

立法會
Legislative Council

LC Paper No. LS123/19-20

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 11 September 2020**

Tabling in LegCo : Council meeting of 14 October 2020

Amendment to be made by : Council meeting of 11 November 2020 (or that of 2 December 2020 if extended by resolution)

Registration of Persons (Application for New Identity Cards) Order 2018 (Amendment) (No. 2) Order 2020 (L.N. 163)

The Registration of Persons (Application for New Identity Cards) Order 2018 (Cap. 177J) specifies the periods ("specified periods") within which certain holders of valid Hong Kong identity cards ("HKICs") must apply for their new HKICs under the Territory-wide Identity Card Replacement Exercise ("Exercise"). Since the Exercise was interrupted due to service suspension of the Smart Identity Card Replacement Centres ("Replacement Centres") to contain COVID-19, the Registration of Persons (Application for New Identity Cards) Order 2018 (Amendment) Order 2020 (L.N. 63 of 2020)¹ was made in May 2020 to revise the specified periods applicable to certain holders of valid HKICs. According to paragraph 4 of the Legislative Council ("LegCo") Brief issued by the Security Bureau in September 2020 (with no file reference), the Exercise has been further affected by the service suspension of the Replacement Centres since July 2020 due to COVID-19.

2. L.N. 163 is made by the Secretary for Security ("Secretary") under section 7B(1) of the Registration of Persons Ordinance (Cap. 177) mainly to amend Cap. 177J by:

- (a) amending the specified periods applicable to HKIC holders born between 1957 and 1963, and between 1970 and 1972 as follows:

¹ L.N. 63 of 2020 came into operation on 11 May 2020. Members may refer to paragraphs 15 to 21 of LC Paper No. LS71/19-20 for details.

Year of Birth shown on HKIC	Original period specified under L.N. 63	New period specified under L.N. 163
1957, 1958 or 1959	From 16 November 2019 to 27 July 2020	From 16 November 2019 to 26 September 2020
1960 or 1961	From 18 February 2020 to 27 July 2020	From 18 February 2020 to 26 September 2020
1962 or 1963	From 28 July 2020 to 22 September 2020	From 28 July 2020 to 30 January 2021
1970, 1971 or 1972	From 23 September 2020 to 7 December 2020	From 2 November 2020 to 30 April 2021

- (b) amending the specified period applicable to eligible members of the 6th term District Council² who are HKIC holders from the period between 18 February 2020 and 27 July 2020 (as specified under L.N. 63) to the period between 18 February 2020 and 26 September 2020 (as specified under L.N. 163);
- (c) repealing the specified periods applicable to HKIC holders born between 1973 and 1976; and
- (d) repealing the definition of and references to "substituted period" in Cap. 177J because they are no longer applicable due to lapse of time.

3. Insofar as the repeal mentioned in paragraph 2(c) above is concerned, the Administration has explained in paragraph 6 of the LegCo Brief that the relevant specified periods are repealed with a view to avoiding revising the replacement arrangements multiple times which could cause confusion to the public. According to the Administration, when the epidemic situation stabilizes, the Secretary will designate the replacement schedule for HKIC holders born between 1973 and 1976 and make appropriate public announcements accordingly.

4. Upon enquiries by the Legal Service Division ("LSD"), the Administration has clarified that applicants who have successfully made appointments for replacement of their HKICs prior to the commencement of L.N. 163 are not required to make new appointments in accordance with the new specified periods, but should attend the relevant Replacement Centres at the original appointed times.

² In gist, these members are holders of valid HKICs which do not show the following years of birth: 1955 to 1961, 1964 to 1969, 1985 or 1986 (see section 5(4) of Cap. 177J).

5. As advised by the Clerk to the Panel on Security, the Administration has not consulted the Panel on L.N. 163. A subcommittee was formed to study the Registration of Persons (Application for New Identity Cards) Order 2018 (Amendment) Order 2019 (L.N. 50 of 2019) in relation to the launch of the second cycle of the Exercise. Members may wish to refer to the report of the Subcommittee (LC Paper No. CB(2)1506/18-19) dated 23 May 2019 for details of its deliberation.

