

立法會
Legislative Council

LC Paper No. LS 78/12-13

**Paper for the House Committee Meeting
on 4 October 2013**

**Legal Service Division Report on
Subsidiary Legislation gazetted between 12 July and 27 September 2013**

This paper annexes four Legal Service Division's reports covering two groups of subsidiary legislation as follows -

- (a) 3 items gazetted on 12 July 2013 (L.N. 121 to L.N. 123) of which two items were tabled on 17 July 2013 (**Annex A**); and
- (b) 11 items gazetted between 26 July and 27 September 2013 (L.N. 136 to L.N. 146) of which three items will be tabled on 9 October 2013 (**Annex B**).

2. In accordance with section 34 of the Interpretation and General Clauses Ordinance (Cap. 1), the Legislative Council may amend the items of subsidiary legislation tabled on 17 July 2013 by the Council meeting of **16 October 2013** (or by that of 6 November 2013 if extended by resolution), and the items to be tabled on 9 October 2013 by the Council meeting of **6 November 2013** (or by that of 27 November 2013 if extended by resolution) respectively.

3. All the four reports have been separately submitted to Members during the summer recess to enable Members to consider the relevant subsidiary legislation as soon as possible. They are submitted again in this bundle to facilitate consideration by the House Committee.

4. Members will note that the reports also include other items of subsidiary legislation to which section 34 of Cap. 1 does not apply and are therefore not required to be tabled and not subject to amendment by the Legislative Council. There are nine such items, namely, -

- (i) United Nations Sanctions (Côte d'Ivoire) Regulation 2013 (L.N. 123);

- (ii) United Nations Sanctions (Eritrea) (Amendment) Regulation 2013 (L.N. 136);
- (iii) United Nations Sanctions (Somalia) (Amendment) Regulation 2013 (L.N. 137);
- (iv) Tai Lam Tunnel and Yuen Long Approach Road Ordinance (Amendment of Schedule 1) Notice 2013 (L.N. 138);
- (v) Western Harbour Crossing Ordinance (Amendment of Schedule 1) Notice 2013 (L.N. 139);
- (vi) Volunteer and Naval Volunteer Pensions Ordinance (Amendment of Schedules) Order 2013 (L.N. 141);
- (vii) United Nations Sanctions (Libya) Regulation 2011 (Amendment) Regulation 2013 (L.N. 144);
- (viii) United Nations Sanctions (Sudan) Regulation 2013 (L.N. 145); and
- (ix) United Nations Sanctions (Sudan) Regulation (Repeal) Regulation (L.N. 146).

5. Members may wish to pay particular attention to the following items of subsidiary legislation -

- (a) Fugitive Offenders (Finland) Order (Commencement) Notice (L.N. 140)

By L.N. 140, the Secretary for Security appoints 15 August 2013 as the day on which the Fugitive Offenders (Finland) Order (Cap. 503W) (the Finland Order) comes into operation. The Finland Order was made by the Chief Executive in Council in February 2006 under the Fugitive Offenders Ordinance (Cap. 503) as a result of the bilateral arrangements for surrender of fugitive offenders entered into between the Government of HKSAR and the Government of the Republic of Finland on 20 May 2005 (the Agreement).

No LegCo Brief on L.N. 140 has been issued by the Administration. The Legal Service Division has written to the Administration asking for the reasons for taking more than seven years to commence the operation of the Finland Order. In reply, the

Administration explained that the Agreement would only enter into force 30 days after the parties have notified each other in writing of their compliance with their respective requirements for the entry into force of the Agreement. The Government of HKSAR notified the Government of Finland that Hong Kong had complied with the relevant requirements on 27 April 2006. The Government of Finland gave its notification on 16 July 2013 and both Governments have agreed that the Finland Order would enter into force on 15 August 2013.

(b) United Nations Sanctions (Côte d'Ivoire) Regulation 2013 (L.N. 123)

United Nations Sanctions (Eritrea) (Amendment) Regulation 2013 (L.N. 136)

United Nations Sanctions (Somalia) (Amendment) Regulation 2013 (L.N. 137)

United Nations Sanctions (Libya) Regulation 2011 (Amendment) Regulation 2013 (L.N. 144)

United Nations Sanctions (Sudan) Regulation 2013 (L.N. 145)

United Nations Sanctions (Sudan) Regulation (Repeal) Regulation (L.N. 146)

The above six regulations are 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 and after consultation with the Executive Council.

Although these regulations are not required to be tabled before the Legislative Council and are not subject to amendment by the Legislative Council pursuant to section 3(5) of Cap. 537, 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. Accordingly, these regulations have been circulated to members of the Subcommittee. The Subcommittee will study the regulations at its meeting upon referral by the House Committee.

6. The Secretariat has circulated to Members the issues of the Gazette which contain the subsidiary legislation covered by the reports in the usual manner. Members may also view the relevant issues of the Gazette at

<http://www.gld.gov.hk/egazette/>.

7. Apart from L.N. 136 and L.N. 137, the reports have stated that no difficulties relating to the legal and drafting aspects of the items covered by the reports have been identified.

