

立法會
Legislative Council

LC Paper No. LS62/2023

**Paper for the House Committee Meeting
on 20 October 2023**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 13 October 2023**

Tabling in LegCo : Council meeting of 18 October 2023

Amendment to be made by : Council meeting of 15 November 2023 (or that of 6 December 2023 if extended by resolution)

**Protection of Endangered Species of Animals and Plants
Ordinance (Amendment of Schedules 1 and 3) Order 2023** (L.N. 125)

L.N. 125 is made by the Secretary for Environment and Ecology (“SEE”) under section 48 of the Protection of Endangered Species of Animals and Plants Ordinance (Cap. 586) mainly to give effect to amendments made at the 19th meeting of the Conference of the Parties (“CoP19”) to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (“CITES”) in November 2022 and to the changes made to the list of endangered species in Appendix III to CITES since the last amendments to Cap. 586 in 2021. Schedule 1 to Cap. 586 sets out the species listed in Appendices I to III¹ to CITES, which are subject to control under Cap. 586. Schedule 3 to Cap. 586 sets out, with or without modification, the relevant parts of CITES instruments that have the force of law in Hong Kong.

2. The amendments introduced by L.N. 125 are summarized below:

- (a) Schedule 1 is amended to make changes to the listings of the endangered species. These changes include addition of new species or group of species and transfer of species among the Appendices. L.N. 125 also makes technical amendments relating to nomenclature and provision of common names to species names; and
- (b) Schedule 3 is amended to make consequential amendments (i.e. by replacing “CoP18” with “CoP19”).

3. Members may refer to Annexes B and C to the Legislative Council (“LegCo”) Brief (File Ref: EP 86/25/01 (23)) issued by the Environment and Ecology

¹ Appendix I: Species which are highly endangered and threatened with extinction.
Appendix II: Species which, unless trade is controlled, could become threatened with extinction.
Appendix III: Species identified by any parties to CITES as requiring assistance from other CITES parties in controlling the international trade.

Bureau (“EEB”) and the Agriculture, Fisheries and Conservation Department in October 2023 for details of the changes to Schedule 1 to Cap. 586.

4. According to paragraph 10 of the LegCo Brief, the Administration consulted the Endangered Species Advisory Committee (“ESAC”) and the relevant traders on the possible changes to the Appendices I and II listed species in CITES in September and October 2022 respectively. After CoP19, they were notified of the adopted amendments to CITES Appendices and the proposed amendments to Cap. 586 in January 2023. According to the Administration, ESAC and the traders did not raise any objection.

5. As advised by the Clerk to the Panel on Environmental Affairs, the Panel was briefed on the legislative proposal on 14 July 2023. Among other things, members discussed issues relating to the potential impact of the proposed amendments on the shark fin trade and enforcement against illegal trading of endangered species.

6. L.N. 125 comes into operation on 15 December 2023, except that section 3(143) comes into operation on 25 May 2024 and section 3(155) and (163) comes into operation on 25 November 2024, as the corresponding amendments to CITES Appendices have such later effective dates.²

**Public Health and Municipal Services Ordinance (Public
Pleasure Grounds) (Amendment of Fourth Schedule)
(No. 2) Order 2023**

(L.N. 126)

7. L.N. 126 is made by the Director of Leisure and Cultural Services (“Director”) under section 106 of the Public Health and Municipal Services Ordinance (Cap. 132) to:

- (a) set aside 16 places³ for use as public pleasure grounds with the effect that the general management and control of these new public pleasure grounds is vested in the Director;
- (b) provide that Mui Wo Ferry Pier Road Sitting-out Area (“MW Area”) ceases to be set aside for use as a public pleasure ground; and
- (c) update the list of public pleasure grounds specified in the Fourth Schedule to Cap. 132 to reflect the above changes.

² Please refer to footnotes 3 and 4 of the LegCo Brief for further details.

³ The 16 places are: (a) Diamond Hill Water Feature Park; (b) Hoi Fan Road Park; (c) Hung Hom Urban Park; (d) Lei Yue Mun Viewing Deck; (e) Shing Fung Road Park; (f) CARE Village Sitting-out Area; (g) Cheung Chau Sai Tai Road Garden; (h) Chung Ying Street Garden; (i) Kin Fung Circuit Pet Garden; (j) Kwai Chung Park; (k) Lam Shing Road Sitting-out Area; (l) Leung Choi Lane Playground; (m) Lohas Park Road Sitting-out Area; (n) San Uk Tsai Sitting-out Area; (o) Tai Po Tau North Sitting-out Area; and (p) Wan Tau Tong Sitting-out Area.

8. According to paragraph 5 of the LegCo Brief (no file reference) issued by the Leisure and Cultural Services Department on 9 October 2023, MW Area will cease to be set aside for use as public pleasure ground as it is required to be permanently surrendered for the construction works under the project “Improvement Works at Mui Wo Phase 2 Stage 2” by the Civil Engineering and Development Department.

