

# 立法會 *Legislative Council*

LC Paper No. LS99/16-17

## **Paper for the House Committee Meeting on 6 October 2017**

### **Legal Service Division Report on Subsidiary Legislation gazetted between 7 July and 22 September 2017**

#### Purpose

This paper annexes five Legal Service Division ("LSD")'s reports ("the Reports") on subsidiary legislation gazetted between 7 July and 22 September 2017 for consideration by the House Committee and highlights certain items of subsidiary legislation for Members' particular attention.

#### Subsidiary legislation gazetted between 7 July and 22 September 2017

2. The Reports have been separately submitted to Members vide LC Paper Nos. LS92/16-17 to LS95/16-17 and LS97/16-17. The Reports cover two groups of subsidiary legislation as follows-

- (a) two items gazetted on 7 July 2017 (L.N. 140 and L.N. 141) which were tabled in the Legislative Council ("LegCo") on 12 July 2017 (**Annex A**); and
- (b) six items gazetted between 14 July and 22 September 2017 (L.N. 145 to L.N. 150) of which one item will be tabled on 11 October 2017 and the remaining five items are not required to be tabled in LegCo (**Annex B**).

3. In accordance with section 34 of the Interpretation and General Clauses Ordinance (Cap. 1), LegCo may amend the items of subsidiary legislation tabled on 12 July 2017 by the Council meeting of **18 October 2017** (or by that of 8 November 2017 if extended by resolution), and the item to be tabled on 11 October 2017 by the Council meeting of **8 November 2017** (or by that of 29 November 2017 if extended by resolution) respectively.

4. Members will note that the Reports include five items of subsidiary legislation to which section 34 of Cap. 1 does not apply and are therefore not required to be tabled and not subject to amendment by LegCo. Part II of **Annex B** sets out these five items of subsidiary legislation for Members' easy reference.

Items for particular attention

5. Members may wish to pay particular attention to the following items of subsidiary legislation -

- (a) United Nations Sanctions (Democratic Republic of the Congo) Regulation 2017 (L.N. 149)
- (b) United Nations Sanctions (South Sudan) Regulation 2017 (L.N. 150)

These two Regulations were 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. Although these Regulations are not required to be tabled in LegCo and are not subject to amendment by LegCo pursuant to section 3(5) of Cap. 537, 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 ("the Subcommittee"). Members may consider referring them to the Subcommittee for its consideration. These Regulations were circulated to members of the Subcommittee on 18 September 2017.

6. The Secretariat has circulated to Members the issues of the Gazette which contain the subsidiary legislation covered by the Reports in the usual manner. Members may also view the relevant issues of the Gazette at <http://www.gld.gov.hk/egazette/>.

Concluding observations

7. No difficulties relating to the legal and drafting aspects of the subsidiary legislation covered by the Reports have been identified.

Encls.

Prepared by  
Legal Service Division  
Legislative Council Secretariat  
3 October 2017

**Legal Service Division Report on  
Subsidiary Legislation gazetted on 7 July 2017**

*Subsidiary legislation tabled on 12 July 2017*

No.	L.N. No.	Item
1.	140	Pharmacy and Poisons (Amendment) (No. 4) Regulation 2017
2.	141	Country Parks (Designation) (Consolidation) (Amendment) Order 2017

**Legal Service Division Reports on  
Subsidiary Legislation gazetted between 14 July and 22 September 2017**

*I. Subsidiary legislation to be tabled on 11 October 2017*

No.	L.N. No.	Item
1.	148	Apology Ordinance (Commencement) Notice

*II. Subsidiary legislation not required to be tabled and not subject to amendment by LegCo*

No.	L.N. No.	Item
1.	145	Tai Lam Tunnel and Yuen Long Approach Road Ordinance (Amendment of Schedule 1) Notice 2017
2.	146	Western Harbour Crossing Ordinance (Amendment of Schedule 1) Notice 2017
3.	147	Volunteer and Naval Volunteer Pensions Ordinance (Amendment of Schedules) Order 2017
4.	149	United Nations Sanctions (Democratic Republic of the Congo) Regulation 2017
5.	150	United Nations Sanctions (South Sudan) Regulation 2017

**立法會**  
***Legislative Council***

LC Paper No. LS92/16-17

**Legal Service Division Report on  
Subsidiary Legislation Gazetted on 7 July 2017**

**Tabling in LegCo** : Council meeting of 12 July 2017

**Amendment to be made by :** Second meeting of LegCo in the next session (or the first meeting held not earlier than the 21st day after the second meeting of the next session if extended by resolution)