6. L.N. 163 came into operation on the date of publication in the Gazette, i.e. 11 September 2020.

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

United Nations Sanctions (Democratic Republic of the Congo) Regulation 2019 (Amendment) Regulation 2020 (L.N. 164)

United Nations Sanctions (South Sudan) Regulation 2019 (Amendment) Regulation 2020 (L.N. 165)

7. L.N. 164 and L.N. 165 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 11 September 2020.

L.N. 164

8. Since 2003, the Security Council of the United Nations ("UNSC") has adopted several resolutions ("UNSCRs") to impose sanctions against the Democratic Republic of the Congo ("Congo"). These resolutions have been implemented by regulations made under Cap. 537, the last one being the United Nations Sanctions (Democratic Republic of the Congo) Regulation 2019 (Cap. 537CJ). Sections 3 to 7 and 9 to 11 of Cap. 537CJ, which contain certain sanctions including prohibitions and restrictions in respect of Congo, applied until midnight on 1 July 2020.

9. L.N. 164 amends Cap. 537CJ mainly to give effect to certain decisions in UNSCR 2528 (2020) adopted by UNSC on 25 June 2020 to renew the expired sanctions against Congo. These sanctions, which are in force until midnight on 1 July 2021, mainly concern:

- (a) the supply, sale, transfer or carriage of arms or related materiel to certain persons;
 - (b) the provision of assistance, advice or training related to military activities to certain persons;
 - (c) making available to, or for the benefit of, certain persons or entities any funds or other financial assets or economic resources, or dealing with any such funds, assets or resources belonging to, or owned or controlled by, certain persons or entities; and
 - (d) entry into or transit through the Hong Kong Special Administrative Region by certain persons.
10. L.N. 164 also makes certain textual amendments to Cap. 537CJ.
11. Members may refer to the LegCo Brief (File Ref: CITB CR 75/53/4) issued by the Commerce and Economic Development Bureau ("CEDB") in September 2020 for further information. A marked-up version showing the changes made by L.N. 164 to Cap. 537CJ is at Annex F to the LegCo Brief.

L.N. 165

12. Since March 2015, UNSC has adopted several UNSCRs to impose sanctions against South Sudan. These resolutions have been implemented by regulations made under Cap. 537, the last one being the United Nations Sanctions (South Sudan) Regulation 2019 (Cap. 537CK). Sections 3 to 7 and 9 to 11 of Cap. 537CK, which contain certain sanctions including prohibitions and restrictions in respect of South Sudan, applied until midnight on 31 May 2020.
13. L.N. 165 amends Cap. 537CK mainly to give effect to certain decisions in UNSCR 2521 (2020) adopted by UNSC on 29 May 2020 to renew the expired sanctions against South Sudan. These sanctions, which are similar to those imposed in respect of Congo as mentioned in paragraph 9 above, are in force until midnight on 31 May 2021.
14. L.N. 165 also makes certain textual amendments to Cap. 537CK.
15. Members may refer to the LegCo Brief (File Ref: CITB CR 75/53/5/1) issued by CEDB in September 2020 for further information. A marked-up version showing the changes made by L.N. 165 to Cap. 537CK is at Annex E to the LegCo Brief.

16. In respect of the textual amendments mentioned in paragraphs 10 and 14 above, the Administration has explained upon LSD's enquiry that such amendments are essentially drafting improvements made to align the drafting of similar provisions under different items of subsidiary legislation made to implement UNSCRs under Cap. 537.

Other matters

17. 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. Therefore, L.N. 164 and L.N. 165 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 ("Subcommittee"), Members may consider referring L.N. 164 and L.N. 165 to the Subcommittee for its consideration.

18. As advised by the Clerk to the Subcommittee, the LegCo Briefs on L.N. 164 and L.N. 165 have been circulated to members of the Subcommittee and all other Members vide LC Paper No. CB(1)958/19-20 on 11 September 2020.

Concluding observations

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

Prepared by

LEE Hoi-see, Evelyn
Assistant Legal Adviser
Legislative Council Secretariat
30 September 2020