

立法會
Legislative Council

LC Paper No. LS64/2023

**Paper for the House Committee Meeting
on 27 October 2023**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 20 October 2023**

Tabling in LegCo : Council meeting of 25 October 2023

Amendment to be made by : Council meeting of 22 November 2023 (or that of 13 December 2023 if extended by resolution)

**PART I SUBSIDIARY LEGISLATION RELATING TO PUBLIC BUS
FRANCHISEES' SCHEDULE OF ROUTES ORDERS**

**Schedule of Routes (Citybus Limited) (Urban and New
Territories Bus Network) Order 2023** (L.N. 132)

**Schedule of Routes (Citybus Limited) (Airport and North
Lantau Bus Network) Order 2023** (L.N. 133)

**Schedule of Routes (The Kowloon Motor Bus Company
(1933) Limited) Order 2023** (L.N. 134)

**Schedule of Routes (Long Win Bus Company Limited)
Order 2023** (L.N. 135)

**Schedule of Routes (New Lantau Bus Company (1973)
Limited) Order 2023** (L.N. 136)

**Schedule of Routes (New World First Bus Services Limited)
Order 2022 (Repeal) Order** (L.N. 137)

L.N. 132 to L.N. 137 are made by the Chief Executive (“CE”) in Council under section 5(1) of the Public Bus Services Ordinance (Cap. 230) to update the schedules of bus routes operated by franchised public bus companies.

2. Under Cap. 230, CE in Council may grant to the existing franchised public bus companies the right to operate public bus service on such routes as specified

by order.¹ The Commissioner for Transport may, after consultation with the bus companies, require them to introduce new routes or make alterations to specified routes on a temporary basis.² Temporary route changes may take effect for an aggregate period of not more than 24 months unless, before the expiry of that period, the route changes are specified in new orders made by CE in Council under section 5(1) of Cap. 230. According to paragraph 2 of the Legislative Council (“LegCo”) Brief (File Ref.: TLB L 2/4/115) issued by the Transport and Logistics Bureau on 11 October 2023, L.N. 132 to L.N. 136 are made so that the route changes made under section 15 of Cap. 230 between 1 January 2022 and 1 July 2023 can continue to be effective.

3. L.N. 132 to L.N. 136 repeal the existing Schedule of Routes Orders made in 2022 (i.e. L.N. 116 of 2022 to L.N. 120 of 2022) and update the schedules of bus routes operated by four franchised bus companies. L.N. 137 repeals L.N. 121 of 2022 (i.e. Schedule of Routes (New World First Bus Services Limited) Order 2022) but does not update the schedule of bus routes given the expiration of New World First Bus Services Limited (“NWFB”)’s franchise.³ According to paragraphs 4 and 5 of the LegCo Brief, in sum, the service changes are as follows:

Franchised bus companies	New routes	Cancelled routes	Altered routes
Citybus Limited (“CTB”) (franchise for the Urban and New Territories bus network) (“CTB(U&NT)”)	114 ⁴	2	33
CTB (franchise for the Airport and North Lantau bus network)	1	0	9
The Kowloon Motor Bus Company (1933) Limited (“KMB”)	17	3	100
Long Win Bus Company Limited (“LW”)	1	1	11
New Lantau Bus Company (1973) Limited (“NLB”)	0	0	1

4. For details of the above route changes in respect of each of the four franchised bus companies and their justifications, Members may refer to Annexes C to F to the LegCo Brief.

5. It is noted that several entries⁵ in Annex C, D and E to the LegCo Brief are inconsistent with their respective descriptions under L.N. 132, L.N. 134 and

¹ See section 5(1) of Cap. 230.

² See section 15 of Cap. 230.

³ According to paragraph 5 of the LegCo Brief, NWFB merged with CTB on 1 July 2023.

⁴ According to paragraph 4(a) of the LegCo Brief, this includes 100 routes transferred to CTB(U&NT) from NWFB upon NWFB’s merger with CTB.

⁵ The relevant entries are in respect of: (a) route no. 952 in Annex C to the LegCo Brief; (b) route no. 91S and 276 in Annex D to the LegCo Brief; and (c) route no. N42 in Annex E to the LegCo Brief.

