

L.N. 166 of 2023

2023 Implementation Rules for Amending the Implementation Rules for Article 43 of the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region

(Made by the Chief Executive in conjunction with the Committee for Safeguarding National Security of the Hong Kong Special Administrative Region under the third paragraph of Article 43 of the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region)

1. Commencement

These Implementation Rules come into operation on 15 December 2023.

2. Implementation Rules for Article 43 of the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region amended

The Implementation Rules for Article 43 of the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region are amended as set out in rule 3.

3. Schedule 3 amended (rules relating to freezing, restraint, confiscation and forfeiture of property)

(1) Schedule 3, section 1—

Repeal subsection (2)

Substitute

- “(2) For the purposes of this Schedule, proceedings for an offence are instituted against a person if—
- (a) a magistrate issues a warrant or summons against the person under section 72 of the Magistrates Ordinance (Cap. 227) in respect of the offence;
 - (b) the person has been arrested for the offence (whether or not the person is released on bail);
 - (c) the person is charged with the offence after being taken into custody without a warrant; or
 - (d) an indictment charging the person with the offence is preferred by the direction or with the consent of a judge under section 24A(1)(b) of the Criminal Procedure Ordinance (Cap. 221).
- (2A) However, when subsection (2) is applied in construing section 3(4B)(a) of this Schedule, that subsection is to be read as if paragraph (b) of that subsection did not exist.”.
- (2) Schedule 3, section 3—
- Repeal subsection (3)**
- Substitute**
- “(3) The Secretary for Security must, in a notice under subsection (1), specify the validity period of the notice.
- (3A) The validity period specified under subsection (3) must not exceed 2 years.”.
- (3) Schedule 3, section 3(4)—
- Repeal**
- “the notice mentioned in subsection (3)”

Substitute

“a notice under subsection (1)”.

- (4) Schedule 3, after section 3(4)—

Add

“(4A) If, on the expiry of the validity period of a notice under subsection (1), the Secretary for Security has made an application under subsection (4) and the proceedings for the application have not been concluded, the validity period of the notice is to be extended until the expiry of—

- (a) if the court grants the extension—the extended period as granted by the court; or
- (b) otherwise—the period of 14 days beginning on the day on which the proceedings for the application are concluded.

(4B) If, on the expiry of the validity period of a notice under subsection (1)—

- (a) proceedings for an offence endangering national security that relates to the notice have been instituted; and
- (b) any of the proceedings (including the proceedings for an application for a confiscation order made in the first-mentioned proceedings) have not been concluded,

the validity period of the notice is to be extended until the expiry of the period of 28 days beginning on the day on which all of the proceedings are concluded.

(4C) If, on the expiry of the validity period of a notice under subsection (1)—

- (a) an application for a restraint order, charging order or forfeiture order has been made in relation to any part of the property specified in the notice; and
 - (b) any proceedings for the application have not been concluded,
the validity period of the notice is to be extended until the expiry of the period of 14 days beginning on the day on which all of the proceedings are concluded.
- (4D) To avoid doubt, if the validity period of a notice is extended under more than one subsection among subsections (4A), (4B) and (4C), the validity period of the notice is the one that expires the latest.
- (4E) The Secretary for Security must—
- (a) if the validity period of a notice is extended under subsection (4) or (4A)(a)—as soon as is reasonably practicable after the validity period of the notice is extended each time; and
 - (b) if the validity period of a notice is extended under subsection (4A)(b), (4B) or (4C)—as soon as is reasonably practicable after the validity period of the notice is extended each time and after the notice expires,
issue a notice in writing to the person holding the property concerned.”.
- (5) Schedule 3, section 3(5)—

Repeal

“The notice”

Substitute

“A notice issued under subsection (1), (2) or (4E)”.

(6) Schedule 3, section 3—

Repeal subsection (6)

Substitute

“(6) If—

- (a) any property specified in a notice issued under subsection (1) involves immovable property; or
- (b) any property relating to a notice issued under subsection (2) or (4E) involves immovable property,

the notice is taken to be an instrument affecting land and is registrable under the Land Registration Ordinance (Cap. 128) in the way that the Land Registrar considers appropriate.”.

(7) Schedule 3, section 3(7)—

Repeal

“the notice will”

Substitute

“a notice under subsection (1) will”.

(8) Schedule 3, after section 3(9)—

Add

“(10) For the purposes of subsections (4A), (4B) and (4C), the proceedings are concluded if—

- (a) the party that instituted the proceedings withdraws or discontinues the proceedings;
- (b) the court makes the final judgment or decision in respect of the proceedings, and the judgment or decision is not appealable or reviewable;

- (c) the prescribed period for making an appeal or review against the final judgment or decision made in respect of the proceedings expires, and no appeal or review is made by any party; or
 - (d) in the case of proceedings for an application for a confiscation order or forfeiture order—the confiscation order or forfeiture order made in the proceedings is satisfied (whether by payment of the amount due under the order or by the defendant serving imprisonment in default).
- (11) To avoid doubt, this Schedule as amended by the 2023 Implementation Rules for Amending the Implementation Rules for Article 43 of the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (*amending Rules*) applies to notices that are issued under subsection (1) before, and are still effective on, the day on which the amending Rules come into operation.”.

4. **Authentic text of Implementation Rules**

The Chinese text of these Implementation Rules is an authentic text, and these Implementation Rules are to be construed accordingly. The English translation text is for reference only.

[SIGNED ON THE CHINESE
TEXT]
Chief Executive

12 December 2023