

立法會參考資料摘要

2001 年商船(註冊)(修訂)條例草案 2001 年商船(註冊)(費用及收費)(修訂)規例

引言

在二零零一年二月六日的會議上，行政會議建議，行政長官指令—

- (i) 應向立法會提交 2001 年商船(註冊)(修訂)條例草案(載於附件 A)；及
- (ii) 應根據《商船(註冊)條例》第 90 條制訂 2001 年商船(註冊)(費用及收費)(修訂)規例(載於附件 B)

以精簡船舶註冊的程序。

背景和論據

一般背景

2. 自一九九九年四月起，我們推行了多項改善措施，提高香港船舶註冊的吸引力。這些措施包括精簡收費架構，以及減收船舶註冊和其他相關服務的費用，並簡化註冊程序，使香港船舶註冊更具吸引力和更方便；又實行船旗國品質管理制度，確保香港註冊船舶的質素。除了推行上述措施外，我們同時展開一項遠大的推廣計劃，包括拜訪香港、內地和其他國家各大船公司，以便推廣香港船舶註冊服務。自推行上述各項措施後，在香港特別行政區(香港特區)註冊船舶的數目急升，截至二零零零年十月十八日為止，總註冊噸位已達 1 000 萬噸，較原定於二零零二年四月的日期提早半年達到目標。

規定出示所有權文件正本

3. 我們不斷努力，謀求進一步改善註冊程序，我們的努力，部分可見諸條例草案內的各項建議。有關建議旨在免除出示所有權文件正本作船舶臨時註冊之用的規定。要求出示正本的規定往往拖慢了處理船舶註冊，因為要把文件正本從船隻進行買賣的海外地方(多數是歐洲和北美)寄抵香港，需要多天時間，船舶註冊程序因而受到耽擱，以致不必要地阻延船隻復航。船隻如要由一個港口開往另一港口，船上必須具備由香港特區政府發給的註冊證明書。

4. 為解決上述問題，我們建議所有權文件的副本而非正本可獲接納為臨時註冊之用。為此，我們須對船舶註冊程序作出相應修改—

- ◆ 為防止商業詐騙行為，船舶抵押權人須確證看過所有權文件的正本，並知悉用作臨時註冊的所有權文件會是副本而非正本。
- ◆ 在檢討過初次註冊與取得所有權文件正本通常相隔的時間後，把臨時註冊期由三個月縮短至一個月。
- ◆ 減低臨時註冊船舶的噸位年費，由按照噸位年費計算的 1/4 減至 1/12，以與臨時註冊期的縮短幅度成比例。

其他修訂

5. 現行法例規定船舶註冊後，註冊官須保留所有權文件，條例草案亦藉着刪除此項規定，以精簡香港船舶註冊的程序。條例草案又加入“再轉管租約”一詞，以便《商船(註冊)條例》(條例)的有關條文可以配合業界的商業運作。

條例草案

6. 條例草案的主要條文如下—

- (i) **第 2(a)及 4 條**分別修訂條例第 2 和 19(5)(b)(ii)(B) 條，以反映船東或轉管租約承租人可以按時間收費

的租約或以按航次收費的租約出租船舶，並把船舶的技術管理工作，交由專門從事該類工作的船舶管理公司負責。

- (ii) **第 3 條**修訂條例第 11(2)(b)(iii)條，說明再轉管租約承租人享有的權利是根據再轉管租約予以轉讓，令已註冊的船舶不再可註冊。
- (iii) **第 5 及 8 條**分別廢除第 25(e)及 31(e)條，免除註冊官在船舶註冊後須保留文件的規定。
- (iv) **第 6 條**修訂第 27 條，訂明可接納所有權文件的副本，作為船舶臨時註冊之用。
- (v) **第 7 條**修訂第 29 條，把臨時註冊期由三個月縮短至一個月。
- (vi) **第 9 條**修訂第 44 條，規定抵押權人必須確證知悉，在申請船舶臨時註冊時所用的所有權文件會是副本而非正本。

被修訂的現行條文載於附件 C。

規例

7. 規例**第 2 條**修訂《商船(註冊)(費用及收費)規例》附表第 3 部，調低臨時註冊船舶所須繳付的年費，由按照噸位年費計算的 1/4 減至 1/12，這與臨時註冊期的變動成比例。此外，亦規定為船舶作臨時註冊時所繳付的款額不可由船舶其後作永久註冊時須繳付的款額中扣除。這修訂反映現行安排。

被修訂的現行條文載於附件 D。

立法程序時間表

8. 條例草案的立法程序時間表會如下一

刊登憲報

二零零一年二月二十三日

首讀和開始二讀 二零零一年三月十四日

恢復二讀辯論、委員會
審議階段和三讀 另行通知

9. 規例的立法程序時間表會如下一

刊登憲報 二零零一年二月二十三日
提交立法會省覽 二零零一年二月二十八日
實施 由經濟局局長指定

與《基本法》的關係

10. 律政司認為，條例草案和規例與《基本法》相符。

與人權的關係

11. 律政司認為，條例草案和規例對人權並無影響。

法例的約束力

12. 條例草案和規例不會影響條例現有的約束力。

對經濟的影響

13. 條例草案和規例會令香港船舶註冊更方便，對船東更具吸引力，對航運業會有正面影響。

對財政和人手的影響

14. 條例草案和規例每年可帶來約 40 萬元的額外收入；對人手則無影響。

對環境的影響

15. 建議對環境並無影響。

公眾諮詢

16. 我們已就條例草案和規例的建議，徵詢航運業與及立法會經濟事務委員會的意見，它們均表示贊成。

宣傳安排

17. 我們會於二零零一年二月八日發出新聞稿，並會安排發言人答覆傳媒的查詢。

查詢

18. 如對本參考資料摘要有任何查詢，請致電 2852 4408 與海事處助理處長鄧宗強先生聯絡，或致電 2537 2842 與經濟局助理局長蔡寶珍小姐聯絡。

經濟局

二零零一年二月七日

立法會參考資料摘要

2001 年商船（註冊）（修訂）條例草案 2001 年商船（註冊）（費用及收費）（修訂）規例

- 附件 A - 2001 年商船（註冊）（修訂）條例草案
- 附件 B - 2001 年商船（註冊）（費用及收費）（修訂）規例
- 附件 C - 《商船（註冊）條例》（第 415 章）的原有條文將予修訂
- 附件 D - 《商船（註冊）（費用及收費）規例》（第 415 章，附屬法例 A）原有條文將予修訂

