

**立法會**  
**Legislative Council**

LC Paper No. LS53/2023

**Paper for the House Committee Meeting  
on 7 July 2023**

**Legal Service Division Report on  
Subsidiary Legislation Gazetted on 30 June 2023**

**Tabling in LegCo** : Council meeting of 5 July 2023

**Amendment to be made by** : Council meeting of 12 July 2023 (or that of 18 October 2023 if extended by resolution)

**PART I AMENDMENTS RELATING TO PORTABLE FIRE SERVICE EQUIPMENT**

**Fire Service (Installations and Equipment) (Amendment) Regulation 2023** (L.N. 100)

L.N. 100 is made by the Chief Executive (“CE”) in Council under section 25 of the Fire Services Ordinance (Cap. 95) to amend the Fire Service (Installations and Equipment) Regulations (Cap. 95B) to:

- (a) remove the requirement of making the list of approved fire service portable equipment<sup>1</sup> (“equipment list”) available for public inspection at the offices of the Fire Services Department and at each fire station in Hong Kong by providing that the equipment list is to be published from time to time, and in a way, as the Director of Fire Services (“Director”) considers appropriate, and at least once in every year in the Gazette;
- (b) provide for a prohibition against selling or supplying any portable equipment that is included in the equipment list (“listed portable equipment”) on which words are marked to signify that the approval for sale or supply given by the Director for the equipment has expired; and
- (c) exclude the listed portable equipment that is installed in domestic premises (other than a child care centre, a hotel or guesthouse, a

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<sup>1</sup> “Portable equipment” is defined under regulation 2 of Cap. 95B to mean any fire service equipment which is manufactured, used or designed to be used as an independent unit for the purpose of extinguishing, attacking, preventing or limiting a fire.

bedspace apartment, a residential care home, a treatment centre, a residential care home for persons with disabilities and any specified premises<sup>2</sup>) and is not required by or pursuant to law to be installed in such premises from the application of regulation 8 to the effect that the owner of such equipment is not required to keep such equipment in efficient working order at all times and have such equipment inspected by a registered contractor at least once in every 12 months.

2. According to paragraph 16 of the Legislative Council (“LegCo”) Brief (File Ref.: SBCR 64/581/76) issued by the Security Bureau in June 2023, the Administration consulted key stakeholders, including the Registered Fire Service Installation Contractors of Hong Kong Association, the Hong Kong Institution of Engineers, the Hong Kong Association of Property Management Companies, and the Hong Kong Federation of Insurers, etc. in February to May 2023. They are in support of the legislative proposal. The Administration also uploaded an information note regarding the legislative proposal onto its website in March 2023 for public information.

3. As advised by the Clerk to the Panel on Security, the Panel was consulted on the Administration’s legislative proposal at its meeting on 2 May 2023. Members supported the legislative proposal and discussed issues relating to premises that would fall within the scope of domestic premises, facilitation measures to be put in place for members of the public to identify the approved portable equipment, and the Administration’s publicity efforts to promote wider and proper use of portable equipment in domestic premises.

4. L.N. 100 comes into operation on 1 November 2023.

## **PART II IMPLEMENTATION OF THE LATEST REQUIREMENTS OF THE INTERNATIONAL MARITIME ORGANIZATION**

**Merchant Shipping (Safety) (Load Line) (Amendment) Regulation 2023** (L.N. 101)

**Merchant Shipping (Safety) (Life-Saving Appliances and Arrangements, Musters and Training) (Amendment) Regulation 2023** (L.N. 102)

**Merchant Shipping (Safety) (IMSBC Code) (Amendment) Regulation 2023** (L.N. 103)

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<sup>2</sup> Under new regulation 8(5) of Cap. 95B, premises are specified premises if the premises are used for an operation that provides accommodation to any person, and the operation is regulated through a licensing or registration regime established by an Ordinance.

