

立法會
Legislative Council

LC Paper No. LS95/06-07

**Paper for the House Committee Meeting
on 22 June 2007**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 15 June 2007**

Date of tabling in LegCo : 20 June 2007

Amendment to be made by : 2nd meeting of LegCo in the next session (or the 1st meeting held not earlier than 21 days thereafter if extended by resolution)

PART I LEGAL AID

Legal Aid Ordinance (Cap. 91)

Legal Aid (Assessment of Resources and Contributions) (Amendment) Regulation 2007 (L.N. 114)

Legal Aid Ordinance – Resolution of the Legislative Council (Commencement) Notice (L.N. 119)

A resolution under section 7(a) of the Legal Aid Ordinance (Cap. 91) (the Ordinance) was passed at the LegCo Meeting on 2 May 2007 (L.N. 77) to increase the financial resources eligibility limit by 2.5% for both the Ordinary Legal Aid Scheme (OLAS) (from \$158,300 to \$162,300) and the Supplementary Legal Aid Scheme (from \$439,800 to \$450,800). By the Commencement Notice, the Director of Administration appoints 15 June 2007 as the day on which L.N. 77 shall come into operation. Members may refer to LS58/06-07 for further information on L.N. 77.

2. The Amendment Regulation is the consequential amendment to L.N. 77. It was made by the Chief Executive in Council under section 28 of the Ordinance to make corresponding amendments to Part I of Schedule 3 to the Legal Aid (Assessment of Resources and Contributions) Regulations (Cap. 91 sub. leg. B), which sets out the scale of contribution by legally aided persons towards the costs of litigation according to their financial capacity under OLAS, by deleting "\$158,300" and substituting "the amount of the financial resources specified in section 5(1) of the Ordinance".

3. By referring to the prescribed amount in the principal ordinance, the amendment will streamline the process of giving effect to future adjustments of the financial resources eligibility limit. The Amendment Regulation takes effect upon the date of gazettal.

4. The Panel on Administration of Justice and Legal Service was briefed on the aforesaid increase at its meeting on 27 November 2006 and noted the subsequent need for consequential amendments. However, they were not briefed on the provisions of the Amendment Regulation.

5. Members may refer to the LegCo Brief issued by the Administration Wing of the Chief Secretary for Administration's Office dated 13 June 2007 (File Ref.: CSO/ADM CR3/3221/05(06)) for further information.

PART II PENSIONS

Pensions (Increase) Ordinance (Cap. 305)

Declaration of Increase in Pensions Notice 2007 (L.N. 116)

Widows and Orphans Pension (Increase) Ordinance (Cap. 205)

Widows and Orphans Pension (Increase) Notice 2007 (L.N. 117)

6. The Declaration of Increase in Pensions Notice 2007 (L.N. 116) is made under section 4(1B) of the Pensions (Increase) Ordinance (P(I)O) (Cap. 305) to declare a 1.5% increase in basic pension payable to ex-officers and dependants eligible for pension under the various pension ordinances as specified in Schedule 1 of P(I)O.

7. The Widows and Orphans Pension (Increase) Notice 2007 (L.N. 117) is made under section 3(3) of the Widows and Orphans Pension (Increase) Ordinance (Cap. 205) (WOP(I)O) to specify a 1.5% increase in dependant pensions payable to widows and orphans as defined under WO(I)O.

8. The Commissioner for Census and Statistics has recently announced that the average monthly Consumer Price Index (A) (CPI(A)) for the period of 1 April 2006 to 31 March 2007, as compared with the average monthly CPI(A) for the previous 12 months, has increased by 1.5%. In accordance with the provisions in P(I)O and WOP(I)O, the Chief Executive shall declare a percentage of increase equal to the excess expressed as a percentage as soon as practicable by notice in the Gazette. The two notices both specify 1 April 2007 as the effective date for the declarations.

9. According to the LegCo Brief issued by the Civil Service Bureau dated 11 June 2007 (File Ref. CSBCR/AP/4-075-005/5 Pt. 10), no consultation with pensioners and dependants is required as pension increase in accordance with the

increase in CPI(A) is a statutory entitlement. Members may refer to the LegCo Brief for further information.