本條例草案

旨在

修訂《商船（註冊）條例》。

由立法會制定。

1. 簡稱及生效日期

- (1) 本條例可引稱為《2001 年商船（註冊）（修訂）條例》。
- (2) 本條例自經濟局局長以憲報公告指定的日期起實施。

2. 釋義

《商船（註冊）條例》（第 415 章）第 2(1)條現予修訂 —

- (a) 在“轉管租約”的定義中，廢除“有全權”；
- (b) 加入 —

““再轉管租約” (sub-demise charter)指由轉管租約承租人以轉管方式將船舶再出租的船舶轉租合約；在這租約下，再轉管租約承租人管有該船舶，並控制一切與該船舶的航行及經營有關的事宜，包括船長及船員的僱用；”。

3. 可註冊的船舶

第 11(2)(b)(iii)條現予修訂，廢除在“轉讓”之前的所有字句而代以 —

“(iii) 轉管租約承租人在該轉管租約下享有的權利已經根據再轉管租約被”。

4. 註冊申請

第 19(5)(b)(ii)(B)條現予修訂，廢除“有全權”。

5. 文件的保留

第 25(e)條現予廢除。

6. 臨時註冊的申請

第 27 條現予修訂 —

(a) 在第(2)款中，廢除“除第(1)款所指的申請書及文件外，”而代以“在不抵觸第(2A)款的規定下，除第(1)款所指的申請書及文件外，提出申請的人”；

(b) 加入 —

“(2A) 提出申請的人可出示第 21(1)(a)(i)及(3)(a)(i)條所指明的建造證明書或賣據的副本，以替代出示第(2)(a)款所規定的該等文件的正本。”。

7. 臨時註冊期

第 29 條現予修訂，廢除所有“3 個”而代以“1 個”。

8. 臨時註冊文件的保留

第 31(e)條現予廢除。

9. 船舶的抵押

第 44 條現予修訂，加入 —

“(2A) 凡任何人根據第 27(2A)條在申請臨時註冊時出示文件的副本，他亦須向註冊官出示一份抵押權人確認書。

(2B) 第(2A)款所述的確認書須 —

- (a) 符合指明格式；
- (b) 列明抵押權人 —
 - (i) 見過有關文件的正本；及
 - (ii) 知悉有關文件的正本不會在註冊時向註冊官出示。”。

摘要說明

本條例草案旨在 —

- (a) 加入“再轉管租約”的定義（草案第 2 條）；
- (b) 說明如轉管租約承租人在該轉管租約下享有的權利已經根據再轉管租約被轉讓，則註冊船舶將不再是可註冊的船舶（草案第 3 條）；
- (c) 訂明提出申請的人可出示建造證明書或賣據的副本作為申請臨時註冊須出示的證據（草案第 6 條）；

- (d) 將臨時註冊期由 3 個月縮短為 1 個月（草案第 7 條）；
- (e) 訂明凡任何人根據新訂的第 27(2A)條在申請臨時註冊時向船舶註冊官出示文件的副本，他亦須出示一份抵押權人確認書，證明該抵押權人見過有關文件的正本並且知悉有關文件的正本不會在註冊時向註冊官出示（草案第 9 條）。

《2001年商船（註冊）（費用及收費）（修訂）規例》

（由行政長官會同行政會議根據《商船（註冊）條例》
（第 415 章）第 90 條訂立）

1. 生效日期

本規例自經濟局局長以憲報公告指定的日期起實施。

2. 修訂附表

《商船（註冊）（費用及收費）規例》（第 415 章，附屬法例）的附表第 3 部現予修訂 —

- (a) 在第 2 項中，廢除“25%”及“3”而分別代以“1/12”及“1”；
- (b) 在第 3 項中，廢除“減去已根據第 2 項繳付之數”。

行政會議秘書

行政會議廳

2001 年 月 日

註釋

本規例修訂《商船（註冊）（費用及收費）規例》（第 415 章，附屬法例） —

- (a) 為配合對主體條例中關乎臨時註冊期的修訂而調低就臨時註冊船舶所須繳付款額的百分率；並且
- (b) 就臨時註冊船舶所繳付之數不予減扣。

第 415 章

CHAPTER 415

商船(註冊)條例

MERCHANT SHIPPING (REGISTRATION)

本條例對船舶在香港註冊及有關事宜作出規定。

An Ordinance to provide for the registration of ships in Hong Kong and for related matters.

[1990年12月3日] 1990年第366號法律公告

[3 December 1990] L.N. 366 of 1990

第 I 部

PART I

導言

PRELIMINARY

1. 簡稱

1. Short title

- (1) 本條例可引稱為《商船(註冊)條例》。
- (2) (已失時效而略去)

- (1) This Ordinance may be cited as the Merchant Shipping (Registration) Ordinance.
- (2) (Omitted as spent)

2. 釋義

2. Interpretation

- (1) 在本條例中，除文意另有所指外——
- “外地終止註冊證明書”(foreign certificate of deletion) 就船舶來說，指由香港以外地方的有關主管當局發出的證明書或其他文件，證明或說明該船舶在該地方的船舶註冊紀錄冊內的註冊已終止；
- “代表人”(representative person) 就船舶來說，指當時根據第 68 條就該船舶而委任的代表人；
- “生效日期”(commencement date) 指總督根據第 1(2) 條為本條例指定的實施日期；
- “可註冊”(registrable) 就船舶來說，指能根據本條例註冊；
- “合資格的人”(qualified person) 具有第 11(4) 條給予該詞的含義；