**Pharmacy and Poisons (Amendment) (No. 4) Regulation 2017 (L.N. 140)**

L.N. 140 is made by the Pharmacy and Poisons Board ("PPB") under section 29(1B) of the Pharmacy and Poisons Ordinance (Cap. 138) with the approval of the Secretary for Food and Health. It amends the Pharmacy and Poisons Regulations (Cap. 138A) by adding Venetoclax and its salts ("the relevant substance") to Division A of Schedule 1 to Cap. 138A, Division A of Schedule 3 to Cap. 138A and Division A of Part 1 of the Poisons List set out in Schedule 10 to Cap. 138A ("Poisons List").

2. The effect of the above amendments is that the substances included in Schedule 1 to Cap. 138A are subject to restrictions concerning their sale, supply, labelling and storage, and the substances in Schedule 3 to Cap. 138A can only be sold by retail upon a prescription given by a registered medical practitioner, registered dentist or registered veterinary surgeon. Further, the substances included in the Poisons List can only be sold on registered premises of an authorized seller of poisons by a registered pharmacist or in the presence and under the supervision of a registered pharmacist.

3. According to paragraph 4 of the Legislative Council ("LegCo") Brief (File Ref.: FHB/H/23/4) issued by the Food and Health Bureau in July 2017, PPB considers that the amendments are appropriate in view of the potency, toxicity and potential side effects of the relevant substance. Members may refer to Annex B to the LegCo Brief for details of the relevant substance.

4. As advised by the Clerk to the Panel on Health Services, the Administration has not consulted the Panel on L.N. 140.

5. L.N. 140 came into operation on 7 July 2017 (i.e. the day on which it was published in the Gazette).

**Country Parks (Designation) (Consolidation) (Amendment)  
Order 2017**

**(L.N. 141)**

6. L.N. 141 is made by the Chief Executive ("CE") under section 14 of the Country Parks Ordinance (Cap. 208) after consultation with the Executive Council. It amends the Country Parks (Designation) (Consolidation) Order (Cap. 208B) by replacing the original approved maps with new approved maps in respect of the following two country parks:

- (a) Plover Cove Country Park ("PCCP") (Plan No. CP/PC<sup>B</sup> approved on 21 March 1978 by the Governor in Council to be replaced by Plan No. CP/PC<sup>C</sup> approved on 25 April 2017 by CE in Council); and
- (b) Lantau South Country Park ("LSCP") (plan CP/LT(S)<sup>A</sup> approved on 4 April 1978 by the Governor in Council to be replaced by Plan No. CP/LT(S)<sup>B</sup> approved on 25 April 2017 by CE in Council).

After the amendments, the country park enclaves<sup>1</sup> at Fan Kei Tok and Sai Lau Kong will be incorporated into PCCP and the country park enclave near Nam Shan will be incorporated into LSCP. The legal effect is that the control and management of the two country parks as shown in the new approved maps will be vested in the Country and Marine Parks Authority ("the Authority"), i.e. the Director of Agriculture, Fisheries and Conservation.

7. According to paragraphs 3 to 5 and 16 of the LegCo Brief (File Ref: EP CR 9/15/6) issued by the Agriculture, Fisheries and Conservation Department and the Environmental Protection Department on 12 July 2017, the statutory procedures for designation of country parks under Part III of Cap. 208 have been properly followed.

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<sup>1</sup> According to Footnote 1 of the LegCo Brief, enclaves are sites that are surrounded by or are adjacent to the country parks, but are not part of the country parks. Most of these country park enclaves comprise both private and Government land. Control on developments on private land at these enclaves relies on the terms and conditions of the land leases, the Buildings Ordinance (Cap. 123) and, if available, Development Permission Area Plans or Outline Zoning Plans under the Town Planning Ordinance (Cap. 131).

8. According to paragraphs 14 and 15 of the LegCo Brief, the Authority conducted a series of consultations with two District Councils ("DCs"), two District Rural Committees ("DRCs"), the residents in the enclaves and other stakeholders between May 2014 and July 2015 on the designation proposal. No stakeholders, including residents in the enclaves, raised any objection to the proposal. Certain committees of the DCs and the DRCs had raised some concerns on the proposal, including the rights of Government Land Licence holders in the relevant areas. The Country and Marine Parks Board and its Country Parks Committee were generally supportive of the proposal.

