

立法會
Legislative Council

LC Paper No. LS14/03-04

**Paper for the House Committee Meeting
on 14 November 2003**

**Legal Service Division Report on
Subsidiary Legislation gazetted on 7 November 2003**

Date of tabling in LegCo : 12 November 2003

Amendment to be made by : 10 December 2003 (7 January 2004 if extended by resolution)

PART I AMENDMENT OF SUBSIDIARY LEGISLATION

Pension Benefits Ordinance (Cap. 99)

Pension Benefits Ordinance (Established Offices) (Amendment) Order 2003 (L.N. 244)

Under the Pension Benefits Ordinance (Cap. 99), a civil servant who is confirmed to an established office (which makes up the bulk of civil service ranks) enjoys a higher rate of pension benefits than a civil servant of a non-established office (occupied by officers belonging to Model Scale 1 ranks). The principal Order (Cap. 99 sub. leg. J) declares the established offices for the purpose of the Ordinance. Its Schedule 1 lists the Civil Service ranks in the Government which are established offices. Its Schedule 2 contains their shadow ranks in the Hospital Authority and the Vocational Training Council ("VTC") which accommodate civil servants working in those two organizations.

2. This Order amends the Schedules by -
- (a) including as established offices the Controller of Government Land Transport, the Director of Government Logistics, the Deputy Director of Government Logistics and the Principal Lecturer, Senior Lecturer and Lecturer of the Institute of Vocational Education of the Vocational Training Council;
 - (b) deleting the established offices of the Director of Government Supplies, the Deputy Director of Government Supplies, the Government Land Transport Administrator and the Government Printer; and

- (c) substituting "Administrative Officer Staff Grade A1" for "Director of Bureau" in the entry relating to the grade of "Administrative Officer", "Official Languages Officer" for "Chinese Language Officer" in the entry relating to the grade of "Chinese Language Officer" and "Simultaneous Interpreter" for "Interpreter (Simultaneous Interpretation)" in the entry relating to the grade of "Interpreter (Simultaneous Interpretation)".

3. According to the LegCo Brief (Ref.: CSBCR/AP/4-075-004/3 Pt. 4) dated 4 November 2003 from the Civil Service Bureau, the amendments are required because four ranks have become obsolete, eight ranks have been retitled and three new ranks and another three new shadow ranks for civil servants working in the VTC have been created.

4. This Order has not been discussed in the relevant Panels. It takes effect from the date of gazettal (i.e. as from 7 November 2003).

5. No difficulties in relation to the drafting and legal aspects of the Order have been identified.

PART II LEGAL NOTICE NOT REQUIRED TO BE TABLED

United Nations Sanctions Ordinance (Cap. 537)

United Nations Sanctions (Liberia) Regulation 2003 (L.N. 245)

6. The United Nations Sanctions (Liberia) Regulation 2003 ("the 2003 Regulation") is made under the United Nations Sanctions Ordinance (Cap. 537) by the Chief Executive on the instruction of the Ministry of Foreign Affairs of the People's Republic of China ("MFA") after consultation with the Executive Council. As the application of sections 34 and 35 of the Interpretation and General Clauses Ordinance (Cap. 1) is specifically excluded, the Regulation is not required to be laid before the Legislative Council and is not subject to amendment by the Council.

7. The Regulation implements a decision of the Security Council of the United Nations ("the Security Council") in Resolution 1478 of 6 May 2003 -

- (a) to extend certain sanctions, i.e. the prohibitions against importation of rough diamonds exported from Liberia, entry or transit by senior members of Government of Liberia and certain other persons, supply or delivery of arms and related materials to Liberia and provision of related technical advice, assistance or training to Liberia, imposed by the Security Council in Resolution 1343 (2001) until 6 May 2003 for a further period of 12 months; and

- (b) to impose other sanctions, namely sanctions against the importation of round logs and timber products originating in Liberia, and entry or transit by persons who supply or deliver arms and related materials, or who provide related technical advice, assistance or training, to Liberia.

8. It is noted that the United Nations Sanctions (Liberia) Regulation 2002 implementing the Resolution 1343 expired on 6 May 2003 in accordance with that Resolution. The 2003 Regulation implementing Resolution 1478 takes effect from the date of gazettal (i.e. from 7 November 2003) and will cease to have effect after 6 May 2004. In response to our enquiry, the Administration has stated that as far as their available information indicate, none of the activities prohibited under Resolution 1478 arose in the HKSAR before the making of the 2003 Regulation.

9. Members may recall that a Sub-committee was formed to study the United Nations Sanctions (Afghanistan) (Amendment) Regulation 2002 and the United Nations Sanctions (Angola) (Suspension of Operation) Regulation 2002. In its report to the House Committee on 3 October 2003, one of the conclusions was that when a regulation is made under the Ordinance in future, the relevant instruction given by the MFA should be provided to enable Members to assess whether the regulation has given effect to the relevant instruction in full. Upon our request, the Administration has maintained that the instruction was intended for internal use only and declined to release the relevant instruction.

10. The Administration's reply is enclosed with this report for members' information.

Encl.

Prepared by

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12 November 2003

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12 November 2003

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(Attn: Ms Anita Ho)

Dear Anita,

United Nations Sanctions (UNS) (Liberia) Regulation 2003

I refer to your telephone enquiries and would like to provide the following for your information please –

Any activities prohibited arose during the time gap

- None of the activities prohibited under UNSCR 1478 arose in the HKSAR, as far as our available statistics indicate, before the enactment of UNS (Liberia) Regulation 2003.

Release of CPG's instruction

- Correspondence between CPG and HKSARG, including the instructions from MFA concerning the implementation of UNSCRs, is intended for internal use only. We consider it inappropriate to release internal correspondence to persons outside the Administration. This is an established practice governing the handling of HKSARG's correspondence with all other governments.

Presentation of the Regulation

- The presentation of the Regulation has been revised for the sake of clarity.

Please call me at 2918 7506 if you have further questions.

Yours sincerely,

(Lau Wai-ming)
for Secretary for Commerce, Industry and Technology