9. According to paragraph 8 of the LegCo Brief, the Administration has consulted the respective District Councils and they supported the proposal.

10. As advised by the Clerk to the Panel on Home Affairs, Culture and Sports, the Administration submitted to the Panel an information paper (LC Paper No. CB(2)569/2023(01)) on the naming proposal of the 16 new public pleasure grounds, which was circulated to Panel members on 9 June 2023. Members raised no comments on the naming proposal.

11. L.N. 126 came into operation on the date of its publication in the Gazette, i.e. 13 October 2023.

**Limited Partnership Fund and Business Registration
Legislation (Amendment) Ordinance 2021
(Commencement) Notice**

(L.N. 127)

12. By L.N. 127, the Secretary for Financial Services and the Treasury appoints 27 December 2023 as the day on which Part 3 of the Limited Partnership Fund and Business Registration Legislation (Amendment) Ordinance 2021 (Ord. No. 34 of 2021) comes into operation.

13. Ord. No. 34 of 2021 was published in the Gazette on 8 October 2021 after the Limited Partnership Fund and Business Registration Legislation (Amendment) Bill 2021 was passed by LegCo on 30 September 2021.⁴ It amends the Limited Partnership Fund Ordinance (Cap. 637), the Business Registration Ordinance (Cap. 310) and the Business Registration Regulations (Cap. 310A) mainly to introduce a mechanism for the re-domiciliation of non-Hong Kong funds to Hong Kong as limited partnership funds (“LPFs”) (Part 2), and to provide for simultaneous business registration applications on registration of LPFs (Part 3). Ord. No. 34 of 2021 came into operation on 1 November 2021 except for Part 3.

14. According to paragraphs 2 and 4 of the LegCo Brief (File Ref: ASST/3/1/10C(2021)Pt.4) issued by the Financial Services and the Treasury Bureau, the Companies Registry (“CR”) and the Inland Revenue Department on 11 October 2023, Part 3 of Ord. No. 34 of 2021 should commence operation on a date upon completion of system enhancements of the Integrated Companies Registry Information System (“ICRIS”) of CR, and as CR will launch the enhanced ICRIS on 27 December

⁴ A Bills Committee was formed to study the Bill. Members may refer to the report of the Bills Committee (LC Paper No. CB(1)1361/20-21) for further details.

2023, that day is appointed as the commencement date of Part 3 of Ord. No. 34 of 2021 accordingly.

15. As advised by the Clerk to the Panel on Financial Affairs, the Panel has not been consulted on L.N. 127.

**Overseas Lawyers (Qualification for Admission) (Fees)
(Amendment) Rules 2023 (Commencement) Notice (L.N. 128)**

16. By L.N. 128, the President of The Law Society of Hong Kong (the “Law Society”) appoints 4 January 2024 as the day on which the Overseas Lawyers (Qualification for Admission) (Fees) (Amendment) Rules 2023 (L.N. 18 of 2023) (“Amendment Rules”) come into operation.

17. The Amendment Rules were made by the Council of the Law Society under section 73 of the Legal Practitioners Ordinance (Cap. 159) with the prior approval of the Chief Justice. It amends the Schedule to the Overseas Lawyers (Qualification for Admission) (Fees) Rules (Cap. 159V) to increase the prescribed fees in connection with applications and examinations for admissions of overseas lawyers as solicitors in Hong Kong under the Overseas Lawyers (Qualification for Admission) Rules (Cap. 159Q) by 100%. No subcommittee was formed to study the Amendment Rules when they were considered at the House Committee meeting on 17 March 2023.

18. According to paragraph 3 of the LegCo Brief (no file reference) issued by the Law Society on 13 October 2023, candidates taking the Overseas Lawyers Qualification Examination and their law firms will be notified of the implementation of the Amendment Rules.

19. As advised by the Clerk to the Panel on Administration of Justice and Legal Services, the Panel has not been consulted on L.N. 128.

**Waste Disposal (Charges for Disposal of Construction
Waste) Regulation (Amendment of Schedules) Notice 2023 (L.N. 129)**

**Waste Disposal (Charging for Municipal Solid Waste)
(Amendment) Ordinance 2021 (Commencement)
Notice 2023 (L.N. 130)**

L.N. 130

20. The Waste Disposal (Charging for Municipal Solid Waste) (Amendment) Ordinance 2021 (Ord. No. 25 of 2021) was published in the Gazette on 3 September 2021 after the Waste Disposal (Charging for Municipal Solid Waste) (Amendment)