Encl

Prepared by
Legal Service Division
Legislative Council Secretariat
27 September 2013

**Legal Service Division Report on
Subsidiary Legislation gazetted on 12 July 2013**

I. Subsidiary legislation tabled on 17 July 2013

<u>L.N. No</u>	<u>Items</u>
121	Waterworks (Amendment) Regulation 2013
122	Designation of Libraries (Amendment) (No. 4) Order 2013

II. Subsidiary legislation not required to be tabled and not subject to amendment

<u>L.N. No</u>	<u>Items</u>
123	United Nations Sanctions (Côte d'Ivoire) Regulation 2013

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LC Paper No. LS72/12-13

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 12 July 2013**

Date of tabling in LegCo : 17 July 2013

Amendment to be made by : 16 October 2013 (or 6 November 2013 if extended by resolution)

PART I SUBSIDIARY LEGISLATION

Waterworks Ordinance (Cap. 102)

Waterworks (Amendment) Regulation 2013 (L.N. 121)

Section 37 of the Waterworks Ordinance (Cap. 102) provides that the Chief Executive in Council may make regulations for, inter alia, the charges payable under Cap. 102. Schedule 1 to the Waterworks Regulations (Cap. 102A) provides for the charges payable under the regulations. Under section 29A of the Interpretation and General Clauses Ordinance (Cap. 1), the Financial Secretary (which means also the Secretary for Financial Services and the Treasury under section 3 of Cap. 1) is empowered to vary fees or charges which have previously been specified by subsidiary legislation made by the Chief Executive in Council.

2. L.N. 121 is made by the Secretary for Financial Services and the Treasury under section 29A of Cap. 1 to increase 24 items of fees and charges specified in Schedule 1 to Cap. 102A for providing the following services –

- (a) making a connection to the main and installing (including reinstatement of the ground surface) the part of a fire service or inside service on land held by the Government for pipe size up to and including 40 mm in diameter;
- (b) reconnecting a fire service or inside service;
- (c) providing and installing a meter;
- (d) providing a meter;

- (e) resealing a fire service or meter;
- (f) testing a meter or a private check meter (including removal and refixing);
- (g) plumber's licence issuance, renewal and examination;
- (h) fishing licence issuance;
- (i) examination of a water sample; and
- (j) each attendance for collection of any sample or samples.

3. Members may refer to the LegCo Brief issued by the Development Bureau in July 2013 (no file reference provided) for details of the fees and charges revision and a comparison of the existing and revised fees and charges.

4. According to the Administration, the result of the costs review recently conducted by the Administration shows that the present cost recovery levels range from 16.7% to 94.5%. The revision of the relevant fees and charges in L.N. 121, which ranges from 5.9% to 20.1%, is made with view to achieving full cost recovery gradually and to avoiding a steep increase (paragraphs 4 and 5 of LegCo Brief). The relevant fees and charges were last revised in August 2012 (L.N. 89 of 2012).

5. The Panel on Development was briefed by the Administration on 25 June 2013 on the subsidiary legislation for revising the 24 items of fees and charges. As advised by the Clerk to the Panel, Panel members noted that the fees and charges on which adjustments had been proposed did not directly affect people's livelihood. They had made enquiries about the factors that the Administration would consider in determining the timing, frequency and range of the fee adjustments.

6. L.N. 121 will come into operation on 1 December 2013.

**Public Health and Municipal Services Ordinance (Cap. 132)
Designation of Libraries (Amendment) (No. 4) Order 2013 (L.N. 122)**

7. Under section 105K of the Public Health and Municipal Services Ordinance (Cap. 132), the Director of Leisure and Cultural Services (the Director), as the designated Authority, may, by order published in the Gazette, designate any building, or part of a building, as a library. The effect of such designation is that the management and control of the library are vested in the Director in accordance with the provisions of Cap. 132.

8. L.N. 122 amends the Schedule to the Designation of Libraries Order (Cap. 132O) to provide for the designation of the library in the Sai Kung Government Offices on its expansion to the adjacent premises.

9. Members may refer to the LegCo Brief issued by Leisure and Cultural Services Department dated 5 July 2013 (no file reference provided) for background information.

10. As advised by the Clerk to the Panel on Home Affairs, the Panel has not been consulted on the proposal.

11. L.N. 122 will come into operation on 15 November 2013.

PART II 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 2013 (L.N. 123)

12. L.N. 123 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 and after consultation with the Executive Council.

13. Since 2004, the United Nations Security Council (UNSC) has passed a number of resolutions imposing sanctions against Côte d'Ivoire or renewing certain of these sanctions upon their expiry in view of the persistent human rights violations against civilians which threaten the peace process in the region. These resolutions have been implemented by regulations made under Cap. 537. The last one, United Nations Sanctions (Côte d'Ivoire) Regulation 2012 (Cap. 537BA) (L. N. 139 of 2012), already expired at midnight on 30 April 2013.