9. As advised by the Clerk to the Panel on Environmental Affairs, the Panel has not been consulted on L.N. 141. At its meeting on 23 January 2017, the Panel was briefed on the initiatives under the 2017 Policy Address, which included enhanced efforts to conserve areas with high ecological value. The Administration mentioned in its paper (LC Paper No. CB(1)451/16-17(01)) that in the past few years, it had incorporated a number of enclaves into country parks, increasing the total area of designated country parks and special areas, and would continue to identify suitable sites for incorporation into the country park area. Members discussed a number of issues including the long-term strategy for conservation of rural areas and country parks.

10. L.N. 141 comes into operation on 1 December 2017.

### **Concluding observations**

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

Prepared by

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17 July 2017

**立法會**  
**Legislative Council**

LC Paper No. LS93/16-17

**Legal Service Division Report on  
Subsidiary Legislation Gazetted on 28 July 2017**

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

**Tai Lam Tunnel and Yuen Long Approach Road Ordinance  
(Amendment of Schedule 1) Notice 2017**

**(L.N. 145)**

L.N. 145 is made by the Commissioner for Transport ("the Commissioner") under section 45(1) of the Tai Lam Tunnel and Yuen Long Approach Road Ordinance (Cap. 474) to replace Schedule 1 to Cap. 474 with a new Schedule 1 to reflect the increase of statutory tolls payable for the use of the Tai Lam Tunnel and Yuen Long Approach Road ("Route 3 (CPS)") with effect from 1 August 2017.

2. Cap. 474 provides for a toll adjustment mechanism for Route 3 (CPS) as follows:

- (a) Route 3 (CPS) Company Limited ("the Franchisee") may, during the franchise period and subject to the relevant requirements stipulated in Cap. 474, apply in writing to the Secretary for Transport and Housing ("the Secretary") to give effect to an anticipated toll increase on each of three specified dates in Schedule 3 (i.e. 1 January 2003, 1 January 2010 and 1 January 2017) (section 39);
- (b) if the Actual Net Revenue ("ANR") of the Franchisee for any year which is not a year immediately preceding a year in which a specified date occurs is less than the Minimum Estimated Net Revenue ("MENR") for that year as specified in Schedule 4, the Franchisee may apply to the Secretary to give effect to the next anticipated toll increase (section 40);
- (c) where the Franchisee has given effect to all the anticipated toll increases and its ANR for any year occurring before the expiry of the franchise period is less than its MENR for that year as specified in Schedule 4, it may apply to the Secretary to give effect to an additional toll increase (section 42);



- (d) the amounts of toll increase to which the Franchisee may give effect in respect of different categories of vehicles are specified in Schedule 2 (section 44(5));
- (e) where a toll is increased, the Commissioner must by notice published in the Gazette amend Schedule 1, with effect from the date on which the increase comes into effect, to vary the relevant toll (section 45(1)); and
- (f) section 34 of the Interpretation and General Clauses Ordinance (Cap. 1) does not apply in respect of any such notice; accordingly, any such notice, including L.N. 145, is not required to be tabled at, and is not subject to amendment by, the Legislative Council ("LegCo") (section 45(3)).

3. According to paragraphs 7 and 8 of the LegCo Brief (File Ref: THB(T)CR 19/3/5591/91) issued by the Transport and Housing Bureau ("THB") in July 2017, the Franchisee's ANR has, since the commissioning of Route 3 (CPS) in 1998, consistently fallen short of the level of MENR as specified in Schedule 4 to Cap. 474. By 19 June 2005, the Franchisee has effected all the anticipated toll increases and has since applied for and been permitted 11 additional toll increases. The last statutory toll increase for Route 3 (CPS) came into effect on 1 August 2016.

4. The present increase as reflected in L.N. 145, which was applied by the Franchisee in August 2013, is the 12<sup>th</sup> additional toll increase. The amounts of increase are in accordance with the amounts specified in Schedule 2 to Cap. 474. According to paragraph 9 of the LegCo Brief, it is based on the Franchisee's audited 2012-2013 statement of ANR which shows that the Franchisee's ANR for 2012-2013 was \$850 million, which is lower than MENR of \$2,129 million for that year as specified in Schedule 4 to Cap. 474.

5. According to paragraph 11 of the LegCo Brief, the Franchisee will continue to offer concessions to all categories of vehicles so that the current concessionary tolls<sup>1</sup> will be maintained notwithstanding the present increase in statutory tolls. Therefore, users of Route 3 (CPS) will not be affected by the changes in the statutory tolls.

6. A comparison of the Route 3 (CPS) statutory tolls before and after the increase under L.N. 145, and the applicable concessionary tolls, is at **Annex I**.

