

立法會
Legislative Council

LC Paper No. LS3/20-21

**Paper for the House Committee Meeting
on 23 October 2020**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 16 October 2020**

Tabling in LegCo : Council meeting of 21 October 2020

Amendment to be made by : Council meeting of 18 November 2020 (or that of 9 December 2020 if extended by resolution)

Census and Statistics (2021 Population Census) Order (L.N. 206)

L.N. 206 is made by the Chief Executive in Council under section 9 of the Census and Statistics Ordinance (Cap. 316) to direct the Commissioner for Census and Statistics ("Commissioner") to take a census of population of Hong Kong from 23 June 2021 to 4 August 2021 ("2021 Census"). The purpose of the 2021 Census is to obtain information on the demographic, social and economic characteristics of the population of Hong Kong at the time of the taking of the census. The last census directed to be taken pursuant to an order made under section 9 of Cap. 316 took place in 2016.

2. Under section 7 of L.N. 206, the Commissioner must destroy all completed schedules¹ collected or received by census officers for the 2021 Census, and all copies of the schedules, not later than 22 June 2022.

3. Members may refer to the Legislative Council ("LegCo") Brief (File Ref: C&SD/1/12C) issued by the Financial Services and the Treasury Bureau ("FSTB") on 14 October 2020 for background information.

4. As advised by the Clerk to the Panel on Financial Affairs ("Panel"), the Administration briefed the Panel at its meeting on 7 January 2019 on the plan for conducting the 2021 Census. Members had no objection to the Administration's plan. Some members suggested that the Administration should increase the sampling fraction in industrial buildings and deploy more

¹ "Schedule" is defined in section 2 of Cap. 316 as "any form or other document issued by the Commissioner for collecting statistical information in any statistical inquiry".

enumerators to conduct interviews at buildings known to have a large number of sub-divided units ("SDUs") so as to ensure the quality of data collected for SDUs. Some other members enquired whether the Administration would consider adopting the big data and administrative data readily available in the public and private sectors for conducting censuses in the future.

5. L.N. 206 comes into operation on 14 December 2020.

**Registration of Determinations and Orders of Public Interest
Entities Auditors Review Tribunal Rules (L.N. 207)**

Registration of Orders of Insurance Appeals Tribunal Rules (L.N. 208)

6. L.N. 207 and L.N. 208 are made by the Chief Justice ("CJ") under section 37ZJ(b) of the Financial Reporting Council Ordinance (Cap. 588) and section 117(b) of the Insurance Ordinance (Cap. 41) respectively.

L.N. 207

7. Under Cap. 588, a tribunal is established with the name "Public Interest Entities Auditors Review Tribunal" ("PIEART") to determine a review and make relevant orders in relation to a specified decision, such as a decision made by the Council of the Hong Kong Institute of Certified Public Accountants to refuse an application for registration as a public interest entity ("PIE")² auditor and a decision of the Financial Reporting Council to impose a sanction for a misconduct committed by a PIE auditor. Pursuant to section 37ZB of Cap. 588, the Court of First Instance ("CFI") may, upon receipt of a written notice given by PIEART in the way prescribed by rules made by CJ, register a determination or order of PIEART. Upon registration, such determination or order is to be regarded, for its enforcement, as a determination or order of CFI made within its jurisdiction.

8. L.N. 207 prescribes the form and way in which a notice for registration of a determination or order made by PIEART in CFI is to be given by PIEART.

L.N. 208

9. Under Cap. 41, a tribunal is established with the name "Insurance Appeals Tribunal" ("IAT") to review a specified decision made by the Insurance Authority, such as a refusal to grant an authorization to carry on insurance

² PIE refers to a corporation with issued shares or stocks listed in Hong Kong or a collective investment scheme with interests listed in Hong Kong.

business or an insurance agency licence. Under section 109 of Cap. 41, CFI may, after receiving a written notice given by IAT in the manner prescribed by rules made by CJ, register an order of IAT. Upon registration, such order is to be regarded for all purposes as an order of CFI made within its jurisdiction.

10. L.N. 208 prescribes the form and way in which a notice for registration of an order made by IAT in CFI is to be given by IAT.

11. It is not mentioned in the LegCo Briefs (File Ref: COMM/5/1C (2020) and INS/6/4/1C) issued by FSTB on 14 October 2020 that the Administration has conducted public consultation on L.N. 207 and L.N. 208 respectively.

12. As advised by the Clerk to the Panel, the Administration has provided information papers to the Panel on its proposals to make rules relating to the registration of determinations and orders of PIEART and the registration of orders of IAT respectively. The papers were circulated to Panel members vide LC Paper Nos. CB(1)576/19-20(01) and CB(1)576/19-20(02) on 29 April 2020. No member has raised enquiries on the papers.

13. L.N. 207 and L.N. 208 come into operation on 14 December 2020.

Concluding observations

14. The Legal Service Division is scrutinizing the legal and drafting aspects of L.N. 206 and will report further, if necessary. No difficulties have been identified in the legal and drafting aspects of L.N. 207 and L.N. 208.

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