

立法會
Legislative Council

LC Paper No. LS57/15-16

**Paper for the House Committee Meeting
on 17 June 2016**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 10 June 2016**

Tabling in LegCo : Council meeting of 15 June 2016

Amendment to be made by : Council meeting of 13 July 2016 (or the first meeting of the next session if extended by resolution)

Air Navigation (Hong Kong) Order 1995 (Amendment of Schedule 16) Order 2016 (L.N. 92)

Dangerous Goods (Consignment by Air) (Safety) Regulations (Amendment of Schedule) Order 2016 (L.N. 95)

L.N. 92 is made by the Chief Executive ("CE") in Council under section 2A of the Civil Aviation Ordinance (Cap. 448) to amend Schedule 16 to the Air Navigation (Hong Kong) Order 1995 (Cap. 448C) to refer to the 2015-2016 edition of the Technical Instructions for the Safe Transport of Dangerous Goods by Air ("TIs") approved and published by the decision of the Council of the International Civil Aviation Organization ("ICAO") in order to give effect to certain amendments introduced by the latest TIs. The amendments include the conditions to be satisfied for exempting from the application of the TIs lamps which are transported by air and containing certain kinds or small amount of dangerous goods, and the compliance requirements in respect of dangerous goods that are carried in a series of journeys by air.

2. L.N. 95 is made by the Director-General of Civil Aviation under regulation 9 of the Dangerous Goods (Consignment by Air) (Safety) Regulations (Cap. 384A) to update the list of provisions of TIs that is specified in the Schedule to Cap. 384A in order to give effect to certain amendments introduced by the 2015-2016 edition of the TIs.

3. According to paragraph 11 of the Legislative Council ("LegCo") Brief (File Ref: THB CR 1/15/951/49) issued by the Transport and Housing

Bureau ("THB") dated 8 June 2016, the Administration has published the ICAO's amendments and written to stakeholders to provide the details of the amendments, and briefed the air cargo industry accordingly. The stakeholders generally supported the proposal.

4. As advised by the Clerk to the Panel on Economic Development, the Administration consulted the Panel on 24 March 2016 on the proposed amendments. Members generally supported the proposed amendments and urged for their early implementation. Members also noted that the relevant requirements under the new TIs and the requirements to disseminate the relevant information to passengers had already come into effect on 1 January 2015 through administrative means to ensure aviation safety.

5. L.N. 92 and L.N. 95 come into operation on 1 November 2016. Upon enquiries made by the Legal Service Division ("LSD"), the Administration advised that time had been taken since 1 January 2015 to consult the Aviation Development and Three-runway System Advisory Committee (which was established in July 2015) and the Panel on Economic Development on the proposed legislative amendment relating to the new TIs in November 2015 and March 2016 respectively before the making of L.N. 92 and L.N. 95.

**Prevention of Bribery Ordinance (Amendment of
Schedule 1) Order 2016**

(L.N. 93)

6. L.N. 93 is made by CE in Council under section 35 of the Prevention of Bribery Ordinance (Cap. 201) to add Fantastic Television Limited ("FTL") to Schedule 1 to Cap. 201 so that FTL becomes a public body for the purposes of Cap. 201. The effect is that employees and members of FTL become public servants and thus are subject to the provisions of Cap. 201.

7. According to paragraphs 20 and 21 of the LegCo Brief (File Ref: CCIB/A 200-10-10/1 (C)) entitled "Application for Domestic Free Television Programme Service Licence of Fantastic Television Limited" issued by the Commerce and Economic Development Bureau dated 31 May 2016, L.N. 93 is made following CE in Council's grant of a domestic free television programme service licence ("free TV service licence") to FTL on 31 May 2016. Currently, all domestic free television programme service licensees under the Broadcasting Ordinance (Cap. 562) and sound broadcasting licensees (both analogue and digital audio broadcasting) under the Telecommunications Ordinance (Cap. 106) are specified as public bodies under Schedule 1 to Cap. 201.