- (1) In this Ordinance, unless the context otherwise requires—
- “authorized surveyor” (特許驗船師) means a surveyor appointed by a Certifying Authority referred to in section 13 for the purposes of the tonnage regulations;
- “builder’s certificate” (建造證明書), in relation to a ship, means a certificate signed by the builder of the ship and containing a true account of—
 - (a) the proper denomination and tonnage of the ship, as estimated by him;
 - (b) the date when and place where the ship was built; and
 - (c) the name of the person on whose account the ship was built;
- “certificate of deletion” (終止註冊證明書) means a certificate of deletion issued under section 65;

- “身分證”(identity card) 就任何人來說，指根據《人事登記條例》(第 177 章) 發給該人的身分證；
- “指示”(instructions) 指處長根據第 5 條發出的行政指示；
- “政府”(Government) 指香港政府；
- “建造證明書”(builder's certificate) 就船舶來說，指由該船舶的建造商簽署並據實載明以下各項的證明書——
- (a) 該建造商估計該船舶的正確度量衡單位及噸位；
 - (b) 該船舶的建造日期及地點；及
 - (c) 訂造該船舶的人的姓名；
- “送交”(lodged) 指按照本條例交付註冊官並由註冊官接受；
- “特許驗船師”(authorized surveyor) 指第 13 條所指的核准當局為執行噸位規例而委任的驗船師；
- “終止註冊證明書”(certificate of deletion) 指根據第 65 條發給的終止註冊證明書；
- “船東”(owner) 就註冊船舶或臨時註冊船舶來說，指根據本條例註冊為船東的人；
- “船長”(master) 包括每個當時指揮或掌管船舶的人，但領港員除外；
- “船舶”(ship) 指(除第 3 條另有規定外) 各類並非靠槳力推進而能在水上航行的船隻，包括任何船舶、船艇或航行器，以及完全或部分用於在水上航行的氣墊船或相類似的航行器；
- “處長”(Director) 指海事處處長；
- “註冊”(registered) 就船舶來說，指根據本條例註冊；
- “註冊官”(the Registrar) 指根據第 4(1) 條委任為船舶註冊官的任何人士；凡該詞是與處長當時依據第 4(3) 條行使的權力或執行的職能連用，則包括指處長；
- “註冊紀錄冊”(register) 指根據第 7 條備存的船舶註冊紀錄冊；
- “註冊證明書”(certificate of registry) 指根據第 24、77 或 98 條發給的註冊證明書及根據第 35 或 83 條發給的新註冊證明書；
- “標記證明書或聲明書”(certificate or declaration of marking) 就船舶來說，指——
- (a) 由特許驗船師簽署的證明書；或
 - (b) 由該船舶的一名或超過一名船東或該船舶的轉管租約承租人在香港所作的聲明書。
- 用以證明或聲明該船舶的名稱及其船籍港已按註冊官的指令予以標記；(由 1995 年第 586 號法律公告修訂)
- “噸位規例”(tonnage regulations) 指根據第 13 條訂立的關於船舶噸位的規例；
- “臨時註冊”(provisionally registered) 就船舶來說，指根據第 28 條臨時註冊；

- “certificate of provisional registry” (臨時註冊證明書) means a certificate of provisional registry granted under section 30 and a new certificate of provisional registry granted under section 35;
- “certificate of registry” (註冊證明書) means a certificate of registry granted under section 24, 77 or 98 and a new certificate of registry granted under section 35 or 83;
- “certificate of survey” (驗船證明書) means a certificate granted by an authorized surveyor under section 14;
- “certificate or declaration of marking” (標記證明書或聲明書), in relation to a ship, means—
- (a) a certificate signed by an authorized surveyor; or
 - (b) a declaration made in Hong Kong by one or more of the owners or by the demise charterer of the ship, certifying or declaring, as the case may be, that the ship's name and port of registry have been marked as directed by the Registrar;
- “commencement date” (生效日期) means the date appointed by the Governor under section 1(2) for the coming into operation of this Ordinance;
- “demise charter” (轉管租約) means a charter party by which a ship is chartered or let by demise and under which the demise charterer has the possession of the ship and has sole control of all matters relating to the navigation and operation of the ship including employment of the master and crew;
- “demise charterer” (轉管租約承租人) means the charterer of a ship under a demise charter, and in relation to a registered or provisionally registered ship means a person registered as demise charterer under this Ordinance;
- “Director” (處長) means the Director of Marine;
- “foreign certificate of deletion” (外地終止註冊證明書), in relation to a ship, means a certificate or other document issued by the relevant authority of a place outside Hong Kong and certifying or stating, as the case may be, to the effect that the ship has been deleted from the register of ships in that place;
- “Government” (政府) means the Government of Hong Kong;
- “identity card” (身分證), in relation to any person, means an identity card issued to that person under the Registration of Persons Ordinance (Cap. 177);
- “instructions” (指示) means administrative instructions issued by the Director under section 5;
- “lodged” (送交) means delivered to and accepted by the Registrar in accordance with this Ordinance;
- “master” (船長) includes every person (except a pilot) having command or charge of any ship;
- “owner” (船東), in relation to a registered or provisionally registered ship, means a person registered as owner under this Ordinance;
- “provisionally registered” (臨時註冊), in relation to a ship, means provisionally registered under section 28;

第IV部

船舶的註冊

可註冊的船舶及權益

11. 可註冊的船舶

- (1) 除本條例另有規定外，船舶如符合以下規定及有代表人，即可註冊——
- 該船舶的過半數權益由一名或超過一名合資格的人擁有；或
 - 該船舶由一個身為合資格的人的法人團體在轉管租約下經營（不論該船舶的過半數權益是否由一名或超過一名合資格的人擁有）。
- (2) 註冊船舶如有以下情形，即不再是可註冊的船舶——
- 該船舶是憑藉第(1)(a)款予以註冊，但其過半數權益不再由一名或超過一名合資格的人擁有；
 - 該船舶是憑藉第(1)(b)款予以註冊，但——
 - 不論是由於轉管租約的終止，或是由於其他原因，該船舶已不再由一個身為合資格的人的法人團體在轉管租約下經營；
 - 該船舶或其份額或部分已經移轉或傳轉；或（由1995年第68號第2條修訂）
 - 在該轉管租約下轉管租約承租人享有的權利已經轉讓；
 - 該船舶在戰爭或敵對行動中被奪取，以致其船東或轉管租約承租人對該船舶的經營失去控制；
 - 該船舶已被摧毀，確實已完全消失，或被推定已完全消失，以致不能再用作航行；
 - 該船舶在註冊時仍然是一艘在香港以外地方註冊的船舶；
 - 該船舶其後在香港以外地方註冊；或
 - 該船舶的代表人的委任終止。

