

立法會
Legislative Council

LC Paper No. LS41/2024

**Paper for the House Committee Meeting
on 21 June 2024**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 14 June 2024**

Tabling in LegCo : Council meeting of 19 June 2024

Amendment to be made by : Council meeting of 17 July 2024 (or that of 16 October 2024 if extended by resolution)

Marine Parks (Designation) (Amendment) Order 2024 (L.N. 94)

L.N. 94 is made by the Chief Executive (“CE”) under section 15 of the Marine Parks Ordinance (Cap. 476) after consultation with the Executive Council (“ExCo”). It amends the Schedule to the Marine Parks (Designation) Order (Cap. 476B) to designate the North Lantau Marine Park (“NLMP”) as a marine park under Cap. 476. The effect of the designation is that the control and management of NLMP will be vested in the Country and Marine Parks Authority (“Authority”). Under section 4 of Cap. 476, the duties of the Authority include taking such measures as the Authority considers necessary for the purposes of protecting, restoring and enhancing the marine life in and marine environment of any marine park.

2. According to paragraphs 3 and 18 of the Legislative Council (“LegCo”) Brief (File Ref.: EP CR 9/15/42) issued by the Environment and Ecology Bureau (“EEB”) and the Agriculture, Fisheries and Conservation Department in June 2024, the designation of NLMP is a requirement under the environmental permit granted to the Airport Authority Hong Kong (“AA”) for the Three-Runway System project, which is targeted to commence operation by the end of 2024. For the purpose of the designation, AA has conducted a series of consultations in 2014, 2016 to 2020 with the public including the marine sector, fishermen, and various stakeholders,¹ as well as the Advisory Council on Environment, the Country and Marine Parks Board and its Marine Parks Committee.

¹ According to footnote 3 of the LegCo Brief, the relevant stakeholders include professional and community liaison groups set up by AA as well as consultative/advisory committees under the Marine Department.

3. As advised by the Clerk to the Panel on Environmental Affairs, the Panel was not consulted specifically on L.N. 94. The Panel received the Administration's progress updates on the designation of NLMP at the meetings on 10 February 2022 and 30 October 2023 in connection with the briefings on major policy initiatives of EEB and the Environmental Protection Department under the 2021 and 2023 Policy Addresses. Members did not raise any views on the designation of NLMP at those meetings.

4. L.N. 94 comes into operation on 1 November 2024.

Declaration of Increase in Pensions Notice 2024 (L.N. 95)

Widows and Orphans Pension (Increase) Notice 2024 (L.N. 96)

5. L.N. 95 and L.N. 96 are made by CE under section 4 of the Pensions (Increase) Ordinance (Cap. 305) and section 3(3) of the Widows and Orphans Pension (Increase) Ordinance (Cap. 205) respectively after consultation with ExCo to declare, with effect from 1 April 2024, a 2.3% increase in:

- (a) the basic pensions payable to ex-officers and dependants eligible for pension under various pieces of pension legislation as specified in Schedule 1 to Cap. 305;² and
- (b) the pensions payable under the Widows and Orphans Pension Ordinance (Cap. 94) to widows and orphans of officers.

6. Under section 4 of Cap. 305 and section 3 of Cap. 205, if the average monthly Consumer Price Index (A) ("CPI(A)") of a 12-month period ending on 31 March of a year exceeds the average monthly CPI(A) of the immediately preceding 12 months by more than 0.1%, CE must declare a percentage of increase in the relevant pensions equal to the excess expressed as a percentage as soon as practicable by notice in the Gazette, and specify in the notice the effective date for such an increase.

7. As mentioned in paragraph 4 of the LegCo Brief (File Ref: CSBCR/AP/4-075-005/5 Pt. 27) issued by the Civil Service Bureau on 12 June 2024, the average monthly CPI(A) for the period from 1 April 2023 to 31 March 2024, as compared with the average monthly CPI(A) for the previous 12 months, has increased by 2.3%. L.N. 95 and L.N. 96 reflect that increase by raising the relevant pensions by the same percentage.

