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**Paper for the House Committee Meeting
on 26 May 2017**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 19 May 2017**

Tabling in LegCo : Council meeting of 24 May 2017

Amendment to be made by : Council meeting of 21 June 2017 (or that of 12 July 2017 if extended by resolution)

PART I WATERWORKS REGULATIONS (CAP. 102A)

Waterworks (Amendment) Regulation 2017 (L.N. 81)

L.N. 81 is made by the Chief Executive in Council under section 37 of the Waterworks Ordinance (Cap. 102). It amends the Waterworks Regulations (Cap. 102A) to revise the requirements in relation to pipes or fittings installed in fire services or inside services, taking into account the recommendations made in the Report of the Commission of Inquiry into Excess Lead Found in Drinking Water ("the CoI Report") in respect of the latest applicable standards in the legislation for plumbing materials.

2. The main amendments made to Cap. 102A under L.N. 81 relate to:
- (a) technical requirements including materials to be used in relation to pipes or fittings installed in fire services or inside services, including compliance with the applicable international standards such as the British Standard issued by the British Standards Institution or the Australian Standard issued by the Standards Australia;
 - (b) requirements to be met for constituting compliance with a prescribed specification; and
 - (c) effect of the relevant amendments made to Cap. 102A under L.N. 81 to pipes or fittings installed before L.N. 81 or any other subsequent enactment coming into operation.

3. According to paragraph 8 of the Legislative Council ("LegCo") Brief (File Ref: DEVB(CR)(W)1-10/49) issued by the Development Bureau on 10 May 2017, the Administration has consulted and obtained general support from professional bodies, plumbing trade associations, plumbers associations, workers association, the construction sector, developers, and the Consumer Council on the proposal. The Administration has also gauged public views on the proposal in conjunction with the public consultation exercise conducted between September and November 2016 for the proposed amendments to Cap. 102 under the Waterworks (Amendment) Bill 2017 ("the WAB 2017") which are made in view of the recommendations made in the CoI Report in respect of the duties of licensed plumbers. The WAB 2017 was introduced into the LegCo on 26 April 2017 and a Bills Committee as formed is currently studying the WAB 2017. According to the Administration, members of the public who responded were either generally supportive or had no adverse comment on the proposal, and the comments and suggestions received were duly considered by the Administration.

4. As advised by the Clerk to the Panel on Development, the Administration briefed the Panel on the proposal, in conjunction with the proposed amendments made to Cap. 102 under the WAB 2017 at its meeting on 24 January 2017. Members did not object to the proposal.

5. L.N. 81 comes into operation on 14 July 2017.

PART II THE SHIPPING AND PORT CONTROL REGULATIONS (CAP. 313A)

Shipping and Port Control (Amendment) Regulation 2017 (L.N. 82)

**Shipping and Port Control Regulations (Amendment of Fifth
Schedule) Notice 2017 (L.N. 83)**

**Merchant Shipping (Local Vessels) (General) (Amendment)
Regulation 2017 (L.N. 84)**

6. L.N. 82 to L.N. 84 are subsidiary legislation relating to control and regulation of marine traffic following the commissioning of the Hong Kong-Zhuhai-Macao Bridge ("HZMB"). The relevant amendments are summarized below.

L.N. 82 and L.N. 84

7. L.N. 82 is made by Chief Executive in Council under section 80 of the Shipping and Port Control Ordinance (Cap. 313) to amend the Shipping and Port Control Regulations (Cap. 313A) to (a) specify new restricted areas in the Fifth Schedule to Cap. 313A; and (b) impose restrictions on the height, length and navigational direction of vessels¹ entering or passing through the navigation channels of two link roads of HZMB, namely, the Hong Kong Link Road connecting the Hong Kong Boundary Crossing Facilities ("HKBCF") to the Main Bridge of HZMB, and the Tuen Mun-Chek Lap Kok Link linking HKBCF with Northwest New Territories and North Lantau. L.N. 82 also makes minor textual amendments to the Chinese text of Cap. 313A.

