

立法會
Legislative Council

LC Paper No. CB(1)429/13-14
(These minutes have been seen
by the Administration)

Ref : CB1/BC/6/12

**Bills Committee on Merchant Shipping (Seafarers)
(Amendment) Bill 2013**

**Minutes of third meeting
held on Tuesday, 2 July 2013, at 10:45 am
in Conference Room 2B of the Legislative Council Complex**

Members present : Hon WONG Kwok-kin, BBS (Chairman)
Hon Cyd HO Sau-lan
Hon Alan LEONG Kah-kit, SC
Hon Steven HO Chun-yin
Hon Frankie YICK Chi-ming
Hon SIN Chung-kai, SBS, JP
Hon POON Siu-ping, BBS, MH
Hon TANG Ka-piu

Public officers attending : Agenda Item I
Transport and Housing Bureau
Ms Jenny CHAN
Principal Assistant Secretary (Transport) 10
Mr Jason LAM
Assistant Secretary (Transport) 10A
Marine Department
Mr S F WONG
General Manager, Shipping Registry & Seafarers

Department of Justice

Ms Mabel CHEUNG
Senior Government Counsel

Clerk in attendance : Mr Derek LO
Chief Council Secretary (1)5

Staff in attendance : Mr Timothy TSO
Assistant Legal Adviser 2

Mr Noel SUNG
Senior Council Secretary (1)5

Action

I Meeting with the Administration

(LC Paper No. CB(1)1252/12-13(01) —Hon TANG Ka-piu's letter dated 5 June 2013

LC Paper No. CB(1)1396/12-13(01) —Administration's response to and supplementary information on the views raised by the Hon TANG Ka-piu (LC Paper No. CB(1)1252/12-13(01)) and by deputations at the meeting on 17 June 2013

LC Paper No. CB(1)1284/12-13(01) —Letter from Assistant Legal Adviser to the Administration dated 6 June 2013

LC Paper No. CB(1)1284/12-13(02) —Administration's response to the letter from Assistant Legal Adviser as set out in LC Paper No. CB(1)1284/12-13(01))

Clause-by-clause examination of the Bill

(LC Paper No. CB(3)472/12-13 —The Bill

LC Paper No. CB(1)1033/12-13(01) —Marked-up copy of the Bill prepared by the Legal Service Division)

Relevant papers previously issued

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|-----------------------------------|---|
| (LC Paper No. CB(1)1213/12-13(02) | —List of follow-up actions arising from the discussion at the meeting on 15 May 2013 |
| LC Paper No. CB(1)1213/12-13(03) | —Administration's response to issues raised at the meeting on 15 May 2013 |
| File Ref: PML CR 8/10/150/8 | —The Legislative Council Brief issued by the Transport and Housing Bureau |
| LC Paper No. LS44/12-13 | —Legal Service Division Report on the Bill |
| LC Paper No. CB(1)1033/12-13(02) | —Paper on Merchant Shipping (Seafarers) (Amendment) Bill 2013 prepared by the Legislative Council Secretariat (background brief)) |

The Bills Committee deliberated and examined the Bill clause by clause (index of proceedings attached at **Appendix**).

Follow-up action to be taken by the Administration

2. The Administration was requested to provide a written response to the following –

- (a) To revise the definition of "seafarer" in the proposed new section 2A (and, where appropriate, to amend the list of persons specified in the proposed new Schedule 1A) in order to specify more clearly the types of persons working on board a ship who are intended to be covered by the Bill;
- (b) To replace the word "shall" with "must" (where appropriate in the context) in all provisions of the Merchant Shipping (Seafarers) Ordinance (Cap. 478) for the sake of consistency, instead of making such amendments selectively to some of the provisions in Cap. 478; and
- (c) As requested by Hon Cyd HO, to elaborate on the Administration's policy and standing practice on the implementation of conventions/ international agreements in Hong Kong by way of local legislation.

(Post-meeting Note: The Administration's response was issued to members vide LC Paper No. CB(1)1510/12-13(02) on 11 July 2013.)

3. As the Bills committee had completed clause-by-clause examination of the Bill, the Chairman said that the Administration's response to the issues set out in paragraph 2 above would be circulated to members. A further meeting of the Bills committee would be held to discuss the Administration's response if so requested by members.

(Post-meeting Note: A further meeting of the Bills Committee was held on 16 July 2013 to discuss the Administration's response to the issues raised in paragraph 2 above (LC Paper No. CB(1)1510/12-13(02).)

