

立法會
Legislative Council

LC Paper No. LS 141/00-01

**Paper for the House Committee Meeting
of the Legislative Council
on 6 July 2001**

**Legal Service Division Second Further Report
on Freight Containers (Safety) (Examination Procedure) Order (L.N. 114 of 2001)**

Members may recall that the Legal Service Division made a further report on the above Order on 29 June 2001 (LC Paper No. LS 129/00-01). In that report, we informed Members that the Chinese text of section 4(1)(b)(ii) and (2)(b)(ii) of the Order contains more particulars than the corresponding English text. For Members' information, the English and Chinese texts of the provision read respectively as "a date is specified under section 8(b)(i)" and "合資格人士根據第(8)(b)(i)條指明某日期".

2. In a letter dated 29 June 2001, the Secretary for Economic Services ("the Secretary") proposed to amend the Order by adding the term "competent person" to the English text of section 4(1)(b)(ii) and (2)(b)(ii) of the Order where opportunities arise in the future. The letter (a copy of which is at **Annex A**) was circulated to Members at the House Committee meeting on 29 June 2001. At the House Committee meeting, Members decided that the Order should be amended at the earliest opportunity, and that the Chairman of the House Committee should move a motion at the Council meeting on 11 July 2001 to effect the amendment. A copy of the motion, which the Chairman of the House Committee has given notice to move, is at **Annex B**.

3. After the above decision of the House Committee, the Secretary has given notice to move a motion to amend the Order at the Council meeting on 11 July 2001. A copy of the said motion is at **Annex C**. Members may note that the Administration proposes to amend section 4(1)(b)(ii) and (2)(b)(ii) of the Order by repealing "specified" and substituting "determined by the competent person". The Administration's explanation for the proposed amendments (English version only) is at **Annex D**.

4. We are satisfied that both sets of proposed amendments set out at Annexes B and C would meet the requirement that the English and Chinese texts should match as far as possible without changing the legal effect of the provision concerned.

Encl.

Prepared by
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Assistant Legal Adviser
Legislative Council Secretariat
5 July 2001

ESBCR 28/5061/86 XI

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29 June 2001

Miss Connie FUNG
Assistant Legal Advisor
Legal Service Division
Legislative Council Secretariat
Legislative Council Building
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Hong Kong

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Dear Miss FUNG,

**Subsidiary Legislation under
Freight Container (Safety) Ordinance, Cap. 506**

Further to my reply of 26 June to you on the above, and upon consultation with the Department of Justice, we agree that where suitable opportunities arise in the future, we would amend the Freight Containers (Safety) (Examination Procedure) Order to add the term "competent person" in sections 4(1)(b)(ii) and 2(b)(ii) of the English text of the Order.

(Miss Polly CHOY)
for Secretary for Economic Services

c.c.

D of J (LD) (Attn: Miss Phyllis POON)
D of Marine (Attn: Mr Raymond TANG, Mr B B RAO)

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

RESOLUTION

(Under section 34(2) of the Interpretation and
General Clauses Ordinance (Cap. 1))

FREIGHT CONTAINERS (SAFETY) (EXAMINATION PROCEDURE) ORDER

RESOLVED that the Freight Containers (Safety) (Examination Procedure) Order, published in the Gazette as Legal Notice No. 114 of 2001 and laid on the table of the Legislative Council on 6 June 2001, be amended—

- (a) in section 4(1)(b)(ii), by adding "by the competent person" after "specified";
- (b) in section 4(2)(b)(ii), by adding "by the competent person" after "specified".

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

RESOLUTION

(Under section 34(2) of the Interpretation and
General Clauses Ordinance (Cap. 1))

FREIGHT CONTAINERS (SAFETY)(EXAMINATION
PROCEDURE) ORDER

RESOLVED that the Freight Containers (Safety)(Examination
Procedure) Order, published in the Gazette as Legal Notice
No. 114 of 2001 and laid on the table of the Legislative
Council on 6 June 2001, be amended, in section 4(1)(b)(ii)
and (2)(b)(ii), by repealing "specified" and substituting
"determined by the competent person".

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4 July 2001

Hon Mrs Selina CHOW LIANG Shuk-ye, JP
Chairman of House Committee
Legislative Council Secretariat
3rd Floor, Citibank Tower
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Freight Containers (Safety) (Examination Procedure) Order

I refer to the discussion of the House Committee on 29 June 2001 on the above Order and wish to confirm as Mr Alex FONG has conveyed to you over the phone the Administration's wish to move the following amendments to the Order –

- (a) In the English text of section 4(1)(b)(ii) and 4(2)(b)(ii), substitute the word “specified” with “determined by the competent person”. This aims to add in the English text words which correspond to subject of “合資格人士” appeared in the Chinese text. In addition, we propose to replace the word “specified” by “determined” because with the subject of "competent person" added, we need to adopt the term "determined" which is used in section 8(b)(i) (which is referred by section 4(1)(b)(ii) and 4(2)(b)(ii)) to describe the action required of the competent person; and

- (b) In the Chinese text of section 4(1)(b)(ii) and 4(2)(b)(ii), substitute the word “指明” with “決定”. The latter is the Chinese translation of the word “determine” used in section 8(b)(i).

I wish to take the opportunity to thank the House Committee in particular for drawing our attention to this technical inconsistency in the English and Chinese text of the Order, and we agree this should be rectified at the sitting on 11 July 2001.

(Ms Sandra LEE)
Secretary for Economic Services