

立法會
Legislative Council

LC Paper No. CB(1) 273/99-00

(These minutes have been
seen by the Administration)

Ref : CB1/BC/14/98/2

**Bills Committee on
Shipping and Port Control (Amendment) Bill 1999**

**Minutes of the third meeting
held on Thursday, 23 September 1999 at 8:30 am
in Conference Room A of the Legislative Council Building**

Members present : Hon HUI Cheung-ching (Chairman)
Hon David CHU Yu-lin
Hon LEE Kai-ming, SBS, JP
Hon CHAN Kam-lam
Dr Hon TANG Siu-tong, JP

Members absent : Hon SIN Chung-kai
Hon Mrs Miriam LAU Kin-yee, JP

Public officers attending : Mr Peter KWOK
Assistant Secretary for Economic Services

Mr M C TSANG
Director of Marine (Acting)

Mr K M VARGHESE
Assistant Director of Marine

Mr H M TUNG
General Manager/Local Vessels Safety Branch
Marine Department

Mr S W BUT
Shipping Safety Officer
Marine Department

Ms Carmen CHU
Senior Government Counsel

Clerk in attendance : Miss Salumi CHAN
Chief Assistant Secretary (1)5

Staff in attendance : Miss Anita HO
Assistant Legal Adviser 2

Mr Matthew LOO
Senior Assistant Secretary (1)7

Action

I. Confirmation of minutes of meeting
(LC Paper No. CB(1)1935/98-99)

The minutes of the second meeting on 26 July 1999 were confirmed.

II. Matters arising from the last meeting

2. Members noted the following papers:

- (a) The Administration's written response to the submissions from seven deputations (LC Paper No. CB(1)1934/98-99(01) to (07));
- (b) The Administration's written response to the points raised by members at the second meeting on 26 July 1999 (LC Paper No. CB(1)1934/98-99(08)); and
- (c) The submission from Hong Kong & Kowloon Motor Boats & Tug Boats Association Ltd (LC Paper No. CB(1)1934/98-99(12)).

Commencement date of the Bill

3. The Chairman noted that the Administration had, in response to members' concern about the commencement date of the bill, proposed to add a commencement clause so that the Bill, if passed by the Council, would come into operation on a day to be appointed by the Secretary for Economic Services. He asked for details of this

proposal, in particular on the timing for issuing the codes of practice and putting into effect the provisions on increase in penalty charges. Director of Marine (Acting) (D of M (Atg)) advised that the steering group set up for the drafting of the codes of practice had been conducting a consultation with the relevant industries on the details of the codes. The Administration's plan was to issue the codes six months after the passage of the Bill and, at the same time, put into effect the provisions on increase in penalty charges. Other provisions would come into effect as soon as possible after the enactment of the Bill.

Increase in penalty charges

4. The Chairman requested the Administration to respond to Mrs Miriam LAU's suggestion made at the last meeting that instead of increasing the penalty charges at this stage, an assessment should first be made on the need to do so, after the implementation of the codes of practice. Assistant Secretary for Economic Services (ASES) stressed that the Administration considered it necessary to increase the penalty charges which aimed to achieve a deterrent effect and reduce the accident figures. The proposed increase was part of the whole package of the proposed legislative amendments for improving the safety of marine work activities. However, the Administration accepted some members' views that it might be unfair to the relevant industries if the penalty charges were increased before the issue of the codes of practice. The Administration therefore proposed to add a commencement clause to the Bill as explained in paragraph 3 above.

5. Mr LEE Kai-ming supported the Administration's proposal to increase the penalty charges.

Definition of "person in charge of works"

6. The Chairman pointed out that at the last meeting, the Central Container Handling Safety Committee had raised objection to the revised definition of "person in charge of works" proposed under the Bill as it would expand the definition to cover terminal operators. In response, General Manager/Local Vessels Safety Branch of the Marine Department advised that under normal circumstances, contractors or sub-contractors would appoint some other persons to take charge of the works on vessels. The Administration therefore considered it necessary to expand the definition of "person in charge of works" to include "any other person having for the time being in command or charge of any works being carried out on, to or by means of a vessel".

Proposed exemption of vessels of 50 metres or less in length from the requirement of seeking D of M's permission for any repairing or breaking up work

7. The Chairman noted that despite Mr CHAN Kam-lam's concern raised at the last meeting, the Administration still proposed to retain clause 10 which sought to amend section 40 of the principal Ordinance by adding a new subsection (1A) so that

vessels of 50 metres or less in length would be exempted from the requirement of seeking D of M's permission for any repairing or breaking up work to be carried out to the vessels. He requested the Administration to clarify whether such an exemption would contradict the policy intent of clause 8 of the Bill.

8. In response, D of M (Atg) pointed out that at present, 98% of the 13 000 local licensed vessels were 50 metres or less in length. A majority of these vessels was constructed of wood or fibreglass, and repairing work for these vessels was not hazardous in nature. In 1998, there were only 36 cases of industrial accidents that involved repairing of vessels of 50 metres or less in length. All these accidents were minor. At present, the written permission of D of M was not required for the carrying out of any repairs to, or breaking up of, these small vessels. As the statistics showed that the risk of continuing such an exemption should be low, the Administration considered it appropriate to retain the existing arrangement. The relevant industries had been consulted on the issue and they supported the Administration's views. ASES advised that the policy intent of clause 8 was to tighten the control of repairing or breaking up work of vessels by including vessels of 50 metres or less in length under Part V of the principal Ordinance so as to minimize marine industrial accidents. As a result, vessels of 50 metres or less in length would be subject to more stringent legislative control, though permission of D of M was still not required for the carrying out of any repairs to, or breaking up of, these small vessels.

