

# 立法會 *Legislative Council*

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## **Paper for the House Committee meeting on 25 October 2013**

### **Report of the Bills Committee on the Merchant Shipping (Seafarers) (Amendment) Bill 2013**

#### **Purpose**

This paper reports on the deliberations of the Bills Committee on the Merchant Shipping (Seafarers) (Amendment) Bill 2013 ("the Bill").

#### **Background**

2. The United Nations' International Labour Organization ("ILO") adopted the Maritime Labour Convention in 2006 ("the Convention") to provide a comprehensive set of global standards for protecting seafarers' rights to decent employment. These standards cover 14 areas, inter alia, manning levels for ships, conditions of employment, hours of work and hours of rest, on-board accommodation, recreational facilities, food and catering, medical care and complaint procedures. The major requirements under these 14 areas are summarized at **Appendix I**.

3. The Convention has been ratified by a sufficient number of ILO members to enable it to come into force for these member jurisdictions on 20 August 2013. Hong Kong Special Administrative Region ("HKSAR") is not a member of ILO. The People's Republic of China ("PRC") is a member state of ILO but has not ratified the Convention. Declaration in respect of the application of the Convention to Hong Kong is to be made by PRC on HKSAR's behalf.

4. Currently, the Merchant Shipping (Seafarers) Ordinance (Cap. 478) ("the Ordinance") sets out the legal framework for regulating the working standards, health requirements and employment conditions for

seafarers<sup>1</sup> and detailed requirements are provided in its subsidiary legislation. Accordingly, the Administration proposes to implement the Convention in Hong Kong through updating the relevant provisions under the Ordinance and its subsidiary legislation, as well as enacting a new regulation, tentatively named as the Merchant Shipping (Seafarers) (Maritime Labour Convention) Regulation ("the new Regulation"), to reflect the applicable international standards.

## **The Bill**

5. The Bill seeks to amend the Ordinance to –
- (a) implement certain requirements of the Convention;
  - (b) make technical amendments to improve the operation and presentation of the Ordinance; and
  - (c) provide for related and consequential matters.

## **The Bills Committee**

6. At the House Committee meeting on 26 April 2013, members agreed to form a Bills Committee to study the Bill. The membership list of the Bills Committee is in **Appendix II**. Under the chairmanship of Hon WONG Kwok-kin, the Bills Committee has held four meetings to discuss with the Administration and received views from the public at one of those meetings. A list of the deputations and individuals who have submitted views to the Bills Committee is in **Appendix III**.

## **Deliberations of the Bills Committee**

### Approaches to implementing international agreements

7. Noting the various ways in which the Administration implements international agreements in local legislation, members have sought information on the Administration's policy and standing practice on the implementation of conventions and international agreements in Hong Kong by way of local legislation. The Administration has advised that different

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<sup>1</sup> Seafarers are excluded from the application of the Employment Ordinance (Cap. 57).

approaches have been adopted to implement international agreements<sup>2</sup> in local legislation to suit different types of international agreements and different policy needs. Three major approaches have usually been adopted, namely, incorporating agreement texts into the implementing legislation with supplementary legislative provisions, transforming the texts of international agreements in the implementing legislation to implement the requirements in the local context, and referring to the requirements under international agreements in the implementing legislation.

8. The Administration has explained that the precise approach to be adopted to implement an international agreement will be decided on a case by case basis having regard to the nature and substance of the international agreement in question, and the policy objectives to be achieved. In practice, different approaches may also be used within a single piece of implementing legislation to implement different provisions of an international agreement.

9. The Administration has advised that it has adopted the approach of transforming the texts of the Convention for its implementation in Hong Kong. This approach is suitable for cases where an international agreement simply requires parties to achieve certain results (e.g. to prohibit certain activities or to promote certain principles) without prescribing the implementation details and the parties are left to design their own regulatory framework to implement the agreement. This approach is also common where the existing legislation is largely consistent with the provisions of an international agreement, and can be adapted to fully implement the international agreement.

10. The Administration has pointed out that the Ordinance and its subsidiary legislation already set out the standards on some of the subject matters covered by the Convention. The relevant provisions will be updated to reflect the requirements of the Convention. New subsidiary legislation and provisions will also be added to implement requirements on the subject matters which are not covered in current legislation.