II Any other business

4. There being no other business, the meeting was adjourned at 12:47 pm.

Council Business Division 1
Legislative Council Secretariat
27 November 2013

**Proceedings of the third meeting of
Bills Committee on Merchant Shipping (Seafarers) (Amendment) Bill 2013
on Tuesday, 2 July 2013, at 10:45 am
in Conference Room 2B of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
Agenda Item I – Meeting with the Administration			
000530 – 000728	Chairman Administration	Introduction to the Administration's response to the issues raised by the deputations and Mr TANG Ka-piu (LC Paper No. CB(1)1396/12-13(01))	
<i>Clause-by-clause examination of the Bill</i>			
000729 – 002701	Chairman ALA2 Mr SIN Chung-kai Mr TANG Ka-piu Ms Cyd HO Mr SIN Chung-kai The Administration	<u>Clause 1 – Short title and commencement</u> <u>Clause 2 – Enactments amended</u> Members raised no question on Clauses 1 and 2. <u>Clause 3 – Section 2 amended (interpretation)</u> <u>Clause 4 – Section 2A added</u> Discussion on definition of "seafarer"	The Administration to take action as per paragraph 2(a) of the minutes
002702 – 002800	Chairman Ms Cyd HO	Ms Cyd HO requested the Administration to provide information on the policy and standing practice in adopting international conventions and agreements in the local legislation.	The Administration to take action as per paragraph 2(c) of the minutes
002801 – 003800	Chairman Mr TANG Ka-piu Mr SIN Chung-kai Ms Cyd HO Administration	Discussion on definition of "seafarer"	The Administration to take action as per paragraph 2(a) of the minutes
003801 – 004140	Administration	<u>Clause 5 – Section 6 amended</u> <u>Clause 6 – Part III heading amended (registration of seafarers)</u> <u>Clause 7 – Section 7 amended (register of seafarers)</u> <u>Clause 8 – Section 8 amended (Part I of register)</u> <u>Clause 9 – Section 9 amended (Part II of register)</u> <u>Clause 10 – Section 11 repealed (employment of persons who are not seafarers)</u> Members raised no question on Clause 5 to Clause 10.	
004141 - 004200	Administration	<u>Clause 11 – Section 12 substituted</u> Members noted that the Administration would propose a committee Stage Amendment (CSA) to amend section 12(2)(a) to read as "section 15" instead of "section 15(3)".	

Time marker	Speaker	Subject(s)	Action required
004201 - 004440	Administration	<u>Clause 12 – Section 13 amended (particulars to be entered in register)</u> <u>Clause 13 – Section 14 amended (change of seafarer's rating)</u> <u>Clause 14 – Section 16 amended (seafarer's employment registration book)</u> <u>Clause 15 – Section 17 amended (regulation in relation to employment registration books)</u> <u>Clause 16 – Part V heading amended (establishment of Seafarers' Appeals Board and removal or suspension of seafarers from register)</u> <u>Clause 17 – Section 20 amended (complaint against seafarer)</u> <u>Clause 18 – Section 21 amended (suspension of registration of seafarer prior to disciplinary inquiry)</u> <u>Clause 19 – Section 25 amended (representation)</u> <u>Clause 20 – Section 27 amended (abandonment of disciplinary inquiry)</u> Members raised no question on Clause 12 to Clause 20.	
004441 – 005920	ALA2 Administration Ms Cyd HO	<u>Clause 21 – Section 28 amended (removal of seafarer's name from register)</u> Discussion on use of "must" to replace "shall"	
005921 – 011555	Administration	<u>Clause 22 – Section 29 amended (suspension of registration of seafarer after disciplinary inquiry)</u> <u>Clause 23 – Section 30 amended (suspension on medical grounds)</u> <u>Clause 24 – Section 32 amended (provision where hearing of appeal not commenced within prescribed period)</u> <u>Clause 25 – Section 34 amended (practice and procedure upon hearing of appeal)</u> <u>Clause 26 – Section 37 amended (seafarer, etc. to be given notice of decision of Appeals Board)</u> <u>Clause 27 – Section 39 substituted</u> <u>Clause 28 – Section 42 amended (procedures for the selection of registered seafarers for listing by permitted companies)</u> <u>Clause 29 – Section 44 amended (procedures for employment of registered seafarers by permitted companies)</u> <u>Clause 30 – Section 45 amended (employment of registered seafarers through mustering procedure)</u> <u>Clause 31 – Section 47 amended (emergency employment procedures)</u> <u>Clause 32 – Section 50 amended (notification of intention not to re-employ)</u> <u>Clause 33 – Section 52 amended (permits to</u>	

