

**立法會**  
***Legislative Council***

LC Paper No. LS69/17-18

**Paper for the House Committee Meeting  
on 15 June 2018**

**Legal Service Division Report on  
Subsidiary Legislation Gazetted on 8 June 2018**

**Tabling in LegCo** : Council meeting of 13 June 2018

**Amendment to be made by** : Council meeting of 11 July 2018 (or the first meeting of the next session if extended by resolution)

**Food Adulteration (Metallic Contamination) (Amendment)  
Regulation 2018** **(L.N. 113)**

L.N. 113 is made by the Secretary for Food and Health under section 55 of the Public Health and Municipal Services Ordinance (Cap. 132) to amend the Food Adulteration (Metallic Contamination) Regulations (Cap. 132V) to revise the standards for metallic contamination in food.

2. Section 3 of Cap. 132V prohibits the import, consignment, delivery, manufacture or sale, for human consumption, of certain food containing any metal in greater concentration than as specified in the First or Second Schedule to Cap. 132V, or in such amount as to be dangerous or prejudicial to health. The First and Second Schedules to Cap. 132V stipulate 19 maximum permitted concentrations ("MPCs") of seven metals, namely arsenic, antimony, cadmium, chromium, lead, mercury and tin, present in food specified in the Schedules.

3. L.N. 113 repeals the First and Second Schedules to Cap. 132V and provides for a new Schedule which, among others, sets out the maximum levels of 14 metals that are allowed to be present in food. Those 14 metals, include, in addition to the existing seven metals, barium, boron, copper, manganese, nickel, selenium and uranium. The new Schedule also replaces the existing food categories of "all food in solid form" and "all food in liquid form" with individual food or food groups.

4. L.N. 113 also provides for:
- (a) the principles to determine the maximum level of metal in relation to compounded food or food that is in a dried, dehydrated or concentrated form (new regulations 3(2) and (4)); and
  - (b) a 12-month grace period after the commencement of L.N. 113 for food other than certain types of fresh food including fruit and vegetable (new regulation 7).
5. According to the Legislative Council ("LegCo") Brief (File ref: FHB/F/5/1/8/2) issued by the Food and Health Bureau in June 2018, the amendments are to align Hong Kong's standards with the international standards (i.e. standards of the Codex Alimentarius Commission) and the number of maximum levels (equivalent to MPCs) in the existing Cap. 132V are increased from the existing 19 to 144 (paragraphs 4 and 5). According to the Administration, a three-month public consultation was conducted on the legislative proposal in 2017 and the community generally supported the proposal (paragraph 11).
6. As advised by the Clerk to the Panel on Food Safety and Environmental Hygiene, the Panel was consulted on the legislative proposal at the meetings on 13 June and 3 July 2017, and was briefed on 9 January 2018 on the outcome of the public consultation conducted by the Administration. Members of the Panel generally supported the proposal but raised concerns on certain issues including the proposed new standards for metallic contaminants in certain food items (such as cadmium in polished rice and leafy vegetables, and methylmercury in fish (other than predatory fish)), the impact of the proposal on the supply and prices of food in Hong Kong as well as the grace period allowed for the trade to comply with the new standards.
7. L.N. 113 comes into operation on 1 November 2019.

**Protection of Endangered Species of Animals and Plants  
Ordinance (Amendment of Schedules 1 and 3) Order 2018 (L.N. 114)**

**Protection of Endangered Species of Animals and Plants  
Ordinance (Exemption for Appendices II and III Species)  
(Amendment) Order 2018 (L.N. 115)**

8. L.N. 114 and L.N. 115 are made by the Secretary for the Environment respectively under section 48 and section 47(2) of the Protection

of Endangered Species of Animals and Plants Ordinance (Cap. 586) mainly to give effect to the amendments made at the 17th meeting of the Conference of Parties ("CoP17") to the Convention on International Trade in Endangered Species of Wild Fauna and Flora ("CITES") in 2016. CITES has been implemented in Hong Kong since 1976 by Cap. 586 which regulates the import, export, re-export, and possession or control of endangered species of animals and plants as specified in Schedule 1 to Cap. 586. Part 2 of Schedule 1 sets out the species listed in Appendices I to III<sup>1</sup> to CITES, which are subject to control under Cap. 586.