**Merchant Shipping (Safety) (Radiocommunications)  
(Amendment) Regulation 2023 (L.N. 104)**

**Merchant Shipping (Safety) (Construction and Survey)  
(Amendment) Regulation 2023 (L.N. 105)**

**Merchant Shipping (Prevention of Oil Pollution) (Amendment)  
Regulation 2023 (L.N. 106)**

**Merchant Shipping (Local Vessels) (General) (Amendment)  
(No. 2) Regulation 2023 (L.N. 107)**

5. L.N. 101 to L.N. 107 are made by the Secretary for Transport and Logistics under various sections of certain merchant shipping-related ordinances. They implement the latest requirements under certain international conventions adopted by the International Maritime Organization (“IMO”) as amended from time to time and applicable to Hong Kong, namely the International Convention for the Safety of Life at Sea, 1974, as amended (“SOLAS”),<sup>3</sup> the International Convention on Load Lines, 1966, as modified by the 1988 Protocol relating thereto (“1988 Load Lines Protocol”),<sup>4</sup> the International Convention for the Prevention of Pollution from Ships, 1973 (“MARPOL”),<sup>5</sup> the International Maritime Solid Bulk Cargoes Code (“IMSBC Code”),<sup>6</sup> and the International Maritime Dangerous Goods Code (“IMDG Code”).<sup>7</sup>

#### L.N. 101

6. L.N. 101 amends regulation 27 of the Merchant Shipping (Safety) (Load Line) Regulations (Cap. 369AD) by adding a reference to Resolution MSC.491(104) passed by IMO in order to reflect the latest amendments to 1988 Load Lines Protocol regarding the requirements of certain types of hinged watertight doors under the condition of equilibrium after flooding.

#### L.N. 102

7. L.N. 102 amends the Merchant Shipping (Safety) (Life-Saving Appliances and Arrangements, Musters and Training) Regulation (Cap. 369AY)

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<sup>3</sup> SOLAS specifies the standards for the construction, equipment and operation of ships to ensure maritime safety.

<sup>4</sup> Annex I to Annex B of the 1988 Load Lines Protocol sets out regulations for determining load lines.

<sup>5</sup> MARPOL provides for protection of the marine environment and the minimizing of pollution (e.g. by oil, or by noxious liquid substances) arising from ship operations.

<sup>6</sup> IMSBC Code sets out the instructions and procedures in relation to the safe stowage and shipment of certain type of solid bulk cargoes.

<sup>7</sup> IMDG Code sets out the requirements for maritime transport of dangerous goods in packaged form.

mainly to repeal section 4(6) (regarding requirements relating to radio life-saving appliances on ships in compliance with Regulation 6.2 of Chapter III of the Annex to SOLAS), which has become obsolete as a result of the reallocation of the provisions relating to the requirements from Chapter III to Chapter IV of the Annex to SOLAS. It also makes other consequential and textual amendments to Cap. 369AY.

#### L.N. 103

8. L.N. 103 amends the Merchant Shipping (Safety) (IMSBC Code) Regulation (Cap. 369AZ) to give effect to the relevant amendments made to the IMSBC Code by Resolution MSC.500(105) passed by the Maritime Safety Committee of IMO in relation to the shipping of cargoes that may undergo liquefaction or dynamic separation.

#### L.N. 104

9. L.N. 104 amends the Merchant Shipping (Safety) (Radiocommunications) Regulation (Cap. 369BB) to give effect to the relevant amendments made to Chapter IV of the Annex to SOLAS. The major amendments made by L.N. 104 include updating certain definitions, and imposing requirements relating to installation of navigation receivers on ships.

#### L.N. 105

10. L.N. 105 amends section 8 of the Merchant Shipping (Safety) (Construction and Survey) Regulation (Cap. 369BD) to give effect to the latest requirements under Chapter II-1 of the Annex to SOLAS regarding water level detectors on certain ships by adding a reference to regulation 25-1 of the said Chapter II-1.