8. L.N. 84 is made by the Secretary for Transport and Housing under section 89 of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548) to amend the Merchant Shipping (Local Vessels) (General) Regulation (Cap. 548F) to impose restrictions on the height, length and navigational direction of local vessels² passing through navigation channels of the two link roads of HZMB. L.N. 84 also makes minor textual amendments to the Chinese text of certain provisions of Cap. 548F.

L.N. 83

9. L.N. 83 is made by the Director of Marine under regulation 72(1) of Cap. 313A to amend the Fifth Schedule to Cap. 313A by making adjustments to the boundaries of the Hong Kong International Airport Approach Areas ("HKIAAAs") No. 2, No. 3, No. 5 and No. 7 and making minor textual amendments. The effect of L.N. 83 is that vessels navigating to or through the adjusted boundaries of the above HKIAAAs will be subject to certain restrictions (e.g. entry and height restrictions) under section 23 of Cap. 313A.

10. According to paragraphs 5 and 6 of the LegCo Brief (File Ref.: THB/MA70/16 pt14) issued by the Transport and Housing Bureau in May 2017, L.N. 82 and L.N. 84 are made to ensure navigation safety for vessels passing through the navigation channels under the two link roads of HZMB. In

¹ By virtue of section 3 of Cap. 313, provisions in Part III of Cap. 313A (i.e. Navigation and Control of Vessels) apply to all vessels (except local vessels) in Hong Kong or in the waters of Hong Kong. Under section 2 of Cap. 313, *vessels* include any ship, junk, boat, dynamically supported craft, seaplane, or any other description of vessel used in navigation.

² According to section 2 of Cap. 548, *local vessels* include vessels used solely within the waters of Hong Kong (whether registered in or outside Hong Kong), vessels registered in Hong Kong, Macau or Mainland China which are regularly employed in trading to or from Hong Kong, and vessels used for pleasure purposes in the waters of Hong Kong.

addition, according to paragraph 7 of the LegCo Brief, due to the construction of the two link roads of HZMB, part of the waters near the Hong Kong International Airport has been reclaimed. Hence, the coordinates of the affected HKIAAAs need to be amended (by L.N. 83) to reflect the updated boundaries of those HKIAAAs.

11. According to paragraph 17 of the LegCo Brief, the Administration has consulted the Local Vessels Advisory Committee, Port Operations Committee, Pilotage Advisory Committee and High Speed Craft Consultative Committee of the Marine Department, as well as the Traffic and Transport Committee of the Islands District Council. They supported the proposed amendments.

12. As advised by the Clerk to the Panel on Economic Development, the Panel was consulted on various measures to regulate marine traffic, including the legislative proposal to impose conditions for vessels passing through the navigation channels of the two link roads of HZMB at the meeting on 24 April 2017. Members in general supported the proposal to ensure navigation safety, but enquired about the planned anti-collision measures and monitoring systems to prevent ship-bridge collisions at HZMB.

13. L.N. 82 and L.N. 84 come into operation on 1 December 2017. L.N. 83 comes into operation on 1 August 2017.

PART III SUBSIDIARY LEGISLATION MADE UNDER THE MERCHANT SHIPPING (SAFETY) ORDINANCE (CAP. 369) OR THE MERCHANT SHIPPING (SEAFARERS) ORDINANCE (CAP. 478)

**Merchant Shipping (Safety) (Life-Saving Appliances)
(Amendment) Regulation 2017** (L.N. 85)

**Merchant Shipping (Safety) (Radiocommunications)
Regulation** (L.N. 86)

**Merchant Shipping (Safety) (Musters and Training)
Regulations (Repeal) Regulation** (L.N. 87)

**Merchant Shipping (Safety) (GMDSS Radio Installations)
Regulation (Repeal) Regulation** (L.N. 88)

**Merchant Shipping (Safety) (Radio Installations)
Regulations (Repeal) Regulation** (L.N. 89)

**Merchant Shipping (Seafarers) (Official Log Books)
(Amendment) Regulation 2017** (L.N. 90)

**Merchant Shipping (Safety) (Cargo Ship Safety Equipment
Survey) (Amendment) Regulation 2017** (L.N. 91)

**Merchant Shipping (Safety) (Cargo Ship Construction and
Survey) (Ships Built On or After 1 September 1984)
(Amendment) Regulation 2017** (L.N. 92)

