

立法會
Legislative Council

LC Paper No. LS76/17-18

**Paper for the House Committee Meeting
on 29 June 2018**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 22 June 2018**

Tabling in LegCo : Council meeting of 27 June 2018

Amendment to be made by : Second meeting of LegCo in the next session
(or the first meeting held not earlier than the
21st day after the second meeting of the next
session if extended by resolution)

**Public Health and Municipal Services Ordinance (Public
Pleasure Grounds) (Amendment of Fourth Schedule)
(No. 2) Order 2018**

(L.N. 119)

L.N. 119 is made by the Director of Leisure and Cultural Services ("the Director") under section 106 of the Public Health and Municipal Services Ordinance (Cap. 132) to:

- (a) set aside three places specified in Schedule 1 to L.N. 119 for use as public pleasure grounds with the effect that the general management and control of these new public pleasure grounds is vested in the Director;¹
- (b) provide that four places specified in Schedule 2 to L.N. 119 cease to be set aside for use as public pleasure grounds;² and

¹ These three places are Heng Fa Chuen Sitting-out Area, North Point Promenade (Phase I) and Tsui Ping River Garden.

² These four places are Fat Tseung Street West Playground, Public Square Street/Kansu Street Rest Garden, Shanghai Street/Market Street Playground and Temple Street/Kansu Street Temporary Rest Garden. According to paragraph 5 of the Legislative Council Brief, except for Fat Tseung Street West Playground which will be returned for residential development purpose, all places have been handed over for the construction works of Central Kowloon Route.

- (c) update the list of public pleasure grounds specified in the Fourth Schedule to Cap. 132 to reflect the above changes.
- 2. According to paragraph 8 of the Legislative Council ("LegCo") Brief (no reference number) issued by the Leisure and Cultural Services Department on 20 June 2018, the Government has consulted the District Councils concerned and they supported the amendments.
- 3. As advised by the Clerk to the Panel on Home Affairs, the Panel has not been consulted on L.N. 119.
- 4. L.N. 119 came into operation on the day of publication in the Gazette, i.e. 22 June 2018.

Declaration of Increase in Pensions Notice 2018 (L.N. 120)

Widows and Orphans Pension (Increase) Notice 2018 (L.N. 121)

- 5. L.N. 120 and L.N. 121 are made by the Chief Executive ("CE") under section 4 of the Pensions (Increase) Ordinance (Cap. 305) and section 3(3) of the Widows and Orphans Pension (Increase) Ordinance (Cap. 205) respectively after consultation with the Executive Council ("ExCo") to declare, with effect from 1 April 2018, a 2.2% increase in:
 - (a) the basic pensions payable to ex-officers and dependants eligible for pension under various pieces of pension legislation specified in Schedule 1 to Cap. 305; and
 - (b) the pensions payable to widows and orphans as defined under the Widows and Orphans Pension Ordinance (Cap. 94).
- 6. Under section 4 of Cap. 305 and section 3 of Cap. 205, if the average monthly Consumer Price Index (A) ("CPI(A)") of a period of 12 months ending on 31 March of a year exceeds the average monthly CPI(A) of the immediately preceding 12 months by more than 0.1%, CE shall declare a percentage of increase in the relevant pensions equal to the excess expressed as a percentage as soon as practicable by notice in the Gazette, and specify in the notice the effective date for such an increase.
- 7. As mentioned in paragraph 4 of the LegCo Brief (File Ref: CSBCR/AP/4-075-005/5 Pt. 21) issued by the Civil Service Bureau on 20 June 2018, L.N. 120 and L.N. 121 are made to reflect the increase in the average monthly CPI(A) for the 12 months that ended on 31 March 2018, as compared with the average monthly CPI(A) for the immediately preceding 12 months.

8. According to paragraph 8 of the LegCo Brief, no consultation with pensioners and dependants is required as pension increase in accordance with increase in CPI(A) is a statutory entitlement for pensioners and dependants, and L.N. 120 and L.N. 121 are made in accordance with the relevant statutory provisions as well as established policy and procedures.

9. As advised by the Clerk to the Panel on Public Service, the Administration has not consulted the Panel on L.N. 120 and L.N. 121.

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

United Nations Sanctions (Democratic People's Republic of Korea) (Amendment) Regulation 2018 (L.N. 122)

10. L.N. 122 is made by CE 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 ExCo. L.N. 122 came into operation on the day of publication in the Gazette, i.e. 22 June 2018.

11. Since 2006, the Security Council of the United Nations ("UNSC") has adopted a number of resolutions to impose a range of sanctions against the Democratic People's Republic of Korea ("DPRK") in view of DPRK's persistent failure to comply fully with its international obligations on non-proliferation of weapons of mass destruction. These resolutions were implemented by the United Nations Sanctions (Democratic People's Republic of Korea) Regulation (Cap. 537AE). Cap. 537AE was last amended in 2014.

12. L.N. 122 amends Cap. 537AE to give effect to certain decisions in Resolution 2270 (2016), Resolution 2321 (2016), Resolution 2371 (2017), Resolution 2375 (2017) and Resolution 2397 (2017) adopted by UNSC between March 2016 and December 2017 in respect of DPRK. The sanctions provided in L.N. 122 include prohibiting various matters without licence including:

- (a) the supply, sale, transfer or carriage of certain items (including aviation fuel, new helicopters, new or used ships and transportation vehicles) to DPRK;

- (b) the procurement of any ship or aircraft crewing service from DPRK or persons connected with DPRK;
- (c) certain banking activities by persons connected with DPRK in Hong Kong;
- (d) the provision of financial support to persons for trade with persons connected with DPRK;
- (e) engaging in certain scientific or technical co-operation involving persons officially sponsored by DPRK or persons representing DPRK; and
- (f) establishing, maintaining or operating joint ventures or co-operative entities with persons connected with DPRK or investing in such joint ventures or co-operative entities.

13. L.N. 122 also provides for new enforcement powers (such as the powers to stop and search a person arriving in or about to leave Hong Kong by an authorized officer) and makes certain textual amendments to Cap. 537AE.

14. Members may refer to the LegCo Brief (File Ref: CITB CR 106/53/1) issued by the Commerce and Economic Development Bureau in June 2018 for further information. A marked-up version showing the amendments made by L.N. 122 to Cap. 537AE is at Annex H to the LegCo Brief.

15. 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. Accordingly, L.N. 122 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 ("the Subcommittee"), Members may consider referring L.N. 122 to the Subcommittee for its consideration.

16. As advised by the Clerk to the Subcommittee, the LegCo Brief on L.N. 122 was circulated to members of the Subcommittee and all other Members vide LC Paper No. CB(1)1174/17-18 on 25 June 2018.

Concluding Observations

17. No difficulties have been identified in relation to the legal and drafting aspects of L.N. 119 to L.N. 121. The Legal Service Division is scrutinizing the legal and drafting aspects of L.N. 122 and will report further if necessary.

Prepared by

KAN Wan-yee, Wendy
Assistant Legal Adviser
Legislative Council Secretariat
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