

立法會
Legislative Council

LC Paper No. LS49/08-09

**Paper for the House Committee Meeting
on 20 March 2009**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 13 March 2009**

Date of tabling in LegCo : 18 March 2009

Amendment to be made by : 1 April 2009 (or 6 May 2009 if extended by resolution)

PART I COMMENCEMENT NOTICE

**Independent Police Complaints Council Ordinance (33 of 2008)
Independent Police Complaints Council Ordinance (Commencement) (No. 2)
Notice 2009 (L.N. 36)**

The Independent Police Complaints Council Ordinance (Commencement) (No. 2) Notice 2009 (the Commencement (No.2) Notice) was made by the Secretary for Security under section 2 of the Independent Police Complaints Ordinance (33 of 2008) (the Ordinance) to appoint 1 June 2009 as the day on which the Ordinance comes into operation.

2. Members may recall that by the Independent Police Complaints Council Ordinance (Commencement) Notice (L.N. 6 of 2009), the Secretary for Security appointed 1 April 2009 as the day on which the Ordinance was to come into operation. The Subcommittee on Independent Police Complaints Council Ordinance (Commencement) Notice (the Subcommittee) was formed to study L.N. 6 of 2009. During the deliberation of the Subcommittee, members stressed the importance for the Independent Police Complaint Council (IPCC) to be provided with sufficient resources to enable it to effectively discharge its functions under the Ordinance. The Subcommittee also examined the preparatory arrangements for the establishment of IPCC, including the relevant procedures and guidelines of IPCC and the Complaints Against Police Office (CAPO). Members of the Subcommittee agreed that the preparatory arrangements and the relevant procedures and guidelines of IPCC and CAPO should be followed up when a new commencement notice was made.

3. Taking into account the views expressed by members of the Subcommittee, the Administration proposed to defer the commencement of the Ordinance to 1 June 2009 to allow members to obtain sufficient information about the financial resources of IPCC. The Subcommittee supports the Administration's proposal. Subsequently, the Administration repealed L.N. 6 of 2009 on 27 February 2009 by the Independent Police Complaints Council Ordinance (Commencement) Notice (Repeal) Notice (L.N. 30 of 2009). A special Finance Committee meeting to examine the Draft Estimates of Expenditure 2009-2010 for the departments and agencies of the Security Bureau, including IPCC, will be held on 24 March 2009.

4. Members may wish to refer to the report of the Subcommittee to the House Committee (LC Paper No. CB(2)948/08-09) for further information.

5. The Panel on Security has not been consulted on the Commencement (No.2) Notice.

PART II LEGAL NOTICES NOT REQUIRED TO BE TABLED AND NOT SUBJECT TO AMENDMENT

United Nations Sanctions Ordinance (Cap. 537)

United Nations Sanctions (Democratic Republic of the Congo) Regulation 2009 (L.N. 37)

United Nations Sanctions (Liberia) Regulation 2009 (L.N. 38)

United Nations Sanctions (Liberia) Regulation 2008 (Repeal) Regulation (L.N. 39)

6. The three Regulations above were made by the Chief Executive under section 3 of the United Nations Sanctions Ordinance (Cap. 537) (the Ordinance) on the instruction of the Ministry of Foreign Affairs of the People's Republic of China and after consultation with the Executive Council.

7. Since 2003, the United Nations Security Council (UNSC) has made several resolutions imposing sanctions against the Democratic Republic of Congo (Congo) or renewing certain sanctions upon their expiry. Regulations were made to implement those resolutions. The United Nations Sanctions (Democratic Republic of the Congo) (No. 2) Regulation 2008 (Cap. 537 sub. leg. AJ) (Congo Regulation 2008) was the last regulation made and it expired at midnight on 31 December 2008.

8. The United Nations Sanctions (Democratic Republic of the Congo) Regulation 2009 (Congo Regulation 2009) is made to implement UNSC Resolution 1857 (2008), which renews the following sanctions against Congo in terms similar to those implemented by the Congo Regulation 2008 –

- (a) the supply, delivery or carriage of arms or related materials to certain persons;
- (b) the provision to certain persons of assistance, advice or training related to military activities;
- (c) making available to, or for the benefit of, certain persons or entities any funds or other financial assets or economic resources; and
- (d) entry into or transit through Hong Kong by certain persons.

9. The Congo Regulation 2009 will expire at midnight on 30 November 2009.

10. Since March 2001, UNSC has adopted several resolutions imposing sanctions against Liberia or renewing certain sanctions upon their expiry. Regulations were made under the Ordinance to implement those resolutions. The United Nations Sanctions (Liberia) Regulation 2009 (Liberia Regulation 2009) is a consolidated instrument to give effect to UNSC Resolutions 1854 (2008) and 1532 (2004).

11. Resolution 1854 (2008) of 19 December 2008 renews the following sanctions for a period of 12 months –

- (a) the supply, delivery or carriage of arms or related material ("prohibited goods" to Liberia;
- (b) the provision of technical training or assistance related to the provision, manufacture, maintenance or use of the prohibited goods in certain circumstances; and
- (c) entry into or transit through Hong Kong by certain persons.

Resolution 1854 (2008) also affirms that the financial sanctions against Liberia imposed by UNSC Resolution 1532 (2004) shall remain in force.

12. Sections 6 and 11 of the Liberia Regulation 2009 which implement the financial sanctions will come into operation on 20 March 2009. The other provisions of the Liberia Regulation 2009, which renew the other sanctions have commenced upon gazettal on 13 March 2009 and will expire at midnight on 18 December 2009.

13. The United Nations Sanctions (Liberia) Regulation 2008 (Cap. 537 sub. leg. AI), the part of which relating to non-financial sanctions has expired since midnight on 18 December 2008, will be repealed by L.N. 39 on 20 March 2009 to tie in with the commencement of sections 6 and 11 of the Liberia Regulation 2009.

14. Members may refer to the information paper issued by the Commerce and Economic Development Bureau in March 2009 (LC Paper No. CB (1) 1059/08-09(01) and CB(1) 1060/08-09(01)) to the Subcommittee to Examine the Implementation in Hong Kong of Resolutions of the United Nations Security Council in relation to Sanctions (the Subcommittee) for further information.

15. Under section 3(5) of the Ordinance, sections 34 and 35 of the Interpretation and General Clauses Ordinance (Cap. 1) shall not apply to regulations made under the Ordinance. Therefore, the above regulations are not subject to amendment by the Legislative Council. However, since they come within the terms of reference of the Subcommittee, Members may consider referring them to the Subcommittee for further consideration.

Concluding Remarks

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

Prepared by

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