

**立法會**  
**Legislative Council**

LC Paper No. LS67/14-15

**Paper for the House Committee Meeting  
on 29 May 2015**

**Legal Service Division Report on  
Proposed Resolution under section 6(1)(b)(i) of  
the Security and Guarding Services Ordinance (Cap. 460)**

The Secretary for Security has given notice to move a motion at the Legislative Council meeting of 10 June 2015. The motion seeks the Legislative Council's approval of the revised criteria that must be satisfied by a person before the Commissioner of Police (the Commissioner) may issue to him a permit under the Security and Guarding Services Ordinance (Cap. 460) to do security work. The revised criteria are specified in the notice annexed to the motion.

2. Cap. 460 provides for a permit scheme administered by the Security and Guarding Services Industry Authority (the Authority) to regulate the security industry. Under section 6(1)(b)(i) of Cap. 460, the Authority may specify, by notice in the Gazette, the criteria that must be satisfied by a person before the Commissioner may issue a permit to him. Section 6(1)(b)(ii) of Cap. 460 provides that the Authority may specify, by notice in the Gazette, the conditions subject to which a permit is to be issued. Section 6(3) of Cap. 460 provides that a notice shall not be published in the Gazette under section 6(1)(b)(i) unless and until it has been laid before and approved by the Legislative Council. Section 6(4) of Cap. 460 provides that any notice under section 6(1)(b) is not subsidiary legislation.

Criteria for issue of permit under Cap. 460

3. The existing criteria for the issue of a permit to do security work are set out in a notice published in the Gazette on 26 March 2004 (G.N. 1956). Set out below are four categories of permits specified in G.N. 1956 for performing different types of security work –

Category A – Guarding work restricted to a "single private residential building", the performance of which does not require the carrying of arms and ammunition;

Category B – Guarding work in respect of any persons, premises or properties, the performance of which does not require the carrying of arms and ammunition and which does not fall within Category A;

Category C – Guarding work, the performance of which requires the carrying of arms and ammunition; and

Category D – Installation, maintenance and/or repairing of a security device and/or designing (for any particular premises or place) a system incorporating a security device.

4. The criteria that have to be satisfied by an applicant in relation to a particular type of security work include age, fitness (not applicable to Category D), good character, proficiency in security work, arms licence (only applicable to Category C) and certification of employment by a prospective employer (only applicable to Category D)<sup>1</sup>.

5. The proposed resolution seeks to amend the existing criteria under G.N. 1956 in the following aspects –

(a) Age Criterion

The upper age limit for Category B security work would be revised from 65 to 70 years.

(b) Fitness Criterion

(i) With the proposed revision of the upper age limit for Category B security work to 70 years, the requirement of "fitness" for Category B security work is revised by adding the requirement that an applicant aged 65 or above must produce a medical certificate issued by a registered medical practitioner to certify that he/she is fit to undertake the duties required. For applicants aged below 65, the existing arrangement that medical certificate is produced if the Commissioner considers reasonably necessary remains unchanged.

(ii) For Category A security work, similar to Category B security work, the medical certificate requirement for applicants for Category A security work (both aged 65 or above and those below 65) will be placed under the fitness criterion instead of the age criterion for consistency sake. As the criteria specified in G.N. 1956 are only meant for permit applicants at the time of application, the existing biennial medical check requirement for Category A permit holder will be removed from the criteria and specified in the revised conditions.

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<sup>1</sup> In relation to Categories A, B and C security work, the requirement for certification of employment by prospective employer ceased to have effect on 1 October 2004 (see Note 5 of G.N. 1956).

(iii) Regarding the medical certificate requirement as provided in the fitness criterion for Categories A, B and C security work, a definition of "registered medical practitioner" capable of issuing the required medical certificate and the period prior to the submission of application within which the medical certificate should be issued will be specified under Note 2 of the revised criteria.

(c) Proficiency in Security Work

The requirement that applicants for Categories A, B and C security work have to produce a letter of employment from prospective employer is proposed to be removed under the revised criteria since this requirement ceased to have effect on 1 October 2004<sup>2</sup>.

Conditions for issue of permit under Cap. 460

6. At present, the conditions subject to which a permit is to be issued under Cap. 460 are set out in a notice published in the Gazette on 10 December 2010 under section 6(1)(b)(ii) of Cap. 460 (G.N. 7680). Unlike the gazette notice on criteria for the issue of permit, a notice under section 6(1)(b)(ii) is not required to be laid before and approved by the Legislative Council.

7. The addition of the medical check requirement for Category B security work and the alignment of the medical check requirement for Category A and Category B security work as referred to in paragraph 5(b) above involve the following revisions to G.N.7680 –

- (a) holders of permits for Category A and Category B security work would be required to submit a medical certificate biennially<sup>3</sup>; and
- (b) the definition of "registered medical practitioner" and the period within which the medical certificate should be submitted and issued would be specified in the revised conditions.

Public Consultation

8. According to paragraph 7 of the LegCo Brief (File Ref: SBCR 2/11/1476/94) issued by the Security Bureau in May 2015, the proposal to relax the age limit for Category B security personnel permit is one of the initiatives announced by the Government in the Policy Agenda published in January 2015 to promote a

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<sup>2</sup> See Note 5 of G.N. 1956.

<sup>3</sup> Non-compliance with a permit condition may contravene section 10 of Cap. 460 which is an offence under section 31(2) of Cap. 460. The maximum penalty is a fine at level 3 (\$10,000) and imprisonment for 3 months.

longer working life and unleash the potential of the local labour force. According to paragraph 17 of the LegCo Brief, the proposal has been drawn up having regard to the suggestions received from the trade and the public. The Authority has consulted trade representatives through its regular consultative forums and received their support. The proposal is also welcome by the Tripartite Committee on Property Management Industry, on which major employers of security industry services and labour unions are represented.

### Consultation with LegCo Panel

9. As advised by the Clerk to the Security Panel (the Panel), the Panel was consulted on the legislative proposal at the Panel meeting on 3 March 2015. While members were generally supportive of the proposal, some members expressed concern about whether the fees for medical check under the proposal should be borne by employees. The Administration advised that the proposed biennial medical check requirement would basically be the same as the existing arrangements for Category A security personnel, which would cost around \$200 and would not impose undue financial burden on applicants or permit holders. On some members' enquiry about the applicability of the Mandatory Provident Fund ("MPF") Scheme to security personnel aged 65 or above, the Administration advised that the MPF arrangements would follow the existing law which applied to all trades.

### Commencement

10. If the motion is passed, the revised criteria will replace the existing criteria with effect from the day on which the notice is published in the Gazette. According to paragraph 16 of the LegCo Brief, the Administration plans to bring the revised criteria into operation at the end of 2015 pending completion of the necessary preparatory work, such as upgrading of computer system.

### Concluding Observations

11. No difficulties have been identified in relation to the legal and drafting aspects of the motion and the revised criteria specified in the notice.

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