

**立法會**  
**Legislative Council**

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**Paper for the House Committee Meeting  
on 11 May 2018**

**Legal Service Division Report on  
Subsidiary Legislation Gazetted on 4 May 2018**

**Tabling in LegCo** : Council meeting of 9 May 2018

**Amendment to be made by** : Council meeting of 6 June 2018 (or that of 27 June 2018 if extended by resolution)

**PART I ROAD TUNNELS**

**Road Tunnels (Government) (Amendment) Regulation 2018** (L.N. 72)

**Road Tunnels (Government) Ordinance (Amendment of Schedule 1) Notice 2018** (L.N. 73)

L.N. 73

L.N. 73 is made by the Chief Executive ("CE") under section 3 of the Road Tunnels (Government) Ordinance (Cap. 368) after consultation with the Executive Council ("ExCo") to add three new toll-free tunnels, namely the Central-Wan Chai Bypass Tunnel, the Cheung Shan Tunnel and the Lung Shan Tunnel to Schedule 1 to Cap. 368 to the effect that these tunnels are Government road tunnels to which Cap. 368 and the Road Traffic Ordinance (Cap. 374) are applicable.

L.N. 72

2. L.N. 72 is made by CE in Council under section 20 of Cap. 368 to amend the Road Tunnels (Government) Regulations (Cap. 368A) in anticipation of the commissioning of (i) the Central-Wan Chai Bypass Tunnel<sup>1</sup> in end of 2018 or the first quarter of 2019; and (ii) the Cheung Shan Tunnel and the Lung Shan Tunnel<sup>2</sup> before end of 2018.

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<sup>1</sup> The Central-Wan Chai Bypass Tunnel is a toll-free road tunnel forming part of the Central-Wan Chai Bypass and Island Eastern Corridor Link that connects the Rumsey Street Flyover in Central with the Island Eastern Corridor in North Point.

<sup>2</sup> The Cheung Shan Tunnel and the Lung Shan Tunnel are toll-free government tunnels which form part of the connecting road that links up the Fanling Highway and the Heung Yuen Wai Boundary Control Point.

3. The amendments to Cap. 368A by L.N. 72 include:
- (a) making certain traffic signs and road markings prescribed in Schedule 1 to Cap. 368A applicable to all Government road tunnels;
  - (b) adding a new regulation 8AA to Cap. 368A, which applies only to the Central-Wan Chai Bypass Tunnel, to require certain specified vehicles to use the left most lane, or where the section of the road inside the tunnel consists of three or more traffic lanes with traffic flow in the same direction, the left most lane or the lane next to the left most lane;
  - (c) repealing certain outdated traffic signs and road markings prescribed in Schedule 1 to Cap. 368A;
  - (d) specifying in Schedule 2 to Cap. 368A the removal fees and permit fees applicable to vehicles using the Central-Wan Chai Bypass Tunnel, the Cheung Shan Tunnel and the Lung Shan Tunnel, which are the same as those relating to other Government road tunnels; and
  - (e) making minor presentational and consequential amendments.
4. Members may refer to the Legislative Council ("LegCo") Brief (File Ref : THB(T)CR 1/4651/2016) issued by the Transport and Housing Bureau on 2 May 2018 for further details.
5. As advised by the Clerk to the Panel on Transport, the Panel was consulted on L.N. 72 and L.N. 73 on 21 July 2017. Members of the Panel did not raise any objection to the proposals.
6. L.N. 72 and L.N. 73 come into operation on 12 July 2018.

## **PART II SAFETY OF SHIPS CARRYING LIQUEFIED GASES IN BULK**

### **Merchant Shipping (Safety) (Gas Carriers) (Amendment) Regulation 2018**

**(L.N. 74)**

7. L.N. 74 is made by the Secretary for Transport and Housing under sections 101, 107 and 112B of the Merchant Shipping (Safety) Ordinance (Cap. 369) to amend the Merchant Shipping (Safety) (Gas Carriers) Regulations (Cap. 369Z) to give effect to the latest requirements set out in the International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk ("IGC Code") adopted by the Maritime Safety Committee of the International Maritime Organization ("IMO") on 22 May 2014 ("2014 IGC Code").<sup>3</sup>

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<sup>3</sup> The 2014 IGC Code is applicable to gas carriers constructed on or after 1 July 2016, and in part applicable also to existing gas carriers.

8. According to paragraph 2 of the LegCo Brief (File Ref.: THB (T) CR 8/10/80/7) issued by the Transport and Housing Bureau in May 2018, IMO made the IGC Code mandatory under Chapter VII of the International Convention for the Safety of Life at Sea since 1 July 1986 and the IGC Code is applied to all gas carriers constructed thereafter. The IGC Code is implemented in Hong Kong through Cap. 369Z, which was last amended in 1996.