(3) 在本條來說，該船舶為註冊而分成的船舶財產權份額或部分，如其超過半數的法定所有權歸於一人或超過一人（聯合計算），則該人或該等人即視作擁有該船舶的過半數權益；而為這目的，與一名並非合資格的人聯名擁有的份額或部分，將不計在內。

PART IV

REGISTRATION OF SHIPS

Registrable ships and interests

11. Registrable ships

- (1) Subject to this Ordinance, a ship is registrable if—
- a majority interest in the ship is owned by one or more qualified persons; or
 - the ship is operated under a demise charter by a body corporate being a qualified person (whether or not a majority interest in the ship is owned by one or more qualified persons),
- and a representative person is appointed in relation to the ship.
- (2) A registered ship ceases to be registrable if—
- being a ship registered by virtue of subsection (1)(a), a majority interest in the ship ceases to be owned by one or more qualified persons;
 - being a ship registered by virtue of subsection (1)(b)—
 - the ship ceases to be operated under a demise charter by a body corporate being a qualified person (whether by reason of the termination of the demise charter or otherwise);
 - the ship or any share in or part of the ship is transferred or transmitted; or
 - the rights of the demise charterer under the demise charter are assigned;
 - the ship is taken in war or hostilities, as a result of which the owner or demise charterer has lost control over the operation of the ship;
 - the ship is broken up, or is an actual or constructive total loss such that it is no longer capable of being used in navigation;
 - the ship at the time of registration remains registered in a place outside Hong Kong;
 - the ship subsequently becomes registered in a place outside Hong Kong; or
 - a representative person ceases to be appointed in relation to the ship.

(3) For the purposes of this section, one or more persons shall be treated as owning a majority interest in a ship if there is vested in that person or in those persons, taken together, the legal title to more than one half of the shares or parts into which the property in the ship is divided for the purposes of registration, there being left out of account for this purpose any share or part which is jointly owned by a person other than a qualified person.

- (c) 如由並無法團印章的法人團體授權，該書面證明須經看來是由該法團根據第 84 條授權以代表該法團作出聲明的人簽署及加印。
- (4) 由並無法團印章的法人團體所授權的人提出的申請，須包括一份由該人所作的聲明書，聲明該法人團體並無法團印章。
- (5) 申請須按指明的格式作出，除在需要時須包括第 (4) 款所指的聲明書外，並須包括——
- (a) 就該船舶而委任的代表人的接受委任書；
 - (b) 如是擬憑藉第 11(1)(b) 條予以註冊的船舶——
 - (i) 其船東同意該船舶在香港註冊的同意書；及
 - (ii) 其船東及轉管租約承租人的聯同聲明書，聲明——
 - (A) 該轉管租約承租人是一名合資格的人；
 - (B) 該轉管租約承租人在轉管租約下管有該船舶，並有全權控制一切與該船舶的航行及經營有關的事宜，包括船長及船員的僱用；及
 - (C) 該船舶在香港註冊期間不會在其他地方再註冊。
- (6) 申請須連同根據第 20(1) 或 (2) 條所作的聲明書一併提交。

20. 船東及轉管租的承租人親自作出或由他人代表作出的聲明書

- (1) 除非某人或根據第 84 條獲授權代表法人團體作出聲明的人，已按指明格式作出及簽署載有以下各項的擁有香港註冊船舶權利聲明書，否則該人無權註冊成為擬憑藉第 11(1)(a) 條予以註冊的船舶的船東，或該船舶的份額或部分的擁有人——
- (a) 就法人團體來說，須說明該聲明人是獲授權代表該法人團體作出該聲明；
 - (b) 就看來是合資格的人的個人人士來說，須說明他持有有效身分證，並通常居於香港；

- (c) if authorized by a body corporate not possessing a common seal, under the hand and seal of a person purporting to be authorized by the body corporate to make declarations on its behalf under section 84.
- (4) An application made by a person authorized by a body corporate not possessing a common seal shall include a declaration by that person that the body concerned does not possess a common seal.
- (5) An application shall be in the specified form and shall include, in addition to the declaration referred to in subsection (4) (if required)—
- (a) the consent, in writing, of the representative person appointed in relation to the ship, to his appointment;
 - (b) in the case of a ship which is to be registered by virtue of section 11(1)(b)—
 - (i) the consent, in writing, of the owner to the ship's registration in Hong Kong; and
 - (ii) a declaration by both the owner and demise charterer—
 - (A) that the demise charterer is a qualified person;
 - (B) that the demise charterer will under the demise charter have possession of the ship and sole control of all matters relating to the navigation and operation of the ship including employment of the master and crew; and
 - (C) that the ship will not be registered elsewhere for so long as it is registered in Hong Kong.
- (6) An application shall be accompanied by declarations made under section 20(1) or (2), as the case may be.

20. Declarations by and on behalf of owners and demise charterers

- (1) A person shall not be entitled to be registered as an owner of a ship which is to be registered by virtue of section 11(1)(a), or of a share in or part of such a ship until he, or in the case of a body corporate the person authorized under section 84 to make declarations on behalf of the body corporate, has made and signed a declaration of entitlement to own a ship registered in Hong Kong, in the specified form, which shall include the following—
- (a) in the case of a body corporate, a statement that the declarant is authorized to make the declaration on behalf of the body corporate;
 - (b) in the case of an individual purporting to be a qualified person, a statement that he holds a valid identity card and is ordinarily resident in Hong Kong;

- (d) 第 20(1) 或 (2) 條規定作出的聲明書；
- (e) 建造證明書、發給船東的賣據、或將該船舶的法定所有權歸於船東的法院命令；
- (f) 不論是否依據第 58 條而交付註冊官的外地終止註冊證明書；
- (g) 宣告沒收船舶書的副本(如有的話)；及
- (h) 指示中指明或註冊官合理要求的其他文件。

