

**Information Paper for the
Legislative Council Panel on Manpower**

**Proposed Amendments to the
Boilers and Pressure Vessels Ordinance and the
Boilers and Pressure Vessels Regulations**

PURPOSE

This paper informs Members of the Administration's proposal to amend the Boilers and Pressure Vessels Ordinance (BPVO), Cap. 56 and the Boilers and Pressure Vessels Regulations (BPVR) to remove ambiguities in the existing fee-charging arrangements and to make minor technical amendments.

BACKGROUND

2. BPVO controls the use and operation of boilers and pressure vessels and provides for the holding of enquiries in case of accidents. The Ordinance requires boilers and pressure vessels within its coverage to be operated under direct supervision of a "competent person" who should possess a certificate of competency (certificate) issued by the Boilers and Pressure Vessels Authority.
3. A person may obtain a certificate from the Authority upon application in writing and upon payment of the prescribed fee, if -
 - (a) he has produced to the Authority evidence that satisfies the latter as to his suitability to be issued the certificate and as to his experience in the operation of the types of boilers and pressure vessels concerned; or
 - (b) he has satisfied the examiners appointed by the Authority with his competency as in (a).

Under Regulation 18 of BPVR, the prescribed fees for the issue of a certificate for (a) and (b) are \$330 and \$610 respectively.

4. In the last fees and charges review exercise in 1997, the Assistant Legal Adviser of the then Legislative Council (LegCo) pointed out that some ambiguities existed in the fee-charging arrangements for the issue and endorsement of a certificate of competency (certificate) for boilers and steam receivers operators under BPVO and BPVR. Notwithstanding this situation, the then LegCo House Committee supported the fee adjustment then proposed, on the understanding that the Administration would review the relevant provisions. Having reviewed the relevant provisions, we consider that there is

a need to amend BPVO and BPVR as set out in the following paragraphs.

PROPOSED AMENDMENTS AND JUSTIFICATIONS

5. Fees are charged under sections 6(1) and 6(3) of BPVO in respect of the issue of a certificate. It is intended that such fees should be non-refundable, but the intention is not expressly spelt out in BPVO. It can be argued that under the existing provision, the fees would only be charged upon successful application of a certificate, implying a refund when the application is unsuccessful. The two sections should be amended to explicitly state that the fees charged thereunder are non-refundable.

6. The term "examiner" in 6(1)(b) of BPVO is inappropriately translated to "檢驗師". It is also proposed to amend the Chinese translation to read "主考員".

7. Under Regulation 18(1) of BPVR, a fee of \$330 shall be payable in respect of a certificate. It is intended, though not explicitly stated, that the fee should cover the administrative cost for the issue of a new certificate or the endorsement of an existing certificate under section 6(3) of BPVO, as the case may be. According to legal advice, the Regulation may however be interpreted to mean that, the fee for the endorsement of an existing certificate, which has not been specifically prescribed under the Regulation, should be recovered at the fee prescribed in the Gazette by the Financial Secretary under section 17C(3) of the Public Finance Ordinance¹, which is currently \$140. To avoid confusion, Regulation 18(1) should be amended to clarify that the fees charged (\$330) under Regulation 18(1) are applicable to the issue or endorsement of a certificate of competency.

8. Regulation 18(2) of BPVR provides that a fee of \$610 shall be paid prior to taking an examination under BPVO. The fee is intended to cover the examination cost and the issue or endorsement of a certificate. The Regulation may however be misinterpreted that the fee covers both administrative cost and examination cost, and therefore the administrative cost could be refunded in case of failure to pass the examination. An amendment is therefore necessary to clarify the situation.

9. To discourage non-attendance of scheduled examinations, fees paid for an examination may be forfeited if the applicant fails to turn up for the examination. This arrangement has been explained in the guide and syllabus,

¹ Section 17C(3) of the Public Finance Ordinance provides that -

"Where any Ordinance requires or authorises any alteration, transfer or endorsement of or addition to any certificate, authorisation, consent, licence, permit or exemption from a public officer, such fee shall be payable therefor as may be prescribed by law or as the Financial Secretary may prescribe by notice in the Gazette if no fee is prescribed by law."

which are distributed to all applicants taking the examination, but both BPVO and BPVR, do not provide explicitly for the forfeiture of fees in the event of non-attendance. There is therefore a need to formalise the arrangement with a provision in the law.

10. Relevant provisions in BPVO and BPVR have been extracted at the Annex for reference by Members.

STAFFING AND FINANCIAL IMPLICATIONS

11. The proposed amendments are technical in nature. There will be no staffing and financial implications.

ECONOMIC IMPLICATIONS

12. The proposed amendments are technical in nature. There will be no economic implications.

CONSULTATION

13. Labour Advisory Board and its Committee on Occupational Safety and Health have been consulted and members supported the proposed amendments.

WAY FORWARD

14. We plan to introduce the proposed amendments into the Legislative Council in May 2001. The amendments will come into immediate effect if enacted.

Education and Manpower Bureau
December 2000

**Relevant Provisions in the
Boilers and Pressure Vessels Ordinance and the
Boilers and Pressure Vessels Regulations**

I. Boilers and Pressure Vessels Ordinance

Section. 6 Certificates of Competency

(1) The Authority may, upon application in writing therefor and upon payment of the prescribed fee, issue a certificate of competency to any person who -

- (a) has produced to him evidence that satisfies him as to the suitability of that person to be issued therewith and as to his experience 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 of competency, as the case may be; or
- (b) has satisfied such examiners as the Authority may appoint as to his suitability to be issued therewith and as to his competence to operate all classes and types of boiler and steam receiver or boilers or steam receivers, or both, of the class or type to be specified in the certificate of competency, as the case may be.

(2) Every certificate of competency shall be in the prescribed form and shall, as the case may be, certify that the person to whom it is issued is -

- (a) competent to operate all classed and types of boiler and steam receiver and their auxiliary equipment; or
- (b) competent to operate boilers or steam receivers, or both, and their auxiliary equipment, of the class or type specified therein.

(3) Where the Authority is satisfied that a person to whom he has issued a certificate of competency certifying that that person is competent to operate boilers or steam receivers, or both, of a specified class or type is, as the case may

be, competent to operate all classes or types of boiler and steam receiver or competent to operate a class or type of boiler or steam receiver in addition to the class or type specified in that certificate, he may, upon payment of the prescribed fee, endorse the certificate accordingly or issue to that person a new certificate of competency.

Section. 65 Regulations

- (1) The Authority may by regulation provide for -
 - (a) ...
 - (b) ...
 - (c) fees.

II. Boilers and Pressure Vessels Regulations

Regulation 18. Fees

- (1) Save as provided in subregulation (2), a fee of \$330 shall be payable in respect of a certificate of competency.
- (2) A fee of \$610 shall be paid prior to each occasion on which a person is examined for the purposes of the issue or endorsement of a certificate of competency; and, where the Authority decides in consequence of such examination to issue or endorse a certificate of competency, no fee shall be payable in respect of the certificate of competency or the endorsement of the certificate of competency, as the case may be.