14. L.N. 123 is made to implement UNSC Resolution 2101 (2013), as adopted by the UNSC on 25 April 2013, to prohibit against –

- (a) the supply, sale, transfer or carriage of arms or related materiel to Côte d'Ivoire;
- (b) the importation of rough diamonds from Côte d'Ivoire;
- (c) making available to, or for the benefit of, certain persons or entities any funds or other financial assets or economic resources;

- (d) dealing with funds or other financial assets or economic resources owned by or otherwise belonging to, or held by, certain persons or entities; and
- (e) entry into or transit through Hong Kong by certain persons.

15. The provisions of L.N. 123 which renew sanctions against Côte d'Ivoire are essentially same as those in Cap. 537BA.

16. L.N. 123 has come into operation when it was published in the Gazette on 12 July 2013 and will expire at midnight on 30 April 2014. Members may refer to the LegCo Brief issued by the Commerce and Economic Development Bureau in July 2013 (no file reference provided) for further information.

17. Under section 3(5) of Cap. 537, sections 34 and 35 of the Interpretation and General Clauses Ordinance (Cap. 1) shall not apply to regulations made under Cap. 537. Accordingly, L.N. 123 is not required to be tabled in the Legislative Council and is not subject to amendment by the Legislative Council. However, it comes 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. As advised by the Clerk to the Subcommittee, L.N. 123 has been circulated to members of the Subcommittee on 15 July 2013 (LC Paper No. CB(1)1525/12-13(01)) and the Subcommittee will study L.N. 123 at its meeting (date to be confirmed) upon referral by the House Committee.

18. No difficulties in the legal and drafting aspects of L.N. 121 to L.N. 123 have been identified.

Prepared by

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22 July 2013

**Legal Service Division Reports on
Subsidiary Legislation gazetted between 26 July and 27 September 2013***I. Subsidiary legislation to be tabled on 9 October 2013*

<u>L.N. No</u>	<u>Items</u>
140	Fugitive Offenders (Finland) Order (Commencement) Notice
142	Pilotage (Amendment) Regulation 2013
143	Pilotage (Amendment) Ordinance 2013 (Commencement) Notice

II. Subsidiary legislation not required to be tabled and not subject to amendment

<u>L.N. No</u>	<u>Items</u>
136	United Nations Sanctions (Eritrea) (Amendment) Regulation 2013
137	United Nations Sanctions (Somalia) (Amendment) Regulation 2013
138	Tai Lam and Yuen Long Approach Road Ordinance (Amendment of Schedule 1) Notice 2013
139	Western Harbour Crossing Ordinance (Amendment of Schedule 1) Notice 2013
141	Volunteer and Naval Volunteer Pensions Ordinance (Amendment of Schedules) Order 2013
144	United Nations Sanctions (Libya) Regulation 2011 (Amendment) Regulation 2013
145	United Nations Sanctions (Sudan) Regulation 2013
146	United Nations Sanctions (Sudan) Regulation (Repeal) Regulation

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LC Paper No. LS73/12-13

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 26 July 2013**

**SUBSIDIARY LEGISLATION NOT REQUIRED TO BE TABLED AND
NOT SUBJECT TO AMENDMENT**

United Nations Sanctions Ordinance (Cap. 537)

**United Nations Sanctions (Eritrea) (Amendment) Regulation 2013
(L.N. 136)**

**United Nations Sanctions (Somalia) (Amendment) Regulation 2013
(L.N. 137)**

L.N. 136 and L.N. 137 are made by the Chief Executive (CE) under section 3 of the United Nations Sanctions Ordinance (Cap. 537) on the instructions of the Ministry of Foreign Affairs of the People's Republic of China and after consultation with the Executive Council.

L.N. 136

2. On 23 December 2009, the Security Council of the United Nations (UNSC) adopted Resolution 1907 (2009) to impose a range of sanctions against Eritrea in view of the international concern over the unresolved border dispute between Eritrea and Djibouti and Eritrea's support to the armed groups in Somalia that upset the peace process in the region. These sanctions were implemented in Hong Kong through the United Nations Sanctions (Eritrea) Regulation (Cap. 537 sub. leg. AR) (the Eritrea Regulation).

3. Under the Eritrea Regulation, the supply, sale, transfer or carriage of arms or related materiel to Eritrea, a person connected with Eritrea or a designated person and the provision of technical assistance, training, or financial or other assistance related to military activities or to the provision, manufacture, maintenance or use of arms or related materiel to a person connected with Eritrea are prohibited.

4. Welcoming the positive development in Eritrea, UNSC adopted Resolution 2060 (2012) on 25 July 2012 to, amongst other things, relax the sanctions against Eritrea as mentioned in paragraph 3 above. L.N. 136 is made

to implement the relevant part of that Resolution by providing for certain exceptions to the existing sanctions. New sections 9A and 9B are added to the Eritrea Regulation to empower CE to grant a licence for the supply, sale, transfer or carriage of arms or related materiel to Eritrea or a person connected with Eritrea, or for the provision of technical assistance, training, or financial or other assistance related to military activities or to the provision, manufacture, maintenance or use of arms or related materiel to a person connected with Eritrea if -

- (a) the arms or related materiel are, or the assistance or training is related to, protective clothing, including flak jackets and military helmets, to be temporarily exported to Eritrea by the personnel of the United Nations, representatives of the media, humanitarian or development workers or associated personnel, for their personal use only; and
- (b) the arms or related materiel are, or the assistance or training is related to the supply of, non-lethal military equipment intended solely for humanitarian or protective use, as approved in advance by the Committee of UNSC established under Resolution 751 (1992) and expanded by Resolution 1844 (2008).

