

立法會
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Paper for the House Committee meeting

**Report of the Subcommittee on
Pilotage (Amendment) Regulation 2013 and
Pilotage (Amendment) Ordinance 2013 (Commencement) Notice**

Purpose

This paper reports on the deliberations of the Subcommittee on Pilotage (Amendment) Regulation 2013 and Pilotage (Amendment) Ordinance 2013 (Commencement) Notice.

Background

2. The Pilotage Ordinance (Cap. 84) ("the Ordinance") provides for the establishment of the Pilotage Authority, and the regulation and control of pilotage in Hong Kong. Under the Ordinance, compulsory pilotage is required of all ships visiting Hong Kong that are of 3 000 gross tonnage or over, or as specified under the Ordinance. Section 10D(2) and (3) of the Ordinance allows applications for exemption from compulsory pilotage to be made to the Pilotage Authority, i.e. the Director of Marine. A fee is payable for such an application, and the level of fee is prescribed under regulation 7 of the Merchant Shipping (Fees) Regulations (Cap. 281 sub. leg. F).

3. On 22 May 2013, the Legislative Council passed the Pilotage (Amendment) Bill 2013, which sought to amend the Ordinance and its subsidiary legislation in respect of, *inter alia*, the requirement of compulsory pilotage for certain ships on certain routes as well as a number of miscellaneous matters to improve the operation of the Ordinance and subsidiary legislation. The Pilotage (Amendment) Ordinance 2013 ("the Amendment Ordinance") was gazetted on 31 May 2013 and came into operation on the same date with the

exception of section 5. Section 5 of the Amendment Ordinance has added a new subsection (5) to section 10D of the Ordinance to provide that an applicant for an exemption from compulsory pilotage must pay a prescribed fee to the Marine Department ("MD") if an officer of MD has visited a ship or other site for assisting the Pilotage Authority, viz the Director of Marine, in considering whether or not to grant the exemption.

The Commencement Notice and the Amendment Regulation

4. Section 5 of the Amendment Ordinance is to come into operation on a day to be appointed by the Secretary for Transport and Housing ("STH") by notice published in the Gazette. By the Pilotage (Amendment) Ordinance 2013 (Commencement) Notice ("the Commencement Notice"), STH has appointed 1 December 2013 as the day on which section 5 of the Amendment Ordinance will come into operation.

5. The Pilotage (Amendment) Regulation 2013 ("the Amendment Regulation"), gazetted on 30 August 2013, amends regulation 6 of the Pilotage Regulations (Cap. 84 sub. leg. A) to prescribe the fee payable under section 10D(5) of the Ordinance as described in paragraph 3 above. The fee level is the same as that currently levied under regulation 7 of the Merchant Shipping (Fees) Regulations, i.e. \$3,270 for the first hour or part hour, and \$1,115 for each subsequent hour or part hour of the visit by an officer of MD to a ship or other site for the purpose of determining an application for exemption from compulsory pilotage. The Amendment Regulation will come into operation on the day on which section 5 of the Amendment Ordinance comes into operation, i.e. 1 December 2013.

The Subcommittee

6. At the House Committee meeting held on 4 October 2013, members agreed to form a Subcommittee to study the Amendment Regulation and the Commencement Notice. The membership list of the Subcommittee is in **Appendix**.

7. Under the chairmanship of Hon Frankie YICK, the Subcommittee has held one meeting with the Administration.

Deliberations of the Subcommittee

Basis of the prescribed fees

8. The Subcommittee notes that in considering an application for exemption from compulsory pilotage, MD may need to visit the ship to assess the master's ship-handling skills. At present, where a visit has been made by an officer of MD, MD has been charging a fee according to "fees for miscellaneous services" prescribed under regulation 7 of the Merchant Shipping (Fees) Regulations at a rate of \$3,270 for the first hour or part hour of the visit, and \$1,115 for each subsequent hour or part hour of the visit. Members sought for further information on the need for the Amendment Regulation.

9. The Administration has advised that, based on the advice by the Department of Justice, the Ordinance should have its own provisions directly enabling MD to recover the administrative costs for exemption services rendered (rather than relying on regulation 7 of the Merchant Shipping (Fees) Regulations). The Ordinance was therefore amended in May 2013 by adding the new section 10D(5) to provide that the applicant for the exemption must pay the prescribed fee to MD for the visit made. In other words, the new section 10D(5) of the Ordinance directly enables MD to recover the administrative costs for exemption services rendered without having to rely on the Merchant Shipping (Fees) Regulations. The Amendment Regulation now amends Regulation 6 of the Pilotage Regulations (Cap. 84 sub. leg. A) to prescribe the fee payable under section 10D(5) of the Ordinance.