#### L.N. 106

11. L.N. 106 amends regulation 29(3) of the Merchant Shipping (Prevention of Oil Pollution) Regulations (Cap. 413A) to give effect to the amendments made to Annex I to MARPOL by providing for additional types of openings fitted with watertight closure that may be excluded in terms of compliance with the final waterline requirement applicable to oil tankers of 150 GT and above. It also makes various textual amendments to the Chinese text of regulation 29 of Cap. 413A.

#### L.N. 107

12. L.N. 107 amends the definition of “IMDG Code” in section 2 of the Merchant Shipping (Local Vessels) (General) Regulation (Cap. 548F) in order to

align the domestic requirements regarding carriage of dangerous goods by local vessels with the requirements under the IMDG Code as subsequently amended up to and including the latest amendments adopted by the Maritime Safety Committee of IMO by Resolution MSC.501(105).

### Direct reference approach

13. It is noted that the Administration has, pursuant to section 112B of the Merchant Shipping (Safety) Ordinance (Cap. 369) and section 3A of the Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap. 413), adopted the direct reference approach in L.N. 101 to L.N. 107 by referring directly to SOLAS, 1988 Load Lines Protocol, MARPOL, the IMSBC Code and the IMDG Code, as updated from time to time. According to paragraph 17 of the LegCo Brief (File ref: TLB(PML) CR 8/10/80/2) issued by the Transport and Logistics Bureau (“TLB”) and the Marine Department (“MD”) in June 2023, the Administration has adopted this approach where appropriate to allow the local legislation to remain up-to-date as far as practicable.

### Consultation

14. According to paragraph 20 of the LegCo Brief, the Hong Kong Fleet Operation Advisory Committee and the Local Vessels Advisory Committee of MD were consulted on the legislative proposals in March 2023. According to the Administration, no adverse comment was received from the members of the two committees.

15. As advised by the Clerk to the Panel on Economic Development, the Panel was consulted on L.N. 101 to L.N. 107 at its meeting on 2 May 2023. Members generally supported the legislative proposals and urged the Administration to expedite the law drafting exercise to ensure timely completion and enforcement. In response to members’ concern on whether the shipping trade had been fully consulted on the legislative proposals, the Administration confirmed that close communication with the trade had been maintained and that views of the trade would be relayed as and when necessary to IMO through MD’s representative.

### Commencement

16. L.N. 101, L.N. 102 and L.N. 104 to L.N. 107 come into operation on 1 January 2024. L.N. 103 comes into operation on 1 December 2023.

## **PART III MISCELLANEOUS**

### **Pharmacy and Poisons (Amendment) (No. 2) Regulation 2023 (L.N. 108)**

17. L.N. 108 is made by the Pharmacy and Poisons Board (“PPB”) under section 29(1B) of the Pharmacy and Poisons Ordinance (Cap. 138) with the approval of the Secretary for Health. It amends the Pharmacy and Poisons Regulations (Cap. 138A) by adding seven substances<sup>8</sup> to Division A of Schedule 1, Division A of Schedule 3 and Division A of Part 1 of the Table set out in section 2 of Schedule 10 (“Poisons List”) to Cap. 138A.

18. The main effects of L.N. 108 include that the seven newly added substances are subject to restrictions with respect to their sale, supply, labelling and storage, and that they can only be sold by retail upon a prescription given by a registered medical practitioner, registered dentist or registered veterinary surgeon. Further, the inclusion of the seven substances in Part 1 of the Poisons List means that they can only be sold on registered premises of an authorized seller of poisons by, or in the presence and under the supervision of, a registered pharmacist.

19. According to paragraph 4 of the LegCo Brief (File Ref.: HHB/H/23/4) issued by the Health Bureau in June 2023, PPB considers the amendments appropriate in view of the potency, toxicity and potential side effects of the seven newly added substances. Members may refer to Annex B to the LegCo Brief for details of those substances, which are used to treat various medical conditions including paediatric-onset hypophosphatasia, prostate cancer, and follicular lymphoma.