5. L.N. 136 also makes consequential amendments to the Eritrea Regulation in view of the addition of new sections 9A and 9B. In addition, amendments are made to bring the structure and style of the relevant provisions under the Eritrea Regulation in line with that of similar provisions in other regulations recently made under Cap. 537.

L.N. 137

6. Since 1992, UNSC has adopted various resolutions to impose sanctions against Somalia having regard to the rapid deterioration of the situation in Somalia and the heavy loss of human life and widespread material damage resulting from the conflict in the country. The United Nations Sanctions (Somalia) Regulation (Cap. 537 sub. leg. AN) (the Somalia Regulation) was made and amended to implement these sanctions.

7. The sanctions provided under the Somalia Regulation include prohibiting -

- (a) the supply, sale, transfer or carriage of weapons or military equipment to Somalia, a person connected with Somalia or a designated person;

- (b) the provision of technical assistance or training, or financial or other assistance related to military activities or to the supply, sale, transfer, manufacture, maintenance or use of weapons or military equipment to a designated person;
- (c) the entry or transit through Hong Kong by a designated person; and
- (d) the provision of technical advice, financial or other assistance or training related to military activities to a person connected with Somalia.

8. Recognizing the significant progress that has been made in Somalia over the past year while noting that the situation in Somalia continues to pose a threat to international peace and security in the region, UNSC adopted Resolution 2093 (2013) on 6 March 2013 to revise the sanctions against Somalia. To implement the revised sanctions, L.N. 137 is made to amend the Somalia Regulation by -

- (a) revising the definition of "designated person" under section 1;
- (b) providing for additional exceptions to the prohibition against -
 - (i) the supply, sale, transfer or carriage of weapons or military equipment to certain persons; and
 - (ii) the provision of certain advice, assistance or training to certain persons.

9. L.N. 137 also makes technical amendment to the definition of "relevant person" under section 1 of the Somalia Regulation. It further makes drafting amendments to other provisions of the Somalia Regulation.

Other points

10. L.N. 136 and L.N. 137 have come into operation when they were published in the Gazette on 26 July 2013. Members may refer to the LegCo Briefs issued by the Commerce and Economic Development Bureau in July 2013 (no file reference provided) relating to L.N. 136 and L.N. 137 respectively for further information.

11. Under section 3(5) of Cap. 537, sections 34 and 35 of the Interpretation and General Clauses Ordinance (Cap. 1) do not apply to regulations made under Cap. 537. Accordingly, L.N. 136 and L.N. 137 are not

required to be tabled at the Legislative Council and are not subject to amendment by the Legislative Council. 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 (the Subcommittee). As advised by the Clerk to the Subcommittee, L.N. 136 and L.N. 137 have been circulated to members of the Subcommittee on 29 July 2013 (LC Paper Nos. CB(1)1628/12-13(01) and (02)).

Tai Lam Tunnel and Yuen Long Approach Road Ordinance (Cap. 474)
Tai Lam Tunnel and Yuen Long Approach Road Ordinance (Amendment of Schedule 1) Notice 2013 (L.N. 138)

12. L.N. 138 is made by the Commissioner for Transport (the Commissioner) under section 45(1) of the Tai Lam Tunnel and Yuen Long Approach Road Ordinance (Cap. 474) to replace Schedule 1 to that Ordinance with a new Schedule 1 to reflect the increase of statutory tolls payable for the use of the Tai Lam Tunnel and Yuen Long Approach Road (Route 3 (CPS)). L.N. 138 came into operation on 1 August 2013.

13. Cap. 474 provides for a toll adjustment mechanism for Route 3 (CPS) as follows -

- (a) Route 3 (CPS) Company Limited (the Franchisee) may, during the franchise period and subject to the relevant requirements, apply in writing to the Secretary for Transport and Housing (the Secretary) to give effect to an anticipated toll increase on each of three specified dates (i.e. 1 January 2003, 1 January 2010 and 1 January 2017) (section 39);
- (b) if the Actual Net Revenue (ANR) of the Franchisee for any year which is not a year immediately preceding a year in which a specified date occurs is less than the Minimum Estimated Net Revenue (MENR) for that year as specified in Schedule 4, the Franchisee may apply to the Secretary to give effect to the next anticipated toll increase (section 40);
- (c) where the Franchisee has given effect to all the anticipated toll increases and its ANR for any year occurring before the expiry of the franchise period is less than its MENR for that year as stated in Schedule 4, it may apply to the Secretary to give effect to an additional toll increase (section 42);
- (d) the amounts of toll increase to which the Franchisee may give effect in respect of different categories of vehicles are set out in Schedule 2 (section 44(5));

- (e) where a toll is increased, the Commissioner must by notice published in the Gazette amend Schedule 1, with effect from the date on which the increase comes into effect, to vary the relevant toll (section 45(1)); and
- (f) section 34 of Cap. 1 does not apply in respect of any such notice; accordingly, any such notice, including L.N. 138, is not required to be tabled at, and is not subject to amendment by, the Legislative Council (section 45(3)).

