

立法會
Legislative Council

LC Paper No. LS61/09-10

**Paper for the House Committee Meeting
on 7 May 2010**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 30 April 2010**

Date of tabling in LegCo : 5 May 2010

Amendment to be made by : 2 June 2010 (or 23 June 2010 if extended by resolution)

Fugitive Offenders Ordinance (Cap. 503)
Fugitive Offenders (South Africa) Order (L.N. 43)

The Fugitive Offenders (South Africa) Order (the Order) is made by the Chief Executive in Council under section 3 of the Fugitive Offenders Ordinance (Cap. 503) (the Ordinance).

2. By the Order, it is directed that the procedures in the Ordinance for the surrender of fugitive offenders shall apply between Hong Kong and the Republic of South Africa. The Order is made in consequence of the arrangements for the surrender of fugitive offenders entered into by the Government of the Hong Kong Special Administrative Region and the Government of the Republic of South Africa and signed in Hong Kong on 20 February 2009 (the Agreement). The Agreement is recited in the Schedule to the Order. Under section 2 of the Order, the relevant procedures are subject to the limitations, restrictions, exceptions and qualifications contained in the Agreement.

3. The Order is subject to a mechanism of scrutiny by the Legislative Council (LegCo) provided in section 3(2) to (6) of the Ordinance. The mechanism is similar to that provided in section 34 of the Interpretation and General Clauses Ordinance (Cap. 1), except that section 3(3) of the Ordinance restricts LegCo's power to repeal of the Order only.

4. The Order will come into operation on a day to be appointed by the Secretary for Security by notice published in the Gazette.

5. Members may refer to the LegCo Brief (File Ref: SBCR 3/5691/95 Pt.46 and SBCR 1/2716/89 Pt.25) issued by the Security Bureau on 28 April 2010 for background information.

Professional Accountants Ordinance (Cap. 50)
Professional Accountants (Amendment) Bylaw 2010 (L.N. 44)

6. The Professional Accountants (Amendment) Bylaw 2010 (the Amendment Bylaw) is made by the Hong Kong Institute of Certified Public Accountants (the Institute) under section 8 of the Professional Accountants Ordinance (Cap. 50). With the approval of the Chief Executive in Council, the Amendment Bylaw amends the Professional Accountants By-laws (Cap. 50 sub. leg. A) to -

- (a) enable members of the Council of the Institute to vote at the Council meetings by telephone, video conferencing or other electronic means;
- (b) allow only members who have not less than seven years' membership with the Institute to apply to become a Fellow of the Institute; and
- (c) reduce the required length of practical experience by two years for graduates of the Hong Kong Institute of Accredited Accounting Technicians who have met the Institute's Qualification Programme (QP) entry requirements and passed the QP, so as to be in line with the three years required for degree-holding QP graduates, before they can register for the Institute's membership.

7. Member may refer to the LegCo Brief issued by the Financial Services and the Treasury Bureau on 27 April 2010 (File Ref: FSB C/2/2/44C) for further information.

8. The Panel on Financial Affairs has not been consulted on the Amendment Bylaw.

9. The Amendment Bylaw shall come into operation on 1 July 2010.

Import and Export Ordinance (Cap. 60)
Import and Export (Strategic Commodities) Regulations (Amendment of Schedules 1 and 2) Order 2010 (L.N. 45)

10. This Order is made by the Director-General of Trade and Industry under section 6B of the Import and Export Ordinance (Cap. 60) (the Ordinance). By this Order, Schedules 1 and 2* to the Import and Export (Strategic Commodities) Regulations (Cap. 60 sub. leg. G) (the Regulations) are amended respectively to relax control over -

- (a) certain items in three groups of common dual-use strategic goods, namely, electronics, computers, and telecommunications and information security products; and

* Schedule 1 sets out the strategic commodities under control, which include materials, equipment, software and technology capable of being used for both industrial and military purposes. Schedule 2 sets out those "more sensitive" products covered in Schedule 1, including certain munitions, all nuclear-related materials and equipment, and information security products (commonly known as encryption devices).