9. The amendments to Cap. 369Z by L.N. 74 include the following:

- (a) amending existing provisions and adding new Regulation 4(5) to specify the types of ships<sup>4</sup> that are subject to the 2014 IGC Code;
- (b) amending Regulation 5 of Cap. 369Z to give effect to the latest survey requirements set out in the 2014 IGC Code;
- (c) amending Regulation 9 of Cap. 369Z to introduce the concept of "reportable incident" in relation to accidents occurring to ships and discovery of defects in ships; and
- (d) adding new Regulations 7A to 7D to give effect to the latest requirements relating to the duration and extension of validity period of an International Certificate of Fitness for the Carriage of Liquefied Gases in Bulk ("International Certificate of Fitness") and to add a new Regulation 13(2A) to impose penalties for failure to deliver an International Certificate of Fitness on demand or to keep a certificate on board.

10. According to paragraph 10 of the LegCo Brief, the Administration consulted the Shipping Consultative Committee of the Marine Department, which supported the proposal.

11. As advised by the Clerk to the Panel on Economic Development, the Administration consulted the Panel on 22 May 2017 on the proposed legislative amendments. Members were generally supportive of the amendments, and noted that (i) the new requirements mainly applied to gas carriers constructed on or after 1 July 2016; and (ii) as all the Hong Kong-registered gas carriers were constructed prior to 1 July 2016, no compliance issues were expected to arise from those carriers.

12. L.N. 74 comes into operation on 9 July 2018.

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<sup>4</sup> The following types of ships must comply with the 2014 IGC Code: (a) gas carriers constructed on or after 1 July 2016, (b) ships converted into gas carriers on or after 1 July 2016 and (c) gas carriers constructed before 1 July 2016 but have undergone any repair, alteration or modification of a major character on or after that date.

### **PART III CONTROL OF CHEMICALS AND DANGEROUS DRUGS**

#### **Control of Chemicals Ordinance (Amendment of Schedule 2)**

**Order 2018**

**(L.N. 75)**

#### **Dangerous Drugs Ordinance (Amendment of First Schedule)**

**Order 2018**

**(L.N. 76)**

#### L.N. 75

13. L.N. 75 is made by the Secretary for Security under section 18A(1) of the Control of Chemicals Ordinance (Cap. 145) to add the following two substances and their salts to Schedule 2 to Cap. 145 so that they are subject to the control measures provided in Cap. 145:

- (a) 4-anilino-N-phenethylpiperidine (commonly known as "ANPP"); and
- (b) N-phenethyl-4-piperidone (commonly known as "NPP").

14. Under Cap. 145, substances specified in Schedule 2 are subject to the control of a licensing scheme administered by the Customs and Excise Department. Possession, manufacturing, transporting or distribution of these substances for the unlawful production of dangerous drugs, and import or export of these substances not under and in accordance with a licence are criminal offences, punishable by imprisonment for 15 years and a fine of \$1 million.

#### L.N. 76

15. L.N. 76 is made by CE under section 50(1) of the Dangerous Drugs Ordinance (Cap. 134) after consultation with the ExCo to add the following five substances to Part I of the First Schedule to Cap. 134 so that these substances would be subject to control under Cap. 134:

- (a) Ethyl phenyl(piperidin-2-yl)acetate (commonly known as "Ethylphenidate" or "EPH");
- (b) N-Methyl-1-(thiophen-2-yl)propan-2-amine (commonly known as "Methiopropamine" or "MPA");
- (c) Methyl N-{{[1-(cyclohexylmethyl)-1H-indol-3-yl]carbonyl}-3-methylvalinate (commonly known as "MDMB-CHMICA");
- (d) N-(Adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide (commonly known as "5F-APINACA" or "5F-AKB-48"); and

- (e) 3,4-Dichloro-N-(2-dimethylamino-cyclohexyl)-N-methyl-benzamide (commonly known as "U-47700").

16. Under Cap. 134, substances specified in Part I of the First Schedule are dangerous drugs and are subject to the control of a licensing scheme administered by the Department of Health. Illicit trafficking or manufacturing of any of these substances is subject to a maximum penalty of life imprisonment and a fine of \$5 million. Possession and consumption of the substances in contravention of Cap. 134 is also a criminal offence punishable by imprisonment for seven years and a fine of \$1 million.