**Merchant Shipping (Safety) (Passenger Ship Construction
and Survey) (Ships Built On or After 1 September 1984)
(Amendment) Regulation 2017** (L.N. 93)

**Merchant Shipping (Safety) (Passenger Ship Construction)
(Ships Built Before 1 September 1984) (Amendment)
Regulation 2017** (L.N. 94)

**Merchant Shipping (Safety) (Radio Installations Survey)
(Amendment) Regulation 2017** (L.N. 95)

14. L.N. 85 to L.N. 95 are made by the Secretary for Transport and Housing under various sections of the Merchant Shipping (Safety) Ordinance (Cap. 369) or the Merchant Shipping (Seafarers) Ordinance (Cap. 478) to implement the updated technical requirements of the relevant parts of the International Convention for the Safety of Life at Sea ("SOLAS") adopted by the International Maritime Organization ("IMO") as amended from time to time and applicable to Hong Kong. In gist:

- (a) L.N. 85 amends the Merchant Shipping (Safety) (Life-Saving Appliances) Regulation (Cap. 369AY) to implement the requirements for life-saving appliances and arrangements, musters and training provided in Chapter III of SOLAS. The main amendments include requiring the life-saving appliances and arrangements on ships to comply with the applicable specified requirements, specifying the requirements relating to the provision of muster list, emergency instructions, emergency training and drills, and prescribing the offences and penalties for contravening the provisions under Cap. 369AY. Cap. 369AY is also renamed as "the Merchant Shipping (Safety) (Life-Saving Appliances and Arrangements, Musters and Training) Regulation" to reflect its new coverage;

- (b) L.N. 86 is a new regulation which gives effect to the requirements in relation to radiocommunications provided in Chapter IV of the Annex to SOLAS. It contains the requirements for the radio installations and radio equipment provided on certain ships and other requirements relating to radiocommunications, such as source of energy, radio watch and radio records. Contravention of the relevant requirements by radio officers or operators and ship owners or masters is an offence punishable with a fine under section 97(4) of Cap. 369;
- (c) L.N. 87 repeals the Merchant Shipping (Safety) (Musters and Training) Regulations (Cap. 369AI) in view of the making of L.N. 85, whereas L.N. 88 and L.N. 89 respectively repeal the Merchant Shipping (Safety) (GMDSS Radio Installations) Regulation (Cap. 369AR) and the Merchant Shipping (Safety) (Radio Installations) Regulations (Cap. 369AP) in view of the making of L.N. 86; and
- (d) L.N. 90 to L.N. 95 make consequential amendments to the following items of subsidiary legislation respectively in view of the making of L.N. 85 to L.N. 89:
 - (i) the Merchant Shipping (Seafarers) (Official Log Books) Regulation (Cap. 478P);
 - (ii) the Merchant Shipping (Safety) (Cargo Ship Safety Equipment Survey) Regulations (Cap. 369T);
 - (iii) the Merchant Shipping (Safety) (Cargo Ship Construction and Survey) (Ships Built On or After 1 September 1984) Regulations (Cap. 369S);
 - (iv) the Merchant Shipping (Safety) (Passenger Ship Construction and Survey) (Ships Built On or After 1 September 1984) Regulations (Cap. 369AM);
 - (v) the Merchant Shipping (Safety) (Passenger Ship Construction) (Ships Built Before 1 September 1984) Regulations (Cap. 369AL); and
 - (vi) the Merchant Shipping (Safety) (Radio Installations Survey) Regulations (Cap. 369AQ).

15. It is noted that the Administration has adopted an approach of making direct reference to certain parts of SOLAS and other relevant international conventions in L.N. 85 and L.N. 86 pursuant to section 112B of Cap. 369. According to paragraph 11 of the LegCo Brief (File Ref: PML CR 8/10/80/8 Pt.2) issued by the Transport and Housing Bureau in May 2017, this approach is adopted to keep the local legislation in tandem with the technical details of IMO's new requirements.