- (b) transit and air-shipment of information security products (commonly known as encryption devices).

11. According to the Administration, the amendments to Schedule 1 are to reflect the latest changes in respect of commonly traded strategic commodities adopted in the international non-proliferation regime control list while amendments to Schedule 2 are made having regard to the views of the local trading and logistics sectors, developments of the cryptographic technology and practices of major trading partners. The Order also makes certain textual and editorial amendments to Schedule 1.

12. Under section 6B of the Ordinance, this Order is subject to a mechanism of scrutiny by LegCo similar to that provided in section 34 of the Interpretation and General Clauses Ordinance (Cap. 1), except that section 6B(3) restricts LegCo's power to repeal of the Order only. The Order shall only come into operation on a day to be appointed by the Director-General of Trade and Industry by notice published in the Gazette after the expiry of the period in which LegCo may exercise the power to repeal. The Administration intends to bring the Order into effect on 14 June 2010 upon gazettal of the commencement notice on 11 June 2010 to allow early relaxation of control.

13. The Panel on Commerce and Industry has not been consulted on the Order.

14. Members may wish to refer to the LegCo Brief (File Ref: TRA CR 1506/2) issued by the Trade and Industry Department on 28 April 2010 for further information.

LEGAL NOTICES NOT REQUIRED TO BE TABLED AND NOT SUBJECT TO AMENDMENT

United Nations Sanctions Ordinance (Cap. 537)

United Nations Sanctions (Côte d'Ivoire) Regulation 2010 (L.N. 46)

United Nations Sanctions (Democratic Republic of the Congo) Regulation 2010 (L.N. 47)

United Nations Sanctions (Liberia) Regulation 2010 (L.N. 48)

United Nations Sanctions (Liberia) Regulation 2009 (Repeal) Regulation (L.N. 49)

15. The above four regulations were made by the Chief Executive under section 3 of the United Nations Sanctions Ordinance (Cap. 537) (UNSO) on the instruction of the Ministry of Foreign Affairs of the People's Republic of China and after consultation with the Executive Council.

United Nations Sanctions (Côte d'Ivoire) Regulation 2010 (L.N. 46)

16. Since 2004, the United Nations Security Council (UNSC) has made several resolutions imposing sanctions against Côte d'Ivoire or renewing certain sanctions upon their expiry. The United Nations Sanctions (Côte d'Ivoire) (No. 2)

Regulation 2008 (Cap. 537 sub. leg. AK) was the last regulation made to implement those resolutions and it expired at midnight on 31 October 2009.

17. The United Nations Sanctions (Côte d'Ivoire) Regulation 2010 (Côte d'Ivoire Regulation) is made to implement UNSC Resolution 1893 adopted on 29 October 2009 to renew the prohibition until 31 October 2010 against -

- (a) the supply, sale, transfer or carriage of arms or related materials to Côte d'Ivoire;
- (b) provision of advice, assistance or training related to military activities in certain circumstances;
- (c) making available to, or for the benefit of, certain persons or entities any funds or other financial assets or economic resources;
- (d) importation of rough diamonds from Côte d'Ivoire; and
- (e) entry into or transit through Hong Kong by certain persons.

18. The Côte d'Ivoire Regulation also prohibits the dealing with funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, certain persons or entities.

19. It came into effect on 30 April 2010 and will expire at midnight on 31 October 2010.

20. Members may refer to the information paper issued by the Commerce and Economic Development Bureau in April 2010 (LC Paper No. CB(1)1791/09-10(01)) to the Subcommittee to Examine the Implementation in Hong Kong of Resolutions of the United Nations Security Council in relation to Sanctions (the Subcommittee) for further information.