### Implementation of the requirements of the Convention

11. Some members have expressed concern whether there are any deviations from or modifications to the Convention in the proposed

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<sup>2</sup> Including international agreements entered into between Hong Kong and other jurisdictions, as well as international agreements entered into by the Central People's Government and applied to Hong Kong.

provisions of the Bill. They have sought information on whether all requirements of the Convention have been incorporated in the Bill and the details of the Administration's plan for implementing the requirements.

12. The Administration has confirmed that in the course of drafting the legislative proposals, representatives of shipowners and of seafarers have been consulted to ascertain that the legislative proposals have included all requirements that should be implemented by local legislation. On the implementation of the Convention, apart from updating relevant provisions under the Ordinance through the Bill, the subsidiary legislation under the Ordinance will also be amended after the Bill is passed. The Administration has planned to amend ten pieces of subsidiary legislation under the Ordinance ("Amendment Regulations"). The new Regulation will also be enacted to incorporate the detailed requirements of the Convention.

13. The proposed new Regulation will, in line with the requirements under the Convention, establish a certification, inspection and enforcement mechanism to ensure that the working and living conditions of seafarers on ships registered in Hong Kong<sup>3</sup> and engaged in international voyages<sup>4</sup> as well as those on foreign ships entering Hong Kong waters comply with the requirements of the Convention in 14 areas. Moreover, the new Regulation will cover the requirements under some existing subsidiary legislation, and as such the latter will be repealed on the enactment of the new Regulation.

14. Members have taken note of the Administration's confirmation that the existing empowering provisions in the Ordinance are sufficiently wide to provide for the new Regulation and all the Amendment Regulations to be made for implementing the requirements of the Convention.

#### Adoption of the direct reference approach in subsidiary legislation under the Ordinance

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<sup>3</sup> Maritime Labour Convention (Convention) in 2006 requires that ships of 500 gross tonnage or over and engaged in international voyages to maintain a maritime labour certificate certifying that the working and living conditions of seafarers on the ship comply with the Convention's requirements in 14 areas.

<sup>4</sup> Under the Convention, the following five types of ships are exempted:

- (i) ships engaged in fishing or similar pursuits;
- (ii) ships of traditional build, including wooden ships, such as dhows and junks;
- (iii) ships owned or operated by the Government or a State and engaged only in governmental non-commercial services;
- (iv) warships or naval auxiliaries; and
- (v) pleasure vessels not engaged in trade.

15. Members note that the Bill proposes to provide for the adoption of the "direct reference approach" in the subsidiary legislation under the Ordinance. Under this approach, the subsidiary legislation under the Ordinance may refer directly to "a provision of an international agreement that is applicable to Hong Kong and amended from time to time" (clause 66) to implement the agreement.

16. According to the Administration, the reason for providing for the use of the "direct reference approach" is that there would be frequent updating of technical requirements under the Convention and relevant international agreements. It is desirable to have the flexibility of adopting this approach in appropriate cases to avoid the extensive time and resources required to amend the laws every time a requirement is changed. Since such requirements would be updated from time to time, adoption of the "direct reference approach" would facilitate timely implementation of international standards by Hong Kong.

17. Some members have expressed reservation on the use of the "direct reference approach" on the ground that it might deprive the power of the Legislative Council ("LegCo") to scrutinize the subsidiary legislation which implements international conventions in Hong Kong. These members opine that this approach might in effect amount to circumventing the scrutiny of the legislative amendments by LegCo. They have sought information on the precedents in adopting the "direct reference approach" in other legislative amendments, and the conditions under which the "direct reference approach" would be adopted in subsidiary legislation.

18. According to the Administration, when deciding whether to adopt the "direct reference approach", various factors must be taken into account, including –

- (i) whether the requirements in provisions of the international agreement are clear and specific enough to be capable of being given direct effect (if relevant provisions only set out principles and require a state party to legislate to implement the principles, it is not suitable to adopt "direct reference approach" for implementing these provisions);
- (ii) whether the international agreement provisions are easily accessible and read to facilitate understanding of relevant requirements by those required to comply with these provisions;

- (iii) whether the international agreement topics mainly concern a specific group of people, and whether such group of people are familiar with the requirements of the international agreement concerned;
- (iv) whether relevant requirements are applicable to all party states to the agreement and whether adoption of the "direct reference approach" is conducive to achieving uniformity in implementation of relevant requirements; and
- (v) whether the terminology of the international agreement provisions is compatible with local legislation.