9. Mr CHAN Kam-lam considered that the number of industrial accidents in 1998 involved ship repairing of vessels of 50 metres or less in length was on the high side. He urged the Administration to pay more attention to the industrial safety of repair works for these vessels. Referring to the submission from Hong Kong & Kowloon Motor Boats & Tug Boats Association Ltd, Mr CHAN pointed out that the Association supported the Administration's proposal to retain the existing arrangement as it was concerned that it would take time to obtain D of M's permission for the carrying out of repairing or breaking up works. At the suggestion of Mr CHAN, the Administration undertook to review, and if necessary, to streamline the relevant procedures.

10. Assistant Legal Adviser 2 (ALA2) noted that under clause 8, section 37 of the principal Ordinance was amended by repealing subsections (1)(a) and (2). As subsection (1)(b) was retained, it would appear that Part V of the principal Ordinance would still not apply to repairs to, or the breaking up of, a vessel which was in a dock other than a floating dock. D of M (Atg) confirmed that that was the case as repairing and breaking up works carried out to vessels in docks were covered by the Factories and Industrial Undertakings Ordinance (Cap. 59) and the Occupational Safety and Health Ordinance (Cap. 509).

Admin

III. Clause-by-clause examination of the Bill

11. Members noted the following papers:

- (a) English version of the draft Committee Stage Amendments (CSAs) proposed by the Administration (LC Paper No. CB(1)1934/98-99(09));
- (b) Chinese version of the draft CSAs proposed by the Administration (tabled at the meeting);
- (c) A marked-up copy of the Bill containing the draft CSAs proposed by the Administration (tabled at the meeting); and
- (d) Correspondence between the Administration and ALA2 on the drafting of the Bill (LC Paper No. CB(1)1934/98-99(10) and (11)).

(Post-meeting note : The documents mentioned in paragraph 11 (b) and (c) above were circulated to members vide LC Paper No. CB(1)1956/98-99 on 24 September 1999.)

12. At the Chairman's suggestion, members agreed to examine the Bill clause-by-clause, and the draft CSAs proposed by the Administration.

Clause 1 — Short title

13. Members accepted the Administration's proposed CSA to add a commencement clause to the Bill.

Clause 2 — Long title amended

14. Mr LEE Kai-ming noted that the Administration had proposed to amend the long title of the principal Ordinance by adding "and regulation for and control of construction or reclamation works in which vessels are used". He sought clarification from the Administration on the reason for bringing "reclamation works in which vessels are used" under the principal Ordinance, and whether the relevant industries were aware of this proposed amendment. D of M (Atg) advised that the number of accidents caused by reclamation works in which vessels were used had depicted an upward trend in the previous few years. The Administration had therefore decided to cover these activities under the principal Ordinance. The relevant industries had been consulted and were aware of the proposed amendment.

Admin

15. Senior Government Counsel undertook to consider ALA2's suggestion to delete the word "and" from "and regulation for".

Clause 3 — Interpretation

Clause 4 — Application of collision regulations and use of signals of distress regulations

16. Members noted that the CSAs to the Chinese text of clauses 3 and 4 were proposed by the Administration to tie in with the relevant provisions of the Merchant Shipping (Local Vessels) Ordinance passed on 7 July 1999.

Clause 5 — Power to detain vessels

Clause 6 — Part heading substituted

17. Members had no comment on clauses 5 and 6.

Clause 7 — Interpretation

18. Members accepted the Administration's proposed CSAs to the Chinese text of clause 7.

Clause 8 — Application

Clause 9 — Powers of Director and inspectors

Clause 10 — Restriction on carrying out repairs or breaking up of vessels

Clause 11 — Safe atmosphere

Clause 12 — Directions regarding repairs or breaking up of vessels

Clause 13 — Prohibition against use of dangerous equipment, etc.

Clause 14 — Prohibition against carrying out works in dangerous conditions

Clause 15 — Section added

Clause 16 — Regulations

19. Members had no comment on clauses 8 to 16.

New clauses 17 to 27 — Consequential amendments to the Merchant Shipping (Local Vessels) Ordinance

20. D of M (Atg) advised that the Administration had proposed to add new clauses 17 to 27 to the Bill so that consequential amendments could be made to the Merchant Shipping (Local Vessels) Ordinance (Ordinance No. 43 of 1999). ALA2 supported the Administration's proposal and further explained that these amendments were necessary as most repairs done in Hong Kong were on local vessels.

21. Members had no comment on the new clauses 17 to 27. ALA2 would follow up with the Administration on some textual amendments to these new clauses.

Next Step

22. The Administration undertook to provide a set of the revised CSAs within one week for members' consideration.

(Post-meeting note : A set of the revised CSAs was circulated to members vide LC Paper CB(1)26/99-00 on 4 October 1999.)

Legislative timetable

23. Members agreed that subject to the revised CSAs proposed by the Administration being in order, the Bills Committee would report to the House Committee on 15 October 1999, recommending resumption of the Second Reading debate on the Bill on 3 November 1999. The deadline for the Administration to give notice of resumption of the Second Reading debate and CSAs were 19 October and 25 October 1999 respectively.

IV. Any other business

24. There being no other business, the meeting ended at 9:25 am.

Legislative Council Secretariat
29 October 1999