8. As advised by the Clerk to the Panel on Information Technology and Broadcasting, the Administration has issued a letter dated 31 May 2016 to inform the Chairman of the Panel that the application of FTL for a free TV service licence was approved on the above date, and L.N. 93 would be made to

specify FTL as a public body under Cap. 201. The letter was circulated to Panel members vide LC Paper No. CB(4)1064/15-16(01) and no comment has been received.

9. L.N. 93 comes into operation on 16 July 2016.

Merchant Shipping (Safety) (Signals of Distress and Prevention of Collisions) (Amendment) Regulation 2016 (Amendment) Regulation 2016

(L.N. 94)

10. L.N. 94 is made by the Secretary for Transport and Housing under sections 93, 100 and 107 of the Merchant Shipping (Safety) Ordinance (Cap. 369) to amend the Merchant Shipping (Safety) (Signals of Distress and Prevention of Collisions) (Amendment) Regulation 2016 (L.N. 53 of 2016) to rectify a discrepancy between the English and Chinese texts of section 4(17) of L.N. 53 of 2016.

11. Members may refer to the LegCo Brief (File Ref: THB CR 8/10/80/12) issued by THB in June 2016 for further information.

12. As advised by the Clerk to the Subcommittee on Four Regulations under the Merchant Shipping (Safety) Ordinance (Cap. 369) Gazetted on 6 May 2016, the Subcommittee noted, at its meeting on 1 June 2016, the above discrepancy and urged the Administration to rectify it before L.N. 53 of 2016 comes into operation on 1 July 2016.

13. L.N. 94 came into operation on the day of publication in the Gazette, i.e. 10 June 2016.

Public Health and Municipal Services Ordinance (Public Pleasure Grounds) (Amendment of Fourth Schedule) Order 2016

(L.N. 96)

14. L.N. 96 is made by the Director of Leisure and Cultural Services under section 106 of the Public Health and Municipal Services Ordinance (Cap. 132) to set aside 12 places for use as public pleasure grounds and provides that five places cease to be set aside for use as public pleasure grounds. It also updates the list of public pleasure grounds in the Fourth Schedule to Cap. 132 to reflect the above changes and the change of the name of an existing public pleasure ground from "Ting Yu Square Temporary Sitting-out Area" to "Ting Yue Square Sitting-out Area".

15. According to paragraph 9 the LegCo Brief (File Ref: L/M (6) in LCS 19/HQ 813/00) issued by the Leisure and Cultural Services Department

dated 6 June 2016, the Administration has consulted the District Councils concerned and they supported the amendments.

16. As advised by the Clerk to the Panel on Home Affairs, the Panel has not been consulted on L.N. 96.

17. L.N. 96 came into operation on the day of publication in the Gazette, i.e. 10 June 2016.

**Chinese Permanent Cemeteries (Amendment) Ordinance
2016 (Commencement) Notice**

(L.N. 97)

18. L.N. 97 is made by the Secretary for Home Affairs ("SHA") under section 1(2) of the Chinese Permanent Cemeteries (Amendment) Ordinance 2016 (Ord. No. 11 of 2016) to appoint 24 October 2016 as the day on which Ord. No. 11 of 2016 comes into operation.

19. The Chinese Permanent Cemeteries (Amendment) Bill 2015 was passed by LegCo on 26 May 2016 and published in the Gazette as Ord. No. 11 of 2016 on 3 June 2016. In gist, Ord. No. 11 of 2016 amends the Chinese Permanent Cemeteries Ordinance (Cap. 1112) and the Chinese Cemeteries Rules (Cap. 1112A) to broaden the scope of eligible deceased persons to be interred, buried or deposited in a cemetery specified in the First Schedule to Cap. 1112A, and to allow the burials of human ashes in an exhumable lot, etc.

20. No LegCo Brief has been issued in respect of L.N. 97.

21. As advised by the Clerk to the Bills Committee on Chinese Permanent Cemeteries (Amendment) Bill 2015, members of the Bills Committee noted that Ord. No. 11 of 2016 would come into operation on a day to be appointed by SHA by notice published in the Gazette.