19. The Administration has further advised that vessels must simultaneously comply with requirements under different international maritime agreements, of which the texts must be available for reference on board. Both shipowners (and their representatives) and seafarers can have easy access to contents of relevant agreements. Moreover, local and overseas industry players and port authorities are familiar with the requirements under international maritime agreements. Legislation of technical requirements by adopting the "direct reference approach" will save the efforts of comparing the differences between requirements under local laws and international maritime agreements, including differences in wording and ways of expression, thus facilitating their access to and implementation of the requirements.

20. According to Administration, a number of marine-related legislation, including the Merchant Shipping (Safety) Ordinance (Cap. 369) and the Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap. 413), have been enacted by adopting the "direct reference approach". Some overseas jurisdictions including Australia, Canada and New Zealand have also adopted the "direct reference approach" to implement requirements under international agreements.

21. The Administration assures members that any subsidiary legislation which seeks to adopt the "direct reference approach" for the implementation of international agreements must be submitted to the LegCo for scrutiny. If Members have any comments on the adoption of "direct reference approach" in the draft provisions of a legislative proposal, they may raise their comments during the vetting stage. The Administration will also keep track of the latest requirements of international agreements, and inform the industry of any update to facilitate their compliance.

22. It has been suggested that the Administration may include in the relevant LegCo Brief for subsidiary legislation to be made in the future a detailed explanation of the provisions in the subsidiary legislation where the "direct reference approach" is adopted, and provide extracts of the requirements in the Convention (where appropriate) as appendices to the LegCo Brief for Members' reference. Members have agreed to this suggestion and the Administration has accepted the proposed arrangement.

#### Applicability to cross-boundary passenger ships and river trade vessels

23. A member has sought clarification on whether crew members working on vessels plying between Hong Kong and Macau or on river trade vessels are covered by the Bill.

24. The Administration has advised that the Convention only sets out the relevant requirements targeting the vessels engaged in international voyages. When drafting local legislation proposals for the implementation of the Convention, the tripartite working group comprising representatives of the Government, of seafarers and of shipowners reached a consensus that requirements under the Convention are not applicable to ships other than those engaged in international voyages. Furthermore, existing legislation have already set out requirements for the working conditions of seafarers on cross-boundary passenger ships as well as local vessels.

#### Definition of "seafarer"

25. Members note that the Bill proposes to define "seafarer" as "a person who works on board a ship in any capacity but does not include a person specified in the Schedule 1A" (clause 4). Members consider that despite the exceptions (e.g. pilot, shipowners and its representatives, etc.) provided in new Schedule 1A, the proposed definition may include persons whose work is performed on board a ship but does not in any way relate to the normal operation of the ship, e.g. a carer employed by a passenger, a tourist guide employed by a tourist group, etc. Some members find that such a definition of "seafarer" is not sufficiently clear and may cause uncertainty in interpretation.

26. The Administration has explained that the definition of "seafarer" is based on the wording used in the Convention, and covers persons who work on board a ship in whatever capacity, whether a seaman, a workman or the master. The term must be interpreted in context and will not cover a person whose work does not in any way relate to the operation of the ship,

such as carer employed by passenger or tourist guide. Notwithstanding the Administration's explanation, members have requested the Administration to amend the definition of "seafarer" in order to specify more clearly the types of persons working on board a ship who will be covered by the Bill.

27. In response to members' view, the Administration has agreed to revise the proposed definition of "seafarer" to "a person who works on board a ship in any capacity on the business of the ship, but does not include a person specified in Schedule 1A". The Administration has advised that the addition of the wording "on the business of the ship" will make it clear that the definition includes not only seamen, but also people employed to provide different kinds of services for passengers on a cruise liner (e.g. entertainers, casino worker, etc.). On the other hand, it will not catch a person whose work does not relate to the ship (e.g. a carer or any other person employed by a passenger and brought on board, or a tour guide employed by a travel agency to take care of a tourist group travelling on the ship). The Administration will move a Committee Stage amendment ("CSA") on the revised definition of "seafarer" in the Bill.

