

**立法會**  
**Legislative Council**

LC Paper No. LS45/13-14

**Paper for the House Committee Meeting  
on 2 May 2014**

**Legal Service Division Report on  
Subsidiary Legislation Gazetted on 11 April 2014**

**Tabling in LegCo** : Council meeting of 16 April 2014

**Amendment to be made by** : Council meeting of 14 May 2014 (or that of 4 June 2014 if extended by resolution)

**SUBSIDIARY LEGISLATION RELATING TO FEES AND CHARGES**

**Road Traffic (Driving Licences) (Amendment) Regulation 2014** (L.N. 48)

**Road Traffic Ordinance (Amendment of Schedule 5) Order 2014** (L.N. 49)

**Road Traffic Ordinance (Amendment of Schedule 9) Order 2014** (L.N. 50)

L.N. 48 to L.N. 50

L.N. 48 and L.N. 49 are made by the Secretary for Financial Services and the Treasury both under section 29A of the Interpretation and General Clauses Ordinance (Cap. 1) and respectively by virtue of section 8(1A) and section 105(2) of the Road Traffic Ordinance (Cap. 374). L.N. 50 is made by the Chief Executive under section 88P of Cap. 374 after consultation with the Executive Council.

2. L.N. 48 to L.N. 50 propose to increase seven items of fees and charges relating to road traffic matters as follows -

	<b>Fees with brief descriptions</b>	<b>Existing fee level (\$)</b>	<b>Proposed fee level (\$)</b>	<b>Proposed increase in percentage</b>
1.	Fee for record of convictions (traffic convictions)	50	55	+10%

	<b>Fees with brief descriptions</b>	<b>Existing fee level (\$)</b>	<b>Proposed fee level (\$)</b>	<b>Proposed increase in percentage</b>
2.	Fee for certificate of no recorded convictions (traffic convictions)	50	55	+10%
3.	Removal charge for a vehicle having a permitted gross vehicle weight not exceeding 5.5 tonnes	485	560	+15%
4.	Removal charge for a vehicle having a permitted gross vehicle weight not exceeding 5.5 tonnes but not exceeding 24 tonnes	1,110	1,280	+15%
5.	Removal charge for a vehicle having a permitted gross vehicle weight exceeding 24 tonnes	2,790	3,210	+15%
6.	Storage Charge (per day) for vehicles detained	160	172	+7.5%
7.	Fee for designation or renewal of designation of a driving school	16,500	18,150	+10%

3. According to the LegCo Briefs, the proposed increases seek to bring the seven items of fees and charges in line with the "user pays" principle and to achieve full cost recovery gradually.

4. L.N. 48 to L.N. 50 will come into operation on 9 June 2014.

5. As advised by the Clerk to the Panel on Transport, the Panel was consulted by the Administration on 17 January 2014 regarding the Administration's proposed revision to the seven fee items relating to the provision of road traffic services. Panel members were generally in support of the proposed revision in view of the fact that these fee items had not been revised for seven years or more, and considered that the Administration should conduct annual or biennial review of the fees and adjust the fees in a moderate manner.

6. Members may refer to the two LegCo Briefs (both with File Ref: THB(T)CR25/5591/79) issued by the Transport and Housing Bureau dated 9 April 2014 for further information.

7. Legal Service Division has written to the Administration for clarification in respect of the scope of the empowering provision for L.N. 48 and is awaiting a reply. Further report will be made if necessary.

**SUBSIDIARY LEGISLATION NOT REQUIRED TO BE TABLED AND NOT SUBJECT TO AMENDMENT**

**United Nations Sanctions (Central African Republic) Regulation (L.N. 51)**

**United Nations Sanctions (Democratic Republic of the Congo) Regulation 2014 (L.N. 52)**

**United Nations Sanctions (Somalia) (Amendment) Regulation 2014 (L.N. 53)**

8. L.N. 51 to L.N. 53 are made by the Chief Executive under section 3 of the United Nations Sanctions Ordinance (Cap. 537) on the instruction of the Ministry of Foreign Affairs of the People's Republic of China and after consultation with the Executive Council.

L.N. 51

9. In view of the total breakdown of law and order and widespread human rights abuses in the Central African Republic, the Security Council of the United Nations (UNSC) has adopted two resolutions, namely, Resolution 2127 (2013) and Resolution 2134 (2014) on 5 December 2013 and 28 January 2014 respectively to impose various sanctions against the Central African Republic.

10. L.N. 51 is made to give effect to certain decisions of UNSC in the two UNSC resolutions by providing for the prohibition against -

- (a) the supply, sale, transfer or carriage of arms or related materiel to the Central African Republic;
- (b) the provision of assistance or training related to military activities in certain circumstances;
- (c) making available to, or for the benefit of, certain persons or entities any funds or other financial assets or economic resources;
- (d) dealing with funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, certain persons or entities; and
- (e) entry into or transit through the HKSAR by certain persons.