20. As advised by the Clerk to the Panel on Health Services, the Panel has not been consulted on L.N. 108.

21. L.N. 108 came into operation on the date of its publication in the Gazette, i.e. 30 June 2023.

### **The Hong Kong Association of Banks Ordinance (Amendment of Schedule 1) Order 2023 (L.N. 109)**

22. L.N. 109 is made by the Financial Secretary under section 9(3) of The Hong Kong Association of Banks Ordinance (Cap. 364) to amend Schedule 1 to Cap. 364 by adding (a) “Liechtenstein”, (b) “Qatar” and (c) “United Arab Emirates” (“UAE”) so that member banks of the Hong Kong Association of Banks (“HKAB”)

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<sup>8</sup> The seven substances are (a) Asfotase alfa; (b) Belzutifan; its salts; (c) Gozetotide; its salts; (d) Lutetium (177Lu) vipivotide tetraxetan; its salts; (e) Maralixibat; its salts; (f) Spesolimab; and (g) Tazemetostat; its salts.

incorporated or, in the case of unincorporated member banks, having their principal place of business, in any of these newly added places are eligible to elect members, or to be elected, to the Consultative Council of HKAB.

23. According to paragraphs 4 and 5 of the LegCo Brief (File Ref.: B&M/2/2/4C) issued by the Financial Services and the Treasury Bureau, and the Hong Kong Monetary Authority in June 2023, while several banks currently authorized as licensed banks under the Banking Ordinance (Cap. 155) have become members of HKAB, their places of incorporation (namely Liechtenstein, Qatar and UAE) are not included in Schedule 1 to Cap. 364. Therefore, the amendments to Schedule 1 to include Liechtenstein, Qatar and UAE are necessary in enabling all current member banks of HKAB to be regionally represented in the Consultative Council.

24. According to paragraph 9 of the LegCo Brief, HKAB has consulted the Committee of HKAB and the Consultative Council of HKAB. There is no objection to the amendments to Schedule 1 to Cap. 364.

25. As advised by the Clerk to the Panel on Financial Affairs, the Administration has provided an information paper to the Panel on the proposed amendments to Schedule 1 to Cap. 364. The paper was circulated to Panel members vide LC Paper No. CB(1)613/2023(01) on 6 June 2023. No member has raised enquiries on the paper.

26. L.N. 109 comes into operation on the date of the next meeting to elect members of the Consultative Council after the day on which L.N. 109 is published in the Gazette (i.e. on 30 June 2023).

### **Medical Registration Ordinance (Amendment of Schedule 1A)**

#### **Notice 2023**

**(L.N. 110)**

27. L.N. 110 is made by the Registrar of Medical Practitioners (“Registrar”) under section 14H of the Medical Registration Ordinance (Cap. 161) to amend Schedule 1A to Cap. 161 by adding 22 and 25 medical qualifications (awarded by relevant bodies including those from Mainland China, Australia, the United Kingdom and the United States of America) in Part 1 and Part 2 of Schedule 1A<sup>9</sup> respectively to recognize the medical qualifications recommended by the Special Registration Committee (“SRC”). The effect of L.N. 110 is that persons who hold

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<sup>9</sup> Part 1 of Schedule 1A applies in the case of a person who, on or after the commencement date of L.N. 110, enrolls on a programme that leads to the award of a RMQ specified in Part 1. Part 2 of Schedule 1A applies in the case of a person who, before the commencement date of L.N. 110, has enrolled on or completed a programme that leads to the award of a RMQ specified in Part 2.

the newly-added medical qualifications specified in Schedule 1A to Cap. 161 and have met all the other applicable requirements specified in section 14C of Cap. 161 may, upon application to the Registrar, be granted a special registration to practise in public healthcare institutions such as the Hospital Authority and the Department of Health as a medical practitioner.

