

**立法會**  
**Legislative Council**

LC Paper No. LS24/14-15

**Paper for the House Committee**

**Further Report by Legal Service Division on  
Legislation Publication (Revision) Order 2014 (L.N. 150)  
gazetted on 5 December 2014**

Members may recall that at the House Committee meeting on 12 December 2014, the Legal Service Division (LSD) reported that a further report would be made, if necessary, after we had completed scrutiny of the legal and drafting aspects of the above Order.

2. LSD has made enquiries with the Administration as to whether certain provisions of the Legislation Publication (Revision) Order 2014 (L.N. 150) are within the scope of the empowering provision, i.e. section 17 of the Legislation Publication Ordinance (Cap. 614). Under section 17(a) of Cap. 614, the Secretary for Justice may, by order in the Gazette, make an alteration to an Ordinance for the purpose of securing uniformity in expression within the Ordinance or with another Ordinance. However, it appears that the following provisions in Part 2 of L.N. 150 may go beyond the scope of the empowering provision by rectifying inaccuracies in cross references to certain provisions and legislation instead of securing uniformity in expression: -

- (a) section 34 (which amends section 31(4) of the Import and Export Ordinance (Cap. 60) by repealing "paragraph (aa), (ab), (ac), (ad) or (ae)" and substituting "subsection (1)(aa), (ab), (ac), (ad) or (ae)" (emphasis added) in order to make it clear that the paragraphs referred to in section 31(4) of Cap. 60 are indeed paragraphs under section 31(1) of Cap. 60); and
- (b) section 40 (which amends section 7(b) of the Places of Amusement Regulation (Cap. 132BA) by adding "of this Regulation" after "section 19" in order to make it clear that it refers to section 19 of Cap. 132BA instead of section 19 of the principal Ordinance).

3. In response to our enquiries, the Administration has explained as follows: -

- (a) in section 31 of Cap. 60, there are no other paragraphs (aa), (ab), (ac), (ad) and (ae) except those under its subsection (1) and it is clear that the paragraphs referred to in section 31(4) are indeed paragraphs under section 31(1). Under the current drafting practice, for the sake of clarity, such a provision would be drafted in a uniform manner by referring to "subsection (1)(aa), (ab), (ac), (ad) or (ae)", and it is therefore appropriate to amend section 31(4) accordingly by using the power under section 17(a) of Cap. 614;
- (b) while the title of Cap. 132BA is "Places of Amusement Regulation"/"遊樂場所規例", reference is made to "本附例" in section 7(b) of Cap. 132BA. To secure uniformity of expression in section 7(b) of Cap. 132BA with its title, "本附例" in the Chinese text of section 7(b) is amended to "本規例" by using the power under section 17(a) of Cap. 614. As a result of this amendment, the Chinese text becomes "本規例第19條所訂的罪行". To secure uniformity in expression, "of this Regulation" is added in the English text pursuant to section 17(a) of Cap. 614.

4. After considering the Administration's reply, we maintain our view that section 34 of L.N. 150 relates more to rectifying inaccuracies in the cross references to the paragraphs now in section 31(4) of Cap. 60 than securing uniformity in expression within Cap. 60. On this basis, it is doubtful whether section 17(a) of Cap. 614 could be invoked. Members may consider whether they wish to follow up on this issue. As regards the amendment to section 7(b) of Cap. 132BA, it seems that the amendment from "本附例" to "本規例" in the Chinese text of the section and the corresponding amendment to its English text could be regarded to have been made to achieve uniformity within Cap. 132BA and therefore within the scope of section 17(a) of Cap. 614.

5. Apart from the above issue raised in relation to section 34 of L.N. 150 (as stated in paragraphs 2(a) and 4 above), no legal or drafting difficulties have been identified in relation to L.N. 150.

6. Members may also recall that at the House Committee meeting on 12 December 2014, a Member considered it necessary to form a subcommittee to study L.N. 150 in detail. However, since only two Members have signified to join the proposed subcommittee by the deadline for signification of membership, Members were informed vide LC Paper No. CB(2)513/14-15(01) that the proposed subcommittee has not been formed in accordance with House Rules 21(b) and 26(f). The first meeting of the proposed subcommittee scheduled for 22 December 2014 was accordingly cancelled.

7. Members may wish to note that the scrutiny period for amending L.N. 150 under section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) will expire at the Council meeting of 7 January 2015 (or that of 28 January 2015 if extended by resolution). Should Members consider it appropriate, a motion may be moved at the Council meeting of 7 January 2015 to extend the scrutiny period of L.N. 150 to the Council meeting of 28 January 2015 so that Members would have more time to consider the subsidiary legislation. The deadline for giving notice of a motion to extend the scrutiny period of L.N. 150 is 2 January 2015.

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