

**立法會**  
**Legislative Council**

LC Paper No. LS57/19-20

**Legal Service Division Report on  
Subsidiary Legislation Gazetted on 20 March 2020**

**Tabling in LegCo** : Council meeting of 25 March 2020

**Amendment to be made by** : Council meeting of 22 April 2020 (or that of 13 May 2020 if extended by resolution)

**Rules of the High Court (Amendment) Rules 2020** (L.N. 25)

**Rules of the District Court (Amendment) Rules 2020** (L.N. 26)

L.N. 25 and L.N. 26 are made under section 54 of the High Court Ordinance (Cap. 4) and section 72 of the District Court Ordinance (Cap. 336) by the Rules Committee of the High Court and the District Court Rules Committee respectively to implement the Arrangement for Mutual Service of Judicial Documents in Civil and Commercial Cases between the Hong Kong Special Administrative Region and the Macao Special Administrative Region made on 5 December 2017 ("Arrangement").<sup>1</sup>

2. At present, while Macao is a place outside Hong Kong and therefore incoming requests for service of judicial documents in civil and commercial cases from Macao on a person in Hong Kong may be handled under Order 69 of the Rules of the High Court (Cap. 4A), there is no formal mechanism for handling outgoing requests for service of process from Hong Kong on a person in Macao. This is because Macao is neither a country nor within the Mainland of China for the purposes of Order 11 of Cap. 4A and Order 11 of the Rules of the District Court (Cap. 336H) which provide for service of writs in the Mainland of China and certain other countries. To address this problem, the Arrangement was made to provide for mutual assistance between Hong Kong and Macao for service of judicial documents in civil and commercial cases.

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<sup>1</sup> Members may refer to Annex C of the relevant Legislative Council Brief (File Ref: AW-450-015-005-020-003) issued by the Administration Wing, the Chief Secretary for Administration's Office, on 18 March 2020 for details of the Arrangement.

3. The main provisions of L.N.25 and L.N. 26 include:
  - (a) amendments made to Orders 11 and 69 of Cap. 4A and to Order 11 of Cap. 336H to provide for the mutual service of judicial documents between Hong Kong and Macao;
  - (b) adding a new definition of "Mainland" to mean any part of China other than Hong Kong, Macao and Taiwan<sup>2</sup> for the purposes of the Orders set out in sub-paragraph (a) above; and
  - (c) textual amendments to rectify minor errors in Cap. 4A and Cap. 336H respectively.
4. As advised by the Clerk to the Panel on Administration of Justice and Legal Services, the Administration informed the Panel members in January 2019 vide information paper LC Paper No. CB(4)448/18-19(01) that the Administration would introduce necessary amendments to Cap. 4A and Cap. 336H in order to implement the Arrangement in due course. Panel members noted the information paper but raised no discussion on it at the Panel meeting held on 28 January 2019. Members may also refer to the Legislative Council ("LegCo") Brief (File Ref: AW-450-015-005-020-003) issued by the Administration Wing, the Chief Secretary for Administration's Office, on 18 March 2020 for further information.
5. Upon enquiry by the Legal Service Division, the Administration has clarified that:
  - (a) it consulted the Hong Kong Bar Association and The Law Society of Hong Kong on the Arrangement vide two information notes sent to them in October 2017 and January 2019, but no views have been received from the two legal professional bodies; and
  - (b) after the Arrangement was signed in December 2017, time has been taken to make arrangements for its implementation (such as agreeing with Macao on a commencement date) and to draft L.N. 25 and L.N. 26.
6. L.N. 25 and L.N. 26 will come into operation on 1 August 2020.

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<sup>2</sup> "Mainland" is also similarly defined under section 2 of the Mainland Judgments (Reciprocal Enforcement) Ordinance (Cap. 597).

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

**United Nations Sanctions (Somalia) Regulation 2019  
(Amendment) Regulation 2020**

**(L.N. 27)**

7. L.N. 27 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. It came into operation when it was published in the Gazette on 20 March 2020.

8. Since 1992, the Security Council of the United Nations ("UNSC") has adopted various resolutions to impose sanctions (with certain exemptions) against Somalia having regard to the heavy loss of human lives and widespread material damage resulting from the conflict in the country. These resolutions have been implemented by regulations made under Cap. 537, including the United Nations Sanctions (Somalia) Regulation 2019 (Cap. 537CG). UNSC adopted Resolution 2498 (2019) ("Resolution") on 15 November 2019 to renew certain exemptions until 15 November 2020 and to impose a ban against improvised explosive device ("IED") components in respect of Somalia.

9. L.N. 27 is made to amend Cap. 537CG in order to give effect to certain decisions of the Resolution. Major provisions of L.N. 27 include:

- (a) amendments relating to the licensing requirements for:
  - (i) the supply, sale, transfer or carriage of weapons or military equipment to Somalia;
  - (ii) the provision of technical advice, financial or other assistance, or training, related to military activities;
  - (iii) making available to, or for the benefit of, certain persons or entities any funds or other financial assets or economic resources; and
  - (iv) dealing with funds or other financial assets or economic resources belonging to, or owned or controlled by, certain persons or entities;
- (b) provisions for the prohibition against, and the licensing requirements for:

- (i) the supply, sale, transfer or carriage of certain IED components to Somalia; and
  - (ii) the provision of technology required for the production or use of certain IED components; and
- (c) providing that the amendments relating to the licensing requirements for the supply or carriage of certain prohibited goods, provision of certain assistance and making available or dealing with certain economic assets set out in paragraph 9(a) above are in force from 20 March 2020 until midnight on 15 November 2020.<sup>3</sup>

10. Members may refer to the LegCo Brief (File Ref: CITB CR 102/53/1) issued by the Commerce and Economic Development Bureau in March 2020 for further information. A marked-up version showing the changes made by L.N. 27 to Cap. 537CG is at Annex C of the LegCo Brief.

11. 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. 27 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. 27 to the Subcommittee for its consideration.

12. As advised by the Clerk to the Subcommittee, the LegCo Brief was circulated to members of the Subcommittee and all Members vide LC Paper No. CB(1)486/19-20 on 20 March 2020.

### **Concluding observations**

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

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<sup>3</sup> Please see sections 1A, 9(2)(k), 10(2)(g) and 11(2)(d) of Cap. 537CG as added or amended by L.N. 27.