

立法會
Legislative Council

LC Paper No. LS27/15-16

**Paper for the House Committee Meeting
on 22 January 2016**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 15 January 2016**

Tabling in LegCo : Council meeting of 20 January 2016

Amendment to be made by : Council meeting of 17 February 2016 (or that of 16 March 2016 if extended by resolution)

Land Survey (Fees) (Amendment) Regulation 2016 (L.N. 2)

L.N. 2 is made by the Secretary for Financial Services and the Treasury under section 29A of the Interpretation and General Clauses Ordinance (Cap. 1) to increase the fees specified in the Schedule to the Land Survey (Fees) Regulation (Cap. 473A) by about 9.4% to 10.1% as set out below:

Item in the Schedule	Fee Description	Existing Fee (\$)	Revised Fee (\$)
1(a) and 1(b)	Inspection of land boundary record for each land boundary plan and each survey record plan included in the record respectively	69	76
2(a) and 2(b)	Supply of copies of plans for each copy of land boundary plan and each copy of survey record plan respectively	96	105
3	Deposit of land boundary plan and corresponding survey record plan with the Land Survey Authority	3,280	3,590
4	Registration as an authorized land surveyor	5,320	5,850
5	Renewal of registration as an authorized land surveyor	930	1,020

2. The fees payable under Cap. 473A were last revised in March 2015. According to paragraph 4 of the Legislative Council (LegCo) Brief issued by the Development Bureau in January 2016 (File reference: DEVB(PL-CR) 4-60/03/03), the fee revision is made with a view to recovering the full costs of providing the services in line with the "user pays" principle.

3. L.N. 2 comes into operation on 24 March 2016.

4. The Clerk to the Panel on Development has advised that the Administration briefed the Panel on the fee revision on 22 December 2015. Members did not raise any objection to the revision. Some members opined that when determining the frequency of fee revision, the Administration should take into consideration relevant matters in addition to full cost recovery, such as the amount of additional revenue that could be generated, and the manpower resources required for implementing the adjustments. The Administration took note of members' views.

Rules of the High Court (Amendment) (No. 4) Rules 2015 (L.N. 3)

Rules of the District Court (Amendment) (No. 2) Rules 2015 (L.N. 4)

**Child Abduction Legislation (Miscellaneous Amendments)
Ordinance 2014 (Commencement) Notice (L.N. 5)**

L.N. 5

5. L.N. 5 appoints 5 April 2016 as the day on which the Child Abduction Legislation (Miscellaneous Amendments) Ordinance 2014 (16 of 2014) (2014 Ordinance) comes into operation.

6. The Child Abduction Legislation (Miscellaneous Amendments) Bill 2013 (enacted as the 2014 Ordinance) was passed by the Legislative Council (LegCo) on 20 November 2014. It amends the Child Abduction and Custody Ordinance (Cap. 512) and other enactments to provide for the combating of child abduction and for better implementing the Convention on the Civil Aspects of International Child Abduction (Convention), and for related matters. The 2014 Ordinance provides for, amongst other things, the power of the Court of First Instance of the High Court (CFI) and the District Court to make the following court orders in relevant proceedings commenced under Cap. 512:

- (a) order made by CFI for the disclosure of the location of a child;
- (b) order made by CFI prohibiting the removal of a child from Hong Kong except to the child's home state or another jurisdiction as specified in an order made by a judicial or administrative authority of a Contracting State to the Convention;

- (c) order relating to the return of a child to another person specified by CFI; and
- (d) order made by CFI and District Court prohibiting the removal of a child out of Hong Kong without consent.

7. Members may refer to the report of the Bills Committee on the Child Abduction Legislation (Miscellaneous Amendments) Bill 2013 (LC Paper No. CB(2)15/14-15) dated 8 October 2014 for further information.

8. The Clerk to the Bills Committee on the Child Abduction Legislation (Miscellaneous Amendments) Bill 2013 advised that the Bills Committee made no comments on the commencement date of the Bill upon its enactment during the scrutiny of the Bill.

L.N. 3 and L.N. 4

9. L.N. 3 and L.N. 4 are made by the Rules Committee of the High Court under section 54 of the High Court Ordinance (Cap. 4) and the District Court Rules Committee under section 72 of the District Court Ordinance (Cap. 336) respectively to implement the changes introduced by the 2014 Ordinance by amending the Rules of the High Court (Cap. 4A) and the Rules of the District Court (Cap. 336H). The amendments in L.N. 3 and L.N. 4 provide specifically for the application procedures in respect of the new court orders which CFI and the District Court are empowered to make under Cap. 512, as amended by the 2014 Ordinance, and other related and technical amendments.

10. L.N. 3 and L.N. 4 come into operation immediately after the 2014 Ordinance comes into operation, i.e. on 5 April 2016.

11. Members may refer to the LegCo Brief (no reference number) issued by the Labour and Welfare Bureau in January 2016 for further information.

12. According to the Clerk to the Panel on Welfare Services, the Panel noted at its meeting on 23 July 2015 that the Administration had issued a paper to the Panel explaining the proposed amendments to Cap. 4A and Cap. 336H. No views had been expressed by members on these amendments.