7. As advised by the Clerk to the Panel on Transport, the Administration has not consulted the Panel on L.N. 145.

8. L.N. 145 came into operation on 1 August 2017.

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<sup>1</sup> The current concessionary tolls took effect from 1 January 2017.

**Western Harbour Crossing Ordinance (Amendment of  
Schedule 1) Notice 2017**

**(L.N. 146)**

9. L.N. 146 is made by the Commissioner under section 52(1) of the Western Harbour Crossing Ordinance (Cap. 436) to replace Schedule 1 to Cap. 436 with a new Schedule 1 to reflect the increase of statutory tolls payable for the use of the Western Harbour Crossing ("WHC") with effect from 31 July 2017.

10. Cap. 436 provides for a toll adjustment mechanism for WHC which is similar to that for Route 3 (CPS) as described in paragraph 2 above. The mechanism under Cap. 436 is summarized as follows:

- (a) Western Harbour Tunnel Company Limited ("the Company") may, during the franchise period and subject to the relevant requirements stipulated in Cap. 436, apply in writing to the Secretary to give effect to an anticipated toll increase on each of six specified dates in Schedule 4 (i.e. 1 January 2001, 1 January 2005, 1 January 2009, 1 January 2013, 1 January 2017 and 1 January 2021) (section 45);
- (b) where in respect of any year which is not a year ending immediately before a specified date, the net revenue of the Company is less than MENR for that year as specified in Schedule 5, the Company may apply to the Secretary to give effect to the next anticipated toll increase (section 46);
- (c) where the Company has given effect to all the anticipated toll increases and its net revenue in respect of any year before the expiry of the franchise period is less than MENR for that year as specified in Schedule 5, the Company may apply to the Secretary to give effect to an additional toll increase (section 48);
- (d) the amounts of toll increase to which the Company may give effect for different categories of vehicles on or after 1 January 2011 are specified in Schedule 3 (section 50);
- (e) where a toll is increased, the Commissioner must by notice published in the Gazette amend Schedule 1, with effect from the date on which the increase comes into effect, to vary the relevant toll (section 52(1)); and
- (f) section 34 of Cap. 1 does not apply in respect of any such notice; accordingly, any such notice, including L.N. 146, is not required to be tabled at, and is not subject to amendment by, LegCo (section 52(3)).

11. According to paragraphs 7 and 8 of the LegCo Brief (File Ref: THB(T)CR 1/4651/99) issued by THB in July 2017, the Company's ANR has, since the commissioning of WHC in 1997, consistently fallen short of the level of MENR

as specified in Schedule 5 to Cap. 436. By 31 July 2006, the Company has effected five anticipated toll increases<sup>2</sup> and has since applied for and been permitted 10 additional toll increases. The last statutory toll increase for WHC came into effect on 31 July 2016.

12. The present increase as reflected in L.N. 146, which was applied by the Company in August 2014, is the 11<sup>th</sup> additional toll increase. The amounts of increase are in accordance with the amounts specified in Schedule 3 to Cap. 436. According to paragraph 9 of the LegCo Brief, it is based on the Company's audited 2013-2014 statement of net revenue which shows that the Company's ANR for 2013-2014 was \$1,294 million, which is lower than MENR of \$2,573 million for that year as specified in Schedule 5 to Cap. 436.

13. According to paragraph 11 of the LegCo Brief, the Company will continue to offer concessions to all categories of vehicles so that the current concessionary tolls<sup>3</sup> will be maintained notwithstanding the present increase in statutory tolls. Therefore, users of WHC will not be affected by the changes in the statutory tolls.

14. A comparison of the WHC statutory tolls before and after the increase under L.N. 146, and the applicable concessionary tolls, is at **Annex II**.

15. As advised by the Clerk to the Panel on Transport, the Administration has not consulted the Panel on L.N. 146.

16. L.N. 146 came into operation on 31 July 2017.

## **Concluding Observations**

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

Encl

Prepared by

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7 August 2017

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<sup>2</sup> The Company has forfeited its right once to effect anticipated toll increase.

<sup>3</sup> The current concessionary tolls took effect from 1 January 2017.

