

立法會
Legislative Council

LC Paper No. LS50/2025

**Paper for the House Committee Meeting
on 15 May 2025**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 13 May 2025**

Tabling in LegCo : Council meeting of 14 May 2025

Amendment to be made by : Council meeting of 11 June 2025 (or that of 2 July 2025 if extended by resolution)

Safeguarding National Security (Office for Safeguarding National Security of the Central People's Government in the Hong Kong Special Administrative Region) Regulation (L.N. 77)

Safeguarding National Security (Declaration of Prohibited Places) Order (L.N. 78)

L.N. 77

L.N. 77 is made by the Chief Executive in Council under section 110 of the Safeguarding National Security Ordinance (Ord. No. 6 of 2024) ("Ordinance") to provide as follows:

- (a) Part 1 provides for the relevant definitions;
- (b) Part 2 provides for the mechanism for the Committee for Safeguarding National Security of the Hong Kong Special Administrative Region to give effect to an opinion provided by the Office for Safeguarding National Security of the Central People's Government in the Hong Kong Special Administrative Region ("OSNS") on overseeing or guiding the Hong Kong Special Administrative Region ("HKSAR") in the performance of its duties for safeguarding national security;¹

¹ Under Article 49 of the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region ("HKNSL"), HKSAR is subject to OSNS's oversight and guidance in the performance of its duties for safeguarding national security. Under Article 53 of HKNSL, a mechanism must be established to oversee and provide guidance on the work of HKSAR for safeguarding national security.

- (c) Part 3 provides for matters in respect of the handling of cases concerning offences endangering national security (“NS Case”) by OSNS², including:
- (i) requiring any department or agency of HKSAR Government or any public servant to provide all necessary and reasonable assistance etc. for OSNS to ascertain whether a circumstance mentioned in Article 55 of the Law of the People’s Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (“HKNSL”) exists and for OSNS to exercise jurisdiction pursuant to that Article;
 - (ii) providing for immunity from civil liability for persons acting in good faith in compliance with a legal instrument issued by OSNS under Article 57 of HKNSL;³ and
 - (iii) providing for new offences, e.g. the offence of failing to comply with a legal instrument, and the offence of disclosing measures being taken, or investigation being conducted, by OSNS;⁴ and
- (d) Part 4 provides for protection in respect of OSNS’s performance of its mandate, including:
- (i) requiring any department or agency of HKSAR Government or any public servant to provide all necessary and reasonable assistance etc. including allowing the staff and conveyances (e.g. vehicles) of OSNS to enter any place or premises of which the department, agency or public servant is in charge;
 - (ii) requiring any person who knows of or receives any work-related information in connection with OSNS to ensure that the information is kept confidential; and
 - (iii) providing for new offences, e.g. the offence of resisting or obstructing OSNS in the performance of duty, and the offence of falsely pretending to be or be able to influence a staff member of OSNS.⁵

² Under Article 55 of HKNSL, OSNS is, subject to the approval by the Central People’s Government of a request made by the HKSAR Government or OSNS itself, to exercise jurisdiction over an NS Case under HKNSL if a circumstance mentioned in Article 55 exists.

³ Under Article 57 of HKNSL, the Criminal Procedure Law of the People’s Republic of China and other related national laws shall apply to procedural matters, including those related to criminal investigation, examination and prosecution, trial, and execution of penalty, in respect of cases over which jurisdiction is exercised pursuant to Article 55 of HKNSL.

⁴ A person who commits any of these offences is liable on conviction on indictment to a fine of HK\$500,000 and imprisonment for seven years.

⁵ A person who commits any of these offences is liable on conviction on indictment to a fine of HK\$200,000 and imprisonment for three years.

L.N. 78

2. L.N. 78 is made by the Chief Executive under section 42 of the Ordinance after consultation with the Executive Council to declare the places as specified in the Schedule to L.N. 78⁶ as “prohibited places” for the purposes of paragraph (g) of the definition of “prohibited place” in section 41(1) of the Ordinance. Under section 44 of the Ordinance, a person who without reasonable excuse or lawful authority e.g. inspects or enters the specified prohibited places commits an offence, and is liable on conviction on indictment to imprisonment for two years.

3. Members may refer to the Legislative Council Brief (no file reference) issued by the Security Bureau and the Department of Justice in May 2025 for further information on L.N. 77 and L.N. 78.

Commencement

4. L.N. 77 and L.N. 78 came into operation on the day on which they were published in the Gazette, i.e. 13 May 2025.

Consultation

5. As advised by the Clerks to the Panel on Security and the Panel on Administration of Justice and Legal Services, the Panels were consulted on the legislative proposals at the joint Panel meeting on 12 May 2025. Members were supportive of the legislative proposals and agreed to the need for the two items of subsidiary legislation to come into operation on the date of gazettal to provide OSNS with better support and protection in performing effectively its mandate to safeguard national security. Various issues were discussed, including the elements of the proposed offences, whether they have any extra-territorial effect, exceptions and defences for the proposed offences, delineation of the boundaries of the prohibited places, and publicity work.

Concluding observations

6. The Legal Service Division is scrutinizing the legal and drafting aspects of L.N. 77 and L.N. 78. Members may consider whether it is necessary to form a subcommittee to scrutinize them in detail.

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⁶ Please refer to Annex D to the Legislative Council Brief (no file reference) issued by the Security Bureau and the Department of Justice in May 2025 for the location maps of the places specified in the Schedule to L.N. 78.