#### Seafarers' working and living conditions on board

28. On the implementation of the Convention, members has taken note of the Administration's plan to enact the new Regulation (as mentioned in paragraphs 4 and 12 above) which will, in line with the requirements under the Convention, establish a certification, inspection and enforcement mechanism to ensure that the working and living conditions of seafarers on ships registered in Hong Kong and engaged in international voyages as well as those on foreign ships entering Hong Kong waters comply with the requirements of the Convention in 14 areas (Appendix I). Members have taken the opportunity to examine the requirements proposed to be introduced to the new Regulation. Their deliberations are set out in paragraphs 29 to 44 below.

#### *On-board medical care*

29. Members note that under Standard A4.1.4(b) of the Convention, ships carrying 100 or more persons and ordinarily engaged on international voyages of more than three days' duration are required to carry a qualified medical doctor. Members have sought clarification on whether the "100 or more persons" in the requirement refers to the number of crew members or all persons on board including passengers.



30. The Administration has confirmed that "100 or more persons" under Standard A4.1.4(b) include all persons on board. The Administration has pointed out that section 2 of the existing Merchant Shipping (Seafarers) (Ships' Doctors) Regulation (Cap. 478 sub. leg. H) has already required that every Hong Kong ship which is engaged on international voyages and is carrying 100 or more persons has to carry a medical practitioner. However, the duration of voyage is not specified. Given today's sophisticated communication technology and adequate medical support, the ILO and industry practitioners have accepted the requirement that "ships ... engaged on international voyages of more than three days' duration shall carry a qualified medical doctor". The Administration will incorporate this requirement into the new Regulation to be enacted under the Ordinance. The existing requirement under the Merchant Shipping (Seafarers) (Ships' Doctors) Regulation (Cap. 478 sub. leg. H) will be repealed.

#### *Medical certification*

31. Members note the requirement in the Convention that all seafarers on board should hold a valid medical fitness certificate attesting that they are medically fit to perform duties on board. Some members have expressed concern that this may discourage newcomers to become seafarers thereby further aggravating the current shortage of manpower in the marine industry.

32. According to the Administration, the existing requirements for medical examination and medical certification are set out in the Merchant Shipping (Seafarers) (Medical Examination) Regulation (Cap. 478 sub. leg. O). In pursuance of the Convention, the requirements for medical examination and medical certification under the Regulation will be amended by making reference to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978. The Administration has pointed out that these requirements are comparable with the existing ones and can help ensure that seafarers are physically fit for working on board.

#### *Hours of work and rest*

33. Some members consider the requirement in the Convention that normal working hours' standard for seafarers must be based on an eight-hour day with one day of rest per week and 12 days of public holidays every year may not match the operational arrangement on board as marine navigation frequently encounters emergencies and ad hoc situations.

34. The Administration has explained that according to the hours of work and rest requirements under Standard A2.3 of the Convention, the normal working hours' standard for seafarers shall be based on an eight-hour day with one day of rest per week and rest on public holidays. The Administration has planned to legislate on the "minimum hours of rest", taking into account the operational arrangement on board and the relatively irregular working hours which require overtime for loading and unloading cargos upon arrival in ports, and after consulting the tripartite working group comprising representatives of the employees, of the employers and of the Government and the Seafarers' Advisory Board. The standards are as follows –

- (i) it shall not be less than ten hours in any 24-hour period; and
- (ii) it shall not be less than 77 hours in any seven-day period. The hours of rest may be divided into no more than two periods, one of which shall be at least six hours in length, and the interval between consecutive periods of rest shall not exceed 14 hours.

Based on the above requirements, any working hour(s) exceeding eight hours will be deemed as "overtime". The Administration has advised that both the employees and the employers of the tripartite working group and the Seafarers' Advisory Board have agreed to the above standards.

#### *Seafarers' employment agreements*

35. Members note that under section 91 of the existing Ordinance, if a seafarer's employment agreement is terminated prematurely under various circumstances and the seafarer is not able to obtain suitable employment, then the seafarer is entitled to an unemployment indemnity equivalent to a maximum of two months' wages. Members note that while the Convention stipulates that the minimum notice period to be given by the seafarers and shipowners for the early termination of a crew agreement must not be shorter than seven days, it does not specify the requirement of compensation upon termination of employment. Some members have expressed concern that such difference in the requirement on unemployment indemnity between the Ordinance and the Convention may give rise to confusion among seafarers as well as their employers.