28. According to paragraph 5 of the LegCo Brief (File Ref.: HHB CR 1/F/3261/92 Pt.51) issued by the Health Bureau on 28 June 2023, the total of 25 newly added medical qualifications represent the fourth batch of recognized medical qualifications (“RMQs”).<sup>10</sup> Since three of the recognized medical programmes in the fourth batch have ceased to admit new students,<sup>11</sup> the three medical qualifications awarded under these programmes are only added to Part 2 of Schedule 1A to Cap. 161 which applies to persons who have enrolled on or completed a recognized medical programme that would lead to the award of a RMQ.

29. According to paragraph 8 of the LegCo Brief, as SRC is responsible for making recommendations independently to the Registrar with respect to the list of RMQs, no public consultation has been conducted.

30. As advised by the Clerk to the Panel on Health Services, the Panel has not been consulted on L.N. 110. At the meeting of the Subcommittee on Medical Registration Ordinance (Amendment of Schedule 1A) (No. 3) Notice 2022 (“Subcommittee”) held on 7 February 2023, a concern was raised that two medical qualifications offered by two Mainland universities, which were added to the list of RMQs by that Notice, were solely taught in English but the other medical programmes offered by the two universities under the Scheme for Admission of Hong Kong Students to Mainland Higher Education Institutions, which were not taught solely in English, were not on that list.

31. L.N. 110 came into operation on the date of its publication in the Gazette, i.e. 30 June 2023.

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<sup>10</sup> The first, second and third batches of RMQs were recognized pursuant to the Medical Registration Ordinance (Amendment of Schedule 1A) Notice 2022 (L.N. 56 of 2022), the Medical Registration Ordinance (Amendment of Schedule 1A) (No. 2) Notice 2022 (L.N. 138 of 2022) and the Medical Registration Ordinance (Amendment of Schedule 1A) (No. 3) Notice 2022 (L.N. 239 of 2022) gazetted on 29 April, 10 June and 30 December 2022 respectively.

<sup>11</sup> Three of the recognized medical programmes offered by the following universities have ceased to admit new students: the Australia National University, the University of Birmingham and the University of Sheffield.

**Import and Export (Strategic Commodities) Regulations  
(Amendment of Schedules 1 and 2) Order 2023  
(Commencement) Notice**

**(L.N. 111)**

32. By L.N. 111, the Director-General of Trade and Industry appoints 1 November 2023 as the day on which the Import and Export (Strategic Commodities) Regulations (Amendment of Schedules 1 and 2) Order 2023 (L.N. 85 of 2023) comes into operation.

33. L.N. 85 of 2023, which was published in the Gazette on 19 May 2023, mainly amends Schedules 1 and 2 to the Import and Export (Strategic Commodities) Regulations (Cap. 60G) to reflect the latest changes in the control lists of strategic commodities adopted by the international regimes in view of the latest technology advancement, market trends and risk of illegal diversion, and to implement the control requirements under the Arms Trade Treaty regarding the transshipment and transit of conventional arms, their ammunitions/munitions as well as their parts and components. No subcommittee was formed to study L.N. 85 of 2023. Members may refer to paragraphs 10 to 15 of the Legal Service Division's report on L.N. 85 of 2023 (LC Paper No. LS39/2023) for further information.

34. No LegCo Brief has been issued in respect of L.N. 111.

35. As advised by the Clerk to the Panel on Commerce, Industry, Innovation and Technology, the Panel has not been consulted on L.N. 111.