17. According to paragraph 26 of the LegCo Brief (File Ref: NCR 2/1/8 S/F(19) Pt.2) issued by the Narcotics Division of the Security Bureau in May 2018, the Administration consulted relevant trades, as well as holders of licences issued under Cap. 134, Cap. 145 and the Pharmacy and Poisons Ordinance (Cap. 138) on the legislative proposals and there was no adverse comment. The Administration also, as stated in paragraph 27 of the LegCo Brief, consulted the Action Committee Against Narcotics on 15 December 2017, which supported the proposed control.

18. As advised by the Clerk to the Panel on Security, the Panel was consulted on 6 February 2018 on the proposed control. Members supported the proposed control and raised no question.

19. L.N. 75 and L.N. 76 come into operation on 6 July 2018.

#### **PART IV BASEL III IMPLEMENTATION**

**Banking (Disclosure) (Amendment) Rules 2018** (L.N. 77)

**Banking (Specification of Multilateral Development Bank) (Amendment) Notice 2018** (L.N. 78)

20. L.N. 77 and L.N. 78 are made by the Monetary Authority ("MA") under section 60A of the Banking Ordinance (Cap. 155) after consultation with the Financial Secretary and the persons specified in section 60A(2) of Cap. 155<sup>5</sup> ("Statutory Consultees") and under section 2(19) of Cap. 155 respectively for the purpose of implementing the latest international standards on banking regulation promulgated by the Basel Committee on Banking Supervision ("BCBS").<sup>6</sup>

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<sup>5</sup> The specified persons are the Banking Advisory Committee, the Deposit-taking Companies Advisory Committee, The Hong Kong Association of Banks and The Hong Kong Association of Restricted Licence Banks and Deposit-taking Companies.

<sup>6</sup> BCBS, of which Hong Kong is a member, is an international body that sets standards on banking regulation with a view to enhancing financial stability.

## L.N. 77

21. L.N. 77 amends the Banking (Disclosure) Rules (Cap. 155M) mainly to implement certain disclosure requirements for authorized institutions ("AIs")<sup>7</sup> set out in the document entitled *Pillar 3 disclosure requirements – consolidated and enhanced framework* issued by BCBS in March 2017 ("March 2017 Standard").<sup>8</sup> The key amendments include:

- (a) implementing some of the new requirements on format and frequency for disclosure set out in the March 2017 Standard (sections 16, 21, 37 and 39 of L.N. 77); and consolidating certain existing disclosure requirements under Parts 3 and 4 of Cap. 155M into the new Divisions 3A, 3C and 3D of Part 2A (section 16 of L.N. 77);
- (b) adding new requirements on disclosure on the key prudential ratios and prudent valuation adjustments of AIs (sections 11 and 15 of L.N. 77) and disclosure on the net stable funding ratio and the core funding ratio of certain AIs incorporated outside Hong Kong (section 38 and 40 of L.N. 77);
- (c) empowering MA to permit an AI to publish the relevant disclosure statement at a time later than the publication of its interim or annual financial statement (section 5 of L.N. 77); removing the existing requirements on issuing a press release concurrently with the publication of a disclosure statement and keeping copies of disclosure statements in each local branch of an AI (sections 5 and 29 of L.N. 77);
- (d) making consequential amendments to certain provisions of Cap. 155M to align with the amendments made by the Banking (Capital) (Amendment) Rules 2017 (L.N. 175 of 2017) concerning the implementation of the Basel III standards relating to securitization exposures (sections 18, 19 and 20 of L.N. 77).

22. According to paragraph 3 of the LegCo Brief issued by the Financial Services and the Treasury Bureau ("FSTB") and the Hong Kong Monetary Authority ("HKMA") on 2 May 2018 (File Ref: B&M/2/1/63C), the new disclosure requirements in the Pillar 3 requirements as revised in January 2015 and March 2017 will promote market discipline and facilitate assessment of AIs' risk exposures. It is incumbent upon Hong Kong, an international financial centre, to adopt the March 2017 Standard, so as to ensure that regulatory disclosures made by AIs are

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<sup>7</sup> Authorized institutions refer to licensed banks, restricted licence banks, and deposit-taking companies authorized under the Banking Ordinance (Cap. 155).

<sup>8</sup> The Pillar 3 requirements have been revised twice, in January 2015 and March 2017, to reflect the outcome of the two reviews to enhance the requirements in terms of transparency, comparability and user-relevance of bank disclosures.

compatible with international standards. Members may refer to the LegCo Brief for further details.

#### L.N. 78

23. L.N. 78 amends the Banking (Specification of Multilateral Development Bank) Notice (Cap. 155N) to specify the Asian Infrastructure Investment Bank ("AIIB") as a new multilateral development bank ("MDB") under Cap. 155.

