

Boilers and Pressure Vessels (Amendment) Bill 2001

**Administration's Response to the Issues raised by Members at the
Bills Committee Meeting on 27 February 2002**

At its meeting on 27 February 2002, Members of the Committee requested the Administration to: -

- (a) Elaborate on the policy and principles for declaring what kind of rules made by the Authority under powers conferred by Ordinances should or should not be subsidiary legislation;
- (b) Address Members' concern about the need to specify in the proposed section 6(8) in the Bill that the rules to be made under the proposed section 6(7) in relation to the conduct of examinations were not subsidiary legislation.
- (c) Provide an alternative version of the proposed section 6(4)(a) for Members' consideration, having regard to Senior Assistant Legal Adviser (2)'s suggestion on the drafting of that new section;
- (d) Consider whether other Chinese version for the word "substantial", such as "足夠" would be appropriate for the proposed sections 6(1)(a) and 6(4)(a).

2. This paper aims to provide the necessary information and propose a few amendments to the Bill with a view to addressing Members' concerns in respect of item (c) and (d) raised at the last meeting.

Alternative version of the proposed section 6(4)(a)

3. Senior Assistant Legal Adviser (2) has proposed some

amendments to the wordings of the proposed section 6(4)(a). The proposed wordings would read as “ The Authority may revoke a certificate of competency if it ceases to be satisfied that the holder of the certificate has substantial skill or knowledge to hold the certificate.”

4. The Administration has carefully considered the above proposal and is of the view that it is more appropriate to retain the current text of the proposed section 6(4)(a) for the following reasons: –

- (a) The determining factor of whether an applicant should be issued with a certificate of competency or have his certificate endorsed is whether the applicant has adequate experience, skill or knowledge in the operation of the class or type of boiler or steam receiver to be specified in the certificate. This is clearly stated in all relevant provisions in the Bill. The determining factor is not whether an applicant has adequate experience, skill or knowledge to hold a certificate. For the sake of consistency and to avoid unnecessary confusion, it is more appropriate to retain the current text.
- (b) The proposed sections 6(4)(a) and 6(4)(b) deal with different but related situations. It is, therefore, more appropriate to adopt similar wordings for the two sections (as in the current text of the two sections). The Administration is concerned that the proposed amended wordings for section 6(4)(a), which are quite different from those for section 6(4)(b), may result in the interpretation that the two sections are intended to deal with unrelated situations.

The appropriateness of adopting “足夠” in lieu of “相當” to qualify “experience, skill and knowledge” in the proposed sections 6(1)(a) and 6(4)(a) of the Bill.

5. “相當” has been used as the Chinese rendition for “substantial” in other legislation. For the sake of consistency, it is appropriate to use “相當” as the Chinese rendition for “substantial” in the relevant provisions of the Bill.

6. The Administration considers that it is more appropriate to replace “substantial” by “adequate” to qualify “experience, skill and knowledge” in the proposed sections 6(1)(a) and (b), (3A)(a) and (b) and (4)(a) and (b) in the English text. In tandem with the aforesaid amendment, the Chinese text of these provisions will be amended by substituting “相當” by “足夠” accordingly.

7. CSAs to the Bill will be provided later.

Education and Manpower Bureau
9 April 2002