

**立法會**  
**Legislative Council**

LC Paper No. LS35/12-13

**Paper for the House Committee Meeting  
on 12 April 2013**

**Legal Service Division Report on  
Subsidiary Legislation Gazetted on 5 April 2013**

**Date of tabling in LegCo** : 17 April 2013

**Amendment to be made by** : 15 May 2013 (or 5 June 2013 if extended by resolution)

**Public Order Ordinance (Cap. 245)**

**Frontier Closed Area (Amendment) Order 2013 (L.N. 49)**

**Frontier Closed Area (Permission to Enter) (Amendment) Notice 2013 (L.N. 50)**

L.N. 49

The Frontier Closed Area Order (Cap. 245 sub. leg. A) (the Order) was made under section 36 of Public Order Ordinance (Cap. 245) (POO). Under section 36 of POO, the Chief Executive may, where he reasonably believes that it is necessary for the protection of national security or public safety, or the protection of public order or public health, by order declare any area or place to be a closed area. The current coverage of the Frontier Closed Area (FCA) is specified in the Schedule to the Order. Under section 38 of POO, any person who enters or leaves a closed area without a permit or contravenes any condition to which such permit is subject shall be guilty of an offence and shall be liable on summary conviction to a fine of \$5,000 and to imprisonment for two years.

2. According to the LegCo Brief (with no reference number) issued by the Security Bureau in April 2013, the Government announced in January 2008 the plan to substantially reduce the coverage of the FCA from about 2,800 hectares to about 400 hectares to reduce the FCA to the minimum necessary for the protection of public order, and to relieve the need for local residents and visitors alike to obtain closed area permits (CAP) to access the FCA. The FCA reduction is implemented in three phases in accordance with the progress of constructing

different sections of secondary boundary fence (SBF) along the boundary patrol road, which is considered necessary by the Administration.

3. The first phase of FCA reduction was implemented by Frontier Closed Area (Amendment) Order 2011 (L.N. 170 of 2011) gazetted on 2 December 2011, which covers the construction of SBF of Mai Po to Lok Ma Chau Boundary Control Point section and the Lin Ma Hang to Sha Tau Kok section.

4. L.N. 49 is made by the Chief Executive after consultation with the Executive Council under section 36 of POO to implement the second phase of FCA reduction. It substitutes the Schedule and plans to the Order to specify the boundary of the FCA after completion of the construction of SBF between the Lok Ma Chau Boundary Control Point and River Indus (Ng Tung River). According to the LegCo Brief, the construction has been substantially completed.

5. According to the LegCo Brief, the two phases of FCA reduction have released over 50% of the land from the original FCA. The last phase of FCA reduction, covering the rest of boundary from River Indus to Lin Ma Hang, is scheduled for implementation in 2015.

6. L.N. 49 will come into operation on 10 June 2013.

7. According to paragraph 8 of the LegCo Brief, to tie in with the second stage reduction of FCA, the Transport Department will arrange to lift the traffic restriction within the area to be excised from the FCA on 10 June 2013.

#### L.N. 50

8. L.N. 50 is made by the Commissioner of Police under section 38A(1) of POO to amend the Schedule to the Frontier Closed Area (Permission to Enter) Notice (Cap. 245 sub. leg. H) (the Notice). The Notice provides for, among other things, the classes of persons permitted to enter the FCA without CAP. Such classes of persons include cross-boundary vehicle drivers and passengers entering the FCA using specified routes. As L.N. 49 changes the FCA boundary, L.N. 50 introduces consequential amendments to the corresponding references to FCA in the Notice. L.N. 50 will come into operation on 10 June 2013.

9. According to the clerk to the Panel on Security, the Panel has not been specifically consulted on L.N. 49 and L.N. 50. However, in the Administration's paper on the financial proposal for the construction of SBF and new sections of primary boundary fence and boundary patrol road arising from the reduced coverage of FCA, which were discussed at the meetings of the Panel on 5 May 2009 and 3 May 2011, the Administration advised that it would amend the

Order to reduce the FCA boundaries in phases to tie in with the completion of the construction works.

10. No difficulties have been indentified in relation to the legal or drafting aspects of the above items of subsidiary legislation.

Prepared by

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