

立法會
Legislative Council

LC Paper No. LS32/15-16

**Paper for the House Committee Meeting
on 5 February 2016**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 29 January 2016**

Tabling in LegCo : Council meeting of 3 February 2016

Amendment to be made by : Council meeting of 2 March 2016 (or that of
13 April 2016 if extended by resolution)

**Merchant Shipping (Prevention and Control of Pollution)
(Fees) (Amendment) Regulation 2016** (L.N. 20)

**Merchant Shipping (Prevention of Air Pollution) Regulation
(Repeal) Regulation** (L.N. 21)

Merchant Shipping (Prevention of Air Pollution) Regulation (L.N. 22)

L.N. 21 and L.N. 22

At present, the International Convention for the Prevention of Pollution from Ships (universally known as MARPOL) adopted by the International Maritime Organization (IMO) is implemented in Hong Kong through the Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap. 413) and its subsidiary legislation (including the Merchant Shipping (Prevention of Air Pollution) Regulation (Cap. 413M)) made by the Secretary for Transport and Housing under section 3 of Cap. 413.

2. L.N. 22 is made under section 3 of Cap. 413 to replace Cap. 413M with a new set of regulations to implement the latest IMO requirements concerning the prevention of air pollution from ships set out in Annex VI to MARPOL. L.N. 22 applies to a Hong Kong ship wherever it may be and a non-Hong Kong ship within the waters of Hong Kong, but does not apply to a warship, a naval auxiliary or any other ship owned or operated by a government and used only on government non-commercial service. Other provisions of L.N. 22 are summarized below —

- (a) Parts 2 and 3 set out the requirements applicable to ships engaged in international and non-international voyages respectively. These requirements include those relating to emission of air pollutants from ships, fuel oil quality and shipboard incineration. Failure to comply with these requirements is an offence under L.N. 22. Also, certain ships are required to have on board an International Air Pollution Prevention Certificate, a Hong Kong Air Pollution Prevention Certificate and/or an International Energy Efficiency Certificate before they can be engaged in voyages.
 - (b) Part 4 contains provisions in relation to the application, issue, withdrawal, cancellation, duration and cessation of certificates issued by the Director of Marine under L.N. 22.
 - (c) Part 5 sets out the various types of surveys that are required to be carried out in respect of a Hong Kong ship of 400 gross tonnage or above.
 - (d) Part 6 imposes various duties on the owner or the master of a ship and sets out the duties of a local supply of fuel oil.
 - (e) Parts 7 and 8 set out the powers of Government surveyors and the Director of Marine under L.N. 22 respectively.
3. L.N. 21 repeals Cap. 413M following the making of L.N. 22.
4. L.N. 21 and L.N. 22 come into operation on 1 July 2016.

L.N. 20

5. L.N. 20 is made by the Chief Executive in Council under section 3(2A) of Cap. 413 to provide for the fees payable for the services rendered by Government surveyors and the issue of various certificates under L.N. 22.
6. L.N. 20 comes into operation on 1 July 2016.

Public consultation

7. According to paragraph 17 of the LegCo Brief (File Ref: THB PML 8/10/90/1) issued by the Transport and Housing Bureau in January 2016, various stakeholders in the shipping industry were consulted and they supported the proposal.

Consultation with Panel

8. As advised by the Clerk to the Panel on Economic Development, the Panel was consulted at its meeting on 24 June 2013 on L.N. 21 and L.N. 22. Members generally supported the amendments. The Panel on Economic Development has not been consulted on L.N. 20.

Trainee Solicitors (Amendment) Rules 2015 (Commencement) Notice

(L.N. 23)

9. By L.N. 23, the President of The Law Society of Hong Kong (Law Society) appoints 3 May 2016 as the day on which the Trainee Solicitors (Amendment) Rules (L.N. 174 of 2015) (the 2015 Rules) come into operation.

10. The 2015 Rules, which were gazetted on 4 September 2015, amend rule 14 of the Trainee Solicitors Rules (Cap. 159J) to provide a clear legal basis for the Law Society to admit the certificate of completion of the Postgraduate Certificate in Laws issued by The Chinese University of Hong Kong as evidence satisfying the requirement for entering into a trainee solicitor contract.

11. A subcommittee has been formed to study the 2015 Rules. As advised by the Clerk to the Subcommittee on Trainee Solicitors (Amendment) Rules 2015, the Subcommittee has not expressed any view on the commencement date of the 2015 Rules.

12. As advised by the Clerk to the Panel on Administration of Justice and Legal Services, the Panel has not been consulted on L.N. 23.

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

United Nations Sanctions (Somalia) (Amendment) Regulation 2016

(L.N. 24)

13. L.N. 24 is 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.

14. Since 1992, the Security Council of the United Nations (UNSC) has adopted a series of resolutions imposing sanctions against Somalia having regard to the rapid deterioration of 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 which include arms embargo, travel ban and financial restrictions. On 23 October 2015, UNSC adopted Resolution 2244 to review the sanctions against Somalia in which certain exceptions to the above sanctions were provided. Members may refer to the LegCo Brief (File Ref.: CITB CR 102/53/1) issued by the Commerce and Economic Development Bureau in January 2016 for details.

15. L.N. 24 amends Cap. 537AN to implement the exceptions to sanctions adopted in UNSC Resolution 2244. These exceptions relate to —

- (a) the supply, sale, transfer, or carriage of certain goods and the provision of certain advice, assistance or training provided that these goods and advice, etc. are intended solely for the development of the Security Forces of the Federal Government of Somalia and to provide security for the Somali people; and
- (b) funds or other financial assets or economic resources that are necessary to ensure the timely delivery of urgently needed humanitarian assistance in Somalia by the United Nations or its specified agencies.

16. The provisions in L.N. 24 will expire at midnight on 15 November 2016.

17. 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. Accordingly, L.N. 24 is not required to be tabled in the Legislative Council (LegCo) and is not subject to amendment by LegCo. However, since it comes 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 (the Subcommittee), Members may consider referring L.N. 24 to the Subcommittee for its consideration.

18. As advised by the Clerk to the Subcommittee, the LegCo Brief on L.N. 24 has been circulated to members of the Subcommittee and all other Members vide LC Paper No. CB(1)516/15-16 on 1 February 2016.

Concluding Observations

19. No difficulties have been identified in relation to the legal and drafting aspects of L.N. 20, L.N. 21, L.N. 23 and L.N. 24. The Legal Service Division is scrutinizing the legal and drafting aspects of L.N. 22 and will report further if necessary.

Prepared by

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