36. The Administration has advised that under the existing Ordinance, there is no requirement for a minimum notice period for termination of a crew agreement. After consulting the tripartite working group comprising

representatives of the employees, of the employers and of the Government and the Seafarers' Advisory Board, in pursuance of the Convention, the Administration will require under the new subsidiary legislation a notice period of not less than seven days for termination of employment agreement by either side. This requirement will not affect the existing provisions on unemployment indemnity.

#### *On-board complaint procedures*

37. Members note that under the Convention, seafarers shall have a right to complain to the master or directly to the competent authority, viz. the Marine Department (MD) in the case of Hong Kong. Members and some trade union representatives have expressed concern whether MD is capable of investigating into the complaints from seamen and, in case the complaint involves illegal practice, whether it can take enforcement actions under relevant legislation appropriately and effectively. They call for separate subsidiary legislation on relevant requirements.

38. The Administration has advised that MD will investigate the case and take necessary enforcement actions on receiving any complaint about illegal practice. If the seafarer's complaint involves no illegal practice, MD, after understanding the case, will facilitate communication between the shipowner and seafarers in solving the problem. As MD has all along provided all Hong Kong-registered ships with on-board complaint procedures, and the Administration will also incorporate requirements on on-board complaint procedures under the Convention into the new Regulation, there is no need for a separate subsidiary legislation on relevant requirements.

#### Other views on employment conditions

39. Members note that the provisions of the Convention do not cover the right to collective bargaining. This notwithstanding, some members have requested the Administration to take the opportunity to include the right to collective bargaining in the Bill.

40. The Administration has advised that Article III of the Convention only requires each member jurisdiction to respect the right to collective bargaining but does not require legislation on this right. According to the Administration, the Government has all along respected the right to collective bargaining and has spared no effort to promote the mechanism of voluntary negotiations between employers or employers' associations and employees unions. MD also accepts crew agreements drawn up through

collective bargaining. Since the right to collective bargaining is not a requirement for implementation through legislation under the Convention, and there is no clear consensus in society, the Administration remains of the view that it is inappropriate to incorporate the right to collective bargaining into the Bill.

41. In view of the current manpower shortage in the marine industry and with a view to encouraging newcomers to become seamen, a member has requested the Administration to consider allowing non-permanent residents with less than seven years' residence in Hong Kong to register as seafarers.

42. The Administration has advised that the member's proposal involves immigration and relevant policies as well as other pieces of legislation, and requires consultation with the industry and relevant bureaux and departments. The Administration has undertaken to follow up on the matter.

#### Drafting matters

43. Members note that the word "must" is used in place of "shall" in the English text of the Bill to impose statutory obligations and prohibitions in new provisions and amendments to existing provisions to be added or made to the Ordinance. Examples include clauses 42(3), 46(1), (10), (11) and (12) and 55 of the Bill. As a result, both "must" and "shall" will co-exist in the Ordinance after the amendments introduced by the Bill have come into operation. A member has proposed that where appropriate in the context, the word "shall" be replaced with "must" in all provisions of the Ordinance for the sake of consistency in the language of the Ordinance.

44. The Administration has assured members that the co-existence of both "must" and "shall" in the same piece of legislation to impose obligations and prohibitions will not lead to problems in interpretation. The Administration appreciates the desirability of achieving consistency in the language of the Ordinance, and intends to replace "shall" by "must" in other provisions of the Ordinance where the context is appropriate in due course by way of a revision order under section 17 of the Legislation Publication Ordinance (Cap. 614). Such an order is designed to deal with technical matters relating to legislation, including securing uniformity in expressions within and between Ordinances. The order is to be pursued as an exercise separate from the present Bill.

### **Committee Stage amendments**

45. Apart from the CSA discussed in paragraph 27 above, the Administration will also move two other CSAs, one to amend the Chinese text of the definition of "passenger" in clause 3 so that it can accurately reflect the English text and the other to correct a typo in clause 11. A full set of the CSAs to be moved by the Administration and agreed by the Bills Committee is in **Appendix IV**.

