

立法會
Legislative Council

LC Paper No. LS92/09-10(01)

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 24 September 2010**

Date of tabling in LegCo : 13 October 2010

Amendment to be made by : 10 November 2010 (or 1 December 2010 if extended by resolution)

**Toys and Children's Products Safety Ordinance (Cap. 424)
Toys and Children's Products Safety Ordinance (Amendment of Schedule 2)
Notice 2010 (L.N. 110)**

The Toys and Children's Products Safety Ordinance (Cap. 424) (the Ordinance) provides for safety standards for children's toys and safety standards for specified chattels used in association with children, and to provide for other powers to enhance the safety of children. The Toys and Children's Products Safety (Amendment) Ordinance 2010 (5 of 2010) (the Amendment Ordinance) amended the Ordinance by, among other things, adding a new Schedule 2, namely, "Children's Product Standards". The Amendment Ordinance came into operation on 1 April 2010 (L.N. 29 of 2010). Schedule 2 provides for operative standards for children's products, which are international standards or standards adopted by major economies. Under the combined effect of the definition of "Children's Product Standard" in section 2 and section 5 (relating to the requirement that children's product must comply with children's product standards) of the Ordinance, no person shall manufacture, import or supply a children's product unless the product complies with all the requirements contained in at least one children's product standard specified in Schedule 2 or if the standard is amended, as so amended. The Secretary for Commerce and Economic Development may, by notice published in the Gazette, amend Schedule 2 (section 37 of the Ordinance).

2. There are 12 types of children's products listed in Schedule 2 with specified standards. The Amendment Notice updates the standards specified for the following six types of products –

- (a) baby walking frames;
- (b) child safety barriers for domestic use;
- (c) children's cots for domestic use;
- (d) children's paints;

- (e) playpens for domestic use; and
- (f) wheeled child conveyances.

3. Members may refer to the LegCo Brief (ref: CITB CR 08/18/3) issued by the Commerce, Industry and Tourism Branch of the Commerce and Economic Development Bureau in September 2010 for the background about the Amendment Notice. The major changes with respect to these six types of children's products are set out in Annex B to the LegCo Brief.

4. The Amendment Notice has not been referred to any LegCo Panel. According to the Administration, consultations with major trade associations and organizations advocating children welfare were conducted in May 2010. In response to the concerns about the frequency of updates and the need for a reasonable grace period, the Administration has proposed that the updates take effect on 1 December 2010 (paragraph 7 of LegCo Brief).

5. Under section 1 of the Amendment Notice, the Amendment Notice will come into operation on 1 December 2010.

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

United Nations Sanctions Ordinance (Cap. 537)

United Nations Sanctions (Eritrea) Regulation (L.N. 111)

6. The United Nations Sanctions (Eritrea) Regulation (the Eritrea Regulation) was 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 to give effect to the decision of the Security Council of the United Nations (UNSC) in Resolution 1907 (2009) as adopted by UNSC on 23 December 2009. According to Resolution 1907 (2009), UNSC expressed concern that Eritrea has provided political, financial and logistical support to armed groups engaged in undermining peace and reconciliation in Somalia and regional stability.

7. The Eritrea Regulation prohibits –

- (a) the supply, sale, transfer or carriage of arms or related materiel to Eritrea or certain persons;
- (b) the provision of certain assistance or training in certain circumstances;
- (c) the procurement of certain items, assistance or training from Eritrea or a person connected with Eritrea;

- (d) making available to, or for the benefit of, certain persons or entities any funds or other financial assets or economic resources;
- (e) dealing with funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, certain persons or entities; and
- (f) entry into or transit through Hong Kong by certain persons.

8. The Eritrea Regulation also provides for the seizure and forfeiture of any document, cargo or article which is evidence in relation to the commission of an offence under the Eritrea Regulation.

9. Members may refer to the information paper issued by the Commerce and Economic Development Bureau in September 2010 (LC Paper No. CB(1) 2920/09-10(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.

10. 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 Eritrea Regulation is not subject to amendment by the Legislative Council. However, it comes within the terms of reference of the Subcommittee. Members may consider referring Eritrea Regulation to the Subcommittee for its consideration.

11. The scrutiny of the Eritrea Regulation is still ongoing and the Legal Service Division will report further if necessary.

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