Bill 2018 was passed by LegCo on 26 August 2021.⁵ It amends, among others, the Waste Disposal Ordinance (Cap. 354) and the Waste Disposal (Refuse Transfer Station) Regulation (Cap. 354M) mainly to establish a charging scheme for the disposal of municipal solid waste (“MSW”). Under such scheme, charges are imposed through requiring MSW to be properly wrapped in a pre-paid designated garbage bag or affixed with a pre-paid designated label. Such properly wrapped or labelled MSW may then be disposed of in the prescribed manner under Cap. 354. To facilitate the preparatory work for the implementation of the charging scheme, certain provisions of Ord. No. 25 of 2021 came into operation on 1 September 2022 by virtue of the Waste Disposal (Charging for Municipal Solid Waste) (Amendment) Ordinance 2021 (Commencement) Notice 2022 (L.N. 114 of 2022).⁶ No subcommittee was formed to study L.N. 114 of 2022 when it was considered at the House Committee meeting on 27 May 2022.

21. By L.N. 130, SEE appoints 1 April 2024 as the day on which the uncommenced provisions of Ord. No. 25 of 2021 come into operation to facilitate the implementation of the MSW charging scheme on 1 April 2024.

22. Those provisions mainly include:

- (a) provisions relating to the new offences under sections 20K (depositing non-compliant waste prohibited), 20L (depositing non-compliant waste by removal services provider prohibited), 20M (delivering non-compliant waste to certain persons prohibited) and 20N (depositing non-compliant waste in certain common areas prohibited) of Cap. 354, together with the relevant defences and penalties respectively under sections 20O and 20P of Cap. 354 (section 4 of Ord. No. 25 of 2021); and
- (b) provisions on the related amendments to the Fixed Penalty (Public Cleanliness and Obstruction) Ordinance (Cap. 570), which provide for a fixed penalty for the offences in (a) above (Part 5 of Ord. No. 25 of 2021).

L.N. 129

23. L.N. 129 is made by SEE under section 25 of the Waste Disposal (Charges for Disposal of Construction Waste) Regulation (Cap. 354N) to amend Schedules 1 to 4 to Cap. 354N to increase the charges imposed for the disposal of construction waste at various waste disposal facilities, i.e. specified landfills, refuse transfer stations, sorting facilities and public fill reception facilities.⁷

⁵ Two Bills Committees were formed to study the Bill. Members may refer to the respective reports of these two committees (LC Paper Nos. CB(1)849/19-20 and CB(1)1209/20-21) for further details.

⁶ Members may refer to paragraph 11 of the Legal Service Division report (LC Paper No. LS37/2022) for further details on L.N. 114 of 2022.

⁷ These facilities are respectively specified in Part 1 of Schedule 1, Part 1 of Schedule 2, Part 1 of Schedule 3 and Part 1 of Schedule 4 to Cap. 354N.

24. The construction waste disposal charges are in effect increased as follows:
- (a) landfill charge (at specified landfills and refuse transfer stations) from \$200 to \$365 per tonne (sections 3 and 4);
 - (b) sorting charge (at specified sorting facilities) from \$175 to \$340 per tonne (section 5); and
 - (c) public fill charge (at specified public fill reception facilities) from \$71 to \$87 per tonne (section 6).⁸
25. According to paragraph 7 of the LegCo Brief (no file reference) issued by EEB and the Environmental Protection Department in October 2023, the increase of the charges is to prevent any deliberate mixing of MSW and construction waste for profit, which may be incentivized by the difference between the charging levels of the two types of waste, as well as cost considerations.⁹
26. As advised by the Clerk to the Panel on Environmental Affairs, the Panel was briefed on the commencement date of the MSW charging scheme and the proposed adjustments to the construction waste disposal charges on 14 July 2023. Among other things, members discussed issues relating to the readiness of the relevant trades for the implementation of the MSW charging scheme and the enforcement against non-compliant waste.
27. L.N. 129 comes into operation on 1 April 2024.

Concluding observations

28. No difficulties have been identified in relation to the legal and drafting aspects of L.N. 125 to L.N. 130.

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⁸ At specified landfills, sorting facilities and public fill reception facilities, where a load of waste weighs 1 tonne or less, the charge for 1 tonne would be imposed, and where it weighs more than 1 tonne, additional charge would be imposed proportionately for every extra 0.1 tonne (Part 2 of Schedule 1, Part 2 of Schedule 3 and Part 2 of Schedule 4 to Cap. 354N). At specified refuse transfer stations, where a load of waste weighs 0.1 tonne or less, the charge for 0.1 tonne would be imposed, and where it weighs more than 0.1 tonne, additional charge would be imposed proportionately for every extra 0.1 tonne (Part 2 of Schedule 2 to Cap. 354N).

⁹ According to Part 1 of the Schedule to Cap. 354M, the disposal charge of MSW at Group 1 and Group 3 facilities (specified in that Part) is in essence \$365 per tonne.