

**立法會**  
***Legislative Council***

LC Paper No. LS3/2022

**Paper for the House Committee Meeting  
on 28 January 2022**

**Legal Service Division Report on  
Subsidiary Legislation Gazetted on 21 January 2022**

**Tabling in LegCo** : Council meeting of 26 January 2022

**Amendment to be made by** : Council meeting of 23 February 2022 (or that of 16 March 2022 if extended by resolution)

**Exemption from Profits Tax (Shenzhen Municipal People's Government Debt Instrument) Order** (L.N. 3)

L.N. 3 is made by the Chief Executive in Council under section 87 of the Inland Revenue Ordinance (Cap. 112). It exempts a person from the payment of profits tax chargeable under Part 4 of Cap. 112 for any year of assessment commencing on or after 1 April 2021 in respect of sums received by, or accrued to, the person as interest or profits arising from a debt instrument (“DI”) issued in Hong Kong by the Shenzhen Municipal People’s Government (“SZG”).

2. The legal effect of L.N. 3 is that the profits tax exemption currently available to sovereign bonds issued in Hong Kong by the Central People’s Government by virtue of the Exemption from Profits Tax (Renminbi Sovereign Bonds) Order (Cap. 112BH) and the Exemption from Profits Tax (Non-Renminbi Sovereign Bonds) Order (Cap. 112DA), and DIs issued in Hong Kong by the People’s Bank of China by virtue of the Exemption from Profits Tax (People’s Bank of China Debt Instrument) Order (Cap. 112DF), is extended to cover DIs issued by SZG.

3. According to paragraph 11 of the Legislative Council (“LegCo”) Brief (File Reference: MA/2/1/4C (2022)) issued by the Financial Services and the Treasury Bureau on 21 January 2022, the exemption provided in L.N. 3 will facilitate SZG’s issuance of DIs in Hong Kong and is conducive to the further development of Hong Kong’s offshore Renminbi business and debt market. It will also help strengthen financial cooperation between the Mainland market and Hong Kong, thereby strengthening Hong Kong’s position as an international financial centre. According to paragraph 8 of the LegCo Brief, given that SZG

issued bonds in Hong Kong in October 2021 (i.e. falling within the year of assessment 2021/22), the Administration proposes that the exemption is to apply to profits tax chargeable for any year of assessment commencing on or after 1 April 2021.

4. According to paragraph 12 of the LegCo Brief, the estimated amount of tax forgone in respect of the bonds issued by SZG in Hong Kong in October 2021 and, following the implementation of L.N. 3, would be around HK\$102.5 million in total for the years of assessment concerned, based on profits arising from DI interest payment.

5. As advised by the Clerk to the Panel on Financial Affairs, the Administration has provided an information paper to the Panel in relation to L.N. 3. The paper was circulated to Panel members vide LC Paper No. CB(1)22/2022(01) on 26 January 2022.

6. L.N. 3 comes into operation on 31 March 2022.

**Dangerous Goods (Amendment) Ordinance 2002  
(Commencement) Notice** (L.N. 4)

**Dangerous Goods (Application and Exemption) Regulation  
2012 (Commencement) Notice** (L.N. 5)

**Dangerous Goods (Shipping) Regulation 2012  
(Commencement) Notice** (L.N. 6)

**Dangerous Goods (Control) Regulation (Commencement)  
Notice** (L.N. 7)

**Dangerous Goods (Application and Exemption) Regulation  
2012 (Amendment) Regulation 2021 (Commencement) Notice** (L.N. 8)

**Dangerous Goods (Miscellaneous Amendments) Ordinance  
2021 (Commencement) Notice** (L.N. 9)

7. By L.N. 4 to L.N. 9, the Secretary for Security (“Secretary”) appoints 31 March 2022 as the day on which the following Ordinances and items of subsidiary legislation come into operation:

- (a) the Dangerous Goods (Amendment) Ordinance 2002 (Ord. No. 4 of 2002) (“2002 Ordinance”);
- (b) the Dangerous Goods (Application and Exemption) Regulation 2012 (Cap. 295E);
- (c) the Dangerous Goods (Shipping) Regulation 2012 (Cap. 295F);
- (d) the Dangerous Goods (Control) Regulation (Cap. 295G);
- (e) the Dangerous Goods (Application and Exemption) Regulation 2012 (Amendment) Regulation 2021 (L.N. 21 of 2021); and
- (f) the Dangerous Goods (Miscellaneous Amendments) Ordinance 2021 (Ord. No. 29 of 2021) (“2021 Ordinance”).<sup>1</sup>

The above Ordinances and items of subsidiary legislation have been enacted or made by phases since 2002 for updating the regulatory and classification systems of dangerous goods (“DGs”) under the Dangerous Goods Ordinance (Cap. 295) and its subsidiary legislation so as to align them with international standards. They are summarized in the ensuing paragraphs for members’ reference.

