

立法會
Legislative Council

LC Paper No. LS53/11-12

**Paper for the House Committee Meeting
on 20 April 2012**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 13 April 2012**

Date of tabling in LegCo : 18 April 2012

Amendment to be made by : 16 May 2012 (or 6 June 2012 if extended
by resolution)

**International Organizations (Privileges and Immunities) Ordinance
(Cap. 558)**

**International Organizations (Privileges and Immunities) (Convention on
the Prohibition of the Development, Production, Stockpiling and Use of
Chemical Weapons and on their Destruction) Order (L.N. 52)**

The Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (the Convention), which aims at banning the development, production, use and retention of chemical weapons, is implemented in Hong Kong through the Chemical Weapons (Convention) Ordinance (Cap. 578) (the Ordinance). The Ordinance came into operation on 18 June 2004.

2. The Annex on Implementation and Verification to the Convention (Verification Annex) sets out the detailed procedures to be followed by the States Parties and by inspection teams for the Technical Secretariat of the Organization for the Prohibition of Chemical Weapons (OPCW) during verification or inspection activities at chemical weapons facilities or sites and industrial facilities. Paragraphs 10 to 15 of Part II of the Verification Annex set out the privileges and immunities (Ps & Is) accorded to OPCW inspection teams.

3. L.N. 52 was made under section 3 of the International Organizations (Privileges and Immunities) Ordinance (Cap. 558) to give effect to the Ps & Is accorded to members of the OPCW inspection teams and observers under the Convention for the acts they perform in Hong Kong in exercise of their official functions. The Schedule to L.N. 52 sets out the applicable Ps & Is as provided in the Verification Annex. Most of the Ps & Is accorded to members of the inspection team are same as those enjoyed by diplomatic agents under the Vienna Convention on Diplomatic Relations. Upon the enquiry of the Legal Service Division (LSD), the Administration explained that although it is unlikely that the OPCW inspection team would conduct inspection in Hong Kong in the near future as there is no local production or storage of chemical weapons under the scope of the Convention, it considers that L.N. 52 should be made to fulfil Hong Kong's obligations to implement the requirements under the Convention.

4. Members may refer to the LegCo Brief (ref: CIB CR 14/46/6/2) issued by the Commerce and Economic Development Bureau in April 2012 for background information. Upon LSD's enquiry, the Administration explained that the provision in paragraph 10 of the Verification Annex relating to the granting of multiple entry/exit and/or transit visas to inspectors and inspection assistants will be dealt with under the Immigration Ordinance (Cap. 115). In relation to the provision to consult the Director-General of OPCW in case of abuse of Ps & Is in the second sentence of paragraph 13 of the Verification Annex, the Administration considered that no legislative exercise would be necessary to carry out the consultation process.

5. At the Commerce and Industry Panel meeting held on 21 February 2012, the Administration briefed members on the legislative proposal as now contained in L.N. 52. The Panel supported in principle the Administration's legislative proposal.

6. L.N. 52 will come into operation on 8 June 2012.

**The Chinese University of Hong Kong Ordinance (Cap. 1109)
Statutes of The Chinese University of Hong Kong (Amendment) Statutes
2012 (L.N. 53)**

7. Under section 13(1) of The Chinese University of Hong Kong Ordinance (Cap. 1109), the Council of Chinese University of Hong Kong (CUHK) may by special resolution make Statutes, subject to the approval

thereof by the Chancellor of CUHK, providing for, inter alia, appointments, elections, resignation and retirement and removal of officers and teachers, the Faculties, Schools of Studies and the Boards of Studies and their membership and functions. The Statutes of CUHK (the Statutes) are set out in Schedule 1 to Cap. 1109.

8. L.N. 53 amends the Statutes as follows -

- (a) A Department of a Faculty also refers to a School of Studies and Chairman in relation to a Department also refers to Director of School.
- (b) The Provost of CUHK is included in the Statutes.
- (c) Statute 7 which provides that a Pro-Vice-Chancellor shall hold office for two years and may be re-appointed for a further period not exceeding two years is repealed. New Statute 7 provides that the Provost and Pro-Vice-Chancellors shall be appointed by the Council for such period and on such terms as may be determined by the Council.
- (d) Paragraph 4 of Statute 14 is repealed, the effect of which is that the Senate's power or duty to make recommendations to the Council in relation to all teaching posts and assignment of teachers is removed.
- (e) Statutes 15 and 17 are amended to revise the respective composition of the Board of Faculty and the Board of Department in that they will consist, inter alia, "such number of teachers as determined by the Senate".

9. Members may refer to the LegCo Brief (no file reference) issued by CUHK in April 2012 for details. According to paragraph 4(d) of the LegCo Brief, the amendments to Statutes 15 and 17 were introduced as a result of the CUHK's decision to re-title staff on instructional grades so that they can be regarded as "teachers" under Cap. 1109 and the Statutes following a review conducted by CUHK on matters associated with the above staff.

10. Under the existing Statute 17 of the Statutes, lecturers, who were previously appointed at this rank and have chosen to retain the said title,

formed a class of "teachers" who had the right to sit on the Board of their Departments. Upon the enquires of the Legal Service Division on whether the right of these lecturers will be affected by the amendments to Statute 17, the Registrar of CUHK explained that at present there are fewer than 40 teachers who have chosen to retain the title of "lecturer" instead of opting to a professoriate title. These staff members will be invited again in the next few weeks to opt to a professoriate title before staff members on instructional grade are re-titled to lecturer. The Registrar further confirmed that in the event that any of the staff members chooses to retain the existing lecturer title, arrangements will be made pursuant to the new Statute 17¹ to grandfather his privilege and right to sit on the Board of Departments under the no-detriment principle.

11. L.N. 53 will come into operation on 8 June 2012.

12. No difficulties have been identified in relation to the legal and drafting aspects of the L.N. 52 and L.N. 53.

Prepared by

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¹ Paragraph 3(1)(c) of new Statute 17 provides that the Board of each Department shall consist of, inter alia, all Professors, Associate Professors and Assistant Professors, and such other teachers who are determined by the Council to be of or equivalent to these grades who are assigned to the Department or School of Studies.