10. The Subcommittee has sought information about the basis for setting the level of the fee for the MD's visit specified under regulation 6 of the Amendment Regulation. The Administration has advised that the fee is set on a cost recovery basis according to which the Government has to recover the administrative costs of providing the service concerned. The level of the fee is the same as currently levied under regulation 7 of the Merchant Shipping (Fees) Regulations which has been set in accordance with the advice provided by the Treasury taking into account the average staff cost of the rank of officers who render the service. The Administration has confirmed that it is the same fee as that now being charged for the service.

Conditions for granting exemption

11. The Subcommittee has sought information on the criteria which MD takes into account when considering whether or not to grant exemption from compulsory pilotage. The Chairman has expressed the view that the

Administration may consider waiving compulsory pilotage for ocean-going vessels which navigate in Hong Kong waters frequently.

12. The Administration has advised that the purpose of compulsory pilotage is to ensure the safe navigation of non-local vessels within Hong Kong waters. The Ordinance allows applications for exemption from compulsory pilotage to be made to the Pilotage Authority. The Administration is of the view that the current mechanism for applying for exemption from compulsory pilotage as well as assessing applications and granting exemption has been in place for a long time and has been working effectively. It will be up to the ship owner or operator to decide whether or not to submit an application for exemption from compulsory pilotage. When considering whether or not to grant exemption to an application, MD will assess the navigational qualifications and experience of the ship master in operating within Hong Kong waters. In the assessment, an officer of MD will visit the ship and assess the master's ship-handling skills including his practical abilities in navigating in Hong Kong waters and in interacting effectively with MD's Vessel Traffic Centre.

Number of applications for exemption and supply of pilots

13. The Subcommittee notes that there have not been many applications for exemption over the years and that at present only one vessel which calls on the China Ferry Terminal frequently is granted exemption from compulsory pilotage. Notwithstanding, the Subcommittee has expressed concern that the commissioning of the Kai Tak Cruise Terminal and the growth in freight vessel traffic may result in a significant increase in the number of applications for exemption from compulsory pilotage. It has sought information about the measures which the Administration will take in order to meet the possible increase in the number of applications for exemption from compulsory exemption.

14. The Administration does not foresee that there would be a drastic increase in the number of applications for exemption. The Administration has advised that most of the large ocean-going vessels, particularly those visiting Hong Kong infrequently, require pilot service. The crew of these vessels are not sufficiently familiar with the navigational situations to dispense with pilot service while operating within Hong Kong waters. It is therefore unlikely that these vessels would apply for exemption from compulsory pilotage.

15. On pilotage service, the Subcommittee notes that there are at present about 100 licensed pilots and many of them have reached the retirement age. As to whether there is an adequate supply of pilots to meet the growth in

demand for their service with the commissioning of the Kai Tak Cruise Terminal in 2013 and the development of Hong Kong as a home port for cruise tourism in the next few years, the Administration has advised that the manpower supply situation in the maritime industry is at present normal. The Administration has taken various steps to expand the pool of maritime talents. Since 2004 it has been running the Sea-going Training Incentive Scheme ("the Scheme") to encourage more young people to receive maritime training and develop a career in the maritime industry. To date, about 270 people have participated in the Scheme and that six of them have acquired the qualification of Master Mariner. According to the Administration, after gaining relevant experience and qualifications, these trainees are potential new blood to the pilotage sector.

Recommendation

16. The Subcommittee raises no objection to the Amendment Regulation and the Commencement Notice. The Subcommittee does not propose any amendment to the Amendment Regulation and the Commencement Notice. The Chairman of the Subcommittee has made a verbal report on the deliberations of the Subcommittee at the House Committee meeting on 25 October 2013.

Advice sought

17. Members are invited to note the deliberations of the Subcommittee as set out above.

Council Business Division 1
Legislative Council Secretariat
30 October 2013

**Subcommittee on Pilotage (Amendment) Regulation 2013 and
Pilotage (Amendment) Ordinance 2013 (Commencement) Notice**

Membership list

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| Chairman | Hon Frankie YICK Chi-ming |
| Members | Hon Alan LEONG Kah-kit, SC Hon YIU Si-wing Hon SIN Chung-kai, SBS, JP (Total : 4 members) |
| Clerk | Mr Derek LO |
| Legal Adviser | Miss Winnie LO |