

立法會
Legislative Council

LC Paper No. LS33/20-21

**Paper for the House Committee Meeting
on 19 February 2021**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 5 February 2021**

Tabling in LegCo : Council meeting of 24 February 2021

Amendment to be made by : Council meeting of 24 March 2021 (or that of 21 April 2021 if extended by resolution)

Registration of Persons (Application for New Identity Cards) Order 2018 (Amendment) Order 2021 **(L.N. 16)**

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, Cap. 177J has been amended to revise the specified periods applicable to certain holders of valid HKICs. The last amendment was made by the Registration of Persons (Application for New Identity Cards) Order 2018 (Amendment) (No.2) Order 2020 (L.N. 163 of 2020) in September 2020.¹

2. L.N. 16 is made by the Secretary for Security ("Secretary") under section 7B(1) of the Registration of Persons Ordinance (Cap. 177) to amend Cap. 177J by:

- (a) extending the specified period applicable to HKIC holders born in 1962 or 1963 from the period of 28 July 2020 to 30 January 2021 ("old specified period") to the period of 28 July 2020 to 20 February 2021 ("new specified period"); and

¹ Members may refer to paragraphs 1 to 6 of LS123/19-20 for details.
<https://www.legco.gov.hk/yr19-20/english/hc/papers/hcls-123-e.pdf>

- (b) providing for the specified periods applicable to HKIC holders born between 1973 and 1976; 2005 and 2007;² and 2012 and 2018 as follows:

Year of Birth shown on HKIC	Specified Period under L.N. 16
1973, 1974, 1975 or 1976	From 22 February 2021 to 9 July 2021
2005, 2006, 2007, 2012, 2013, 2014, 2015, 2016, 2017 or 2018	From 3 May 2021 to 18 September 2021

3. According to paragraph 3 of the Legislative Council ("LegCo") Brief (with no File Reference) issued by the Security Bureau in February 2021, the old specified period is extended so that HKIC holders who were born in 1962 or 1963 and affected by the Replacement Centres' service suspension due to the COVID-19 pandemic between 2 December 2020 and 31 January 2021 may register for their new identity cards during the new specified period.

4. As advised by the Clerk to the Panel on Security, the Panel has not been consulted on L.N. 16. A subcommittee was formed to study L.N. 163 of 2020 in relation to the revised arrangement for the Exercise due to the COVID-19 epidemic situation. Members may wish to refer to the report of the Subcommittee (LC Paper No. CB(2)383/20-21) dated 25 November 2020 for details of its deliberation.

5. L.N. 16 came into operation upon publication in the Gazette on 5 February 2021.

Mutual Legal Assistance in Criminal Matters (Mongolia) Order Commencement Notice

(L.N. 17)

6. L.N. 17 is made by the Secretary under section 1 of the Mutual Legal Assistance in Criminal Matters (Mongolia) Order (Cap. 525AI) to appoint 3 March 2021 as the day on which Cap. 525AI comes into operation.

7. Cap. 525AI was made by the Chief Executive in Council under section 4 of the Mutual Legal Assistance in Criminal Matters Ordinance (Cap. 525)

² Upon the Legal Service Division's enquiry, the Administration has explained that children born between 2008 and 2011 have recently been or will soon be issued with their new Smart HKICs upon turning 11. Hence, they are not covered by this Exercise.

with LegCo's approval³ to direct that in relation to the arrangements for mutual legal assistance ("MLA") entered into between the Government of the Hong Kong Special Administrative Region ("HKSAR") and the Government of Mongolia and signed on 26 March 2018 ("Agreement"), Cap. 525, subject to the modifications⁴ specified and summarized in Schedules 2 and 3 to Cap. 525AI, applies as between Hong Kong and Mongolia. The Agreement specifies the scope and procedures in relation to the provision of MLA in the investigation and prosecution of criminal offences and in proceedings related to criminal matters, and provides for safeguards of the rights of the persons involved in criminal proceedings. Members may refer to LS25/18-19⁵ for further details.

8. According to Article 23(1) of the Agreement, the Agreement shall come into force 30 days after the date on which the parties to the Agreement have notified each other in writing that their respective internal procedures required for the Agreement to come into force have been completed. Upon enquiry by the Legal Service Division, the Administration has advised that the Mongolian Government and HKSAR Government notified each other pursuant to the Article in August 2019 and on 1 February 2021. As such, the Secretary has appointed 3 March 2021 as the day on which Cap. 525AI comes into operation.

9. No LegCo Brief has been issued by the Administration on L.N. 17.

10. As advised by the Clerk to Panel on Security, the Panel has not been consulted on L.N. 17.

Concluding observations

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

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16 February 2021

³ Cap. 525AI was approved by LegCo at its meeting on 9 January 2019: Please see L.N. 5 and L.N. 6 of 2019 gazetted on 11 January 2019.

⁴ The effect of the modifications under Cap. 525AI includes requiring the Secretary for Justice to refuse assistance if in her opinion there are substantial grounds for believing that the request for MLA was made for the purpose of prosecuting, punishing or otherwise causing prejudice to a person on account of the person's sex, religion, nationality or political opinions.

⁵ <https://www.legco.gov.hk/yr18-19/english/hc/papers/hc20181207ls-25-e.pdf>.