United Nations Sanctions (Democratic Republic of the Congo) Regulation 2010 (L.N. 47)

21. Since 2003, UNSC has made several resolutions imposing sanctions against the Democratic Republic of the Congo (Congo) or renewing certain sanctions upon their expiry. The United Nations Sanctions (Democratic Republic of the Congo) Regulation 2009 (Cap. 537 sub. leg. AL) was the last regulation made to implement those resolutions and it expired at midnight on 30 November 2009.

22. The United Nations Sanctions (Democratic Republic of the Congo) Regulation 2010 (Congo Regulation) is made to implement UNSC Resolution 1896 adopted on 30 November 2009 to renew until 30 November 2010 the prohibition against -

- (a) the supply, sale, transfer or carriage of arms or related materials to certain persons;

- (b) provision of assistance, advice or training related to military activities in certain circumstances;
- (c) making available to, or for the benefit of, certain persons or entities any funds or other financial assets or economic resources; and
- (d) entry into or transit through Hong Kong by certain persons.

23. The Congo Regulation also prohibits the dealing with funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, certain persons or entities.

24. It came into effect on 30 April 2010 and will expire at midnight on 30 November 2010.

25. Members may refer to the information paper issued by the Commerce and Economic Development Bureau in April 2010 (LC Paper No. CB(1)1791/09-10(02)) to the Subcommittee for further information.

United Nations Sanctions (Liberia) Regulation 2010 (L.N. 48) and United Nations Sanctions (Liberia) Regulation 2009 (Repeal) Regulation (L.N. 49)

26. Since March 2001, UNSC has adopted several resolutions imposing sanctions against Liberia or renewing certain sanctions upon their expiry. The United Nations Sanctions (Liberia) Regulation 2009 (Cap. 537 sub. leg. AM) (2009 Regulation) was the last regulation made to implement those resolutions. Apart from sections 6 and 11, which implement the financial sanctions imposed by UNSC Resolution 1532 in 2004, the provisions of the 2009 Regulation expired at midnight on 18 December 2009.

27. The United Nations Sanctions (Liberia) Regulation 2010 (Liberia Regulation) is made to implement UNSC Resolution 1903 (2009) adopted on 17 December 2009 to renew the expired prohibition for a period of 12 months against -

- (a) the supply, sale, transfer or carriage of arms or related material to certain persons;
- (b) the provision to certain persons of assistance, advice or training related to military activities in certain circumstances; and
- (c) entry into or transit through Hong Kong by certain persons.

28. Resolution 1903 also affirms that the financial sanctions imposed by UNSC resolution 1532 in 2004 remain in force. Sections 6 and 11 of Liberia Regulation provide 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; and

- (b) dealing with funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, certain persons or entities.

29. The United Nations Sanctions (Liberia) Regulation 2009 (Repeal) Regulation (Repeal Regulation) was made to repeal the 2009 Regulation, which is still effective by virtue of its sections 6 and 11, despite the other provisions have expired already.

30. Sections 6 and 11 of the Liberia Regulation will come into effect on 7 May 2010 upon the 2009 Regulation being repealed by the Repeal Regulation on the same date. The other provisions of the Liberia Regulation have come into operation upon gazettal on 30 April 2010.

31. Members may refer to the information paper issued by the Commerce and Economic Development Bureau in April 2010 (LC Paper No. CB(1)1791/09-10(03)) to the Subcommittee for further information.

32. Under section 3(5) of UNSO, sections 34 and 35 of the Interpretation and General Clauses Ordinance (Cap. 1) shall not apply to regulations made under UNSO. Therefore, L.N. 46 to L.N. 49 are not subject to amendment by the Legislative Council. However, since they come within the terms of reference of the Subcommittee, Members may consider referring them to the Subcommittee for further consideration.

Concluding Remarks

33. No difficulties have been identified in the legal or drafting aspects of L.N. 43 to L.N. 45.

34. The scrutiny of L.N. 46 to L.N. 49 is continuing. The Legal Service Division will report further if necessary.

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