14. According to paragraphs 7 and 8 of the LegCo Brief (File Ref: THB(T)CR 19/3/5591/91) issued by the Transport and Housing Bureau (THB) in July 2013, the Franchisee's ANR has, since the commissioning of Route 3 (CPS) in 1998, consistently fallen short of the level of MENR as stipulated in Schedule 4 to Cap. 474. By 19 June 2005, the Franchisee has effected all the anticipated toll increases and has since applied for and been permitted seven additional toll increases. The last statutory toll increase for Route 3 (CPS) came into effect on 1 August 2012.

15. The present increase as reflected in L.N. 138, which was applied by the Franchisee in August 2009, is the eighth additional toll increase. The amounts of increase are in accordance with the amounts stated in Schedule 2 to Cap. 474. It is based on the Franchisee's audited 2008/09 statement of ANR which shows that the Franchisee's ANR for 2008/09 was \$578 million, which is lower than MENR of \$1,605 million for that year as specified in Schedule 4 to Cap. 474.

16. According to paragraph 11 of the LegCo Brief, the Franchisee will continue to offer concessions to all categories of vehicles so that the current concessionary tolls¹ will be maintained notwithstanding the present increase in statutory tolls. Therefore, users of Route 3 (CPS) will not be affected by the changes in the statutory tolls.

17. A comparison of the Route 3 (CPS) statutory tolls before and after the increase under L.N. 138, and the applicable concessionary tolls, is at **Annex I**.

18. As advised by the Clerk to the Panel on Transport, the Administration has not consulted the Panel on L.N. 138.

19. No difficulties have been identified in relation to the legal and drafting aspects of L.N. 138.

¹ The current concessionary tolls took effect from 1 January 2013.

Western Harbour Crossing Ordinance (Cap. 436)

Western Harbour Crossing Ordinance (Amendment of Schedule 1) Notice 2013 (L.N. 139)

20. L.N. 139 is made by the Commissioner under section 52(1) of the Western Harbour Crossing Ordinance (Cap. 436) to replace Schedule 1 to that Ordinance with a new Schedule 1 to reflect the increase of statutory tolls payable for the use of the Western Harbour Crossing (WHC). L.N. 139 came into operation on 31 July 2013.

21. Cap. 436 provides for a toll adjustment mechanism for WHC which is similar to that for Route 3 (CPS) as described in paragraph 13 above as follows -

- (a) Western Harbour Tunnel Company Limited (the Company) may, during the franchise period and subject to the relevant requirements, apply in writing to the Secretary to give effect to an anticipated toll increase on each of six specified dates (i.e. 1 January 2001, 1 January 2005, 1 January 2009, 1 January 2013, 1 January 2017 and 1 January 2021) (section 45);
- (b) where in respect of any year which is not a year ending immediately before a specified date, the net revenue of the Company is less than MENR for that year as stipulated in Schedule 5, the Company may apply to the Secretary to give effect to the next anticipated toll increase (section 46);
- (c) where the Company has given effect to all the anticipated toll increases and its net revenue in respect of any year before the expiry of the franchise period is less than MENR for that year as specified in Schedule 5, the Company may apply to the Secretary to give effect to an additional toll increase (section 48);
- (d) the amounts of toll increase to which the Company may give effect to for different categories of vehicles on or after 1 January 2011 are set out in Schedule 3 (section 50);
- (e) where a toll is increased, the Commissioner must by notice published in the Gazette amend Schedule 1, with effect from the date on which the increase comes into effect, to vary the relevant toll (section 52(1)); and
- (f) section 34 of Cap. 1 does not apply in respect of any such notice; accordingly, any such notice, including L.N. 139, is not required to be tabled at, and is not subject to amendment by, the Legislative Council (section 52(3)).

22. According to paragraphs 7 and 8 of the LegCo Brief (File Ref: THB(T)CR 1/4651/99) issued by THB in July 2013, the actual net revenue of the Company has, since the commissioning of WHC in 1997, consistently fallen short of the level of MENR as specified in Schedule 5 to Cap. 436. By 31 July 2006, the Company has effected all the anticipated toll increases and has since applied for and been permitted six additional toll increases. The last statutory toll increase for WHC came into effect on 31 July 2012.

23. The present increase as reflected in L.N. 139, which was applied by the Company in August 2010, is the seventh additional toll increase. The amounts of increase are in accordance with the amounts stated in Schedule 3 to Cap. 436. It is based on the Company's audited 2009/10 statement of net revenue which shows that the Company's actual net revenue for 2009/10 was \$867 million, which is lower than MENR of \$2,028 million for that year as specified in Schedule 5 to Cap. 436.

