

C022-e

A BILL

To

Amend the Boilers and Pressure Vessels Ordinance and the Boilers and Pressure Vessels Regulations.

Enacted by the Legislative Council.

1. Short title

This Ordinance may be cited as the Boilers and Pressure Vessels (Amendment) Ordinance 2001.

Boilers and Pressure Vessels Ordinance

2. Certificates of competency

Section 6 of the Boilers and Pressure Vessels Ordinance (Cap. 56) is amended---

(a) by repealing subsection (1) and substituting---

"(1) The Authority may, upon application in writing, issue a certificate of competency to a person if that person---

(a) has produced evidence that satisfies the Authority; or

(b) has passed the examination conducted by the Authority and satisfied the Authority,

that---

(i) he is a fit and proper person to hold the certificate; and

(ii) he has substantial experience, skill and knowledge in the operation of all classes and types of boiler and steam receiver or of boilers or steam receivers, or both, of the class or type to be specified in the certificate, as the case may be.";

(b) by repealing subsection (3) and substituting---

"(3) The Authority may, upon application in writing by a person who has been issued with a certificate of competency referred to in subsection (2)(b), endorse the existing certificate of the person or issue a new certificate of competency to certify that the person is competent to operate all classes and types of boiler and steam receiver or is competent to operate boilers or steam receivers, or both, of a class or type ("additional class or type") in addition to the class or type specified in the existing certificate, as the case may be.

(3A) The Authority may endorse an existing certificate of competency or issue a new certificate of competency under subsection (3) only if that person--

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(a) has produced evidence that satisfies the Authority; or

(b) has passed the examination conducted by the Authority and satisfied the Authority,
that---

(i) he is a fit and proper person to have the existing certificate endorsed or to be issued with the new certificate; and

(ii) he has substantial experience, skill and knowledge in the operation of all classes and types of boiler and steam receiver or of boilers or steam receivers, or both, of the additional class or type, as the case may be.";

(c) by repealing subsection (4)(a) and substituting---

"(a) The Authority may revoke a certificate of competency if, having regard to the conditions referred to in subsection (1)(i) and (ii), it ceases to be satisfied that the holder of the certificate is a suitable person to hold the certificate.";

(d) by adding---

"(5) A person who makes an application under subsection (1) or (3) shall pay the prescribed application fee.

(6) The Authority shall cause examinations to be conducted and shall appoint assessors for the purposes of subsections (1)(b) and (3A)(b).

(7) The Authority may, in relation to examinations conducted under subsection (6), make rules providing for---

(a) the syllabus for the examinations;

(b) the conditions to be satisfied by candidates before taking the examinations;

(c) the standards of competency to be attained by candidates at the examinations;

(d) the procedures for and the method of conducting the examinations;

(e) the procedures for the review of examination results; and

(f) general matters in relation to the examinations.

(8) For the avoidance of doubt, it is declared that rules made under subsection (7) are not subsidiary legislation.

(9) A person aggrieved by a decision of the Authority made in respect of him under subsection (1), (3) or (4)(a) may, within 28 days of being notified of the decision by the Authority, appeal to the Administrative Appeals Board.

(10) A revocation of a certificate of competency by the Authority under subsection (4)(a) shall have immediate effect, notwithstanding any appeal lodged by the holder of the certificate against the decision under subsection (9).".

3. Offences in relation to use and operation
of boilers or pressure vessels

Section 49(7) is amended by repealing "資格" and substituting "足夠能力".

4. Regulations

Section 65 is amended by adding---

"(3) (a) The amount of any fee prescribed in regulations made under subsection (1)(c)---

(i) may be fixed at levels sufficient to effect the recovery of expenditure incurred or likely to be incurred by the Authority in performing his functions under this

Ordinance;

(ii) shall not be limited by reference to the amount of administrative or other costs incurred or likely to be incurred in relation to the application, service or facility, or other matter, to which such fee relates.