16. According to paragraph 14 of the LegCo Brief, the Administration consulted the Shipping Consultative Committee, which comprises various stakeholders in the shipping industry, in April 2015 and they were supportive of the proposals.

17. As advised by the Clerk to the Panel on Economic Development, the Panel was consulted on the legislative proposals to incorporate the latest requirements set out in SOLAS in the local legislation on 27 July 2015. Members generally supported the proposals and urged for their early implementation. In response to members' concern about the delay in incorporating such latest requirements in the local legislation, the Administration advised that the Marine Department had already promulgated guidelines through the Hong Kong Merchant Shipping Information Notes to facilitate compliance by ocean-going vessels. So far, the vessels concerned showed no problems in compliance.

18. L.N. 85 to L.N. 95 come into operation on 1 September 2017.

PART IV DANGEROUS DRUGS ORDINANCE (CAP. 134)

Dangerous Drugs Ordinance (Amendment of Second Schedule) Order 2017

(L.N. 96)

19. L.N. 96 is made by the Secretary for Security under section 50(2) of the Dangerous Drugs Ordinance (Cap. 134) to amend the list of hospitals and institutions ("prescribed hospitals") as specified in the Second Schedule ("Schedule") to Cap. 134 by:

- (a) updating the names of three institutions in the Schedule;
- (b) removing two institutions from the Schedule due to their closure; and
- (c) adding one hospital and six institutions to the Schedule.

20. Under section 22(1)(e) and (f) of Cap. 134, a registered pharmacist or an approved person who is employed or engaged at a prescribed hospital and whose duties include the dispensing or supply of medicines for that hospital; or a sister in charge of a ward, theatre or other department in a prescribed hospital may, subject to other provisions of Cap. 134, possess and supply a dangerous drug, so far as may be necessary for the practice or exercise of his profession, function or employment. Under section 22(2), the matron of a prescribed hospital may possess and supply a dangerous drug so far as may be necessary for the purposes of the hospital and in her capacity as matron thereof.

21. Members may refer to the LegCo Brief (no reference number provided) issued by the Narcotics Division of the Security Bureau dated 17 May 2017 for further information.

22. As advised by the Clerks to the Panel on Health Services and the Panel on Security, the Administration has not consulted the Panels on L.N. 96.

23. L.N. 96 comes into operation on 14 July 2017.

PART V DESIGNATION OF NEW LIBRARIES

Designation of Libraries (Amendment) (No. 2) Order 2017 (L.N. 97)

24. L.N. 97 is made by the Director of Leisure and Cultural Services ("the Director") under section 105K of the Public Health and Municipal Services Ordinance (Cap. 132) to designate two premises, namely "The building known as Self-service Library Station situated at the Island East Sports Centre, 52 Lei King Road, Sai Wan Ho" and "The building known as Self-service Library Station situated at the Hong Kong Cultural Centre, 10 Salisbury Road, Tsim Sha Tsui" as libraries under the Schedule to the Designation of Libraries Order (Cap. 132O). The effect of L.N. 97 is that the management and control of the two new libraries is vested in the Director.

25. Members may refer to the LegCo Brief (no reference number provided) issued by the Leisure and Cultural Services Department on 12 May 2017 for further information. According to paragraph 8 of the LegCo Brief, the Eastern District Council and the Yau Tsim Mong District Council supported the commissioning of the two new libraries.