Tai Lam Tunnel and Yuen Long Approach Road Tolls

Category	Vehicle	Statutory tolls (\$)		Concessionary tolls (\$)
		Before increase	w.e.f. 1 August 2017	
1.	Motorcycles, motor tricycles	80	85	20
2.	Private cars, electrically powered passenger vehicles, taxis	85	90	44
3.	Public and private light buses	240	255	100
4.	(a) Light goods vehicles and special purpose vehicles of a permitted gross vehicle weight not exceeding 5.5 tonnes	240	255	45
	(b) In a vehicle specified in paragraph (a), each additional axle in excess of 2	90	95	0
5.	(a) Medium goods vehicles and special purpose vehicles of a permitted gross vehicle weight exceeding 5.5 tonnes but not exceeding 24 tonnes	250	265	50
	(b) In a vehicle specified in paragraph (a), each additional axle in excess of 2	90	95	0
6.	(a) Heavy goods vehicles and special purpose vehicles of a permitted gross vehicle weight exceeding 24 tonnes	270	285	55
	(b) In a vehicle specified in paragraph (a), each additional axle in excess of 2	90	95	0
7.	Public and private single-decked buses	240	255	130
8.	Public and private double-decked buses	255	270	153

Western Harbour Crossing Tolls

Category	Vehicle	Statutory tolls (\$)		Concessionary tolls (\$)
		Before increase	w.e.f. 31 July 2017	
1.	Motorcycles, motor tricycles	120	130	25
2.	Private cars, electrically powered passenger vehicles	210	225	65
	Taxis	210	225	60
3.	Public and private light buses	250	270	75
4.	(a) Light goods vehicles and special purpose vehicles of a permitted gross vehicle weight not exceeding 5.5 tonnes	300	320	75
	(b) In a vehicle specified in paragraph (a), each additional axle in excess of 2	210	225	30
5.	(a) Medium goods vehicles and special purpose vehicles of a permitted gross vehicle weight exceeding 5.5 tonnes but not exceeding 24 tonnes	455	490	100
	(b) In a vehicle specified in paragraph (a), each additional axle in excess of 2	210	225	30
6.	(a) Heavy goods vehicles and special purpose vehicles of a permitted gross vehicle weight exceeding 24 tonnes	635	680	130
	(b) In a vehicle specified in paragraph (a), each additional axle in excess of 2	210	225	30
7.	Public and private single-decked buses	250	270	120
8.	Public and private double-decked buses	370	400	170

**立法會**  
***Legislative Council***

LC Paper No. LS94/16-17

**Legal Service Division Report on  
Subsidiary Legislation Gazetted on 25 August 2017**

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

**Volunteer and Naval Volunteer Pensions Ordinance  
(Amendment of Schedules) Order 2017 (L.N. 147)**

L.N. 147 is made by the Secretary for Labour and Welfare under section 35(2) of the Volunteer and Naval Volunteer Pensions Ordinance (Cap. 202). It amends Schedules 3 to 8 to Cap. 202 to increase the amounts and monthly rates of the pensions, gratuities and other allowances ("the statutory payment") payable under Cap. 202 in connection with the disablement or death of the officers and volunteers of the Hong Kong Volunteer Defence Corps and members of the Hong Kong Naval Volunteer Force who fought in defence of Hong Kong during the Second World War. Under section 35(2) of Cap. 202, the relevant amounts and monthly rates of the statutory payment are adjusted in accordance with the percentage of increase declared in a notice made under section 4(1C) of the Pensions (Increase) Ordinance (Cap. 305).

2. By the Declaration of Increase in Pensions Notice 2017 (L.N. 123 of 2017) ("the DIP Notice") gazetted on 16 June 2017 and made under section 4(1C) of Cap. 305, an increase of 2.1% is declared in respect of the basic pensions with effect from 1 April 2017 in accordance with the percentage of increase in the average monthly Consumer Price Index (A) ("Average Index") of the 12 months ending on 31 March 2017 over the Average Index of the immediately preceding 12 months. Accordingly, pursuant to section 35(2) of Cap. 202, the amounts and monthly rates set out in Schedules 3 to 8 to Cap. 202 are adjusted in accordance with the percentage of increase of the basic pensions declared in the DIP Notice (i.e. 2.1%). The relevant amounts and monthly rates were last revised in 2016 by L.N. 116 of 2016.

3. Section 35(4) of Cap. 202 provides that an order made under section 35(2) shall take effect on the same date as specified in the relevant notice made under Cap. 305. As the relevant DIP Notice came into effect on 1 April 2017, L.N. 147 is deemed to have come into operation on 1 April 2017.

4. Section 35(5) of Cap. 202 provides that section 34 of the Interpretation and General Clauses Ordinance (Cap. 1) shall not apply in respect of an order made under section 35(2) of Cap. 202. L.N. 147 is therefore not required to be tabled in the Legislative Council ("LegCo") and is not subject to amendment by LegCo.