Time marker	Speaker	Subject(s)	Action required
		<p><u>maintain company rosters)</u> <u>Clause 34 – Section 53 amended (information to be supplied to Superintendent)</u> <u>Clause 35 – Section 54 amended (grounds on which grant of permit may be refused)</u> <u>Clause 36 – Section 55 amended (notice of refusal to grant permit)</u> <u>Clause 37 – Section 56 amended (cancellation of permit)</u> <u>Clause 38 – Section 57 substituted</u> <u>Clause 39 – Section 58 amended (changes in staff of permitted crew department to be notified to Superintendent)</u> <u>Clause 40 – Section 60 substituted</u> <u>Clause 41 – Section 61 amended (permitted crew department records)</u> <u>Clause 42 – Section 64 amended (lists of registered seafarers waiting to be supplied for employment in ships)</u> <u>Clause 43 – Section 65 amended (particulars of registered seafarers employed by permitted company to be delivered to Superintendent)</u> <u>Clause 44 – Section 66 amended (changes in particulars of permitted crew department to be notified to Superintendent)</u> <u>Clause 45 – Section 67 substituted</u> <u>Clause 46 – Section 68 amended (certain notices and other documents to be displayed in permitted crew department)</u> <u>Clause 47 – Section 70 amended (approval of methods used by permitted company to pay allotments and remittances and display of certain notices)</u> Members raised no question on Clause 22 to Clause 47.</p> <p><u>Clause 48 – Section 79 amended (removal of discharged seafarers)</u> In response to Ms Cyd HO's enquiry, The Administration's explanation on the arrangement for removal of discharged seafarers.</p>	
011556 – 012440	Chairman Administration	<p><u>Clause 49 – Section 80 amended (crew agreements)</u> <u>Clause 50 – Section 84 heading amended (payment of seafarer's wages)</u> <u>Clause 51 – Section 85 amended (account of seafarers' wages)</u> <u>Clause 52 – Section 88 amended (power of court to award interest on wages due otherwise than under crew agreement)</u></p>	

Time marker	Speaker	Subject(s)	Action required
		<u>Clause 53 – Section 89 amended (allotment notes)</u> <u>Clause 54 – Section 90 amended (right of person named in allotment note to sue in own name)</u> <u>Clause 55 – Section 92 substituted</u> <u>Clause 56 – Section 94 repealed (remedies of master for remuneration, disbursements, etc.)</u> <u>Clause 57 – Section 97 amended (regulations relating to crew accommodation)</u> <u>Clause 58 – Section 98 amended (complaints about provisions or water)</u> <u>Clause 59 – Section 99 amended (other complaints)</u> <u>Clause 60 – Section 100 amended (medical stores)</u> <u>Clause 61 – Section 102 amended (expenses of medical treatment, etc. during voyage)</u> Members raised no question on Clause 49 to Clause 61.	
012441 – 013615	Ms Cyd HO Administration	<u>Clause 62 – Section 104 amended (relief and return of seafarers left behind, etc.)</u> <u>Clause 63 – Section 105 repealed (limit of employer's liability under section 104)</u> <u>Clause 64 – Section 106 amended (recovery of expenses incurred for relief and return, etc.)</u> In response to Ms Cyd HO's enquiry, the Administration's explanation regarding the arrangements for protection of the interest of discharged seafarers. <u>Clause 65 – Section 127 amended (False statement or information)</u> Members raised no question on Clause 65.	
013616 – 014300	ALA Ms Cyd HO Administration	<u>Clause 66 – Section 134 amended (regulations – general powers)</u> Discussion on adoption of the "direct reference approach" in local legislation	The Administration to take action as per paragraph 2(c) in the minutes
014301 - 014945	Administration	<u>Clause 67 – Schedule 1A added</u> <u>Clause 68 – Section 12 amended (particulars to be specified in lists of crew)</u> <u>Clause 69 – Section 2 amended (interpretation)</u> <u>Clause 70 – Section 3 amended (application for employment registration book)</u> <u>Clause 71 – Section 5 amended (form and contents of employment registration book)</u> <u>Clause 72 – Section 6 amended (entries in employment registration book)</u>	

Time marker	Speaker	Subject(s)	Action required
		<u>Clause 73 – Section 11 amended (delivery of employment registration book)</u> <u>Clause 74 – Section 12 amended (lost, etc., employment registration book)</u> <u>Clause 75 – Section 13 amended (effect of lack of space in employment registration book)</u> <u>Clause 76 – Section 15 amended (notification of errors in employment registration book)</u> <u>Clause 77 – Schedule amended (particulars to be recorded in and contents of employment registration books)</u> <u>Clause 78 – Schedule 1 amended (qualifications for issue of an engine room watch rating certificate)</u> <u>Clause 79 – Schedule 1 amended (qualifications for issue of a navigational watch rating certificate)</u> <u>Clause 80 – Schedule amended</u> <u>Clause 81 – Section 1 amended (interpretation)</u> <u>Clause 82 – Section 1 amended (interpretation)</u> <u>Clause 83 – Section 2 amended (interpretation)</u> <u>Clause 84 – Schedule amended</u> Members raised no question on Clause 67 to Clause 84.	
014946 – 020230	Ms Cyd HO Administration	Discussion on the use of "must" to replace "shall" in the Bill	The Administration to take action as per paragraph 2(b) in the minutes
020231 – 020300	Chairman	Meeting arrangement	