

立法會
Legislative Council

LC Paper No. LS12/06-07

**Paper for the House Committee Meeting
on 24 November 2006**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 17 November 2006**

Date of Tabling in LegCo : 22 November 2006

Amendment to be made by : 20 December 2006 (or 10 January 2007 if extended by resolution)

PART I FUGITIVE OFFENDERS ORDINANCE

Fugitive Offenders Ordinance (Cap. 503)

Fugitive Offenders (Germany) Order (L.N. 251)

Fugitive Offenders (Republic of Korea) Order (L.N. 252)

The Fugitive Offenders (Germany) Order (“the Germany Order”) and the Fugitive Offenders (Republic of Korea) Order (“the Korea Order”) are made by the Chief Executive in Council under section 3 of the Fugitive Offenders Ordinance (Cap. 503) (“the Ordinance”).

2. By the Germany Order, it is directed that the procedures in the Ordinance for the surrender of fugitive offenders shall apply between Hong Kong and the Federal Republic of Germany. The Order is made in consequence of the arrangements for the surrender of fugitive offenders entered into by Hong Kong and the Federal Republic of Germany and signed in Hong Kong on 26 May 2006. The terms of those arrangements are recited in the Schedule to the Order. Under section 2(1) of the Order, the relevant procedures are subject to the limitations, restrictions, exceptions and qualifications contained in the terms so recited.

3. By the Korea Order, it is directed that the procedures in the Ordinance for the surrender of fugitive offenders shall apply between Hong Kong and the Republic of Korea. The Order is made in consequence of the arrangements for the surrender of fugitive offenders entered into by Hong Kong and the Republic of Korea and signed in Hong Kong on 26 June 2006. The terms of those arrangements are recited in the Schedule to the Order. Those procedures are subject to the limitations, restrictions, exceptions and qualifications contained in the terms so recited.

4. Article 5(a)(i) and (ii) of the Korea Order provides for exceptions to the political offence restriction on surrender of fugitive offenders. These exceptions relate to offences involving the taking or attempted taking of the life or an attack on the person of a Head of State or Head of Government or a member of the person's immediate family, and offences which, by reason of a multilateral international agreement, the Parties must not treat as political offences or offences connected with political offences. Similar provisions can be found in the existing fugitive offenders orders in respect of the bilateral agreements with Malaysia and the United States of America.

5. Both the Germany Order and the Korea Order are subject to a mechanism of scrutiny by the Legislative Council ("LegCo") provided in section 3(2) to (6) of the Ordinance. The mechanism is similar to that provided in section 34 of the Interpretation and General Clauses Ordinance (Cap. 1), except that section 3(3) of the Ordinance restricts LegCo's power to only repeal the Orders.

6. These two Orders will come into operation on a day to be appointed by the Secretary for Security by notice published in the Gazette.

7. Members may refer to the LegCo Brief (File Ref.: SBCR 3/5691/95 Pt.36 and SBCR 1/2716/89(98) Pt.22) issued by the Security Bureau on 15 November 2006 for background information.

PART II MISCELLANEOUS

Antiquities and Monuments Ordinance (Cap. 53)

Antiquities and Monuments (Declaration of Historical Building) Notice 2006 (L.N. 253)

8. This Notice is made by the Secretary for Home Affairs ("the Authority") under section 3(1) of the Antiquities and Monuments Ordinance (Cap. 53) ("the Ordinance") to declare the building known as Leung Ancestral Hall at Yun Kong Tsun Lot No. 1 in D.D. 106, 62 Yuen Kong Tsuen, Pat Heung, Yuen Long, New Territories ("the Building"), to be a historical building for the purposes of the Ordinance. The effect of the Notice is that no person shall excavate in, demolish or interfere with the Building except in accordance with a permit granted by the Authority.

9. This Notice will come into operation on 12 January 2007.

Banking (Amendment) Ordinance 2005 (19 of 2005)

Banking (Specification of Multilateral Development Bank) (Amendment) Notice 2006 (L.N. 254)

10. Under section 2(19) of the Banking Ordinance (Cap. 155), as amended by the Banking (Amendment) Ordinance 2005 (19 of 2005), the Monetary Authority (“MA”) may by notice published in the Gazette specify to be multilateral development bank for the purposes of the Banking Ordinance any bank or lending or development body established by agreement between, or guaranteed by, two or more countries, territories or international organizations other than for purely commercial purposes.