5. As advised by the Clerk to the Panel on Welfare Services, the Panel has not been consulted on L.N. 147.

6. According to paragraph 7 of the LegCo Brief issued by the Labour and Welfare Bureau on 22 August 2017 (File Ref: LWB CR 8/3231/92 Pt. 19), the Administration considers that public consultation on L.N. 147 is not necessary as the adjustment of the amounts and monthly rates payable under Cap. 202 is a routine updating exercise.

7. No difficulties have been identified in the legal and drafting aspects of L.N. 147.

Prepared by

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31 August 2017

**立法會**  
***Legislative Council***

LC Paper No. LS95/16-17

**Legal Service Division Report on  
Subsidiary Legislation Gazetted on 1 September 2017**

**Tabling in LegCo** : Council meeting of 11 October 2017

**Amendment to be made by** : Council meeting of 8 November 2017 (or that of 29 November 2017 if extended by resolution)

**Apology Ordinance (Commencement) Notice** **(L.N. 148)**

L.N. 148 is made by the Secretary for Justice under section 1(2) of the Apology Ordinance (Cap. 631) to appoint 1 December 2017 as the day on which Cap. 631 comes into operation.

2. Cap. 631 provides for the legal effect of apologies in certain proceedings and legal matters with the object of promoting and encouraging the making of apologies in resolution of disputes.

3. The Apology Bill was passed by Legislative Council ("LegCo") at its meeting of 12 July 2017 and the enacted Ordinance was published in the Gazette as Ord. No. 12 of 2017 on 21 July 2017. A Bills Committee has been formed to study the Apology Bill before its enactment. Members may refer to the Report of the Bills Committee (LC Paper No. CB(4)1359/16-17) for details of its deliberations.

4. No LegCo Brief has been issued in respect of L.N. 148.

5. As advised by the Clerk to the Panel on Administration of Justice and Legal Services, the Panel has not been consulted on L.N. 148.

6. No difficulties have been identified in the legal and drafting aspects of L.N. 148.

Prepared by

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12 September 2017



**立法會**  
***Legislative Council***

LC Paper No. LS97/16-17

**Legal Service Division Report on  
Subsidiary Legislation Gazetted on 15 September 2017**

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

**United Nations Sanctions (Democratic Republic of the Congo)  
Regulation 2017** **(L.N. 149)**

**United Nations Sanctions (South Sudan) Regulation 2017** **(L.N. 150)**

L.N. 149 and L.N. 150 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. 149 and L.N. 150 came into operation when they were published in the Gazette on 15 September 2017.

L.N. 149

2. 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 to international peace and security brought about by the situation in 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 2016 (Cap. 537BT), which expired at midnight on 1 July 2017.

3. L.N. 149 implements certain decisions in Resolution 2360 (2017) as adopted by UNSC on 21 June 2017 to renew the sanction measures against Congo. 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, or for the benefit of, 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.

4. L.N. 149 will expire at midnight on 1 July 2018.

#### L.N. 150

5. In 2015, UNSC adopted Resolution 2206 (2015) to impose sanctions against South Sudan. The Resolution has been implemented by regulations made under Cap. 537, the last one being the United Nations Sanctions (South Sudan) Regulation 2016 (Cap. 537BU), which expired at midnight on 31 May 2017.

6. L.N. 150 implements certain decisions in Resolution 2353 (2017) as adopted by UNSC on 24 May 2017 to renew the sanction measures against South Sudan. It provides for the prohibition against:

- (a) making available to, or for the benefit of, 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.

7. L.N. 150 will expire at midnight on 31 May 2018.

#### Other information and remarks

8. 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. 149 and L.N. 150 are not required to be tabled in the Legislative Council ("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 ("Subcommittee"), Members may consider referring them to the Subcommittee for its consideration.

9. As advised by the Clerk to the Subcommittee, the LegCo Briefs on L.N. 149 and L.N. 150 (File Ref: CITB CR 75/53/4 and CITB CR 75/53/5/1) issued

by the Commerce and Economic Development Bureau in September 2017 were circulated to members of the Subcommittee vide LC Paper No. CB(1)1427/16-17 on 18 September 2017. A marked-up version showing the changes made by L.N. 149 and L.N. 150 to the relevant expired regulations is at Annex F and Annex E to the respective LegCo Briefs.

### **Concluding Observations**

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

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21 September 2017

LS/S/41/16-17