24. Under section 2(19) of Cap. 155, MA may by notice published in the Gazette specify to be a MDB for the purposes of Cap. 155 any bank or lending or development body established by agreement between, or guaranteed by, two or more countries, territories or international organizations other than for purely commercial purposes. Cap. 155N currently specifies 15 MDBs.

25. According to paragraph 6 of the LegCo Brief, AIs' exposures to MDBs specified in Cap. 155N are deemed to carry lesser risks and hence accorded preferential treatment in certain areas under Cap. 155 such as the calculation of the regulatory capital and liquidity requirements. Following the BCBS's promulgation in October 2017 of AIIB as an MDB eligible for preferential treatment under the capital regime, MA considers it appropriate to specify AIIB to be an MDB for the purposes of Cap. 155.

#### Consultation

26. In respect of L.N. 77, according to paragraph 13 of the LegCo Brief, HKMA has engaged the banking industry in formulating the proposed amendments through a consultation initiated in October 2017. A statutory consultation on the draft provisions was also conducted in March 2018 in accordance with section 60A of Cap. 155, and there is general support from the Statutory Consultees. In addition, relevant technical or drafting comments made by the consultees have been addressed in the finalized proposed amendments as appropriate, and the intent of certain provisions has been clarified during the consultation process. In respect of L.N. 78, according to paragraph 14 of the LegCo Brief, the consultation conducted by HKMA in November 2017 confirmed that the industry was supportive of the proposal to specify AIIB as an MDB.

27. As advised by the Clerk to the Panel on Financial Affairs, the Panel was briefed on 5 February 2018 on the work of HKMA, members were informed of HKMA's plan to introduce amendments to Cap. 155M to incorporate into local legislation the second phase of the revised disclosure requirements of BCBS, and to introduce amendment to Cap. 155N to specify AIIB as a MDB. Members did not raise objection to the plan.

#### Commencement

28. L.N. 77 and L.N. 78 come into operation on 30 June 2018.

## **PART V EXPIRY NOTICE**

### **Construction Workers Registration Ordinance (Expiry of Section 39(1)(b) and (d)) Notice (L.N. 79)**

29. The Construction Workers Registration Ordinance (Cap. 583), enacted in 2004, provides for, among other things, the registration of construction workers. Upon the commencement of the registration system on 29 December 2005, a transitional arrangement has been provided for experienced construction workers who were carrying out skill works. Under the transitional arrangement, a person who has not less than six years of specified skill works experience as at 29 December 2005 may apply under section 39(1)(b) of Cap. 583 for registration as a registered skilled worker (provisional) of the relevant trade division, and a person who has not less than two years of specified skill experience may apply under section 39(1)(d) of Cap. 583 for registration as a registered semi-skilled worker (provisional) of the relevant trade division. Section 39(3) of Cap. 583 provides that section 39(1)(b) and (d) each expires on a day or days to be appointed by the Secretary for Development by notice published in the Gazette.

30. By L.N. 79, the Secretary for Development appoints 1 July 2019 as the day on which section 39(1)(b) and (d) of Cap. 583 expires.

31. According to paragraphs 5 and 6 of the LegCo Brief issued by the Development Bureau in May 2018 (File Ref: DEVB(CR)(W)1-10/31), the decline in the total number of Registered Semi-skilled Worker (Provisional) and Registered Skilled Workers (Provisional) from about 18 000 in December 2007 to about 1 200 in December 2017 shows that most of the experienced workers in active service should have already been registered as semi-skilled or skilled workers. Therefore, the Administration considers that the transitional arrangement, which is intended to be an interim measure, is no longer necessary. After the cessation of provisional registration, construction workers can register as skilled workers or semi-skilled workers if they pass the relevant trade tests or hold other qualifications specified by Cap. 583.

32. According to paragraph 10 of the LegCo Brief, the Construction Industry Council has conducted meetings and reached consensus among various stakeholders of the construction industry, including workers' unions and trade associations on the proposal to cease provisional registration.

33. As advised by the Clerk to the Panel on Development, the Administration briefed the Panel on 27 March 2018 on the proposed cessation of the arrangements for provisional registration under section 39(1)(b) and (d) of Cap. 583 with effect from 1 July 2019 and advised that as most of the experienced workers in active service should have already been registered as semi-skilled or skilled workers and a grace period of slightly more than 12 months would be provided, the proposed



cessation would have little impact on the construction industry and workers in active service. Members did not object to the proposed cessation.

### **Concluding observations**

34. No difficulties have been identified in relation to the legal and drafting aspects of L.N. 72 to L.N. 76 and L.N. 78 to L.N. 79. The Legal Service Division is scrutinizing L.N. 77. Further report will be made, if necessary.

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