

立法會
Legislative Council

LC Paper No. LS3/16-17

**Paper for the House Committee Meeting
on 21 October 2016**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 14 October 2016**

Tabling in LegCo : Council meeting of 19 October 2016

Amendment to be made by : Council meeting of 16 November 2016 (or that of 7 December 2016 if extended by resolution)

PART I COMMENCEMENT NOTICES

**Human Reproductive Technology (Amendment) Ordinance 2016
(Commencement) Notice (L.N. 155)**

L.N. 155 is made by the Secretary for Food and Health under section 1(2) of the Human Reproductive Technology (Amendment) Ordinance 2016 (Ord. No. 20 of 2016) to appoint 3 January 2017 as the day on which Ord. No. 20 of 2016 comes into operation.

2. The Human Reproductive Technology (Amendment) Bill 2015 was passed by the Legislative Council on 2 June 2016 and the enacted Ordinance was published in the Gazette as Ord. No. 20 of 2016 on 10 June 2016. Ord. No. 20 of 2016 amends the Human Reproductive Technology Ordinance (Cap. 561) to provide for a new offence in respect of publishing or distributing advertisements promoting services for selecting the sex of an embryo through reproductive technology procedures.

3. No LegCo Brief has been issued in respect of L.N. 155.

4. As advised by the Clerk to the Panel on Health Services, the Panel has not been consulted on L.N. 155.

**Mandatory Provident Fund Schemes (Amendment) Ordinance
2016 (Commencement) Notice**

(L.N. 156)

5. L.N. 156 is made by the Secretary for Financial Services and the Treasury under section 1(2) of the Mandatory Provident Fund Schemes (Amendment) Ordinance 2016 (Ord. No. 9 of 2016) to appoint 1 April 2017 as the day on which Ord. No. 9 of 2016 comes into operation.

6. The Mandatory Provident Fund Schemes (Amendment) Bill 2015 was passed by the Legislative Council on 26 May 2016 and the enacted Ordinance was published in the Gazette as Ord. No. 9 of 2016 on 3 June 2016. In gist, Ord. No. 9 of 2016 amends the Mandatory Provident Fund Schemes Ordinance (Cap. 485) and its subsidiary legislation to require approved trustees to provide in the governing rules of registered schemes the Default Investment Strategy and to provide for related matters.

7. No LegCo Brief has been issued in respect of L.N. 156 but the Administration wrote to the Clerk to House Committee on 14 October 2016 to provide background information on L.N. 156 and inform Members on the preparatory work for implementation of the Default Investment Strategy (vide LC Paper No. CB(2)25/16-17 on 19 October 2016).

8. As advised by the Clerk to the Bills Committee on Mandatory Provident Fund Schemes (Amendment) Bill 2015, the Bills Committee had discussed the commencement of the Bill (if enacted) and raised no objection to the Administration's initial proposal to bring it into operation on 31 December 2016.

9. As advised by the Clerk to the Panel on Financial Affairs, the Panel has not been consulted on L.N. 156.

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

**United Nations Sanctions (Democratic Republic of the Congo)
Regulation 2016**

(L.N. 157)

United Nations Sanctions (South Sudan) Regulation 2016

(L.N. 158)

10. L.N. 157 and L.N. 158 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. 157 and L.N. 158 came into operation when it was published in the Gazette on 14 October 2016.

L.N. 157

11. Since 2003, the Security Council of the United Nations ("UNSC") has adopted several resolutions imposing sanctions against the Democratic Republic of the Congo ("Congo") in view of the threats constituted by situation in Congo to international peace and security to 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 2015 (Cap. 537BN), which expired at midnight on 1 July 2016.

12. L.N. 157 implements certain decisions in Resolution 2293 (2016) against Congo as adopted by UNSC on 23 June 2016. It provides for the prohibition against:

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

13. L.N. 157 will expire at midnight on 1 July 2017.

L.N. 158

14. In 2015, UNSC adopted Resolution 2206 (2015) to impose sanctions against South Sudan. The Resolution has been implemented by the United Nations Sanctions (South Sudan) Regulation (Cap. 537BO), which expired at midnight on 2 March 2016.

15. L.N. 158 implements certain decisions in Resolution 2290 (2016) as adopted by UNSC on 31 May 2016 to renew the sanction measures against South Sudan. It provides for the prohibition against:

- (a) making available to certain persons or entities any funds or other financial assets or economic resources;

- (b) dealing with funds or other financial assets or economic resources belonging to, or owned or controlled by, certain persons or entities; and
- (c) entry into or transit through Hong Kong by certain persons.

16. L.N. 158 will expire at midnight on 31 May 2017.

Other information and remarks

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 section 3 of Cap. 537. Therefore, L.N. 157 and L.N. 158 are not required to be tabled in LegCo and are not subject to amendment by LegCo. 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 (formed at the House Committee meeting on 14 October 2016), Members may consider referring them to the Subcommittee for its consideration.

18. For further information, Members may refer to the LegCo Briefs (File Ref: CITB CR 75/53/4 and CITB CR 75/53/5/1) respectively on L.N. 157 and L.N. 158 issued by the Commerce and Economic Development Bureau in October 2016 (vide LC Paper No. CB(1)2/16-17 on 17 October 2016). A marked-up version showing the changes made by L.N. 157 and L.N. 158 to the relevant expired regulations is at Annex E to the respective LegCo Brief.

Concluding Observations

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

Prepared by

Clara TAM
Assistant Legal Adviser
Legislative Council Secretariat
20 October 2016