### The 2002 Ordinance

8. The 2002 Ordinance was published in the Gazette as Ord. No. 4 of 2002 on 22 March 2002 after the Dangerous Goods (Amendment) Bill 2000 (“2000 Bill”) was passed by LegCo on 13 March 2002. It mainly amends Cap. 295 to bring it in line with the requirements for classification, labelling and packaging of DGs under the International Maritime Dangerous Goods Code published by the International Maritime Organization (“IMDG Code”). A Bills Committee was formed to study the 2000 Bill. Members may refer to the Report of the Bills Committee (LC Paper No. CB(1)1243/01-02) for further information.

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<sup>1</sup> In response to the Legal Service Division’s previous enquiries on the reasons for not bringing into operation the 2002 Ordinance, Cap. 295E and Cap. 295F earlier, the Security Bureau has explained that: (a) the legislative amendment exercise relating to Cap. 295 and its subsidiary legislation is massive and complex, involving myriads of technical details which are interrelated, such that it is operationally infeasible to commence the operation of some pieces of legislation while the other pieces of legislation are pending amendments; and (b) the Administration has also taken considerable time to consult and liaise with relevant industries and sectors to devise a regulatory regime that aligns with international standards and suits the local situation and circumstances (see paragraph 7 of LC Paper No. LS104/20-21).

#### Cap. 295E and Cap. 295F

9. Cap. 295E was published in the Gazette on 27 April 2012. It provides for the application of Cap. 295 to DGs specified in its Schedules and exempts, under specified circumstances, certain DGs from the requirement of a licence for the storage, conveyance and use of DGs, and from their marking and giving of notice of their character. It also repeals the Dangerous Goods (Application and Exemption) Regulations (Cap. 295A).

10. Cap. 295F was published in the Gazette on 27 April 2012. It provides for the control of DGs being those specified in the IMDG Code and Cap. 295E conveyed at sea. Its main features include codification of some current administrative measures, updated control and precautionary measures for handling or conveying DGs on vessels and exemption of reasonable quantities of DGs that are carried for personal medical use on a vessel from control. It also repeals the Dangerous Goods (Shipping) Regulations (Cap. 295C).

11. No subcommittee was formed to study Cap. 295E and Cap. 295F.

#### Cap. 295G and L.N. 21 of 2021

12. Cap. 295G was published in the Gazette on 19 February 2021. It replaces the existing Dangerous Goods (General) Regulations (Cap. 295B) mainly to align the regulatory framework of DGs with the amendments to the IMDG Code.

13. L.N. 21 of 2021 was published in the Gazette on 19 February 2021. It amends Cap. 295E mainly to update the lists of DGs specified in Schedules 1, 2, 3 and 5 to Cap. 295E, enhance the safety of the manufacture, storage, conveyance and use of DGs through a risk-based approach, and introduce certain exemptions.

14. No subcommittee was formed to study Cap. 295G and L.N. 21 of 2021.

#### The 2021 Ordinance

15. The 2021 Ordinance was published in the Gazette as Ord. No. 29 of 2021 on 24 September 2021 after the Dangerous Goods (Miscellaneous Amendments) Bill 2021 (“2021 Bill”) was passed by LegCo on 15 September 2021. It amends Cap. 295 mainly to empower the Secretary to amend by notice published in the Gazette certain technical matters relating to DGs contained in the Schedules to the regulations made under Cap. 295; and to empower public

officers who may issue licences to specify the forms of licences instead of requiring the forms to be provided by the regulations. It also makes technical and related amendments to various enactments consequential to the change of the regulatory and classification systems of DGs. No Bills Committee was formed to study the 2021 Bill.

Other remarks

16. No LegCo Brief has been issued in respect of L.N. 4 to L.N. 9.

17. As advised by the Clerk to the Panel on Security, the Panel has not been consulted on L.N. 4 to L.N. 9.

**Concluding observations**

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

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