L.N. 135. Upon the Legal Service Division's enquiries, the Administration has updated the relevant pages in Annex C, D and E to the LegCo Brief to reflect the respective descriptions in L.N. 132, L.N. 134 and L.N. 135.⁶

6. According to paragraph 8 of the LegCo Brief, the District Councils ("DC") concerned had been consulted on the major service changes. Some DC members raised objections to some of the changes and suggested further adjustments to those changes, the Administration has adopted some of the DC members' suggestions.

7. As advised by the Clerk to the Panel on Transport, the Panel has not been consulted on L.N. 132 to L.N. 137.

8. L.N. 132 to L.N. 136 come into operation on 31 December 2023. L.N. 137 came into operation on the date of its publication in the Gazette, i.e. 20 October 2023.

PART II MISCELLANEOUS

Pharmacy and Poisons (Amendment) (No. 3) Regulation 2023 (L.N. 138)

9. L.N. 138 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 Health. It amends the Pharmacy and Poisons Regulations (Cap. 138A) by adding 14 substances⁷ to Division A of Schedule 1, Division A of Schedule 3 and Division A of Part 1 of the Table set out in section 2 of Schedule 10 ("Poisons List") to Cap. 138A.

10. The main effects of L.N. 138 include that the 14 newly added substances 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 14 substances in Part 1 of the Poisons List means that they can only be sold on the registered premises of an authorized seller of poisons by, or in the presence and under the supervision of, a registered pharmacist.

⁶ The updated LegCo Brief is available at https://www.legco.gov.hk/yr2023/english/brief/tlbl24115_20231011-e.pdf.

⁷ The 14 substances are: (a) Antisera, antitoxins, immunoglobulins and vaccines against Respiratory Syncytial Virus; (b) Deucravacitinib; its salts; (c) Filgotinib; its salts; (d) Glofitamab; (e) Lurbinectedin; its salts; (f) Mavacamten; its salts; (g) Naldemedine; its salts; (h) Netarsudil; its salts; (i) Revefenacin; its salts; (j) Selpercatinib; its salts; (k) Tagraxofusp; (l) Teclistamab; (m) Tenapanor; its salts; and (n) Tezepelumab.

11. According to paragraph 4 of the LegCo Brief (File Ref.: HHB/H/23/4) issued by the Health Bureau in October 2023, PPB considers the amendments appropriate in view of the potency, toxicity and potential side effects of the 14 newly added substances. Members may refer to Annex B to the LegCo Brief for details of those substances.

12. As advised by the Clerk to the Panel on Health Services, the Panel has not been consulted on L.N. 138.

13. L.N. 138 came into operation on the date of its publication in the Gazette, i.e. 20 October 2023.

**Dangerous Drugs Ordinance (Amendment of First Schedule)
Order 2023**

(L.N. 139)

14. L.N. 139 is made by CE under section 50(1) of the Dangerous Drugs Ordinance (Cap. 134) after consultation with the Executive Council. It adds five substances⁸ to Part I of the First Schedule to Cap. 134 as dangerous drugs.

15. The effect of L.N. 139 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 is required for the manufacture, import, export and supply of these dangerous drugs. Trafficking or manufacture of these drugs in contravention of Cap. 134 is liable to a maximum penalty of life imprisonment and a fine of \$5 million. Possession or consumption of these drugs in contravention of Cap. 134 is liable to a maximum penalty of imprisonment for seven years and a fine of \$1 million.

16. According to paragraphs 8 and 9 of the LegCo Brief (Ref: NCR 2/1/8 S/F(26) Pt.2) issued by the Narcotics Division of the Security Bureau in October 2023, the Administration has consulted the Action Committee Against Narcotics and it supported the legislative proposal. The relevant trades, including holders of licences under Cap. 134 and Cap. 138 have also been consulted on the legislative proposal in April 2023 and no objection has been received.

17. As advised by the Clerk to the Panel on Security, the Panel was consulted on the legislative proposal at its meeting on 6 June 2023. Members supported the legislative proposal and discussed issues relating to measures to combat trafficking of the five substances proposed to be brought under the control as dangerous drugs.

18. L.N. 139 comes into operation on 15 December 2023.

⁸ The five substances are: (a) 2-Methyl-AP-237; (b) etazene; (c) etonitazepyne; (d) protonitazene; and (e) ADB-BUTINACA.