24. According to paragraph 11 of the LegCo Brief, the Company will continue to offer concessions to all categories of vehicles so that the current concessionary tolls² will be maintained notwithstanding the present increase in statutory tolls. Therefore, users of WHC will not be affected by the changes in the statutory tolls.

25. A comparison of the WHC statutory tolls before and after the increase under L.N. 139, and the applicable concessionary tolls, is at **Annex II**.

26. As advised by the Clerk to the Panel on Transport, the Administration has not consulted the Panel on L.N. 139.

27. No difficulties have been identified in relation to the legal and drafting aspects of L.N. 139.

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6 August 2013

LS/S/32/12-13

² The current concessionary tolls took effect from 1 January 2013.

Tai Lam Tunnel and Yuen Long Approach Road Tolls

Category	Vehicle	Statutory tolls (\$)		Concessionary tolls (\$)
		Before increase	w.e.f. 1 August 2013	
1.	Motorcycles, motor tricycles	60	65	20
2.	Private cars, electrically powered passenger vehicles, taxis	65	70	36
3.	Public and private light buses	180	195	100
4.	(a) Light goods vehicles and special purpose vehicles of a permitted gross vehicle weight not exceeding 5.5 tonnes	180	195	38
	(b) In a vehicle specified in paragraph (a), each additional axle in excess of 2	70	75	0
5.	(a) Medium goods vehicles and special purpose vehicles of a permitted gross vehicle weight exceeding 5.5 tonnes but not exceeding 24 tonnes	190	205	43
	(b) In a vehicle specified in paragraph (a), each additional axle in excess of 2	70	75	0
6.	(a) Heavy goods vehicles and special purpose vehicles of a permitted gross vehicle weight exceeding 24 tonnes	210	225	48
	(b) In a vehicle specified in paragraph (a), each additional axle in excess of 2	70	75	0
7.	Public and private single-decked buses	180	195	115
8.	Public and private double-decked buses	195	210	135

Western Harbour Crossing Tolls

Category	Vehicle	Statutory tolls (\$)		Concessionary tolls (\$)
		Before increase	w.e.f. 31 July 2013	
1.	Motorcycles, motor tricycles	80	90	25
2.	Private cars, electrically powered passenger vehicles	150	165	55
	Taxis	150	165	50
3.	Public and private light buses	170	190	65
4.	(a) Light goods vehicles and special purpose vehicles of a permitted gross vehicle weight not exceeding 5.5 tonnes	220	240	65
	(b) In a vehicle specified in paragraph (a), each additional axle in excess of 2	150	165	30
5.	(a) Medium goods vehicles and special purpose vehicles of a permitted gross vehicle weight exceeding 5.5 tonnes but not exceeding 24 tonnes	315	350	90
	(b) In a vehicle specified in paragraph (a), each additional axle in excess of 2	150	165	30
6.	(a) Heavy goods vehicles and special purpose vehicles of a permitted gross vehicle weight exceeding 24 tonnes	455	500	120
	(b) In a vehicle specified in paragraph (a), each additional axle in excess of 2	150	165	30
7.	Public and private single-decked buses	170	190	100
8.	Public and private double-decked buses	250	280	140

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Legislative Council

LC Paper No. LS74/12-13

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 9 August 2013**

Date of tabling in LegCo : 9 October 2013

Amendment to be made by : 6 November 2013 (or 27 November 2013 if extended by resolution)

PART I COMMENCEMENT NOTICE

Fugitive Offenders Ordinance (Cap. 503)

Fugitive Offenders (Finland) Order (Cap. 503 sub. leg. W)

**Fugitive Offenders (Finland) Order (Commencement) Notice
(L.N. 140)**

By L.N. 140, the Secretary for Security appoints 15 August 2013 as the day on which the Fugitive Offenders (Finland) Order (Cap. 503 sub. leg. W) (the Finland Order) comes into operation.

2. The Finland Order was made by the Chief Executive in Council in February 2006 under section 3 of the Fugitive Offenders Ordinance (Cap. 503) to direct that the procedures in Cap. 503 for the surrender of fugitive offenders shall apply as between the Hong Kong Special Administrative Region (HKSAR) and the Republic of Finland (Finland). The Finland Order was made in consequence of the bilateral arrangements for surrender of fugitive offenders entered into and signed by the Government of HKSAR and the Government of the Republic of Finland on 20 May 2005 (the Agreement). The Agreement is recited in the Schedule to the Finland Order. Under section 2 of the Finland Order, the relevant procedures are subject to the limitations, restrictions, exceptions and qualifications contained in the Agreement.

3. No LegCo Brief on L.N. 140 has been issued by the Administration. The Legal Service Division has written to the Administration asking for the reason(s) for taking more than seven years to commence the operation of Finland Order. In reply, the Administration explained that according to Article 22 of the Agreement, the Agreement shall

enter into force 30 days after the date on which the Parties have notified each other in writing that their respective requirements for the entry into force of the Agreement have been complied with. The Government of HKSAR notified the Government of Finland on 27 April 2006 that Hong Kong had complied with the requirements for the entry into force of the Agreement. Since then, it had issued letters to the Government of Finland in 2008, 2010, 2011 and 2013 seeking updates on the progress of their ratification of the Agreement. According to the Administration, the Government of Finland gave its notification on 16 July 2013 and both Governments have agreed that the Finland Order shall enter into force on 15 August 2013 (i.e. 30 days after the date of Finland Government's notification).