26. 船籍港

每艘註冊船舶的船籍港均是香港。

(由 1995 年第 586 號法律公告修訂)

臨時註冊

27. 臨時註冊的申請

(1) 船舶臨時註冊的申請須——

- (a) 由申請臨時註冊成為船東的人提出，或(視乎情況)由該人連同轉管租約承租人提出，並須按指明格式依照第 19 條所規定的申請註冊方式作該項申請；
- (b) 包括該條所指的聲明書及同意書；及
- (c) 連同根據第 20(1) 或 (2) 條所作的聲明書一併提交。

(2) 除第 (1) 款所指的申請書及文件外，亦須向註冊官出示以下證據——

- (a) 第 21(1)(a)(i)、(ii) 及 (iv)、(b) 及 (c) 或 (3)(a)(i)、(ii) 及 (iv)、(b)、(c) 及 (d) 條指明的文件及資料；
- (b) 該船舶當時的噸位證明書經妥為認證的副本；及
- (c) 在指示中指明或註冊官合理要求的其他文件或資料。

(3) 在第 (2) 款中，“當時的噸位證明書”(current tonnage certificate)指船舶以往

- (a) 用以證明或說明該船舶的噸度所得噸位；及
- (b) 須在出示時屬有效的。

- (d) the declarations made under section 20(1) or (2), as the case may be;
- (e) the builder's certificate, bill of sale in favour of the owner or court order vesting title to the ship in the owner, as the case may be;
- (f) any foreign certificate of deletion delivered to the Registrar whether pursuant to section 58 or otherwise;
- (g) the copy of the condemnation (if any); and
- (h) such other documents as are specified in instructions or as the Registrar may reasonably require.

26. Port of registry

The port of registry of every registered ship shall be Hong Kong.

Provisional registration

27. Application for provisional registration

(1) An application for provisional registration of a ship—

- (a) shall be made in the specified form by the person or persons applying to be provisionally registered as owner and (as the case may be) by the demise charterer, in the manner provided in respect of an application for registration under section 19;
- (b) shall include the declarations and consents referred to in that section; and
- (c) shall be accompanied by declarations made under section 20(1) or (2), as the case may be.

(2) The following evidence shall be produced to the Registrar in addition to the application and the documents referred to in subsection (1)—

- (a) the documents and information specified in section 21(1)(a)(i), (ii) and (iv), (b) and (c), or (3)(a)(i), (ii) and (iv), (b), (c) and (d), as the case may be;
- (b) a duly certified copy of the ship's current tonnage certificate; and
- (c) such other documents or information as may be specified in instructions or as the Registrar may reasonably require.

(3) In subsection (2) "current tonnage certificate" (當時的噸位證明書) means a certificate or other document issued by the relevant authority of a place outside Hong Kong where the ship was previously registered—

- (a) certifying or stating, as the case may be, the tonnage measurement of the ship; and
- (b) in force at the time of its production.

(4) 儘管有第(2)(a)款的規定，如向註冊官出示以下文件，即當作已遵守該條文中須出示發給任何人的有效身分證的規定——

- (a) 該身分證的影印本；及
- (b) 獲發給該身分證的人所作的聲明書，聲明該影印本是該身分證的真實副本及該身分證是有效的。

(5) 根據第(1)款提出的申請，須連同一項由申請人所作的說明一併提交，該說明須指出該船舶為根據第 23 條註冊的目的而將會在那個港口及約在何時接受檢驗。

28. 臨時註冊時將資料記入註冊紀錄冊內

(1) 除第(2)款另有規定外，在臨時註冊前需要符合的本條例規定，如已獲符合，註冊官即須將以下與該船舶有關的資料記入註冊紀錄冊——

- (a) 第 23(a)、(c)、(d)、(e) 及 (f) 條所指的資料；
- (b) 在第 27(2) 條所指的該船舶當時的噸位證明書中指明的詳情，而這些詳情是註冊官認為對註冊有重要性的；及
- (c) 第 29(1)(b) 條所指的臨時註冊期的屆滿日期。

(2) 除非已根據第 19 條就該船舶提出註冊申請，並在記入該船舶的資料時尚未決定該項申請是否獲得接納，否則註冊官不得根據第(1)款將該等資料記入註冊紀錄冊。

29. 臨時註冊期

(1) 在不影響第 54 至 63 條條文的原則下，凡以下任何一種情況先出現時，船舶的臨時註冊即當作終止——

- (a) 該船舶根據第 23 條獲得註冊；
- (b) 由臨時註冊日期起計的 3 個月期屆滿。

(2) 獲臨時註冊船舶的船東或轉管租約承租人提出申請時，註冊官可將第(1)(b)款所指的臨時註冊期延長一次或超過一次，每次為期 3 個月，但——

(4) Notwithstanding anything in subsection (2)(a), that provision shall, in so far as it requires the production of a valid identity card issued in respect of any person, be deemed to be complied with if there is produced to the Registrar—

- (a) a photostatic copy of the identity card; and
- (b) a declaration by the person in respect of whom the identity card was issued that it is a true copy of such identity card and that the identity card is valid.

(5) An application under subsection (1) shall be further accompanied by a statement by the applicant of the port in which and the approximate time at which the ship will be surveyed for the purposes of registration under section 23.

28. Entry of particulars in the register on provisional registration

(1) Subject to subsection (2), where the requirements of this Ordinance preliminary to provisional registration have been complied with in relation to a ship the Registrar shall enter in the register the following particulars relating to the ship—

- (a) the particulars referred to in section 23(a), (c), (d), (e) and (f);
- (b) such of the details specified in the ship's current tonnage certificate referred to in section 27(2) as the Registrar considers essential for the purposes of registration; and
- (c) the date of expiry of the period of provisional registration referred to in section 29(1)(b).

(2) The Registrar shall not enter in the register particulars relating to a ship under subsection (1) unless an application for registration of the ship has been made under section 19 and the application has at the time of entering such particulars yet to be determined.