10. The Panel on Public Service has not been consulted on the two notices.

PART III OTHERS

Environmental Impact Assessment Ordinance (Cap. 499) Environmental Impact Assessment (Exemption of Shenzhen Section of the Shenzhen Bay Bridge) Order (L.N. 115)

11. The Order was made by the Chief Executive in Council on 5 June 2007 under section 30 of the Environmental Impact Assessment Ordinance (Cap. 499) (EIAO) to provide for a temporary exemption from the Environmental Permit requirement in respect of the operation of the Shenzhen section of the Shenzhen Bay Bridge (SSBB).

12. SSBB will commence operation upon the commencement of sections 3 and 5 of the Shenzhen Bay Port Hong Kong Port Area Ordinance (Cap. 591)¹ (the Ordinance). All laws of Hong Kong including the EIAO, will be applicable to the Hong Kong Port Area in the Shenzhen Bay Port. SSBB is classified as a designated project under the EIAO. The operator of SSBB, i.e. the Director of Highway (the Director), is required to obtain an Environmental Permit (EP) for the operation of SSBB. As the relevant provisions of the Ordinance has not yet come into operation, there is no legal basis for the Director to apply to the Director of Environmental Protection to grant an EP.

13. The object of this Order is to exempt SSBB, subject to the conditions set out in Part 2 of its Schedule, from the operation of the EIAO for a period of 12 months from the commencement of the Order or until the issue of EP. During the exemption period, the Director will proceed to apply for an EP. The Order will commence on the day sections 3 and 5 of the Ordinance come into operation.

14. At its meeting on 9 March 2007, the Bills Committee on the Shenzhen Bay Port Hong Kong Port Area Bill was briefed on the need to make a temporary exemption order under EIAO in respect of the operation of SSBB. Members did not raise any specific questions on the legislative proposal.

15. Members may refer to the LegCo Brief issued by the Environmental Protection Department on 11 June 2007 (File Ref.: EP CR 90/S4/01) for further information.

¹ Apart from sections 1 and 15 (which have come into force upon gazettal), the other provisions shall come into force on a date to be appointed by the Secretary for Security.

Import and Export Ordinance (Cap. 60)
Import and Export (General) Regulations (Amendment of Seventh Schedule)
(Liberia) Notice 2007 (L.N. 118)

16. The Notice makes an amendment consequential to L.N. 121 (see item below) by adding Liberia to the list of specified countries or places in the Seventh Schedule to the Import and Export (General) Regulations (Cap. 60 sub. leg. A). Part VI of and the Seventh Schedule to the Regulations together implement in Hong Kong an international certification scheme for rough diamonds known as the Kimberley Process Certification Scheme. The Notice reflects the fact that trade in rough diamonds may now be carried on with Liberia under the said Scheme.

PART IV LEGAL NOTICES NOT REQUIRED TO BE TABLED

United Nations Sanctions Ordinance (Cap. 537)
United Nations Sanctions (Democratic People's Republic of Korea) Regulation
(L.N. 120)
United Nations Sanctions (Liberia) Regulation 2005 (Amendment) No. 2
Regulation 2007 (L.N. 121)

17. The Regulation (L.N. 120) is 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 to give effect to Resolution 1718 (2006) of the Security Council of the United Nations (UNSC) as adopted by UNSC on 14 October 2006 for the implementation of the following sanctions by UNSC-

- (a) prohibition against the direct or indirect sale, supply or transfer of certain arms or related materials, items or technology to the Democratic People's Republic of Korea (DPRK);
- (b) prohibition against the procurement of certain items from DPRK;
- (c) prohibition against the transfer of certain training, services, assistance or advice to or from DPRK;
- (d) prohibition against making available to or for the benefits of certain persons or entities any funds or other financial assets or economic resources; and
- (e) prohibition against entry into or transit through the HKSAR of certain persons.

18. The Regulation also makes provisions for the investigation of any contravention of the above prohibitions and for the gathering of evidence, etc.

19. L.N. 121 amends the United Nations Sanctions (Liberia) Regulation 2005 (Cap. 537 sub. leg. X) (2005 Regulation) to give effect to Resolution 1753 (2007) of UNSC by repealing section 10D of the 2005 Regulation, which prohibits the importation of rough diamonds of Liberia into Hong Kong.

20. The Panel on Commerce and Industry has not been consulted on the two Regulations.

21. Both of the two items are not subject to the scrutiny of the Legislative Council under sections 34 and 35 of the Interpretation and General Clauses Ordinance (Cap. 1). However, 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. Members may consider referring them to the Subcommittee for further consideration.

Concluding Observations

22. No difficulties relating to the legal and drafting aspects of the above subsidiary legislation has been identified.

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