

立法會
Legislative Council

LC Paper No. LS25/12-13

**Paper for the House Committee Meeting
on 22 February 2013**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 15 February 2013**

Date of tabling in LegCo : 20 February 2013

Amendment to be made by : 20 March 2013 (or 17 April 2013 if extended
by resolution)

Dumping at Sea Ordinance (Cap. 466)

Dumping at Sea (Exemption) (Amendment) Order 2013 (L.N. 15)

L.N. 15 is made by the Secretary for the Environment under section 11(1) of the Dumping at Sea Ordinance (Cap. 466) (the Ordinance) to amend Schedule 2 to the Dumping at Sea (Exemption) Order (Cap. 466 sub. leg. B) (the Exemption Order) by specifying the sea-bed situated in an area to the south of The Brothers (the Area) as a reclamation area for the purposes of section 4(2)(a) of the Exemption Order. The effect is that any dumping operation in the Area requires a permit under section 8 of the Ordinance¹.

2. According to the LegCo Brief (File Ref.: EP 76/3P/57 (32)) issued by the Environmental Protection Department in February 2013, reclamation in the Area was authorized under the Foreshore and Sea-bed (Reclamations) Ordinance (Cap. 127) by the Chief Executive in Council on 15 February 2011, and the notice of authorization was published in the Gazette on 11 March 2011 (G.N. 1568 of 2011). By virtue of section 4 of the Exemption Order, the dumping operations in the Area are exempt from the permit requirement under section 8 of the Ordinance, unless the Area is specified in Schedule 2 to the Exemption Order. According to the LegCo Brief, the Civil Engineering and Development Department (CEDD) commenced construction works of a new

¹ Unless the dumping operation is exempt, anyone who dumps substances or articles at sea without a permit commits an offence and is liable on a first conviction to a fine of \$200,000 and to imprisonment for 6 months, or on a second or subsequent conviction to a fine of \$500,000 and to imprisonment for 2 years, and to a further fine of \$10,000 for each day the operation has continued.

sediment disposal facility (the Facility) in the Area in September 2012 with a view to putting it into service in June 2013. The Administration considers it necessary to make the Facility subject to the regulatory control under the Ordinance.

3. L.N. 15 will come into operation on 1 May 2013.

4. According to paragraph 12 of the LegCo Brief, CEDD consulted the Islands District Council in mid-2010, and sought views from Tuen Mun District Council, Tsuen Wan District Council and representatives of the fishermen organizations in May 2011 and March 2012, but received no adverse comment on the project. Members may refer to the LegCo Brief for further details.

5. As advised by the Clerk to the Panel on Development, the Panel was consulted on 29 March 2011 on the related statutory control under the Ordinance in the context of a funding proposal for the dredging, management and capping of the Facility to the south of The Brothers. The Panel had expressed concern about the environmental impact of the construction and provision of the Facility, and requested the Administration to provide further information before the relevant Finance Committee meeting to allay members' concern. The Administration provided supplementary information to the Panel on 19 April 2012 vide LC Paper No. CB(1)1684/11-12(01) to which Members may refer for further details. The funding proposal was subsequently approved by the Finance Committee on 8 June 2012.

Concluding Observations

6. No difficulties have been identified in relation to the legal or drafting aspects of L.N. 15.

Prepared by

LOO Chi-pong, Bonny
Assistant Legal Adviser
Legislative Council Secretariat
20 February 2013
LS/S/14/12-13