29. Period of provisional registration

(1) Without prejudice to the provisions of sections 54 to 63, the provisional registration of a ship shall be deemed to be closed upon—

- (a) the registration of the ship under section 23; or
- (b) the expiry of a period of 3 months commencing on the date of provisional registration,

whichever first occurs.

(2) The Registrar may, upon application made by the owner or demise charterer of a ship while the ship is provisionally registered, extend the period of provisional registration referred to in subsection (1)(b) by one or more further periods of 3 months but he shall not extend the period—

- (a) 不得就每次申請給予延期超過 3 個月；及
 - (b) 除非有特殊情況證明該項延期合理，否則不得延期。
- (3) 凡註冊官根據第(2)款將船舶的臨時註冊期延長——
- (a) 他須將該項延期記入註冊紀錄冊內；及
 - (b) 就第(1)款對該船舶的適用方面來說，該款提及 3 個月期限時，猶如是提及根據第(2)款延長的期限一樣。
- (4) 凡船舶的臨時註冊根據第(1)款當作終止，第 67 條須適用於該船舶的未解除抵押。

30. 臨時註冊證明書

- (1) 船舶根據第 28 條予以臨時註冊時，註冊官即須發給符合指明格式的臨時註冊證明書，該證明書須載有以下資料——
- (a) 依照該條記入註冊紀錄冊的關於該船舶的資料；及
 - (b) 第 29(1) 條所指的臨時註冊期的屆滿日期。
- (2) 船舶的臨時註冊證明書持續有效，直至以下任何一種情況出現為止——
- (a) 根據第 24 條就該船舶發給註冊證明書；
 - (b) 第 29(1) 條所指的臨時註冊期屆滿。
- (3) 凡第 29(1) 條所指的臨時註冊期根據第 29(2) 條獲得延長，註冊官須就該延長期限發給另一份臨時註冊證明書。
- (4) 船舶一經發給註冊證明書或上述的另一份臨時註冊證明書，該船舶的船東、轉賃租約承租人或船長須按以下規定親自或安排他人將該船舶的臨時註冊證明書或以前的臨時註冊證明書交付註冊官——
- (a) 如該船舶在香港，須立即交付；或
 - (b) 如該船舶不在香港，須在可行範圍內盡快交付，但無論如何亦須在獲發該註冊證明書或上述另一份臨時註冊證明書後的 30 天內交付。

- (a) by more than 3 months on any one application; or
 - (b) in any case, unless there are special circumstances which justify the extension.
- (3) Where the Registrar extends the period of provisional registration of a ship under subsection (2)—
- (a) he shall make an entry in the register accordingly; and
 - (b) subsection (1) shall for the purposes of this section have effect in relation to the ship as if the reference to the period of 3 months in that subsection were a reference to the period as extended under subsection (2).
- (4) Where the provisional registration of a ship is deemed to be closed under subsection (1), section 67 shall apply as respects any undischarged registered mortgage of the ship.

30. Certificate of provisional registration

- (1) Upon the provisional registration of a ship under section 28, the Registrar shall grant a certificate of provisional registry, in the specified form, containing—
- (a) the particulars relating to the ship entered in the register pursuant to that section; and
 - (b) the date of expiry of the period of provisional registration referred to in section 29(1).
- (2) A certificate of provisional registry in respect of a ship shall remain in force until—
- (a) the grant of a certificate of registry in respect of the ship under section 24; or
 - (b) the expiry of the period of provisional registration referred to in section 29(1),
- whichever first occurs.

(3) Where the period of provisional registration referred to in section 29(1) is extended under section 29(2), the Registrar shall grant a further certificate of provisional registry in respect of the extended period.

(4) Upon the grant of a certificate of registry or further certificate of provisional registry in respect of a ship, the owner, demise charterer or master of the ship shall deliver the ship's certificate of provisional registry or previous certificate of provisional registry, as the case may be, or cause such certificate to be delivered, to the Registrar—

- (a) forthwith, if the ship is in Hong Kong; or
- (b) if the ship is not in Hong Kong, as soon as practicable and in any case within a period of 30 days after the grant of the certificate of registry or further certificate of provisional registry, as the case may be.

- (5) 任何船東、轉管租約承租人或船長，如無合理解釋而未能遵守第(4)款，即屬犯法，可處罰款 \$5,000。
- (6) 第(4)款的規定，並不減損或影響第 66 條適用於臨時註冊證明書的效力。

31. 臨時註冊文件的保留

船舶根據第 28 條予以臨時註冊時，註冊官須繼續管有以下與該船舶有關的文件——

- (a) 臨時註冊申請書；
- (b) 當時的噸位證明書經妥為認證的副本；
- (c) 該船舶的標記證明書或聲明書；
- (d) 根據第 20(1) 或 (2) 條作出的聲明書；
- (e) 建造證明書、發給船東的實據，或將該船舶的法定所有權歸於船東的法院命令；
- (f) 不論是否依據第 58 條而交付註冊官的外地終止註冊證明書；
- (g) 宣告沒收船舶書的副本(如有的話)；及
- (h) 指示中指明或註冊官合理要求的其他文件。

32. 本條例對臨時註冊船舶的適用範圍

除非有明文作其他規定或以必要的含示作其他規定，否則本條例的條文適用於臨時註冊及臨時註冊船舶，猶如該等條文適用於註冊及註冊船舶一樣。

證明書及船旗的使用等

33. 證明書的保管

- (1) 管有或控制船舶註冊證明書的人——
- (a) 不得以船東、抵押權人、承租人、其他對該船舶有法定所有權、留置權或抵押權或其他權益的人就該船舶作出聲請為理由，而扣留該證明書；
- 或

- (5) An owner, demise charterer or master who, without reasonable excuse, fails to comply with subsection (4) commits an offence and is liable to a fine of \$5,000.

(6) Nothing in subsection (4) shall derogate from or affect the application of section 66 to a certificate of provisional registry.

