

立法會
Legislative Council

LC Paper No. LS63/14-15

**Paper for the House Committee Meeting
on 8 May 2015**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 30 April 2015**

Tabling in LegCo : Council meeting of 6 May 2015

Amendment to be made by : Council meeting of 3 June 2015 (or that of 24 June 2015 if extended by resolution)

**Merchant Shipping (Limitation of Shipowners Liability)
(Amendment) Ordinance 2005 (Commencement) Notice** (L.N. 81)

By L.N. 81, the Secretary for Transport and Housing (STH)¹ appoints 3 May 2015 as the day on which sections 2(b), 11, 12, 14(a) and (b)(i) and 20 (the relevant provisions) of the Merchant Shipping (Limitation of Shipowners Liability) (Amendment) Ordinance 2005 (1 of 2005) (the Amendment Ordinance) come into operation.

2. The Amendment Ordinance, enacted by the Legislative Council (LegCo) in March 2005, amends the Merchant Shipping (Limitation of Shipowners Liability) Ordinance (Cap. 434) to, among other things, give effect to the amendments to the Convention on Limitation of Liability for Maritime Claims 1976 (the 1976 Convention) adopted by the International Maritime Organization (IMO) in 1996 (the 1996 Protocol). The 1976 Convention limits shipowners' liability for claims in respect of loss of life or personal injury and property claims such as claims relating to damage to other ships, property or harbour works. The 1996 Protocol increases the limits of liability set out in the

¹ Section 1(3) of the Merchant Shipping (Limitation of Shipowners Liability) (Amendment) Ordinance 2005 (1 of 2005) (the Amendment Ordinance) provides that sections 2(b), 11, 12, 14(a) and (b)(i) and 20 shall come into operation on a day to be appointed by the Secretary for Economic Development and Labour (SEDL) by notice published in the Gazette. Under paragraph (4)(am) of the Resolution of the Legislative Council (L.N. 130 of 2007), with effect from 1 July 2007, the functions exercisable by SEDL by virtue of the Amendment Ordinance are transferred to STH and, for the purpose of giving full effect to such transfer, the reference to SEDL in section 1(3) of the Amendment Ordinance is repealed and substituted with STH.

1976 Convention². The Amendment Ordinance (except for the relevant provisions) came into operation when it was published in the Gazette on 18 March 2005. The relevant provisions would be brought into operation pending the completion of procedures for the implementation of the 1996 Protocol in the Hong Kong Special Administrative Region (HKSAR).

3. According to paragraph 3 of the LegCo Brief issued by the Transport and Housing Bureau in April 2015 (File Ref: THB(T)PML8/10/30/21), the Central People's Government has recently completed the procedures to notify IMO of HKSAR's accession to the 1996 Protocol. The 1996 Protocol entered into force for HKSAR on 3 May 2015. The Administration therefore specifies 3 May 2015 as the commencement date of the relevant provisions. The effect is that with effect from 3 May 2015, shipowners will be subject to the higher liability limits for claims in respect of loss of life or personal injury and other claims (such as claims relating to damage to other ships, property or harbour works) arising from incidents in sea voyages that are in line with the international requirements stipulated in the 1996 Protocol.

4. As advised by the Clerk to the Panel on Economic Development, the Panel has not been consulted on L.N. 81.

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

**United Nations Sanctions (Central African Republic)
Regulation 2015**

(L.N. 82)

**United Nations Sanctions (Democratic Republic of the
Congo) Regulation 2015**

(L.N. 83)

5. L.N. 82 and L.N. 83 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 of the People's Republic of China and after consultation with the Executive Council.

L.N. 82

6. Since 2013, the Security Council of the United Nations (UNSC) has adopted several resolutions imposing sanctions against the Central African Republic. These resolutions have been implemented by regulations made under

² Please refer to Annex B to the LegCo Brief on the Merchant Shipping (Limitation of Shipowners Liability) (Amendment) Bill 2005 issued by the then Economic Development and Labour Bureau on 7 January 2005 (File Ref: MA 30/22) for a comparison of the old and new liability limits.

Cap. 537, the last one being the United Nations Sanctions (Central African Republic) Regulation (Cap. 537BH), which expired at midnight on 27 January 2015.

7. L.N. 82 is made to give effect to certain decisions in Resolution 2196 (2015) against the Central African Republic as adopted by the UNSC on 22 January 2015 by providing for the prohibition against:-

- (a) the supply, sale, transfer or carriage of arms or related materiel to the Central African Republic;
- (b) the provision of 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) dealing with funds or other financial assets or economic resources belonging to, or owned or controlled by, certain persons or entities; and
- (e) entry into or transit through HKSAR by certain persons.

8. L.N. 82 will expire at midnight on 29 January 2016.

L.N. 83

9. Since 2003, UNSC has adopted several resolutions imposing sanctions against the Democratic Republic of the Congo (Congo). These resolutions have been implemented by regulations made under Cap. 537, the last one being the United Nations Sanctions (Democratic Republic of the Congo) Regulation 2014 (Cap. 537BI), which expired at midnight on 1 February 2015.

10. L.N. 83 is made to give effect to certain decisions in Resolution 2198 (2015) against Congo as adopted by the UNSC on 29 January 2015. It provides for the prohibition against:-

- (a) the supply, sale, transfer or carriage of arms or related materiel to certain persons operating in the territory of Congo;
- (b) the 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;

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

11. L.N. 83 will expire at midnight on 1 July 2016.

Other information and remarks

12. L.N. 82 and L.N. 83 came into operation when they were published in the Gazette on 30 April 2015. Members may refer to the LegCo Briefs issued by the Commerce and Economic Development Bureau in April 2015 (File References: CITB CR75/53/8 and CITB CR 75/53/4) for further information.

13. 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 section 3 of Cap. 537. Therefore, L.N. 82 and L.N. 83 are not required to be tabled in LegCo and are not subject to amendment by LegCo. However, since 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), Members may consider referring them to the Subcommittee for its consideration. The next meeting of the Subcommittee will be held on 2 June 2015.

14. As advised by the Clerk to the Subcommittee, the LegCo Briefs on L.N. 82 and L.N. 83 were circulated to members of the Subcommittee and all other Members vide LC Paper No. CB(1)809/14-15 on 4 May 2015.

Concluding Observations

15. The Legal Service Division is scrutinizing the legal and drafting aspects of L.N. 82 and L.N. 83. A further report will be made on L.N. 82 and L.N. 83, if necessary. No difficulties have been identified in relation to the legal and drafting aspects of L.N. 81.

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