

立法會
Legislative Council

LC Paper No. LS 16/99-00

**Paper for the House Committee Meeting
of the Legislative Council
on 5 November 1999**

**Legal Service Division Report on
Protection of the Harbour (Amendment) Bill 1999**

Object of the Bill

To amend the Protection of the Harbour Ordinance (Cap. 531) ("the Ordinance") to extend the scope of application of the Ordinance from central harbour to the harbour.

LegCo Brief Reference

2. PELB (CR) L/M 81/95 issued by the Planning, Environment and Lands Bureau on 16 October 1999.

Date of First Reading

3. 3 November 1999.

Comments

4. For the purpose of protecting and preserving the central harbour (as defined in the Ordinance) as a special public asset and a natural heritage of Hong Kong people, the Ordinance imposes a presumption against reclamation in the central harbour so that all public officers and public bodies shall have regard to that presumption for guidance in the exercise of any powers vested in them.

5. In March 1999, the Honourable Christine LOH proposed a Member's Bill to amend the Ordinance seeking to -

- (a) extend the scope of the Ordinance from the central harbour to the harbour as defined in the Interpretation and General Clauses Ordinance (Cap. 1); and

- (b) impose requirements on the Government that reclamation would only be authorized "if there are overwhelming reasons and if there is no reasonable alternative".

6. The Administration expressed the view that the proposed Member's Bill would relate to government policies and under Article 74 of the Basic Law, would require the consent of the Chief Executive for its introduction. In response, the Honourable Christine LOH revised the proposed Bill by removing the requirements referred to in paragraph 5(b) of this Report. Subsequently, she has agreed with the Administration that the proposed Bill be introduced as a Government Bill.

7. The Bill proposes to replace all references to "central harbour" in the Ordinance with "harbour" and repeal Schedule 1 which sets out the boundaries of the central harbour. The legal effect of the proposed amendment is to apply the definition of "harbour" in the Interpretation and General Clauses Ordinance (Cap. 1) to the Ordinance, with the practical effect of extending the scope of application of the Ordinance to the harbour area as set out in the site plan at Annex C of the LegCo Brief. The proposed amendment would not apply to any reclamation authorized before the commencement of the Bill.

Public Consultation

8. No public consultation has been carried out.

Consultation with the LegCo Panel

9. The LegCo Panel on Environmental Affairs received a briefing on the Bill on 28 October 1999 and Members expressed support for the Bill.

Conclusion

10. The legal and drafting aspects of the Bill are in order. Subject to Members' views, the Bill is ready for resumption of the Second Reading debate.

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