#### L.N. 114

9. The amendments introduced by L.N. 114 are summarized below:
- (a) Schedule 1 to Cap. 586 is amended to make changes to the listings of the endangered species. These changes include addition of new species or group of species, transfer of species or group of species among the Appendices, and deletion of certain species or group of species from the Appendices. L.N. 114 also makes certain technical amendments arising from the updates in nomenclature and provision of common names to species names under Schedule 1. Members may wish to refer to Annexes C and D to the LegCo Brief (File Ref: EP 86/25/01 (18)) issued by the Environmental Protection Department in June 2018 for details of the changes; and
  - (b) Under Part 1 of Schedule 3, the term "appropriate and acceptable destination", when it appears in an annotation to the listing of the species in Appendix II with reference to the export of or international trade in live animals, is defined to mean a destination where the relevant authority of the place of import is satisfied that the proposed recipient of a living specimen is suitably equipped to house and care for it. The definition of the term is amended to include a further requirement that "the relevant authorities of the place of import and the place of export are satisfied that the trade would promote *in situ* conservation".

#### L.N. 115

10. The Protection of Endangered Species of Animals and Plants (Exemption for Appendices II and III Species) Order (Cap. 586B) provides for

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<sup>1</sup> Appendix I: Species which are highly endangered and threatened with extinction.  
Appendix II: Species which, unless trade is controlled, could become threatened with extinction.  
Appendix III: Species identified by any parties to CITES as requiring assistance from other CITES parties in controlling the international trade.

certain exemptions from restrictions on the import, export, re-export, possession and control of specimens of species listed in Schedule 1 to Cap. 586. Section 5 of Cap. 586B provides for exemption in respect of the import, etc. of a specimen of an Appendix II species, which is part of the personal or household effects of a person and is legally acquired by the person. The exemption does not apply to the import, etc. of a live animal and rhino horn or elephant ivory that is a hunting trophy.

11. L.N. 115 amends section 5 of Cap. 586B to the effect that exemption provided under that section does not apply to any hunting trophy.

### Consultation

12. According to the LegCo Brief, the Administration has consulted the Endangered Species Advisory Committee and the Wildlife Crime Task Force in February and May 2017 and the members supported the legislative proposal (paragraph 10). Relevant traders were consulted on the possible listing of the species in CITES Appendices before CoP17 and they did not raise any objection (paragraph 11).

13. As advised by the Clerk to the Panel on Environmental Affairs, the Panel was briefed on the latest progress of the protection of endangered species of animals and plants in Hong Kong, including the Administration's plan to amend Cap. 586 to put four more shark species under regulation (which is part of the amendments made at CoP17 to CITES). Members did not raise any objection to the proposal. Except for the addition of four more shark species in Schedule 1 to Cap. 586, the Panel was not specifically consulted on the other amendments made by L.N. 114 and L.N. 115 to reflect the changes made to CITES.

14. L.N. 114 and L.N. 115 come into operation on 1 November 2018.

### **Employment (Amendment) (No. 2) Ordinance 2018 (Commencement) Notice (L.N. 116)**

15. By L.N. 116, the Secretary for Labour and Welfare appoints 19 October 2018 as the day on which the Employment (Amendment) (No. 2) Ordinance 2018 (Ord. No. 21 of 2018) ("the Amendment Ordinance") comes into operation.

16. The Amendment Ordinance, enacted in May 2018, amends the Employment Ordinance (Cap. 57) so that, for a dismissal in the event of unreasonable or unfair dismissal under section 32A(1)(c) of Cap. 57, the

employer's agreement is not a pre-requisite for ordering reinstatement or re-engagement. Before the enactment of the Amendment Ordinance, a Bills Committee was formed to study the Employment (Amendment) Bill 2017. Members may refer to the report of the Bills Committee on the Bill (LC Paper No. CB(2)764/17-18) for further details.