11. L.N. 51 will expire at midnight on 27 January 2015.

L.N. 52

12. Since 2003, UNSC has adopted several resolutions imposing sanctions against the Democratic Republic of the Congo (Congo) in view of its political and social instability which continues to pose a threat to international peace and security in the region. These resolutions have been implemented by regulations made under Cap. 537, the last one being the United Nations Sanctions (Democratic Republic of the Congo) Regulation 2013 (Cap. 537BC), which expired at midnight on 1 February 2014.

13. L.N. 52 is made to give effect to certain decisions in Resolution 2136 (2014) against Congo as adopted by the UNSC on 30 January 2014. According to the Administration, the content of L.N. 52 is essentially the same as that of the expired Cap. 537BC. It provides for the prohibition against -

- (a) the supply, sale, transfer or carriage of arms or related materiel to certain persons operating in the territory of Congo;
- (b) the provision of assistance, advice or training related to military activities to certain persons operating in the territory of Congo;
- (c) making available to, or for the benefit of, certain persons or entities any funds or other financial assets or economic resources;
- (d) dealing with funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, certain persons or entities; and
- (e) entry into or transit through the HKSAR by certain persons.

14. L.N. 52 will expire at midnight on 1 February 2015.

L.N. 53

15. Since 1992, UNSC has adopted various resolutions to impose sanctions against Somalia having regard to the rapid deterioration of the situation in Somalia and the heavy loss of human life and widespread material damage resulting from the conflict in the country. The United Nations Sanctions (Somalia) Regulation (Cap. 537AN) was made and amended to implement these sanctions. The last amendment to Cap. 537AN was made by L.N. 165 of 2013 to give effect to Resolution 2111 (2013) adopted by UNSC on 24 July 2013 to revise the sanctions against Somalia.

16. The sanctions provided under Cap. 537AN include prohibiting -

- (a) the supply, sale, transfer or carriage of weapons or military equipment to Somalia, a person connected with Somalia or a designated person;

- (b) the provision of technical assistance or training, or financial or other assistance related to military activities or to the supply, sale, transfer, manufacture, maintenance or use of weapons or military equipment to a designated person;
- (c) the entry or transit through Hong Kong by a designated person; and
- (d) the provision of technical advice, financial or other assistance or training related to military activities to a person connected with Somalia.

17. Noting that the situation in Somalia continues to pose a threat to international peace and security in the region, UNSC adopted Resolution 2125 (2013) and Resolution 2142 (2014) on 18 November 2013 and 5 March 2014 respectively to revise the sanctions against Somalia.

18. To implement the revised sanctions, L.N. 53 is made to amend Cap. 537AN by providing additional exceptions to the prohibition against the supply, sale, transfer or carriage of weapons or military equipment to certain persons; and the provision of certain advice, assistance or training to certain persons. These new exceptions exempt the prohibited goods and assistance etc. which are intended solely for the development of the Security Forces of the Federal Government of Somalia and to provide security for the Somali people. L.N. 53 also provides that the above additional exceptions will expire at midnight on 24 October 2014.

#### Other points

19. L.N. 51 to L.N. 53 came into operation when they were published in the Gazette on 11 April 2014. Members may refer to the LegCo Briefs issued by the Commerce and Economic Development Bureau in April 2014 (File references: CITB CR75/53/8, CITB CR 75/53/4 and CITB CR102/53/1) for further information.

#### Other information and remarks

20. Under section 3(5) of Cap. 537, sections 34 and 35 of the Interpretation and General Clauses Ordinance (Cap. 1) shall not apply to regulations made under Cap. 537. Therefore, L.N. 51 to L.N. 53 are not required to be tabled in the Legislative Council (LegCo) and are not subject to amendment by LegCo.

21. However, since they come 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, Members may consider referring them to the Subcommittee for its consideration.

22. According to the Clerk to the Subcommittee, L.N. 51 to L.N. 53 were circulated to members of the Subcommittee vide LC Paper No. CB(1)1262/13-14 on 14 April 2014. Members may wish to refer to the paper for further information.

### **Concluding Observations**

23. No difficulties have been identified in relation to the legal or drafting aspects of the above items of subsidiary legislation except that Legal Service Division is now awaiting clarification from the Administration in respect of L.N. 48. Further report will be made if necessary.

Prepared by

TAM Shuk-fong, Clara  
Assistant Legal Adviser  
Legislative Council Secretariat  
29 April 2014

LS/S/21/13-14