

立法會
Legislative Council

LC Paper No. LS8/16-17

**Paper for the House Committee Meeting
on 11 November 2016**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 4 November 2016**

Tabling in LegCo : Council meeting of 9 November 2016

Amendment to be made by : Council meeting of 7 December 2016 (or that of 11 January 2017 if extended by resolution)

PART I MARINE PARK

Marine Parks (Designation) (Amendment) Order 2016 (L.N. 166)

L.N. 166 is made by the Chief Executive under section 15 of the Marine Parks Ordinance (Cap. 476) after consultation with the Executive Council. It amends the Marine Parks (Designation) Order (Cap. 476B) to designate The Brothers Marine Park ("BMP") under Cap. 476. The effect of the designation is that the control and management of BMP shall be vested in the Country and Marine Parks Authority ("the Authority"). Under section 4 of Cap. 476, the duties of the Authority include, inter alia, taking such measures as the Authority considers necessary for the purposes of protecting, restoring and enhancing the marine life in and marine environment of any marine park.

2. L.N. 166 comes into operation on 30 December 2016.

3. According to paragraphs 5, 6 and 7 of the LegCo Brief (without file reference number) dated 2 November 2016 issued by the Environmental Protection Department and the Agriculture, Fisheries and Conservation Department, the statutory process in relation to designation of marine park under sections 7, 8, 13 and 14 of Cap. 476 has been completed before L.N. 166 is made. As stated in paragraphs 16 and 17 of the LegCo Brief, the Director of Agriculture, Fisheries and Conservation acting as the Authority under Cap. 476 had conducted consultations on the proposal to designate The Brothers as a new marine park with the Marine Parks Committee ("the Committee") under the Country and Marine Parks Board ("the Board"), and the Board, on 17 March 2015 and 2 June 2015 respectively. Members

of the Committee and the Board generally supported the proposal including the boundary and management plan of BMP. On 30 October 2015, the Authority consulted the Board on the draft map for BMP. In general, members of the Board supported the draft map, including the explanatory statement, of BMP. On 12 February 2016, the Authority published the required notice in the gazette in accordance with section 8 of Cap. 476, notifying the public that copies of the draft map were available for inspection for a period of 60 days. The Authority did not receive any objection to the draft map during the 60-day period (from 12 February 2016 to 11 April 2016).

4. As advised by the Clerk to the Panel on Environmental Affairs, the Panel has not been consulted on L.N. 166.

PART II COMMENCEMENT NOTICES

Merchant Shipping (Control of Harmful Anti-Fouling Systems on Ships) Regulation (Commencement) Notice (L.N. 167)

Merchant Shipping (Prevention and Control of Pollution) (Fees) (Amendment) Regulation 2015 (Commencement) Notice (L.N. 168)

5. L.N. 167 and L.N. 168 are made by the Secretary for Transport and Housing under section 1 of the Merchant Shipping (Control of Harmful Anti-Fouling Systems on Ships) Regulation (L.N. 54 of 2015) and section 1 of the Merchant Shipping (Prevention and Control of Pollution) (Fees) (Amendment) Regulation 2015 (L.N. 53 of 2015) respectively to appoint 1 January 2017 as the day on which L.N. 54 of 2015 and L.N. 53 of 2015 come into operation.

6. L.N. 54 of 2015 implements the International Convention on the Control of Harmful Anti-Fouling Systems on Ships, 2001 ("the Convention")¹ by setting out the relevant requirements that are applicable to Hong Kong ships wherever they may be and non-Hong Kong ships within the waters of Hong Kong. L.N. 53 of 2015 amends the Merchant Shipping (Prevention and Control of Pollution) (Fees) Regulation (Cap. 413L) to provide for the fees payable for the services to be provided by the Government under L.N. 54 of 2015, namely the fees for an initial survey or additional survey and the issue of an International Anti-Fouling System Certificate within the meaning of L.N. 54 of 2015. Members may refer to the LegCo Brief in respect of L.N. 53 of 2015 and L.N. 54 of 2015 (File Ref:

¹ According to the LegCo Brief (File Ref: THB(1)PML R8/10/70/3) dated 18 March 2015 issued by the Transport and Housing Bureau, the Convention, entered into force internationally on 17 September 2008, was adopted by the International Maritime Organization to prohibit the use of organotin compounds in anti-fouling systems of ships for the protection of the marine environment.

THB(1)PML R8/10/70/3) dated 18 March 2015 issued by the Transport and Housing Bureau for details. L.N. 53 of 2015 and L.N. 54 of 2015 were gazetted on 20 March 2015 and had been considered by a subcommittee formed to study the two Regulations.

7. No LegCo Brief has been issued in respect of L.N. 167 and L.N. 168.

8. As advised by the Clerk to the Panel on Economic Development, the Administration consulted the Panel about L.N. 54 of 2015 for the implementation of the Convention in Hong Kong at its meeting on 16 December 2014. Members of the Panel requested the Administration to expedite the relevant legislative work as the compliance of international conventions was essential for upholding the international image of Hong Kong. A subcommittee was formed on 10 April 2015 to scrutinize L.N. 54 of 2015 and L.N. 53 of 2015. Members of the subcommittee were supportive of the two Regulations. The Panel has not been consulted specifically on the commencement notices in L.N. 167 and L.N. 168.

Concluding Observations

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

Prepared by

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