46. The Bills Committee will not propose any amendment to the Bill.

### **Resumption of Second Reading debate on the Bill**

47. The Bills Committee raises no objection to the resumption of the Second Reading debate on the Bill at the Council meeting on 6 November 2013.

### **Advice sought**

48. Members are invited to note the deliberations of the Bills Committee.

Council Business Division 1  
Legislative Council Secretariat  
23 October 2013

**Summary of major requirements in 14 specified areas regarding  
the working and living conditions of seafarers**

(i) Minimum age

- The age of a seafarer working on board must not be less than 17 years.
- Seafarers under the age of 18 must not engage in night work.
- The employment or engagement of seafarers under the age of 18 for work on board is prohibited when the work is likely to jeopardise their health or safety. Examples include working in high-pressure atmospheres with the risks resulting from pressure and decompression (such as diving), working in ships' hospital and taking care of patients on board.

(ii) Medical certification

- All seafarers on board must hold a valid medical fitness certificate attesting that they are medically fit to perform the duties they are to carry out on board, and that the requirements of the amended International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW Convention) have been met.
- The medical fitness certificate must be issued by a qualified medical practitioner. If the period of validity of a certificate expires in the course of a voyage, the certificate remains valid until the next port of call where the seafarer can obtain a medical certificate from a qualified medical practitioner. The extended period must not exceed three months.

(iii) Qualifications of seafarers

- Seafarers must not work on board unless they have completed the training on personal safety on board and have met the standards as stipulated in the STCW Convention.

(iv) Seafarers' employment agreements

- All seafarers working on board must have a crew agreement signed by both the seafarer and the shipowner or a representative of the shipowner providing them with decent working and living conditions on board as required by the Maritime Labour Convention, 2006 (MLC).
- The minimum notice period to be given by the seafarers and shipowners for the early termination of a crew agreement is to be determined after

consultation with the shipowners and seafarers concerned, but must not be shorter than seven days.

- The following provisions stipulating “shipowners’ liabilities” must be included in the crew agreement:
  - (a) shipowners must bear the costs for seafarers working on Hong Kong ships in respect of sickness and injury of the seafarers occurring between the date of commencing duty and the date upon which they are deemed duly repatriated, or arising from their employment between those dates;
  - (b) shipowners must provide financial security to assure compensation in the event of the death or long-term disability of seafarers due to any occupational injury, illness or hazard;
  - (c) shipowners must defray the expense of medical care, including medical treatment and the supply of the necessary medicines and therapeutic appliances, and board and lodging away from home until the sick or injured seafarers have recovered, or until the sickness or incapacity has been declared of a permanent character;
  - (d) shipowners must pay the cost of burial expenses in the case of seafarers’ death occurring on board or ashore during the period of employment; and
  - (e) shipowners or their representatives must take measures for safeguarding property left on board by sick, injured or deceased seafarers and for returning it to them or to their next of kin.

(v) Private recruitment and placement services

- Shipowners who employ Hong Kong-registered seafarers to work on board must comply with the relevant requirements of Chapter 478 of the Laws of Hong Kong.
- For the employment of seafarers to work on board Hong Kong ships, shipowners who use recruitment and placement services that are based in countries or territories in which the MLC does not apply must ensure that those services meet the relevant requirements of the MLC.

(vi) Hours of work or rest

- The normal working hours’ standard for seafarers must be based on an eight-hour day with one day of rest per week and 12 days of public holidays every year.
- The minimum number of hours of rest for seafarers must not be less than:

- (a) ten hours in any 24-hour period; and
- (b) 77 hours in any seven-day period.
- The daily hours of rest may be divided into no more than two periods, one of which must be at least six hours in length, and the interval between the periods must not exceed 14 hours.
- Records of seafarers' hours of rest must be maintained for inspection by the authorities concerned.

(vii) Manning levels for the ship

- Ships must be manned by a crew that is adequate in terms of size and qualifications to ensure the safety and security of the ships and their personnel.

(viii) Accommodation

- Accommodation facilities of ships constructed on or after the date when the MLC comes into effect in Hong Kong must comply with the requirements relating to:
  - (a) the size of rooms and other accommodation spaces;
  - (b) heating and ventilation;
  - (c) noise and vibration and other ambient factors;
  - (d) sanitary facilities;
  - (e) lighting; and
  - (f) hospital accommodation.