Fish Culture Zone (Designation) (Amendment) Order 2023 (L.N. 140)

**Shipping and Port Control (Specification of Areas)
(Amendment) Notice 2023** (L.N. 141)

**Statement of Water Quality Objectives (Mirs Bay Water
Control Zone) (Amendment) Statement 2023** (L.N. 142)

L.N. 140

19. L.N. 140 is made by the Director of Agriculture, Fisheries and Conservation (“DAFC”) under section 5(a) of the Marine Fish Culture Ordinance (Cap. 353). It amends the Schedule to the Fish Culture Zone (Designation) Order (Cap. 353B) to designate four areas of water located in Wong Chuk Kok Hoi, Mirs Bay, Outer Tap Mun, and Po Toi (Southeast) as fish culture zones (“New FCZs”) for the purpose of Part II of Cap. 353, so that DAFC may grant to a person a license pursuant to section 8 of Cap. 353 to engage in fish culture within the New FCZs.

L.N. 141

20. L.N. 141 is made by the Director of Marine (“DM”) under section 6(2) of the Shipping and Port Control Ordinance (Cap. 313). It amends the Schedule to the Shipping and Port Control (Specification of Areas) Notice (Cap. 313O) to include the New FCZs in the list of areas of water in which floating or other structures, i.e. rafts or impoundments, may be erected and maintained without DM’s permission. This enables DAFC to specify, when granting licences pursuant to section 8 of Cap. 353, that those structures may be erected and maintained in the New FCZs.

L.N. 142

21. L.N. 142 is made by the Secretary for Environment and Ecology (“Secretary”) under section 5 of the Water Pollution Control Ordinance (Cap. 358) after consultation with the Advisory Council on the Environment to amend:

- (a) the definition of “Fish Culture Subzone” in the Statement of Water Quality Objectives (Mirs Bay Water Control Zone) (Cap. 358U) to directly refer to the fish culture zones set out in Cap. 353B that are within the Mirs Bay Water Control Zone so that the relevant Water Quality Objectives apply to conserve fish culture activities in the New FCZs; and
- (b) two definitions in Cap. 358U, namely “Secondary Contact Recreation Subzone” and “Water Gathering Ground Subzone”, so that they refer to a new set of maps to be signed by the Secretary.

Consultation

22. According to paragraph 11 of the LegCo Brief, relevant stakeholders including major fisheries associations, mariculturists, as well as representatives from Rural Committees and green groups were consulted during the environmental impact assessment process on the proposed designation of the new FCZs. The relevant stakeholders were supportive of the legislative proposal. Members of the Fisheries Sub-committee of the Advisory Committee on Agriculture and Fisheries were also supportive of the legislative proposal. The Advisory Council on the Environment did not raise any objections to the amendments to Cap. 358U.

23. As advised by the clerk to the Panel on Food Safety and Environmental Hygiene, the Administration consulted the Panel on the designation of the New FCZs at its meeting on 14 February 2023. Members had no particular views on the legislative proposal but expressed concerns regarding the Administration's proposal to set up several new steel truss cages and other types of deep sea cages at suitable locations in the New FCZs in phases for renting to fishermen organizations or associations.

Commencement

24. According to paragraph 3 of the LegCo Brief, DAFC will commence operation of the New FCZs in two phases. As such, L.N. 140 comes into operation on 13 December 2023, except for those parts of the L.N. that relate to Outer Tap Mun and Po Toi (Southeast), which will come into operation on a day to be appointed by DAFC by notice published in the Gazette. L.N. 141 comes into operation on 13 December 2023, except for those parts of the L.N. that relate to Outer Tap Mun and Po Toi (Southeast), which will come into operation when those parts of L.N. 140 that relate to Outer Tap Mun and Po Toi (Southeast) come into operation.

25. L.N. 142 comes into operation on 13 December 2023.

Adoption (Amendment) Rules 2023 (L.N. 143)

Convention Adoption (Amendment) Rules 2023 (L.N. 144)

26. L.N. 143 and L.N. 144, both made by the Chief Justice under section 12(1) of the Adoption Ordinance (Cap. 290), amend rule 8(2) of the Adoption Rules (Cap. 290A) and rule 11(4) of the Convention Adoption Rules (Cap. 290D) respectively to increase in three phases the fee payable to the Director of Social Welfare ("DSW") for acting as the guardian ad litem⁹ ("GAL") of an infant for the purpose of an adoption application as follows:

⁹ Under rule 2 of Cap. 290A, "guardian ad litem" (訴訟監護人) means the guardian ad litem of an infant for the purposes of the application for an adoption order other than a Convention adoption order that relates to the infant. Under rule 2 of Cap. 290D, "guardian ad litem" (訴訟監護人) means a guardian ad litem of an infant for the purposes of the application for a Convention adoption order that relates to the infant.

