

立法會
Legislative Council

LC Paper No. LS16/13-14

**Paper for the House Committee Meeting
on 29 November 2013**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 22 November 2013**

Tabling in LegCo : Council meeting of 27 November 2013

Amendment to be made by : Council meeting of 18 December 2013 (or that of 15 January 2014 if extended by resolution)

**Antiquities and Monuments (Declaration of
Historical Buildings) Notice 2013**

(L.N. 186)

Under section 3(1) of the Antiquities and Monuments Ordinance (Cap. 53), the Secretary for Development (the Secretary) as the Authority may, after consultation with the Antiquities Advisory Board (AAB) and with the approval of the Chief Executive, by notice in the Gazette, declare any place, building, site or structure, which he considers to be of public interest by reason of its historical, archaeological or palaeontological significance, to be a monument, historical building or archaeological or palaeontological site or structure. Once so declared, the place, building, site or structure in question will become a "monument" for the purposes of Cap. 53 and as such will enjoy the protection under section 6(1) which forbids anyone to excavate, carry on building or other works, plant or fell trees or deposit earth or refuse on or in the monument, or demolish, remove, obstruct, deface or interfere with it except in accordance with a permit granted by the Secretary. Under section 19(2) of Cap. 53, any person who contravenes section 6(1) shall be guilty of an offence and shall be liable on conviction to a fine of \$100,000 and imprisonment for one year.

2. L.N. 186 is made by the Secretary under section 3(1) of Cap. 53 to declare the following places to be historical buildings -

- (a) the Cenotaph and its adjoining land in Central, Hong Kong, as delineated and shown edged red on the plan marked Plan No. HKM9524a signed and deposited in the Land Registry under section 3(4) of Cap. 53 by the Secretary; and

- (b) the Bethanie at 139 Pok Fu Lam Road, Hong Kong, as delineated and shown edged red on the plan marked Plan No. HKM9387a signed and deposited in the Land Registry under section 3(4) of Cap. 53 by the Secretary.

3. Members may refer to the LegCo Brief (File Ref: DEVB/CHO/1B/CR141) issued by the Development Bureau dated 22 November 2013 for background information. According to paragraph 14 of the LegCo Brief, the two buildings have been accorded with a Grade 1 status by the AAB having regard to the recommendations of an independent panel under the existing administrative grading mechanism¹. Paragraph 18 of the LegCo Brief states that the AAB, which was consulted on the proposed declaration as required under section 3(1) of Cap. 53 on 17 December 2012, rendered its support to the declaration.

4. As advised by the Clerk to the Panel on Development, the Panel was informed at the meeting of the Panel on 26 February 2013 that the Administration had consulted and obtained the support of the AAB for the intended declaration of the buildings as monuments and the Administration would proceed with the declaration procedures as required under Cap. 53. Members of the Panel did not raise any concern on the proposed declaration.

5. L.N. 186 does not provide for a commencement date. By virtue of section 20(2) of the Interpretation and General Clauses Ordinance (Cap. 1), L.N. 186 commenced on the day it was published in the Gazette, i.e. 22 November 2013.

6. No difficulties have been identified in relation to the legal or drafting aspects of L.N. 186.

Prepared by

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¹ Grading of historic buildings is accorded by the AAB as follows -

Grade 1	Buildings of outstanding merit, which every effort should be made to preserve if possible.
Grade 2:	Buildings of special merit; efforts should be made to selectively preserve.
Grade 3:	Buildings of some merit; preservation in some form would be desirable and alternative means could be considered if preservation is not practicable.