31. Retention of documents on provisional registration

Upon the provisional registration of a ship under section 28, the Registrar shall retain in his possession the following documents in respect of the ship—

- (a) the application for provisional registration;
- (b) the certified copy of the current tonnage certificate;
- (c) the certificate or declaration of marking of the ship;
- (d) the declarations made under section 20(1) or (2), as the case may be;
- (e) the builder's certificate, bill of sale in favour of the owner or court order vesting title to the ship in the owner, as the case may be;
- (f) any foreign certificate of deletion delivered to the Registrar whether pursuant to section 58 or otherwise;
- (g) the copy of the condemnation (if any); and
- (h) such other documents as are specified in instructions or as the Registrar may reasonably require.

32. Application of Ordinance in relation to ships provisionally registered

Except as otherwise provided expressly or by necessary implication the provisions of this Ordinance apply to and in relation to provisional registration and ships provisionally registered as they apply to and in relation to registration and to registered ships.

Use, etc. of certificates and flags

33. Custody of certificate

- (1) No person having possession or control of a certificate of registry of a ship shall—
- (a) detain such a certificate by reason of a claim by an owner, mortgagee, charterer or other person to any title to, lien or charge on, or interest in, the ship; or

- (a) 該船舶的驗船證明書上所載而足以用作辨認該船舶的描述，以令註冊官滿意為準；
 - (b) 第 40(1)(a) 及 (b) 條所指的說明；及
 - (c) 說明該船舶財產權傳轉的方式及獲傳轉該財產權的人。
- (2) 該傳轉聲明書須連同指示中指明或註冊官合理要求的有關該傳轉的證據一併提交。
- (3) 傳轉聲明書及第 (2) 款規定的證據送交註冊官後，註冊官即須將藉該宗傳轉而獲得該船舶財產權的人的姓名，作為該船舶的船東姓名記入註冊紀錄冊。
- (4) 第 (3) 款所指的人如超過一人，則所有這些人須視作整份已傳轉財產權的聯名擁有人。

第 VI 部

抵押

43. 第 VI 部各詞的定義

- (1) 在本部中，除文意另有所指外——
- “抵押”(mortgage) 指根據本部註冊的抵押；
- “抵押權人”(mortgagee) 指其姓名在註冊紀錄冊出現為抵押持有人的；
- “船舶”(ship) 包括船舶上任何屬於船東的東西；
- “義務”(obligation) 包括現在或將來的義務。
- (2) 在本部中，除文意另有所指外，提及船舶時包括提及船舶的份額或部分。

44. 船舶的抵押

- (1) 註冊船舶可根據本條例藉抵押而被用作履行任何義務的保證。
- (2) 設立這種抵押的文書須——
- (a) 按指明格式訂立；
 - (b) 尤其須列出——
 - (i) 每名抵押人的姓名地址；
 - (ii) 每名抵押權人的姓名地址；如抵押權人是法人團體，須列出該法人團體成立的地方；及

- (a) such of the description of the ship contained in the certificate of survey as is sufficient to identify the ship to the satisfaction of the Registrar;
 - (b) the statements referred to in section 40(1)(a) and (b); and
 - (c) a statement of the manner in which and the person or persons to whom the property has been transmitted.
- (2) The declaration of transmission shall be accompanied by such evidence of the transmission as may be specified in instructions or as the Registrar may reasonably require.
- (3) Upon lodgment of the declaration of transmission and the evidence required under subsection (2), the Registrar shall enter in the register the name of the person or persons entitled under the transmission as owner of the ship the property in which has been transmitted.
- (4) Where there is more than one such person referred to in subsection (3), all such persons shall be considered as joint owners of the whole of the property transmitted.

PART VI

MORTGAGES

43. Definitions in Part VI

- (1) In this Part, unless the context otherwise requires—
- “mortgage” (抵押) means a mortgage registered under this Part;
- “mortgagee” (抵押權人) means the person whose name appears in the register as the holder of a mortgage;
- “obligation” (義務) includes any present or future obligation;
- “ship” (船舶) includes everything on board a ship belonging to the owner.
- (2) In this Part, unless the context otherwise requires, a reference to a ship includes a reference to a share in or part of a ship.

44. Mortgage of ship

- (1) A registered ship may be made security for any obligation by way of a mortgage under this Ordinance.
- (2) The instrument creating such a mortgage shall—
- (a) be in the specified form;
 - (b) set out among other things—
 - (i) the name and address of each mortgagor;
 - (ii) the name and address (or, in the case of a body corporate, place of incorporation) of each mortgagee; and

(c) 須由每名抵押人或其代表按指明方式妥為簽立。

(3) 抵押文書及第 45(2) 條規定的同意書送交註冊官後，註冊官即須將有關該抵押的資料記入註冊紀錄冊，並須在該抵押文書上加簽註明其註冊日期及時間。

(4) 抵押文書須按其送交的先後次序予以註冊。

45. 抵押的優先權等

(1) 凡同一艘船舶有 2 宗或超過 2 宗抵押註冊，則各抵押權人之間的優先權，須按照其抵押的註冊先後次序而定，不論其抵押於何日訂立或簽立，以及不論是否有明示、隱含或推定的通知。

(2) 除非事先取得所有在有關船舶名下註冊的抵押持有人的書面同意，否則不得將任何抵押文書註冊。

(3) 依照第 (1) 款給予某宗抵押的優先權，只限適用於該抵押文書或該文書所指的文件中所明有須獲保障的義務，但如果其優先權低於該宗抵押的其他註冊抵押的持有人全部以書面同意不作如此安排，則屬例外。

46. 抵押權人不視作船東

註冊船舶的抵押，除了是在需要範圍內將該船舶用作該宗抵押的保證之外，並無效力令該抵押權人成為該船舶的船東，或令該抵押人停止作為該船舶的船東。

47. 抵押權人有權將船舶脫手

(1) 註冊船舶的抵押權人有權將該船舶脫手，並就該宗脫手發出有效的收據；但如同一船舶有 2 宗或超過 2 宗抵押，則較後的抵押權人如未得各位較先的抵押權人的同意，不得將該船舶脫手，但根據法院命令而脫手的，則屬例外。

(2) 註冊船舶的抵押權人如打算將該船舶脫手，則除非他已事先將此打算以書面通知註冊官，否則不得將該船舶脫手。

(c) be duly executed by or on behalf of each mortgagor in the specified manner.