4. The Panel on Security has not been consulted on L.N. 140. However, the Finland Order had been scrutinized by a Subcommittee which recommended that the Finland Order be supported. Members may wish to refer to the report of the Subcommittee on Fugitive Offenders (Finland) Order to the House Committee (LC Paper No. CB(2)1477/05-06) for further information.

PART II LEGAL NOTICE NOT REQUIRED TO BE TABLED AND NOT SUBJECT TO AMENDMENT

Volunteer and Naval Volunteer Pensions Ordinance (Cap. 202)

Volunteer and Naval Volunteer Pensions Ordinance (Amendment of Schedules) Order 2013 (L.N. 141)

5. L.N. 141 is made by the Secretary for Labour and Welfare under section 35(2) of the Volunteer and Naval Volunteer Pensions Ordinance (Cap. 202) (the Ordinance). It amends Schedules 3 to 8 to the Ordinance to adjust the rates of pensions, gratuities and other allowances payable under the Ordinance to the officers and volunteers of the Hong Kong Volunteer Defence Corps and members of the Hong Kong Naval Volunteer Force who fought for Hong Kong during the Second World War and their surviving spouses. Under section 35(2) of the Ordinance, the relevant rates are adjusted in accordance with the percentage of increase declared in a notice made under section 4(1C) of the Pensions (Increase) Ordinance (Cap. 305) (PIO).

6. By the Declaration of Increase in Pensions Notice 2013 (L.N. 107 of 2013) (DIP Notice) gazetted on 14 June 2013 made under the PIO, an increase of 3.5% is declared in respect of a basic pension with effect from 1 April 2013 in accordance with the percentage of increase in the average monthly Consumer Price Index (A) (Average Index) of the 12 months ending on 31 March 2013 over the Average Index of the immediately preceding 12 months. Accordingly, pursuant to L.N. 141, the rates set out in Schedules 3 to 8 to the Ordinance are

adjusted in accordance with the percentage of increase (i.e. 3.5%) in respect of a basic pension declared in the DIP Notice. The relevant rates were last revised in 2012 (L.N. 110 of 2012).

7. Section 35(4) of the Ordinance provides that an order made under section 35(2) shall take effect on the same date as specified in the relevant notice made under the PIO. As mentioned in paragraph 6 above, the DIP Notice came into effect on 1 April 2013. Accordingly, L.N. 141 is deemed to have come into operation on 1 April 2013. Section 35(5) of the Ordinance provides that section 34 of the Interpretation and General Clauses Ordinance (Cap. 1) does not apply to an order made under section 35(2) of the Ordinance. Accordingly, L.N. 141 is not required to be tabled in the Legislative Council and is not subject to amendment.

8. The Panel on Welfare Services has not been consulted on L.N. 141.

9. According to paragraph 7 of the LegCo Brief issued by the Labour and Welfare Bureau on 2 August 2013 (File Ref.: LWB CR 8/3231/92 Pt 17), public consultation on L.N. 141 is considered not necessary as the Administration considers that the adjustment of the rates payable under the Ordinance is a routine updating exercise.

10. No difficulties have been identified in the legal and drafting aspects of the above items of subsidiary legislation.

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23 August 2013

立法會
Legislative Council

LC Paper No. LS75/12-13

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 30 August 2013**

Date of tabling in LegCo : 9 October 2013

Amendment to be made by : 6 November 2013 (or 27 November 2013 if extended by resolution)

PART I

Pilotage Ordinance (Cap. 84)

Pilotage (Amendment) Regulation 2013 (L.N. 142)

Pilotage (Amendment) Ordinance 2013 (2 of 2013)

Pilotage (Amendment) Ordinance 2013 (Commencement) Notice (L.N. 143)

L.N. 142 is made by the Chief Executive (CE) in Council under section 21 of the Pilotage Ordinance (Cap. 84).

2. L.N. 142 amends regulation 6 of the Pilotage Regulations (Cap. 84 sub. leg. A) to prescribe a fee which must be paid by the applicant for exemption from compulsory pilotage where an officer of the Marine Department (MD) has visited a ship or other site for assisting the Pilotage Authority in considering whether or not to grant an exemption under section 10D(5) of Cap. 84. The new subsection (5) was added to section 10D of Cap. 84 by section 5 of the Pilotage (Amendment) Ordinance 2013 (2 of 2013) (the Amendment Ordinance).

3. According to paragraph 5 of the LegCo Brief on L.N. 142 issued by the Transport and Housing Bureau on 28 August 2013 (File ref.: MA 50/1), the fee level is the same as that currently levied under regulation 7 of the Merchant Shipping (Fees) Regulations (Cap. 281 sub. leg. F), according to which MD has been charging a fee where a visit has been made before the new section 10D(5) of Cap. 84 as indicated in paragraphs 3 and 4 of the LegCo Brief was enacted.