(ix) On-board recreational facilities

- Appropriate seafarers' recreational facilities, amenities and services must be provided on board ships which are constructed on or after the date when the MLC comes into effect in Hong Kong to meet the special needs of seafarers. Furnishings for recreational facilities must as a minimum include a bookcase and facilities for reading and writing. Facilities such as smoking rooms, showing of films and sports equipment must also be provided at no cost to seafarers where practicable.

(x) Food and catering

- Shipowners must provide food and drinks required on board at no cost.
- Having regard to the number of seafarers on board, their religious requirements and cultural practices pertaining to food, and the duration and nature of the voyage, shipowners must provide food and drinking water



suitable in respect of quantity, nutritional value, quality and variety.

- Cooks working on ships must be trained and qualified for their positions on board.

(xi) Health and safety and accident prevention

- Shipowners must adopt, implement and promote occupational safety and health policies and programmes on ships.
- Shipowners must provide reasonable precautions to prevent occupational accidents, injuries and diseases on Hong Kong ships, including measures to reduce and prevent the risk of exposure to harmful levels of ambient factors and chemicals as well as the risk of injury or disease that may arise from the use of equipment and machinery on board.
- Shipowners are required to report to the Marine Department any occupational accident, injury and disease and the corresponding remedial measures taken.

(xii) On-board medical care

- Shipowners must provide seafarers with health protection and medical care at no cost, including essential dental care.
- Shipowners must provide seafarers with health protection and medical care as comparable as possible to that which is generally available to workers ashore, including prompt access to the necessary medicines, medical equipment and facilities for diagnosis and treatment and to medical information and expertise. Without causing delay to the voyage as far as possible, seafarers must be allowed to visit a qualified medical doctor or dentist in ports of call.
- Any Hong Kong ship carrying 100 or more persons and ordinarily engaged on international voyages of more than three days' duration must carry a qualified medical doctor who is responsible for providing medical care. Ships which do not carry a medical doctor must have either at least one seafarer on board who is in charge of medical care and administering medicine as part of the seafarer's regular duties or at least one seafarer on board competent to provide medical first aid.

(xiii) On-board complaint procedures

- Fair, expeditious and well-documented on-board procedures for handling seafarers' complaints must be developed for all ships.
- The procedures are required to seek to resolve complaints at the lowest

level possible. However, in all cases, seafarers must have a right to complain directly to the master and, where they consider it necessary, to the Marine Department.

(xiv) Payment of wages

- Shipowners must make payment of wages to seafarers at no greater than monthly intervals and in accordance with the crew agreements.
- Seafarers must be given a monthly account of the payments due and the amounts paid.
- Shipowners are required to provide seafarers working on board with a means to transmit all or part of their earnings to their families or dependants or legal beneficiaries.

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

**Membership List**

<b>Chairman</b>	Hon WONG Kwok-kin, BBS
<b>Members</b>	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
	(Total : 8 members)
<b>Clerk</b>	Mr Derek LO
<b>Legal Adviser</b>	Ms Clara TAM

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

**List of organizations and individuals who have given views to  
the Bills Committee**

1. Anglo-Eastern Ship Management Ltd
2. Fleet Management Limited
3. Hong Kong & Kowloon Trades Union Council
4. Hong Kong Seamen's Union
5. The Hong Kong Shipowners Association Limited
6. Merchant Navy Officers' Guild – Hong Kong
7. Orient Overseas Container Line Ltd
8. UNIVAN Ship Management Limited
9. Mr YANG Kaiqiang

Merchant Shipping (Seafarers) (Amendment) Bill 2013

Committee Stage

Amendments to be moved by the Secretary for Transport and Housing

<u>Clause</u>	<u>Amendment Proposed</u>
3	By adding— “(8A) Section 2(1), Chinese text, definition of 乘客— Repeal paragraph (a) Substitute “(a) 受僱或受聘在該船上擔任任何職務以處理該 船上的事務的人；”.”.
4	In the proposed section 2A(1), in the definition of <i>seafarer</i> , by adding “on the business of the ship” after “any capacity”.
11	In the proposed section 12(2)(a), by deleting “section 15(3)” and substituting “section 15”.