11. By the Banking (Specification of Multilateral Development Bank) Notice (L.N. 230 of 2006) published in the Gazette on 27 October 2006, MA specified 10 banks or bodies as multilateral development banks (“MDBs”). According to the LegCo Brief (File Ref: B9/1/1/1C) issued by the Hong Kong Monetary Authority on 17 November 2006, since the publication of L.N. 230, the Basel Committee on Banking Supervision (“BCBS”) has revised its list of MDBs. This Notice amends L.N. 230 to specify 13 banks or bodies as MDBs in accordance with the most updated list of MDBs published by BCBS. Details are in paragraph 4 of the LegCo Brief.

12. This Notice will come into operation on 1 January 2007.

Import and Export (General) Regulations (Cap. 60 sub. leg. A)

Import and Export (General) Regulations (Amendment of Seventh Schedule) (Bangladesh) Notice 2006 (L.N. 255)

13. This Notice adds Bangladesh to the list of specified countries or places in the Seventh Schedule to the Import and Export (General) Regulations (Cap. 60 sub. leg. A). Part VI of and the Seventh Schedule to those Regulations implement in Hong Kong an international certification scheme for rough diamonds known as the Kimberley Process Certification Scheme. The effect of this Notice is that trade in rough diamonds with Bangladesh is permitted under the Kimberley Process Certification Scheme.

Public Health and Municipal Services Ordinance (Cap. 132)

Market to which the Public Health and Municipal Services Ordinance Applies Declaration 2006 (L.N. 256)

14. This Declaration declares the Stanley Waterfront Mart at No. 20 Stanley Market Road, Stanley, Hong Kong to be a market to which the Public Health and

Municipal Services Ordinance (Cap. 132) (“the Ordinance”) applies with effect from 24 November 2006.

15. According to the LegCo Brief (File Ref: HWF(F)7/13 Pt. 6) issued by the Health, Welfare and Food Bureau in November 2006, the Director of Food and Environmental Hygiene (“the Director”) will proceed to designate the Stanley Waterfront Mart as a public market by making an order of designation (“the Designation Order”) and an order to amend the Tenth Schedule to the Ordinance (“the Amendment Order”) to be published in the Gazette on 24 November 2006. This Declaration, the forthcoming Designation Order and Amendment Order will come into operation on the same day. The effect of the Declaration and the two Orders is to confer on the Director a statutory power to manage and control the venue as a public market in accordance with the provisions of the Ordinance.

16. The relevant LegCo Panels have not been consulted on the above items of subsidiary legislation.

PART III LEGAL NOTICE NOT REQUIRED TO BE TABLED

United Nations Sanctions Ordinance (Cap. 537)

United Nations Sanctions (Democratic Republic of the Congo) Regulation 2006 (L.N. 257)

17. This Regulation is made under section 3 of the United Nations Sanctions Ordinance (Cap. 537) by the Chief Executive on the instruction of the Ministry of Foreign Affairs of the People’s Republic of China and after consultation with the Executive Council. It gives effect to a decision of the Security Council of the United Nations (“the Security Council”) in Resolution 1698 of 31 July 2006 to provide for the further implementation of the following sanctions imposed by the Security Council in certain previously adopted Resolutions:

- (a) prohibition against supply, delivery and carriage of arms and related materials to persons in the territory of the Democratic Republic of the Congo;
- (b) prohibition against the provision to such persons of assistance, advice or training related to military activities;
- (c) prohibition against making available to or for the benefit of certain persons or entities any funds or other financial assets or economic resources; and
- (d) prohibition against entry into or transit through the Hong Kong Special Administrative Region of certain persons.

18. This Regulation comes into operation on the date of gazettal, i.e. 17 November 2006 and expires at midnight on 31 July 2007.

19. Members may refer to the information paper issued by the Commerce, Industry and Technology Bureau in November 2006 for details of the Regulation (LC Paper No. CB(1)366/06-07(01) to be issued to Members on 24 November 2006).

20. Although this Regulation is not subject to scrutiny by LegCo under section 34 of the Interpretation and General Clauses Ordinance (Cap. 1), it comes within the terms of reference of the Subcommittee to Examine the Implementation in Hong Kong of Resolutions of the United Nations Security Council in relation to Sanctions. It is recommended that the Regulation be referred to the Subcommittee for consideration.

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