17. As advised by the Clerk to the Panel on Manpower, the Panel has not been consulted on L.N. 116. The Bills Committee on Employment (Amendment) Bill 2017 noted that the Bill would come into operation on a day to be appointed by the Secretary for Labour and Welfare by notice published in the Gazette.

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

**United Nations Sanctions (Central African Republic) Regulation 2018** (L.N. 117)

**United Nations Sanctions (Yemen) Regulation 2015 (Amendment) Regulation 2018** (L.N. 118)

18. L.N. 117 and L.N. 118 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. They came into operation when they were published in the Gazette on 8 June 2018.

### L.N. 117

19. Since 2013, the Security Council of the United Nations ("UNSC") has adopted several resolutions to impose or renew certain sanctions against the Central African Republic ("CAR"). These resolutions have been implemented by regulations made under Cap. 537, the last one being the United Nations Sanctions (Central African Republic) Regulation 2017 (Cap. 537BW) which expired at midnight on 31 January 2018.

20. L.N. 117 is made to give effect to certain decisions in Resolution 2399 (2018), as adopted by UNSC on 30 January 2018, in respect of CAR by providing for the prohibition against:

- (a) supply, sale, transfer or carriage of arms or related materiel to CAR;

- (b) 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 the Hong Kong Special Administrative Region ("HKSAR") by certain persons.

21. L.N. 117 expires at midnight on 31 January 2019.

22. Members may refer to the LegCo Brief (File Ref: CITB CR 75/53/8) issued by the Commerce and Economic Development Bureau ("CEDB") in June 2018 for further information. A marked-up version showing the differences between L.N. 117 and the expired Cap. 537BW is at Annex D to the LegCo Brief. The provisions in L.N. 117 are essentially the same as those in Cap. 537BW.

#### L.N. 118

23. Since 2014, UNSC has adopted several resolutions to impose certain sanctions against Yemen. These resolutions have been implemented by regulations made under Cap. 537, the last one being the United Nations Sanctions (Yemen) Regulation 2015 (Cap. 537BP). Cap. 537BP was last amended by the United Nations Sanctions (Yemen) Regulation 2015 (Amendment) Regulation 2017 (L.N. 80 of 2017). Sections 5B, 7C, 7D and 9C ("expired provisions") of Cap. 537BP relating to certain prohibitions, as added by L.N. 80 of 2017, expired at midnight on 26 February 2018.

24. L.N. 118 amends Cap. 537BP to give effect to certain decisions in UNSC Resolution 2402 (2018) as adopted by UNSC on 26 February 2018 in respect of Yemen by providing for the prohibition against:

- (a) making available to, or for the benefit of, certain persons or entities any funds or other financial assets or economic resources;
- (b) dealing with funds or other financial assets or economic resources belonging to, or owned or controlled by, certain persons or entities; and

- (c) entry into or transit through HKSAR by certain persons.

25. The four new sections (namely, sections 5C, 7E, 7F and 9CA) relating to the prohibitions mentioned in paragraph 24 above, which are essentially the same as the expired provisions of Cap. 537BP, will expire at midnight on 26 February 2019.

26. Members may refer to the LegCo Brief (File Ref: CITB CR 75/53/9) issued by CEDB in June 2018 for further information. A marked-up version showing the differences between L.N. 118 and Cap. 537BP is at Annex E to the LegCo Brief.

#### Other information and remarks

27. 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 Cap. 537. Accordingly, L.N. 117 and L.N. 118 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 L.N. 117 and L.N. 118 to the Subcommittee for its consideration.

28. As advised by the Clerk to the Subcommittee, the LegCo Briefs on L.N. 117 and L.N. 118 were circulated to members of the Subcommittee and all other Members vide LC Paper No. CB(1)1096/17-18 on 11 June 2018.

#### **Concluding Observations**

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

Prepared by

Clara TAM  
Assistant Legal Adviser  
Legislative Council Secretariat  
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