4. L.N. 142 comes into operation on the day on which section 5 of the Amendment Ordinance comes into operation, i.e. 1 December 2013 (see paragraph 5 below).

5. By L.N. 143 made under section 1(3) of the Amendment Ordinance, the Secretary for Transport and Housing has appointed 1 December 2013 as the day on which section 5 of the Amendment Ordinance comes into operation.

6. The Pilotage (Amendment) Bill 2013 was passed by the Legislative Council on 22 May 2013. The Amendment Ordinance, except section 5, came into operation on the day on which it was published in the Gazette, i.e. 31 May 2013. No Bills Committee had been formed to study the Bill.

7. As advised by the Clerk to the Panel on Economic Development, the Panel was not consulted on L.N. 142 and L.N.143, but when the Panel deliberated the policy aspects of the Pilotage (Amendment) Bill 2013 on 26 November 2012, members noted the proposed fee for applying for exemption from compulsory pilotage (which is now provided in L.N. 142) and raised no objection to the legislative proposal.

8. Members may wish to refer to the LegCo Brief on L.N. 143 issued by the Transport and Housing Bureau on 28 August 2013 (File ref.: MA 50/1) for background and further information.

PART II SUBSIDIARY LEGISLATION NOT REQUIRED TO BE TABLED AND NOT SUBJECT TO AMENDMENT

United Nations Sanctions Ordinance (Cap. 537)

**United Nations Sanctions (Libya) Regulation 2011 (Amendment) Regulation
2013 (L.N. 144)**

United Nations Sanctions (Sudan) Regulation 2013 (L.N. 145)

United Nations Sanctions (Sudan) Regulation (Repeal) Regulation (L.N. 146)

9. L.N. 144, L.N. 145 and L.N. 146 are made by CE under section 3 of the United Nations Sanctions Ordinance (Cap. 537) on the instructions of the Ministry of Foreign Affairs of the People's Republic of China and after consultation with the Executive Council.

L.N. 144

10. According to paragraphs 3 and 4 of the LegCo Brief on L.N. 144 issued by the Commerce and Economic Development Bureau in August 2013 (with no file

ref), the United Nations Sanctions (Libya) Regulation 2011 (Cap. 537 sub. leg. AW) was made in June 2011 to implement a range of sanctions against Libya in view of the concern over the serious violations of human rights and attacks against civilians.

11. As indicated in paragraph 5 of the LegCo Brief, due to the positive development in Libya, the Security Council of the United Nations (UNSC) adopted UNSC Resolution (UNSCR) 2095 on 14 March 2013 to relax certain sanctions against Libya in relation to the licensing requirements for the supply, sale, transfer or carriage of certain goods and the provision of certain assistance or training. L.N. 144 makes amendments to that effect as well as certain textual amendments.

12. L.N. 144 came into operation on the date of publication in the Gazette, i.e. 30 August 2013.

L.N. 145 and L.N. 146

13. According to the LegCo Brief on L.N. 145 and L.N. 146 issued by the Commerce and Economic Development Bureau in August 2013 (with no file ref), UNSC has passed a number of UNSCRs since 2004 to impose a range of sanctions against Sudan in view of the acts of violence and violations of human rights and international humanitarian law in the Darfur area of Sudan. These sanctions have been implemented in Hong Kong through the United Nations Sanctions (Sudan) Regulation (Cap. 537 sub. leg. W) (the Sudan Regulation) since April 2005.

14. Noting that the situation in Sudan continues to pose a threat to international peace and security in the region, UNSC adopted UNSCR 2035 on 17 February 2012 and decided, inter alia, to remove the exemptions relating to the Comprehensive Peace Agreement set out in UNSCR 1591. According to the Administration, as the structure and style of the Sudan Regulation are very different from other regulations made under Cap. 537, the Administration considers that a new regulation should be made instead of amending the Sudan Regulation. L.N. 145 is therefore made to implement UNSCR 2035.

15. With L.N. 145 in place, the Sudan Regulation is no longer needed. L.N. 146 is made to repeal the Sudan Regulation.

16. L.N. 145 and L.N. 146 came into operation on 6 September 2013.

17. Under section 3(5) of Cap. 537, sections 34 and 35 of the Interpretation and General Clauses Ordinance (Cap. 1) do not apply to regulations made under Cap. 537. Accordingly, L.N. 144, L.N. 145 and L.N. 146 are not required to be tabled at the Legislative Council and are not subject to amendment by the Legislative Council. 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 (the Subcommittee). As advised by the Clerk to the Subcommittee, L.N. 144, L.N. 145 and L.N. 146 have been circulated to members of the Subcommittee and all other Members of the Legislative Council vide LC Paper Nos. CB(1) 1753/12-13(01) and (02) on 2 September 2013. Members may refer to the two LegCo Briefs on L.N. 144, and L.N. 145 and L.N. 146 respectively for further information.

Concluding Remarks

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

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6 September 2013