

Question 1

The Administration was requested to provide information on how the Director of Marine (the Director) under clause 23 plans to administer its exemption power.

To facilitate the Director's consideration on whether an exemption is to be granted under clause 23, staff in the Marine Department (MD) will submit to him an assessment made on the basis of all available information in relation to the ship concerned. With a view to minimizing the risk of pollution damage, an exemption will only be granted in exceptional circumstances and only the Director (or the officer acting his post) may grant such exemption

Question 2

We have re-examined the provisions of the Bill (in particular clause 30) and considered the provisions of the Electronic Transactions Ordinance (Cap 553) (ETO) and Members' suggestion to amend clause 30 (suggested amendment).

Clause 30 does not have the effect of precluding a document under the Bill to be sent or served by electronic means. On the other hand, to adopt the suggested amendment would be a departure from the drafting conventions and may have a read-across implication on other enactments, in particular those statutes that have a provision similar to clause 30 and to which the ETO is intended to apply but that do not have any express reference to the application of the ETO. To amend clause 30 as suggested would also be inconsistent with the approach contemplated under the ETO, which is an enactment of general application.

In view of the above, it is considered that the Bill should not be amended in this respect.

Question 3

The Administration will seek to consult the Panel on Economic Development on the proposed application fee at its meeting in October 2009. The rationale for the proposed fee, the consultation results as well as the fees charged in other jurisdictions will be included in our paper to the Panel.

Question 4

The Administration was requested to clarify how "the owner" of a vessel could be traced and identified if no person was registered as the owner of the vessel (clause 39).

Information relating to the owner of a vessel would usually be available from the relevant records/registers kept by MD. Upon a request for disclosure of an owner's information, MD would in general consider the request by reference to the Code on Access to Information and/or the requirements under the Personal Data (Privacy) Ordinance (Cap. 486). Depending on the circumstances of the case, the owner's information will normally be released if the request is:

- i. made by the owner;
- ii. made with owner's consent;
- iii. a court order; or
- iv. made for civil proceedings.