

LEGISLATIVE COUNCIL BRIEF

Protection of the Harbour Ordinance
(Cap. 531)

PROTECTION OF THE HARBOUR (AMENDMENT) BILL 1999

INTRODUCTION

At the meeting of the Executive Council on 12 October 1999, the Council ADVISED and the Chief Executive ORDERED that the Protection of the Harbour (Amendment) Bill 1999 (the Bill) (at Annex A) should be introduced into the Legislative Council.

BACKGROUND

2. In March 1999, the Hon. Christine Loh proposed a Member's Bill to amend the Protection of the Harbour Ordinance (the Ordinance) seeking to -

- (a) extend the geographical scope of the Ordinance from the "central harbour" to the whole harbour as defined in the Interpretation and General Clauses Ordinance (Cap.1); and
- (b) impose requirements on the Government that reclamation will not be authorized unless there are "overwhelming reasons" and if there is "no reasonable alternative".

3. In April 1999, the President of the Legislative Council sought the Administration's comments on whether the Member's Bill would relate to public expenditure, the operation of the Government or Government policies. In our reply in May 1999, we confirmed that the Member's Bill would affect Government policies and, under Article 74 of the Basic Law, would require the Chief Executive's consent before its introduction. Upon receipt of our advice, Ms Loh submitted a revised Member's Bill, from which the legal requirements in paragraph 4(b) above were dropped.

4. The Administration supports the objective of the revised Bill. Although the existing Ordinance only applies to the "central harbour", it is already the Government's current practice to have regard to presumption against reclamation as a material consideration in making any decision on reclamation or exercising any power which relates to reclamation within the entire Victoria Harbour. In January 1999, the Secretary for Planning, Environment and Lands clearly acknowledged the importance of preserving and protecting the harbour in his speech at the motion debate of the Legislative Council on the reclamation proposed for the South East Kowloon Development. In this regard, the Town Planning Board has also recognised the importance of protecting and preserving the harbour and has put forward its "Vision and Goals for the Harbour" (attached at Annex B).

5. Following the Administration's discussions with Ms Loh, we agreed that the proposed amendments should be pursued as a Government Bill.

THE BILL

6. The main provisions of the Bill are -

- (a) **Clause 2** to amend the long title to the Ordinance to reflect

the geographical application of the Ordinance;

- (b) **Clauses 3, 4 and 6** to repeal the definition of “central harbour” and Schedule 1 “Boundaries of the central harbour” so that “presumption against reclamation” will apply to the “harbour” as defined in the Interpretation and General Clauses Ordinance (Cap. 1) (see site plan at Annex C for easy reference); and
- (c) **Clause 5** to provide for a transitional arrangement so that the Bill will not apply to any reclamation authorized before its commencement.

LEGISLATIVE TIMETABLE

7. The legislative timetable of the Bill will be -

Publication in the Gazette	22 October 1999
First Reading and commencement of Second Reading debate	3 November 1999
Resumption of Second Reading debate, committee stage and Third Reading	To be notified

BASIC LAW IMPLICATIONS

8. The Department of Justice advises that the Bill is consistent with the Basic Law.

HUMAN RIGHTS IMPLICATIONS

9. The Department of Justice advises that the Bill has no human rights implications.

BINDING EFFECT OF THE LEGISLATION

10. The amendments will not affect the current binding effect of the Ordinance.

FINANCIAL AND STAFFING IMPLICATIONS

11. There will be no financial or staffing implications arising from the Bill.

ECONOMIC IMPLICATIONS

12. The Bill will not have any adverse economic implications.

ENVIRONMENTAL IMPLICATIONS

13. The Bill does not change the normal procedure which has become a statutory requirement under the Environmental Impact Assessment (EIA) Ordinance since 1998 to subject all major reclamation projects to thorough EIA studies. It will enhance the preservation of the existing harbour environment.

PUBLICITY

14. A press release will be issued on 16 October 1999.

**PROTECTION OF THE HARBOUR
(AMENDMENT) BILL 1999**

ANNEXES

- Annex A - Protection of the Harbour (Amendment) Bill 1999
- Annex B - Town Planning Board Vision Statement for the Victoria Harbour
- Annex C - Site Plan of the Harbour

A BILL

To

Amend the Protection of the Harbour Ordinance.

Enacted by the Legislative Council.

1. Short title

This Ordinance may be cited as the Protection of the Harbour (Amendment) Ordinance 1999.

2. Long title amended

The long title to the Protection of the Harbour Ordinance (Cap. 531) is amended by repealing "central".

3. Interpretation

Section 2 is amended by repealing the definition of "central harbour".

**4. Presumption against reclamation
in the harbour**

Section 3(1) is amended by repealing "central" where it twice appears.

5. Transitional

Section 4 is amended -

- (a) by renumbering it as section 4(1);

(b) by adding -

"(2) The Protection of the Harbour (Amendment) Ordinance 1999 (of 1999) ("the Amendment Ordinance") does not apply to any reclamation authorized under a relevant Ordinance before the commencement of the Amendment Ordinance."

6. Boundaries of the central harbour

Schedule 1 is repealed.

Explanatory Memorandum

The purpose of this Bill is to amend the Protection of the Harbour Ordinance (Cap. 531) ("the Ordinance") by extending the scope of its application so that, following the amendment, the Ordinance will apply to the "harbour", as that term is defined in the Interpretation and General Clauses Ordinance (Cap. 1).

2. Clause 2 amends the long title to the Ordinance.
3. Clause 3 repeals the definition of "central harbour".
4. Clause 4 amends section 3(1) of the Ordinance by repealing "central" before "harbour".
5. Clause 5 sets out a transitional provision.
6. Clause 6 repeals Schedule 1 to the Ordinance.

Town Planning Board
Vision Statement for the Victoria Harbour

Our Vision for Victoria Harbour

To make Victoria Harbour attractive, vibrant, accessible and symbolic of Hong Kong.

- a harbour for the people and a harbour of life.

Our Goals for the Harbour

1. To bring the people to the Harbour and the Harbour to the people.
2. To enhance the scenic views of the Harbour and maintain visual access to the harbour-front.
3. To enhance the Harbour as a unique attraction for our people and tourists.
4. To create a quality harbour-front through encouraging innovative building design and a variety of tourist, retail, leisure and recreational activities, and providing an integrated network of open space and pedestrian links.
5. To facilitate the improvement of the water quality of the Harbour.
6. To maintain a safe and efficient harbour for the transport of people and goods and for the operation of an international hub port.

Statement of Intent on Reclamation

The Harbour is to be protected and preserved as a special public asset and a natural heritage of the people of Hong Kong. Reclamation in the Harbour should only be carried out to meet essential community needs and public aspirations. It has to be environmentally acceptable and compatible with the principle of sustainable development and the principle of presumption against reclamation in the Harbour.