(3) Upon lodgment of a mortgage instrument and any consents required pursuant to section 45(2), the Registrar shall enter in the register particulars of the mortgage and shall endorse on the mortgage instrument the date and time of registration.

(4) Mortgage instruments shall be registered in the order of their lodgment.

45. Priority of mortgages, etc.

(1) Where 2 or more mortgages are registered in respect of the same ship, priority among the mortgagees shall be in accordance with the order of registration of the mortgages, irrespective of the date upon which they were made or executed, and notwithstanding any express, implied or constructive notice.

(2) No mortgage instrument shall be registered except with the prior written consent of all the holders of mortgages then registered against the ship concerned.

(3) The priority accorded to a mortgage pursuant to subsection (1) shall, unless the holders of all registered mortgages having priority subsequent to such mortgage otherwise agree in writing, extend only to those obligations expressed to be secured by the mortgage instrument or any instrument referred to in the mortgage instrument.

46. Mortgagee not treated as owner

A mortgage of a registered ship does not have the effect of the mortgagee becoming, or the mortgagor ceasing to be, the owner of the ship except to the extent necessary to make the ship available as a security under the mortgage.

47. Mortgagee to have power of disposal

(1) A mortgagee of a registered ship shall have power absolutely to dispose of the ship and to give effectual receipts in respect of the disposal, but where there are 2 or more mortgages of the same ship, a subsequent mortgagee shall not, except under the order of a court, dispose of the ship without the consent of every prior mortgagee.

(2) A mortgagee of a registered ship who intends to dispose of the ship shall not dispose of the ship unless he has first given notice in writing to the Registrar of his intention so to dispose of the ship.

項	目的或服務	費用 \$
16.	在特殊情況下，向船東提供蘇彝士運河噸位計算或巴拿馬運河噸位計算的詳細資料—— 每頁	51，限定最低費用為 \$510。
17.	為檢查在香港註冊的船舶的下列任何一項正式標記，而且該項檢查並非與噸位的量度或為註冊而作的檢驗同時進行—— (a) 根據本條例第 18 條作出的標記—— (i) 在香港註冊的船舶的名稱或該船舶的船籍港名稱，包括裝載於船舶作為其設備的一部分的救生艇及救生圈 (ii) 表示吃水的量度尺 (b) 規例規定的標記，包括噸位標記 註：本項目訂明的費用不包括任何證明書或文件的修訂，亦不包括註冊紀錄冊或註冊證明書的修訂。 18. 根據香港船舶事務科的指引，在香港以外地方的港口由一名非政府驗船師的特派驗船師提供的服務	費用視乎所涉及的時間而釐定，按每小時收費率收費。 費用視乎所涉及的時間而釐定，按每小時收費率收費。(此費用是另加於就該項服務而須繳付予特派驗船師或其僱主的費用的。)

(1992 年第 250 號法律公告；1993 年第 336 號法律公告；1994 年第 337 號法律公告；1995 年第 274 號法律公告)

第 3 部
噸位年費

項	詳情	收費 \$
1.	除獲臨時註冊的船舶外，獲註冊的船舶的噸位年費如下——	
(a)	淨註冊噸不超過 1 000 噸的船舶	1,500
(b)	淨註冊噸超過 1 000 噸的船舶—— 首 1 000 淨註冊噸	1,500
	及 額外的每一淨註冊噸(不足一淨註冊噸亦作一淨註冊噸計)—— 1 000 淨註冊噸以上至 15 000 淨註冊噸	3.50
	及 15 000 淨註冊噸以上	3.00
	最高收費為 \$100,000。(1999 年第 90 號法律公告及 1999 年第 44 號第 42 條)	

Item	Purpose or service	Fee \$
16.	In special cases, for the supply of details of Suez or Panama Canal tonnage calculations to an owner— Per page	51 subject to a minimum fee of \$510.
17.	For the inspection of any of the following official markings of a ship registered in Hong Kong when the inspection is not carried out at the same time as the tonnage measurement or survey for registry— (a) Markings under section 18 of the Ordinance— (i) The name of a ship registered in Hong Kong or port of registry of such a ship, including lifeboats and lifebuoys carried as part of the ship's equipment (ii) The scale denoting the draught of water (b) Marking required by the Regulations including the tonnage mark Note: The fee prescribed in this item does not include the amendment of any certificate or document, or amendment to the register or certificate of registry.	a fee determined by the time involved, charged at the hourly rate.
18.	For service carried out at a port outside Hong Kong by a specially appointed surveyor, other than a Government surveyor, under the guidance of the Shipping Division, Hong Kong	a fee determined by the time involved, charged at the hourly rate. (The fee is in addition to the fee payable for the service to the specially appointed surveyor or his employer.)

(L.N. 250 of 1992; L.N. 336 of 1993; L.N. 337 of 1994; L.N. 274 of 1995)

PART 3

ANNUAL TONNAGE CHARGES

Item	Particular	Charge \$
1.	Annual tonnage charge in respect of a registered ship other than a provisionally registered ship as follows—	
(a)	for a ship not exceeding 1 000 net registered tons	1,500
(b)	for a ship exceeding 1 000 net registered tons— for the first 1 000 net registered tons	1,500
	and for each additional net registered ton or part thereof— over 1 000 up to 15 000 net registered tons	3.50
	and over 15 000 net registered tons	3.00
	subject to a maximum charge of \$100,000. (L.N. 90 of 1999 and 44 of 1999 s. 42)	

[附屬法例]		
項	詳情	收費 \$
2.	獲臨時註冊的船舶的噸位年費	每期為根據第 1 項須繳付款額的 25%，以 3 個月的臨時註冊為一期。
3.	船舶由臨時註冊轉為正式註冊的噸位年費	根據第 1 項須繳付款額減去已根據第 2 項繳付之數。

[Subsidiary]		
Item	Particular	Charge \$
2.	Annual tonnage charge in respect of a provisionally registered ship.....	25% of the amount payable under item 1 for each period of 3 months of provisional registration.
3.	Annual tonnage charge in respect of a ship changing from provisional to full registration	the amount payable under item 1 less the sum paid under item 2.