(b) Different fees may be prescribed for different types of application, service or facility, or other matter, based on the manner in which they are made to the Authority or based on such other circumstances as are specified in those regulations."

5. Savings and Transitional

(1) This Ordinance shall not apply to any application under section 6 of the principal Ordinance submitted to the Authority before the commencement date and such application shall be governed by the principal Ordinance in force immediately before that date, as if this Ordinance had not been enacted.

(2) An examiner appointed by the Authority before the commencement date for the purposes of section 6 of the principal Ordinance shall be deemed to be an assessor appointed by the Authority under that section as amended by this Ordinance.

(3) This Ordinance shall not affect the validity of any certificate of competency issued or endorsed under section 6 of the principal Ordinance before the commencement date and a certificate of competency so issued or endorsed that is valid immediately before that date shall remain valid as if it had been issued or endorsed under that section as amended by this Ordinance.

(4) In this section, "commencement date" (生效日期) means the date on which this Ordinance comes into effect.

Boilers and Pressure Vessels Regulations

6. Regulation substituted

Regulation 18 of the Boilers and Pressure Vessels Regulations (Cap. 56 sub. leg.) is repealed and the following substituted---

"18. Fees

(1) A person who applies to be issued with a new certificate of competency or applies to have an existing certificate of competency endorsed by the Authority under section 6(1)(a) or (3A)(a) of the Ordinance, as the case may be, shall pay an application fee of \$330.

(2) A person who applies to be issued with a new certificate of competency or applies to have an existing certificate of competency endorsed by the Authority under

section 6(1)(b) or (3A)(b) of the Ordinance, as the case may be, shall pay an application fee of \$610.

(3) Subject to subregulation (4), application fees paid under this regulation may not be refunded by the Authority.

(4) A person who fails to attend an examination conducted under section 6(6) of the Ordinance shall, at his request, have his application fee refunded by the Authority if he has given not less than 2 days' advance notice in writing to the Authority of his inability to attend the examination."

Consequential Amendments

Administrative Appeals Board Ordinance

7. Schedule amended

Item 2 of the Schedule to the Administrative Appeals Board Ordinance (Cap. 442) is amended, in column 3---

(a) by renumbering it as paragraph (a);

(b) by adding---

"(b) A decision of the Boilers and Pressure Vessels Authority on the issue or endorsement of a certificate of competency under section 6(1) or (3).

(c) A decision of the Boilers and Pressure Vessels Authority to revoke a certificate of competency under section 6(4)(a)."

Explanatory Memorandum

This Bill amends the Boilers and Pressure Vessels Ordinance (Cap. 56) and the Boilers and Pressure Vessels Regulations (Cap. 56 sub. leg.) in order to clarify the provisions concerning certificates of competency for the operation of boilers and steam receivers. The principal amendments are---

(a) to clarify the grounds on which the Boilers and Pressure Vessels Authority ("Authority") may issue a certificate of competency to an applicant (see clause 2(a));

(b) to clarify the grounds on which the Authority may endorse the certificate of competency of, or issue a new certificate of competency to, an existing holder of certificate (see clause 2(b));

(c) to prescribe the circumstances under which the Authority may revoke a certificate of competency (see clause 2(c));

(d) to give express authorization to the Authority to conduct examinations and appoint assessors for the purposes of deciding whether to issue and endorse certificates of competency and to make rules governing those examinations (see new section 6(6) to (8) added by clause 2(d));

(e) to provide for an appeal mechanism in relation to decisions by the Authority on the issue, endorsement and revocation of certificates of competency (see new section 6(9) and (10) added by clause 2(d));

(f) to clarify the different fee arrangements in connection with applications for the issue and endorsement of certificates of competency by way of production of evidence and examination (see new regulation 18(1) and (2) added by clause 6); and
(g) to provide for refund of application fees under prescribed circumstances (see new regulation 18(4) added by clause 6).