Inland Revenue (Amendment) (No. 3) Ordinance 2015 (Commencement) Notice

(L.N. 6)

13. L.N. 6 appoints 1 April 2016 as the day on which the Inland Revenue (Amendment) (No. 3) Ordinance 2015 (17 of 2015) (Amendment Ordinance) comes into operation.

14. The Inland Revenue (Amendment) (No. 3) Bill 2015 (enacted as the Amendment Ordinance) was passed by the Legislative Council (LegCo) on 4 November 2015. It amends the Inland Revenue Ordinance (Cap. 112) to empower the person presiding at the hearing of an appeal before the Board of Review (Board) to give directions on the provision of documents and information; to enable a party aggrieved by the Board's decision to appeal directly to CFI on a question of law; to confer privileges and immunities on members of the Board; and to provide for related matters.

15. Members may refer to the report of the Bills Committee on Inland Revenue (Amendment) (No. 3) Bill 2015 (LC Paper No. CB(1)32/15-16) dated 20 October 2015 for further information.

16. The Clerk to the Bills Committee on the Inland Revenue (Amendment) (No. 3) Bill 2015 advised that the Bills Committee made no comments on the commencement date of the Bill upon its enactment during the scrutiny of the Bill. As advised by the Clerk to the Panel on Financial Affairs, the Panel has not been consulted on L.N. 6.

**Toys and Children's Products Safety Ordinance
(Amendment of Schedules 1 and 2) Notice 2016**

(L.N. 7)

17. L.N. 7 is made by the Secretary for Commerce and Economic Development under section 37 of the Toys and Children's Products Safety Ordinance (Cap. 424) to update certain safety standards for toys and children's products that are specified in Schedules 1 and 2 to Cap. 424 respectively.

18. Under sections 3 and 5 of Cap. 424, no person shall manufacture, import or supply any toy or children's product unless the toy or product complies with all the applicable requirements in at least one relevant standard specified in Schedule 1 or 2 to Cap. 424. Schedule 1 specifies the standards for toys and Schedule 2 specifies the standards for children's products. Sections 3(1) and 5(3) of Cap. 424 provide that goods in transit, goods in the course of transshipment or goods manufactured for export are not subject to the said statutory requirement.

19. Members may refer to the Legislative Council (LegCo) Brief (File ref.: CITB CR 08/18/3) issued by the Commerce, Industry and Tourism Branch of the Commerce and Economic Development Bureau in January 2016 for details. According to paragraph 8 of the LegCo Brief, the Administration has consulted some 50 major trade associations and organizations advocating children welfare and has received three submissions which raised no objection to the proposed changes. To allow reasonable time for the trade to adjust to the new requirements, the Administration would propose that the requirements are to take effect on 1 October 2016.

20. L.N. 7 comes into operation on 1 October 2016.

21. As advised by the Clerk to the Panel on Economic Development, the Panel has not been consulted on L.N. 7.

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

United Nations Sanctions (Iran) (Amendment) Regulation 2016

(L.N. 8)

22. Since 2006, the United Nations Security Council (UNSC) has made several resolutions imposing a range of sanctions against Iran. These sanctions include prohibition against the direct or indirect supply, sale, transfer and carriage of certain nuclear-related items, materials, equipment, goods and technology to Iran and prohibition against the procurement of certain nuclear-related items or equipment, or arms or related materials from Iran. These sanctions are given effect by the United Nations Sanctions (Iran) Regulation (Cap. 537AF).

23. L.N. 8 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 of the People's Republic of China and after consultation with the Executive Council to amend Cap. 537AF in order to give effect to the exemptions to sanction measures against Iran decided in UNSCR 2231 (2015) and adopted by UNSC on 20 July 2015. The main provisions of L.N. 8 provide for exceptions to, or amend the licensing requirements for:

- (a) the supply, sale, transfer or carriage of arms and nuclear-related items;
- (b) the procurement of certain nuclear-related items from Iran;
- (c) the provision of certain training, services or assistance related to certain items under certain circumstances;
- (d) the transfer of technology or assistance related to ballistic missiles to certain persons under certain circumstances;
- (e) the making available of, or dealing with, funds or other financial assets or economic resources under certain circumstances;
- (f) the sale and acquisition of interest in a commercial activity involving uranium mining and the provision of financial services that facilitate such acquisition;

- (g) the entry or transit by certain persons; and
- (h) the provision of certain services to certain ships.

24. L.N. 8 came into operation on the date of publication in the Gazette, i.e. 15 January 2016.

25. Members may refer to the Legislative Council (LegCo) Brief (File reference: CITB CR 67/53/1) issued by the Commerce and Economic Development Bureau in January 2016 for further information. A marked-up copy of Cap. 537AF showing the changes made by L.N. 8 is at Annex E to the LegCo Brief.

26. Under section 3(5) of Cap. 537, sections 34 and 35 of Cap. 1 shall not apply to regulations made under Cap. 537. Accordingly, L.N. 8 is not required to be tabled in LegCo and is not subject to amendment by LegCo. However, since 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 (Subcommittee), Members may consider referring L.N. 8 to the Subcommittee for its consideration.

27. As advised by the Clerk to the Subcommittee, the LegCo Brief on L.N. 8 was circulated to members of the Subcommittee and all other members vide LC Paper No. CB(1)448/15-16 on 18 January 2016.

Concluding Observations

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

Prepared by

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