

# 立法會

## *Legislative Council*

LC Paper No. LS21/19-20

### **Further Report by Legal Service Division on Freight Containers (Safety) (Amendment) Bill 2019**

Members may recall from LC Paper No. LS2/19-20 dated 29 October 2019 and issued to Members vide LC Paper No. CB(2)92/19-20 that the Legal Service Division ("LSD") was scrutinizing the legal and drafting aspects of the Bill and would report further, if necessary. This paper sets out LSD's further observations on the Bill.

#### Proposed amendments to implement the latest requirements of the International Convention for Safe Containers

2. As Members may recall, the Bill seeks to amend the Freight Containers (Safety) Ordinance (Cap. 506) primarily to implement the latest technical requirements set out in Annexes I and II ("the Annexes") to the International Convention for Safe Containers ("the Convention"), and the International Standard ISO 6346, Freight containers – Coding, identification and marking ("ISO 6346"). The Bill also seeks to enable the adoption of a direct reference approach ("DRA") in making regulations to give effect to an international agreement relating to the safety of freight containers as revised or amended from time to time.

3. Upon LSD's request, the Transport and Housing Bureau ("THB") has provided copies of the latest texts of the Annexes<sup>1</sup> and ISO 6346. Members may contact LSD if they wish to study the latest texts of any of those instruments.

4. It is noted that clause 7 of the Bill proposes 1 July 2014 as the cut-off date for applying the additional marking requirements to safety approval plates ("SAP"), while THB's previous paper to the Panel on Economic

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<sup>1</sup> As amended by the International Maritime Organization Resolutions MSC.310(88) and MSC.355(92).

Development (LC Paper No. CB(4)227/18-19(04)) stated that the new conspicuous marking requirements were applicable starting from 1 January 2012. It is further noted that while Rule 50(3) of the Rules of Procedure requires that a bill must be given a long title setting out the purposes of the bill in general terms, the long title to the Bill does not mention the proposed adoption of DRA in making regulations under Cap. 506 for the purpose of implementing the Convention. Upon LSD's enquiry, THB has clarified as follows:

- (a) While the requirements under the Convention for the conspicuous marking of SAPs of containers entered into force on 1 January 2012, the further amendments to Annex I to the Convention to align the physical dimensions and units marked on SAPs with the International System of Units entered into force on 1 July 2014; the amendment would also allow the existing SAP of a container to be retained if the construction of the container was completed before 1 July 2014 and no structural modification has ever been made to the container.
- (b) The long title to the Bill specifies its main purpose of amending Cap. 506 to implement the latest requirements of the Convention, but it does not expressly mention the proposed adoption of DRA. A similar provision enabling DRA in making subsidiary legislation was also added to the Merchant Shipping (Seafarers) Ordinance (Cap. 478) by the Merchant Shipping (Seafarers) (Amendment) Ordinance 2013 (Ord. No. 16 of 2013), and the long title to the 2013 Ordinance did not expressly mention the adoption of DRA either.

### **Concluding observations**

5. No difficulties relating to the legal and drafting aspects of the Bill have been identified. Subject to Members' views on the matters discussed above, the Bill is ready for resumption of Second Reading debate.

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25 November 2019