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

27. L.N. 97 comes into operation on 1 September 2017.

PART VI COMMENCEMENT NOTICES

**Allowances to Jurors (Amendment) Order 2017
(Commencement) Notice** (L.N. 98)

**Control of Obscene and Indecent Articles (Amendment)
Regulation 2017 (Commencement) Notice** (L.N. 99)

**Criminal Procedure (Witnesses' Allowances) (Amendment)
Rules 2017 (Commencement) Notice** (L.N. 100)

**Coroners (Witnesses' Allowances) (Amendment) Rules 2017
(Commencement) Notice** (L.N. 101)

28. By L.N. 98 to L.N. 101 ("the Commencement Notices"), the Chief Justice has appointed 3 July 2017 ("the commencement day") as the day on which the following items of subsidiary legislation come into operation:

- (a) Allowances to Jurors (Amendment) Order 2017 (L.N. 27 of 2017);
- (b) Control of Obscene and Indecent Articles (Amendment) Regulation 2017 (L.N. 28 of 2017);
- (c) Criminal Procedure (Witnesses' Allowances) (Amendment) Rules 2017 (L.N. 52 of 2017); and
- (d) Coroners (Witnesses' Allowances) (Amendment) Rules 2017 (L.N. 54 of 2017).

29. L.N. 27 and L.N. 28 of 2017 were made by Chief Executive in Council under the Jury Ordinance (Cap. 3) and the Control of Obscene and Indecent Articles Ordinance (Cap. 390) respectively to increase (a) the rate of allowance payable to jurors in criminal or civil cases, or inquests under the Coroners Ordinance (Cap. 504); and (b) the fees payable to adjudicators for every day on which they serve as members of the Obscene Articles Tribunal under the Control of Obscene and Indecent Articles Regulations (Cap. 390A).

30. L.N. 52 and L.N. 54 of 2017, which were made by the Criminal Procedure Rules Committee under the Criminal Procedure Ordinance (Cap. 221) and the Chief Justice under the Coroners Ordinance (Cap. 504) respectively, were approved by LegCo by two resolutions passed on 29 March 2017. L.N. 52 and L.N. 54 increase the rates of allowances payable to witnesses in criminal proceedings and coroners' inquests respectively.

31. No LegCo Brief has been issued on the Commencement Notices.

32. As advised by the Clerk to the Panel on Administration of Justice and Legal Services, the Panel has not been consulted on the Commencement Notices.

PART VII TOYS AND CHILDREN'S PRODUCTS SAFETY ORDINANCE (CAP. 424)

Toys and Children's Products Safety Ordinance (Amendment of Schedules 1 and 2) Notice 2017 (L.N. 102)

33. L.N. 102 is made by the Secretary for Commerce and Economic Development under section 37 of the Toys and Children's Products Safety Ordinance (Cap. 424) to update certain safety standards for toys and children's products that are specified in Schedules 1 and 2 to Cap. 424 respectively.

34. Under sections 3 and 5 of Cap. 424, no person shall manufacture, import or supply any toy or children's product unless the toy or product complies with all the applicable requirements in at least one relevant standard specified in Schedule 1 or 2 to Cap. 424. Schedule 1 specifies the standards for toys and Schedule 2 specifies the standards for children's products. Sections 3(1) and 5(3) of Cap. 424 provide that goods in transit, goods in the course of transshipment or goods manufactured for export are not subject to the said statutory requirement.

35. According to paragraph 8 of the LegCo Brief (File ref.: CITB CR 08/18/3) issued by the Commerce, Industry and Tourism Branch of the Commerce and Economic Development Bureau in May 2017, the Administration has consulted some 50 major trade associations and organizations advocating children welfare in December 2016. While four submissions supported the updating exercise in general, some of the submissions expressed reservations over the adoption of a new part of an European Standard. The Administration has explained that Cap. 424 only requires a toy to comply with all the applicable requirements contained in any one of the safety standards (i.e. International Standard, European Standard and ASTM Standard). To allow reasonable time for the trade to adjust to the new requirements, the Administration proposes that the updated requirements are to take effect on 1 April 2018.

36. As advised by the Clerk to the Panel on Economic Development, the Panel has not been consulted on L.N. 102.

37. L.N. 102 comes into operation on 1 April 2018.

Concluding Observations

38. The Legal Service Division is scrutinizing the items of subsidiary legislation under Part I and Part III of this report, and a further report will be made if necessary. No difficulties have been identified in relation to the legal and drafting aspects of the other items of subsidiary legislation covered in this report.

Prepared by

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