and Poisons Board ("PPB") under section 29(1B) of the Pharmacy and Poisons Ordinance (Cap. 138) with the approval of the Secretary for Food and Health. It mainly amends the Pharmacy and Poisons Regulations (Cap. 138A) by:

- (a) adding the following eight substances to Division A of Schedule 1, Division A of Schedule 3, and Division A of Part 1 of the Poisons List set out in Schedule 10 ("Poisons List"):
 - (i) Antisera, antitoxins, immunoglobulins and vaccines directed against Severe Acute Respiratory Syndrome Coronavirus 2 (SARS-CoV-2);
 - (ii) Brolucizumab;
 - (iii) Capmatinib; its salts;
 - (iv) Icatibant; its salts; its esters; their salts;
 - (v) Lemborexant; its salts;
 - (vi) Ripretinib; its salts;
 - (vii) Satralizumab; and
 - (viii) Tropicium chloride; and

- (b) adding the following two substances to Division A of Part 1 of the Poisons List:
 - (i) Azelaic acid; and
 - (ii) Diprophylline; its salts.

2. The effect of L.N. 252 is that the eight substances set out in paragraph 1(a) above are subject to restrictions with respect to their sale, supply, labelling and storage, and that they can only be sold by retail upon a prescription

given by a registered medical practitioner, registered dentist or registered veterinary surgeon. Further, the inclusion of the ten substances in paragraph 1(a) and (b) above in the Poisons List means that they can only be sold on registered premises of an authorized seller of poisons by, or in the presence and under the supervision of, a registered pharmacist. In addition, L.N. 252 also amends the Chinese text of Division A of Part 1 of the Poisons List to update the arrangement order of certain substances.¹

3. According to paragraph 4 of the Legislative Council ("LegCo") Brief (File Ref.: FHB/H/23/6) issued by the Food and Health Bureau in December 2020, PPB considers the amendments appropriate in view of the potency, toxicity and potential side effects of the above substances. Members may refer to Annex B to the LegCo Brief for details of the substances which are used for the prevention or treatment of, among other conditions, Severe Acute Respiratory Syndrome Coronavirus 2, mild to moderate inflammatory acne, lung cancer, insomnia, and advanced gastrointestinal stromal tumor.

4. As advised by the Clerk to the Panel on Health Services, the Panel has not been consulted on L.N. 252.

5. Save for sections 3(8), 4(8) and 5(2), (5), (8) and (11) (amendments relating to Tropicium chloride, Azelaic acid and Diprophylline) which come into operation on 11 December 2021, L.N. 252 comes into operation on the day on which it is published in the Gazette (i.e. 11 December 2020). Upon enquiry by the Legal Service Division, the Administration explained that as a consequence of tightening the legislative control of the three aforesaid substances which are contained in certain products in the market, the registration certificate holders of the affected products are required to update the label in accordance with the statutory labelling requirement by including a bilingual statement "Prescription Drug 處方藥物" (for Tropicium chloride), or "Drug under Supervised Sales 監督售賣藥物" (for Diprophylline and Azelaic acid) on the sales pack. In order to provide sufficient time for the affected registration certificate holders to recall the products from the market and to re-label the affected products to comply with the above labelling requirement, the commencement of the amendments in relation to the three aforesaid substances will take place 12 months after the date on which L.N. 252 is published in the Gazette.

**Ferry Services (The "Star" Ferry Company, Limited)
(Determination of Fares) (Amendment) Order 2020 (L.N. 253)**

6. L.N. 253 is made by the Chief Executive in Council under section 19(1) of the Ferry Services Ordinance (Cap. 104). It amends the Ferry Services (The "Star" Ferry Company, Limited) (Determination of Fares) Order (Cap. 104C) to increase the maximum fares chargeable by The "Star" Ferry Company, Limited ("SF")

¹ The substances concerned are "氰氟蟲腓；其鹽類", "氰苯吡酸；其鹽類", "4-氰基-1-甲基-4-苯基吡啶；其鹽類" and "4-氰基-2-二甲胺基-4, 4-二苯基丁烷；其鹽類".

on its two franchised ferry routes between Kowloon Point (i.e. Tsim Sha Tsui) and respectively, Central and Wan Chai for the carriage of a passenger and bicycle and for a monthly and tourist ticket. The average rate of increase is around 16.5%. Members may refer to the tables at Annex B to the LegCo Brief (File ref.: THB(T)CR1/5591/76) issued by the Transport and Housing Bureau on 8 December 2020 for details of the fare increases. In gist, with effect from 9 February 2021:

- (a) for adult passengers on weekdays, the maximum fares will be increased by \$0.5 from \$2.7 to \$3.2 (for upper or lower deck between Kowloon Point and Wan Chai, and for upper deck between Kowloon Point and Central), and increased by \$0.4 from \$2.2 to \$2.6 (for lower deck between Kowloon Point and Central);
- (b) for adult passengers on Saturdays, Sundays and public holidays, the maximum fares will be increased by \$0.5 from \$3.7 to \$4.2 (for upper or lower deck between Kowloon Point and Wan Chai, and for upper deck between Kowloon Point and Central), and from \$3.1 to \$3.6 (for lower deck between Kowloon Point and Central);
- (c) for child passengers between 3 and 12 years old, the maximum fares will be increased by \$0.3;²
- (d) for the carriage of bicycles, the maximum fares will be increased from \$14 to \$16; and
- (e) for a monthly ticket and tourist ticket, the maximum fares will be increased from \$135 to \$160 and from \$27.5 to \$32 respectively.

7. According to paragraph 25 of the LegCo Brief, the Transport Advisory Committee ("TAC") was consulted on the application for fare increases from SF on 21 January 2020, and TAC supported the rates of fare increases recommended by the Administration.

8. As advised by the Clerk to the Panel on Transport, the Panel was consulted on the proposed fare increases at its meeting on 20 December 2019. Members in general had no objection to the proposed fare increases while some opined that SF should enhance its services (such as offering WiFi and telephone-charging facilities on board the ferries) and the facilities at the piers.

9. L.N. 253 comes into operation on 9 February 2021.

² For upper or lower deck between Kowloon Point and Wan Chai and for upper deck between Kowloon Point and Central, the maximum fare will be increased from \$1.6 to \$1.9 for weekdays and from \$2.2 to \$2.5 for Saturdays, Sundays and public holidays; and for lower deck between Kowloon Point and Central the maximum fare will be increased from \$1.5 to \$1.8 for weekdays and from \$2.1 to \$2.4 for Saturdays, Sundays and public holidays.

Wild Animals Protection Ordinance (Amendment of Schedule 6)

Notice 2020

(L.N. 254)

10. Under section 13(1) of the Wild Animals Protection Ordinance (Cap. 170), no person shall, except in accordance with a permit in writing granted by the Director of Agriculture, Fisheries and Conservation ("Director"), enter into or be within any area specified in Schedule 6 during the period specified in respect thereof in that Schedule. The existing Schedule 6 to Cap. 170 specifies the sandy beach at Sham Wan, Lamma Island, as one of the restricted areas to which section 13(1) of Cap. 170 applies during the restricted period from 1 June to 31 October, both days inclusive.

11. L.N. 254 is made by the Secretary for the Environment under section 22(1) of Cap. 170. It amends Schedule 6 to Cap. 170 to:

- (a) extend the existing restricted area of the sandy beach at Sham Wan, Lamma Island, to include the inlet of the sea adjoining the beach ("Extended Restricted Area"); and
- (b) extend the restricted period from five months (i.e. 1 June to 31 October) to seven months (i.e. 1 April to 31 October, both days inclusive).

12. The effect of L.N. 254 is that no person shall, except in accordance with a permit in writing granted by the Director, enter into or be within the Extended Restricted Area during the period from 1 April to 31 October (both days inclusive) each year.

13. Members may refer to the LegCo Brief (File Ref: EP 55/21/23) issued by the Environment Bureau and the Agriculture, Fisheries and Conservation Department ("AFCD") on 8 December 2020 for further details. According to paragraphs 2 to 4 of the LegCo Brief, the amendments under L.N. 254 are a conservation measure to protect Green Turtles which migrate from their feeding grounds to the sandy beach at Sham Wan on Lamma Island to nest from June to October each year.

14. According to paragraphs 15 and 16 of the LegCo Brief, AFCD consulted relevant stakeholders, including trade associations, residents' organizations and Government's advisory and statutory bodies, in 2019 and 2020 on the proposed extension of the restricted area at Sham Wan, Lamma Island and the restricted period. According to the Administration, the stakeholders consulted either supported or had no in-principle objection to the proposal. The Administration considers that the proposal has struck a balance between the livelihood of fishermen and protection of Green Turtles. Members may refer to the LegCo Brief for further information.

15. As advised by the Clerk to the Panel on Environmental Affairs, the Panel was consulted at its meeting on 23 November 2020 on the legislative proposal

to extend the restricted area at Sham Wan, Lamma Island, and to extend the restricted period for strengthening the protection of Green Turtles. Members supported the direction to enhance protection of Green Turtles and urged the Administration to allocate more resources to strengthening law enforcement in the restricted area, combating illegal fishing and cleaning up marine refuse. The Panel also requested the Administration to assess and report the effectiveness of the legislative proposal and related measures based on quantifiable indicators after implementation.

16. L.N. 254 comes into operation on 1 April 2021.

Concluding observations

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

Prepared by

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