**Statutes of the University of Hong Kong (Amendment)  
Statute 2023**

**(L.N. 112)**

36. L.N. 112 is made by the Chancellor of the University of Hong Kong ("HKU") under section 13(2) of the University of Hong Kong Ordinance (Cap. 1053) on the recommendation of the Court of HKU. It amends the Statutes of HKU in the Schedule to Cap. 1053 mainly to:

- (a) add four bachelors degrees, six masters degrees and one postgraduate certificate that may be conferred or awarded by HKU;<sup>12</sup>

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<sup>12</sup> The newly added degrees/postgraduate certificate are: Bachelor of Arts in Humanities and Digital Technologies, Bachelor of Business Administration (Business Analytics), Bachelor of Psychology, Bachelor of Science in Marketing Analytics and Technology, Master of Advanced Pharmacy, Master of Research, Master of Science in Artificial Intelligence, Master of Science in Nursing, Master of Science in Sustainable Environmental Design, Master of Science in Urban Design and Transport, and Postgraduate Certificate in Academic Practice.

- (b) change the composition of and the mechanism for appointment of members to the Disciplinary Committee (“Committee”) of HKU and the two panels from which members of the Committee are appointed, including (i) replacing the Senate panel with a teacher panel; (ii) increasing the number of individuals in each of the teacher panel and student panel from 20 to 30; and (iii) providing that members of the student panel be appointed by the Senate of HKU instead of the Council of the Students’ Union of HKU;
- (c) provide that members of the Committee be appointed in accordance with the procedure for compiling the Committee as approved by the Senate of HKU;<sup>13</sup> and
- (d) provide that conduct considered to bring HKU into disrepute be included in the list of complaints, the effect of which is that a complaint against a student who is alleged to have committed such conduct may be brought before the Committee for investigation.

37. The Legal Service Division (“LSD”) has made an enquiry with the Registrar of HKU regarding a drafting issue in section 4(5) and (11) of L.N. 112, under which the corresponding Chinese text for the English expression “the procedure for compiling the Disciplinary Committee as approved by the Senate” is “教務委員會訂立的委任紀律委員會程序”. It is noted that under Cap. 1053, when the English term “approved” is used, the corresponding Chinese rendition is “批准”, and “訂立” is used when the relevant provision provides for the making of rules or regulations. In response, HKU explained that “approved” is used to reflect HKU’s general administrative practice of submitting draft procedures for the Senate’s approval. In the context of the powers of the Senate under the Statutes, “approved” is intended to connote the meanings of “made (訂立)” and “prescribed (訂明)” after such draft procedures have been approved. HKU further explained that “訂立” instead of “批准” is used in the Chinese text to express clearly the Senate’s power to make or prescribe the procedures in order to avoid misunderstanding caused by direct translation. HKU’s view is that the perceived difference in the English and the Chinese texts does not have practical impact on the execution of the Statutes. HKU will take LSD’s observation above into account in the next amendment exercise.

38. According to paragraphs 4 and 5(a) of the LegCo Brief (no reference number) issued by HKU in June 2023, the degrees/postgraduate certificate are added in recognition of the rising needs of academic education and training in the respective

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<sup>13</sup> According to paragraph 6 of the LegCo Brief, detailed mechanism for the formation of the teacher panel and student panel has been laid down in the procedure for compiling the Committee as approved by the Senate.

disciplines. The changes in relation to the composition and appointment of members of the Committee and the panels are made in order to further enhance the flexibility in the appointment of members of the Committee.

39. According to paragraph 8 of the LegCo Brief, HKU has consulted the relevant parties (i.e. its relevant departments and faculties, the Senate, the Council and the Court), the Education Bureau (“EB”) and the Law Draftsman on L.N. 112. The Law Draftsman’s comments have been incorporated into L.N. 112 as appropriate. Upon enquiry by LSD, HKU stated that the said relevant parties of HKU generally supported L.N. 112 after having considered the views of their members and thorough deliberation, and EB had no in-principle objection to L.N. 112.

40. As advised by the Clerk to the Panel on Education, the Panel has not been consulted on L.N. 112.

41. L.N. 112 comes into operation on 20 October 2023.

### **Concluding observations**

42. Subject to Members’ view on the issue stated in paragraph 37 above regarding L.N. 112, no difficulties have been identified in relation to the legal and drafting aspects of the above items of subsidiary legislation.

Prepared by

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LS/S/20/2023