

立法會
Legislative Council

LC Paper No. LS 14/00-01

**Paper for the House Committee Meeting
of the Legislative Council
on 3 November 2000**

**Legal Service Division Report on
Dangerous Goods (Amendment) Bill 2000**

Objects of the Bill

To amend the Dangerous Goods Ordinance (Cap. 295) ("the Ordinance") by-

- (a) revising the definitions of "dangerous goods", "explosive" and "vessel" and introducing a new definition of "IMDG Code";
- (b) revising the application section (section 3) to reflect the terminology used in the IMDG Code to classify dangerous goods;
- (c) revising the regulation making section to provide for implementation of the IMDG Code, other publications issued by the International Maritime Organization and other international agreements, empowering the Director of Marine to grant exemptions in respect of shipping and to set minimum fine at level 6 (\$100,000);
- (d) enacting a new section empowering the Director of Fire Services and the Director of Marine to issue codes of practice;
- (e) increasing the penalties for breach of a licence;
- (f) creating an exception to the notice, labelling and marking requirements in respect of dangerous goods;
- (g) revising the search and seizure provisions to include officers of the Marine Department in the group of officers authorized to exercise the powers;
- (h) revising sections to set the fines at various levels;
- (i) enacting a new section that provides for compliance with the IMDG Code as an alternative to complying with the requirements under the Ordinance; and
- (j) making consequential amendments to other Ordinances.

LegCo Brief Reference

2. SBCR 1/1336/86 Pt.31 issued by the Security Bureau on 18 October 2000.

Date of First Reading

3. 1 November 2000

Background

4. The Dangerous Goods (Amendment) Bill 1999 was introduced into the Legislative Council on 1 December 1999. Pursuant to a decision of the House Committee at its meeting held on 3 December 1999, a Bills Committee was formed to scrutinize the 1999 Bill. However, owing to the unavailability of a Bills Committee slot, the 1999 Bill was not enacted and it lapsed upon the dissolution of the first term of the Legislative Council.

Comments

5. The Bill is different from the 1999 Bill in the following respects-
 - (a) Originally, all dangerous substances to be put under control were proposed to be specified in the Schedules to the Ordinance. However, upon further review, the Administration considers it more appropriate to put the classification of dangerous substances and relevant technical details in the subsidiary legislation to be made by the Chief Executive in Council under the Ordinance; and
 - (b) With the proposed changes, new empowering provisions are to be added for the making of regulations-
 - (i) providing for the application to or exemption from the control in respect of the manufacture, storage or use on land, and the carriage at sea and on land of dangerous goods; and
 - (ii) giving effect to the IMDG Code, relevant publications of the International Maritime Organization, and other international agreements dealing with dangerous goods.
6. The Bill mainly proposes to revise the Ordinance to bring it in line with the IMDG Code requirements for classification, labelling and packaging of dangerous goods. Members may refer to paragraphs 3 to 10 of the LegCo Brief for background information.

7. We have written to the Administration to seek clarification on certain technical aspects of the Bill. In response to our enquiries, the Administration has agreed to further discuss with the Department of Justice about the need for making certain technical changes to the Bill. Copies of the correspondence are annexed for members' reference.

Public Consultation

8. Paragraph 21 of the LegCo Brief states that the Dangerous Goods Standing Committee was consulted and supported the proposals.

9. Paragraph 22 of the LegCo Brief also states that a public consultation exercise was conducted in March, 1999. In general, the then Provisional District Boards and the trade were in support of the proposals.

Consultation with the LegCo Panel

10. The Administration briefed the Security Panel of the last term about the proposals at its meeting held on 16 October 1999. Although the Panel supported the general principle of the proposals, some members had expressed concern over the detailed implementation of the proposals and their impact on the trade.

Conclusion

11. In the light that some members of the Security Panel in the last legislative session had expressed concern over certain aspects of the Bill and the decision of the House Committee to form a Bills Committee to study the 1999 Bill, which is similar to the Bill, members may wish to form a Bills Committee to study details of the Bill.

Encl

Prepared by

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Legislative Council Secretariat
1 November 2000

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URGENT BY FAX

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30 October 2000

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Legislative Council Secretariat
Legal Service Division
Legislative Council Building
8 Jackson Road
Hong Kong
(Attn: Mr Stephen LAM)

Dear Mr Lam,

Dangerous Goods (Amendment) Bill 2000

Thank you for your letter of 19 October 2000. We have consulted parties concerned and would like to reply as follows –

Clause 2(b)

- (a) Since we are going to adopt the classification scheme of the International Maritime Dangerous Goods (IMDG) Code, we propose to follow the definition of explosives used in the Code, except that the phrase “as to cause” should be changed to “as could cause”. The proposed form of wording is the same as that appearing in the UK’s “Quarries (Explosives) Regulations 1988” which is also based on the IMDG Code.
- (b) The existing definition of “explosive” may include substances which produce the explosion effects by physical means such as bursting of cylinders containing liquefied petroleum gas

(which is controlled under the Gas Safety Ordinance). We do not intend to control these substances as explosives. The proposed definition of “explosive” specifically states that the effects have to be produced by chemical reactions.

Clause 2(c)

We agree that it is desirable to define the terms ‘ship’ and ‘junk’ and to use consistent renditions and will discuss with counsel further.

Clause 3

The proposed change in the wording of section 3 *per se* is mainly aimed at reflecting the terminology used in the IMDG Code to classify dangerous goods rather than changing the scope of application of the Dangerous Goods Ordinance (DGO).

In fact, the proposed section 3 (like the existing section 3) must be read together with subsidiary legislation to be made under the proposed sections 5(1)(a) and (ba) (section 5(1)(a) under the existing DGO). As explained in paragraphs 9(c) and (d) of the LegCo Brief, the coverage of controls of dangerous goods on land and at sea will be expanded to align with the IMDG Code as appropriate.

I hope you will find the above useful. If you require further information, please feel free to give me a call.

Yours sincerely,

(David Wong)
for Secretary for Security

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	Director of Marine	(Attn: Mr K M LEE)	2850
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19 October 2000

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(Attn : Miss Mimi Lee
Assistant Secretary (S) B2)

Dear Miss Lee,

Dangerous Goods (Amendment) Bill 2000

We are scrutinizing the legal and drafting aspects of the Bill. We should be grateful for your clarification of the following points.

Clause 2(b)

What is the reason for introducing the new definition of "explosive"?
What are the practical differences between the existing definition of "explosive" and the proposed definition of "explosive"?

Clause 2(c)

In the proposed definition of "vessel", reference is made to "ship" and "junk". However, both terms are not defined. Under the Shipping and Port Control Ordinance (Cap. 295), in the definition of "vessel", which is identical to the definition of "vessel" in the Bill, reference is also made to "ship" and "junk". However, both terms are defined in the Shipping and Port Control Ordinance. Is it desirable to define the terms "ship" and "junk" in the Dangerous Goods

Ordinance (Cap. 295) ("the Ordinance") as well?

In the Chinese text of the proposed definition of "vessel", the rendition of the term "junk" is "中國式帆船". However, the rendition of the same term is "中式帆船" in the definition of "vessel" under the Shipping and Port Control Ordinance. Could you explain the reason for the use of different renditions of the term "vessel" in the Bill and the Shipping and Port Control Ordinance?

Clause 3

What are the practical differences between the existing scope of application of the Ordinance and the proposed application of the Ordinance in the Bill?

We should be grateful if you would reply, in both languages, by 25 October 2000.

Yours sincerely,

(Stephen Lam)
Assistant Legal Adviser

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