- (a) increase from the current rate of \$3,970 to \$4,210 (i.e. by approximately 6%) with effect from 1 January 2024;
- (b) increase from \$4,210 to \$4,440 (i.e. by approximately 5%) with effect from 1 January 2025; and
- (c) increase from \$4,440 to \$4,670 (i.e. by approximately 5%) with effect from 1 January 2026.

27. Cap. 290 makes provisions for the adoption of children, gives effect in Hong Kong to the Convention on Protection of Children and Co-operation in respect of Intercountry Adoption (“Convention”) and provides for incidental and related matters. Cap. 290A provides for the rules relating to non-Convention adoption and Cap. 290D provides for the rules relating to Convention adoption. An applicant making an application for an adoption order under Cap. 290A or Cap. 290D is required to pay DSW the fee in payment of the costs of DSW for acting as GAL.

28. The current GAL fees under Cap. 290A and Cap. 290D have not been revised since 2017. According to paragraphs 6 and 7 of the LegCo Brief (File Ref: LWB CR 1/2321/07) issued by the Labour and Welfare Bureau in October 2023, the Administration seeks to recover 20% of the full cost incurred in the execution of statutory duties under Cap. 290A and Cap. 290D. In order to implement the fee revisions mildly, the Administration proposes to increase the two GAL fee items by about 5-6% annually in 2024, 2025 and 2026. Members may refer to the LegCo Brief for background and further information.

29. As advised by the Clerk to the Panel on Welfare Services, the Administration provided an information paper on “Revision of Fees under the Adoption Ordinance (Cap. 290)” (LC Paper No. CB(2)544/2023(01)) to the Panel in June 2023. No member has raised enquiries on the paper.

**Antiquities and Monuments (Declaration of Monuments
and Historical Buildings) (Consolidation) (Amendment)
Notice 2023**

(L.N. 145)

30. L.N. 145 is made by the Secretary for Development (“SD”) under section 3(1) of the Antiquities and Monuments Ordinance (Cap. 53) after consultation with the Antiquities Advisory Board (“AAB”) with the approval of CE. It declares the following places to be historical buildings under Cap. 53:

- (a) the Tin Hau Temple, Joss House Bay, Sai Kung at Lot No. 92 in D.D. 240, Tei Tong Tsui, Sai Kung, New Territories (“Temple”); and

- (b) the Chinese YMCA of Hong Kong at 51 Bridges Street, Sheung Wan, Hong Kong (“Chinese YMCA Building”).

31. As “monument” is defined in section 2 of Cap. 53 to include any place, building, site or structure declared to be a historical building under section 3 of Cap. 53, the effect of L.N. 145 is that the above places become monuments under Cap. 53. Under section 6(1) of Cap. 53, excavation, carrying on building or other works in the newly declared monuments or demolition of the monuments is prohibited except in accordance with a permit granted by SD in her capacity as the Authority under Cap. 53. Under section 19(2) of Cap. 53, any person who contravenes section 6(1) of Cap. 53 shall be guilty of an offence and shall be liable on conviction to a fine at level 6 (i.e. \$100,000) and imprisonment for one year.

32. According to paragraphs 10 and 12 of the LegCo Brief (File Ref.: DEVB/CHO/1B/CR/141) issued by the Development Bureau on 20 October 2023, AAB has under the existing administrative grading mechanism accorded the Temple and the Chinese YMCA Building with Grade 1 status which denotes their outstanding heritage value. Notices on the intended declaration have been served on the respective lawful occupiers and owners of the Temple and the Chinese YMCA Building on 31 August 2023, and explicit agreements to the declaration proposals regarding the two places have been obtained from the respective lawful occupiers and owners.

