

ECON 4/3231/66(99)Pt.18
LS/B/60/98-99
2869 9209
2877 5029

By Fax No. 25230030

15 July 1999

Mr. Peter Kwok
Assistant Secretary
Economic Services Bureau
2/F Main and East Wings
Central Government Offices
Hong Kong

Dear Mr. Kwok,

Shipping and Port Control (Amendment) Bill 1999

During the first meeting of the above Bill on 10 July 1999, I had advised that the proposed amendment to section 37 would remove the non-application of Part V of the Shipping and Port Control Ordinance to vessels of 50 metres or less in length in relation to vessel repair or breaking up work. This advice was contradicted by the Assistant Director of Marine, Mr. Varghese and the Deputy Director of Marine, Mr. M. C. Tsang. Mr. Varghese stated that "the purpose of deleting from s.37 the vessels of 50 metres or less in length is to bring them under the provisions of cargo handling safety requirements". Mr. M. C. Tsang was also of similar view and stated that they did not find any environmental and safety problems with vessels of 50 metres less or in length and they did not wish to control these small vessels. Permission from the Director in repairing and breaking up these vessels is therefore not required.

On re-reading the proposed amendments to sections 37 and 40, I am afraid that I could not get such meanings. I would still have thought that clause 8 will have the effect that any vessel, irrespective of its length, when any repairing or breaking up work is being carried out, will have to comply with the sections in this Part. The Administration is going to control these vessels of 50 metres or less in length which have all along been exempted. As for the amendment to section 40, it only gives the meaning that an owner or master is not required to get written permission from the Director when carrying out any repairs or breaking up of vessels if the vessels are of 50 metres or less in length. It does not exempt these smaller vessels from complying with other sections of this Part.

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As for cargo handling safety requirements, since “cargo handling on a vessel” is part of the definition of “works”, vessels of whatever length will have to comply with the existing sections 43 and 44 even without any legislative amendment. The proposed amendment to section 37 will not “bring the vessels of 50 metres or less in length under the provisions of cargo handling safety requirements”.

It is important that there should not be any misunderstanding on the purpose of clause 8. I shall be grateful if you can clarify the legislative intent and let me have a reply in both Chinese and English on or before 21 July 1999 so that I can circulate your reply to Members before the meeting on 26 July 1999.

Yours sincerely,

(Anita Ho)
Assistant Legal Adviser

c.c. Dept. of Justice (Attn: Ms Carmen CHU, SGC) Fax No. 28691302
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ECON 4/3231/66 Pt. 19

Our Tel : 2537 2842
Our Fax : 2523 0030

19 July 1999

Miss Anita HO
Assistant Legal Adviser
Legal Services Division
Legislative Council Building
8 Jackson Road
Central
Hong Kong

Dear Miss Ho,

Shipping and Port Control (Amendment) Bill 1999 (the Bill)

Thank you for your letter of 15 July 1999.

At present, ship repairing and ship breaking activities for vessels under 50 metres in length are exempted from the control of Part V of the Shipping and Control Ordinance (the Ordinance). As you have rightly pointed out, the proposed amendment to section 37 of the Ordinance, by Clause 8 of the Bill, will remove such exemption. After enactment of the Bill, any repairing or breaking up work of vessels, irrespective of their length, will be subject to the provisions of Part V of the Ordinance. Our policy intent is to tighten the control of such activities by including vessels under 50 metres in length under Part V of the Ordinance so as to minimize marine industrial accidents.

I agree with you that there should not be any misunderstanding on the purpose of clause 8 of the Bill. I hope the above helps to clarify any such misunderstanding that you and Members may have.

Yours sincerely,

(Peter KWOK)
for Secretary for Economic Services

c.c. Department of Justice (Attn. Ms Carmen Chu) Fax No. 2869 1302
Director of Marine (Attn.: Mr M C Tsang) Fax No: 2544 9241

立法會秘書處法律事務部的信頭
Letterhead of Legislative Council Secretariat Legal Service Division

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(Peter KWOK)
for Secretary for Economic Services

c.c. Department of Justice (Attn: Ms Helen Chu) Fax No. 2869 1302
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