22. As advised by the Clerk to the Panel on Home Affairs, the Panel has not been consulted on L.N. 97.

**Property Management Services Ordinance
(Commencement) Notice 2016**

(L.N. 98)

23. L.N. 98 is made by SHA under section 1(2) of the Property Management Services Ordinance (Ord. No. 10 of 2016) to appoint 24 October 2016 as the day on which the following provisions of Ord. No. 10 of 2016 come into operation:

- (a) sections 1 and 2 (short title, commencement and interpretation);
- (b) Part 7 (sections 42 to 50 on the Property Management Services Authority ("PMSA"));
- (c) sections 66(2) (amendment of Schedule 3) and 68 (related amendments); and
- (d) Schedules 3 (PMSA) and 5 (related amendments).

24. The Property Management Services Bill was passed by LegCo on 26 May 2016 and published in the Gazette as Ord. No. 10 of 2016 on 3 June 2016. In gist, Ord. No. 10 of 2016 provides for the establishment and functions of PMSA, and the regulation and control of the provision of property management services, etc. The provisions of Ord. No. 10 of 2016 which are brought into operation by L.N. 98 mainly relate to the establishment and functions of PMSA. Upon enquiries made by LSD, the Administration advised that the commencement arrangement is to enable the appointment of the members of PMSA. The remaining provisions of Ord. No. 10 of 2016 (which mainly concern the licensing of business entities and individuals engaged in providing property management services, and the regulation and control of such services) will come into operation at a later stage.

25. No LegCo Brief has been issued in respect of L.N. 98.

26. As advised by the Clerk to the Bills Committee on Property Management Services Bill, members of the Bills Committee noted that Ord. No. 10 of 2016 would come into operation on a day to be appointed by SHA by notice published in the Gazette, and it would be implemented in phases. Following the passage of the Bill, the Administration would proceed with the preparatory work for the gazettal of the commencement notice of Ord. No. 10 of 2016 and the appointment of members of PMSA.

27. As advised by the Clerk to the Panel on Home Affairs, the Panel has not been consulted on L.N. 98.

Declaration of Increase in Pensions Notice 2016 (L.N. 99)

Widows and Orphans Pension (Increase) Notice 2016 (L.N. 100)

28. L.N. 99 and L.N. 100 are made by CE under section 4 of the Pensions (Increase) Ordinance (Cap. 305) and section 3(3) of the Widows and Orphans Pension (Increase) Ordinance (Cap. 205) respectively after consultation with the Executive Council to declare, with effect from 1 April 2016, a 3.2% increase:

- (a) in the basic pensions payable to ex-officers and dependants eligible for pension under various pieces of pension legislation specified in Schedule 1 to Cap. 305; and
- (b) in the pensions payable to widows and orphans of officers as defined under the Widows and Orphans Pension Ordinance (Cap. 94).

29. Under section 4 of Cap. 305 and section 3 of Cap. 205, if the average monthly Consumer Price Index (A) ("average index") of a period of 12 months ending on 31 March of a year exceeds the average index of the preceding 12 months by more than 0.1%, CE shall declare or specify a percentage of increase in the relevant pensions equal to the excess expressed as a percentage as soon as practicable by notice in the Gazette.

30. According to paragraph 4 of the LegCo Brief (File Ref: CSBCR/AP/4-075-005/5 Pt. 19) issued by the Civil Service Bureau dated 8 June 2016, L.N. 99 and L.N. 100 are made to reflect the increase in the average index for the 12 months that ended on 31 March 2016, as compared with the average index for the previous 12 months.

31. According to paragraph 8 of the LegCo Brief, no consultation with pensioners and dependants is required as pension increase in accordance with increase in average index is a statutory entitlement for pensioners and dependants, and L.N. 99 and L.N. 100 are made in accordance with the relevant statutory provisions as well as established policy and procedures.

32. As advised by the Clerk to the Panel on Public Service, the Panel has not been consulted on L.N. 99 and L.N. 100.

Concluding Observations

33. No difficulties have been identified in the legal and drafting aspects of the above items of subsidiary legislation.

Prepared by

LEE Hoi-see, Evelyn
Assistant Legal Adviser
Legislative Council Secretariat
16 June 2016