33. As advised by the Clerk to the Panel on Development, the Panel was briefed on the proposal for the declaration of the Temple and the Chinese YMCA Building as monuments at its meeting on 25 July 2023. Members raised no objection to the proposal at the meeting.

34. L.N. 145 came into operation on the date of its publication in the Gazette, i.e. 20 October 2023.

**Bankruptcy and Companies Legislation (Miscellaneous
Amendments) Ordinance 2023 (Commencement) Notice 2023 (L.N. 146)**

35. L.N. 146 is made by the Secretary for Financial Services and the Treasury under section 1(3) of the Bankruptcy and Companies Legislation (Miscellaneous Amendments) Ordinance 2023 (Ord. No. 22 of 2023) to appoint 29 December 2023 as the day on which sections 3, 4, 5, 8, 9, 15, 16, 17, 18 and 21 and Part 3 (“Relevant Provisions”) of Ord. No. 22 of 2023 come into operation. The Relevant Provisions mainly relate to submission of documents to the Official Receiver by electronic means and publication requirements for various notices for the purpose of the Bankruptcy Ordinance (Cap. 6) and the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32).

36. Ord. No. 22 of 2023 was published in the Gazette on 21 July 2023 after the passage of the Bankruptcy and Companies Legislation (Miscellaneous Amendments) Bill 2023 (“Bill”) by LegCo on 12 July 2023. Certain provisions of the Bill including Part 4 (relates to sending of proxy by electronic means) and Part 5 (miscellaneous amendments) came into operation on 21 July 2023. No Bills Committee was formed to study the Bill. Members may refer to the Legal Service Division (“LSD”) report (LC Paper No. LS41/2023) and further report of LSD (LC Paper No. LS49/2023) in relation to the Bill for further information.

37. No LegCo Brief has been issued in respect of L.N. 146.

38. As advised by the Clerk to the Panel on Financial Affairs, the Panel has not been consulted on L.N. 146.

Waste Disposal (Specified Requirements for Designated Bag and Designated Label) (Amendment) Notice 2023 (L.N. 147)

39. L.N. 147 is made by the Director of Environmental Protection under section 20T of the Waste Disposal Ordinance (Cap. 354) to amend the Waste Disposal (Specified Requirements for Designated Bag and Designated Label) Notice (Cap. 354V) to vary the designs for pre-paid designated bags (“Designated Bags”) specified for the purposes of implementing the charging scheme for the disposal of municipal solid waste (“MSW”) established under Cap. 354.¹⁰ It amends Schedules 1, 2 and 3 to Cap. 354V to reflect the following changes to the specifications for the Designated Bags: (a) to use plastic material of high-density polyethylene (HDPE) instead of low-density polyethylene (LDPE) to produce Designated Bags with 3-litre to 75-litre capacities; and (b) to adjust the requirement for the recycled materials content from 50% to not less than 20%.

40. According to paragraph 4 of the LegCo Brief (File Ref: EP CR 9/150/42) issued by the Environment and Ecology Bureau and the Environmental Protection Department in October 2023, the tender prices for all conforming tenders received in the open tender exercise in June 2022 for the Designated Bags manufacturing contracts were much higher than expected, and changes to the specifications for Designated Bags were made with a view to provide greater flexibility to manufacturers for controlling production costs of Designated Bags.

41. As advised by the Clerk to the Panel on Environmental Affairs, on 31 January 2023, the Administration reported to the Subcommittee to Study Policy Issues Relating to Municipal Solid Waste Charging, Recovery and Recycling (a

¹⁰ The MSW charging scheme will come into operation fully on 1 April 2024 by virtue of the Waste Disposal (Charging for Municipal Solid Waste) (Amendment) Ordinance 2021 (Commencement) Notice 2023 (L.N. 130 of 2023) gazetted on 13 October 2023.

subcommittee appointed by the Panel) the progress of its preparatory work for the implementation of MSW charging scheme, including the revised technical specifications of Designated Bags for re-tendering. Members did not raise any objection to the revised technical specifications, and requested the Administration to ensure that the manufacturing contractor(s) could produce sufficient Designated Bags to meet the demand for implementation of the scheme.

42. L.N. 147 came into operation on the date of its publication in the Gazette, i.e. 20 October 2023.

Concluding observations

43. No difficulties have been identified in relation to the legal and drafting aspects of L.N. 132 to L.N. 147.

Prepared by

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