² The specified Ordinances are the Auxiliary Forces Pay and Allowances Ordinance (Cap. 254), Pensions Ordinance (Cap. 89), Pension Benefits Ordinance (Cap. 99), Pension Benefits (Judicial Officers) Ordinance (Cap. 401), Police Force Ordinance 1932 (37 of 1932), Police Officers (Special Cases) Pensions Ordinance 1954 (21 of 1954), and Surviving Spouses' and Children's Pensions Ordinance (Cap. 79).

8. According to paragraph 8 of the LegCo Brief, no consultation with pensioners and dependants is required as a pension increase in accordance with an increase in the average monthly CPI(A) is a statutory entitlement for pensioners and dependants, and L.N. 95 and L.N. 96 are made in accordance with the relevant statutory provisions, and established policy and procedures.

9. As advised by the Clerk to the Panel on Public Service, the Panel has not been consulted on L.N. 95 and L.N. 96.

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

United Nations Sanctions (Somalia) Regulation 2019 (Amendment) Regulation 2024

(L.N. 97)

10. L.N. 97 is made by CE 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 ExCo. L.N. 97 came into operation when published in the Gazette on 14 June 2024.

11. Since 1992, the United Nations Security Council ("UNSC") has adopted various resolutions to impose sanctions 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).

12. L.N. 97 amends Cap. 537CG to give effect to certain decisions in Resolutions 2713 (2023) and 2714 (2023) adopted by UNSC on 1 December 2023. The amendments relate to the following aspects of the arms embargo regime:

- (a) the prohibition against the supply³ or carriage of certain prohibited goods and the provision of technical or financial assistance or training to Somalia or certain persons, in particular, the inclusion of ammunitions as a type of prohibited goods not to be supplied or carried from a place outside of Somalia to Somalia, a connected person,⁴ or a destination (for the purpose of delivery or transfer to Somalia/connected person);
- (b) the requirements of the licences for (i) the supply or carriage of certain prohibited goods and improvised explosive devices ("IED") components

³ Under section 1 of Cap. 537CG, "supply" has the meaning of "supply, sale or transfer".

⁴ Under section 1 of Cap. 537CG, "connected person" includes in particular, "any person in, or resident in, Somalia", but does not include a person or an entity designated by the Security Council Committee pursuant to Resolution 2713 (2023) concerning Al-Shabaab.

to Somalia or certain persons, (ii) the provision of technology required for the production or use of certain IED components, including new licensing requirements for the supply or carriage of certain prohibited goods by providing that such prohibited goods must be intended solely for the support or use of e.g. the Government of the Federal Republic of Somalia (“GFRS”), and a new requirement for CE to notify GFRS of any intention to grant a licence for the supply or carriage of IED components to Somalia or a connected person or a destination (for the purpose of delivery or transfer to Somalia/connected person) or the provision of IED technology to a connected person; and

- (c) the removal of certain prohibitions and related licences, such as the removal of the prohibition to provide to a connected person any technical advice, financial or other assistance, or training related to military activities unless under the authority of a licence.

13. Members may refer to the LegCo Brief (File Ref: CEDB CR 102/53/1) issued by the Commerce and Economic Development Bureau in June 2024 for further information on L.N. 97. A marked-up version showing the changes made by L.N. 97 to Cap. 537CG is at Annex D to the LegCo Brief.

14. 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. Accordingly, L.N. 97 is not required to be tabled in LegCo and is not subject to amendment by LegCo.

15. As advised by the Clerk to the Panel on Commerce, Industry, Innovation and Technology, the Panel has not been consulted on L.N. 97.

Concluding observations

16. No difficulties have been identified in relation to the legal and drafting aspects of L.N. 94 to L.N. 97.

Prepared by

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