

立法會
Legislative Council

LC Paper No. LS68/04-05

**Paper for the House Committee Meeting
on 20 May 2005**

**Legal Service Division Report on
Merchant Shipping (Local Vessels and Miscellaneous Amendments) Bill 2005**

I. SUMMARY

1. **Objects of the Bill** To provide for the better operation of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548) (“the Ordinance”) and regulation of vessels.

2. **Comments**
 - (a) A major proposal in the Bill is to add a new Part VA to the Ordinance which prescribes compulsory requirements for local vessels to obtain third party risk insurance.

 - (b) The other amendments are miscellaneous and consequential, including amendments necessary to facilitate the Director of Marine’s discharge of duties and to ensure consistency in port operation requirements which are equally applicable to both local and ocean-going vessels.

3. **Public Consultation** The Provisional Local Vessels Advisory Committee has been consulted and supported this Bill.

4. **Consultation with LegCo Panel** On 27 January and 24 February 2003, and 7 December 2004, the Panel on Economic Services was consulted on the introduction of this Bill and the proposal to prescribe requirements for compulsory third party risks insurance for local vessels. Members have expressed various concerns such as the possible rise in insurance premium and whether river trade vessels would be covered in the proposal.

5. **Conclusion** Members may wish to decide to form a Bills Committee to scrutinize the Bill in detail, in particular, the policy aspects of the compulsory third party insurance requirements.

II. REPORT

Objects of the Bill

To amend the Merchant Shipping (Local Vessels) Ordinance (Cap. 548) (“the Ordinance”) and some other marine-related legislation to provide for the better operation of the Ordinance and regulation of vessels.

LegCo Brief Reference

2. File Ref.: MA70/20 issued by the Economic Development and Labour Bureau dated 4 May 2005.

Date of First Reading

3. 18 May 2005.

Comments

4. The Ordinance was enacted in July 1999 to consolidate the relevant provisions previously set out in different Ordinances into one piece of legislation dedicated to local vessels. It has not yet come into operation pending the enactment of subsidiary legislation. As of today, 5 pieces of subsidiary legislation have been made and 5 others will be proposed.

5. In order to provide for the better operation of the Ordinance, the Administration introduces the Bill so that improvements are made to the Ordinance and consequential amendments are made to other marine-related legislation. A total of 12 Ordinances and 23 pieces of subsidiary legislation will be affected.

6. This Bill is divided into 4 Parts. The short title and the commencement clause is set out in Part 1. Part 2 amends the Ordinance and 4 pieces of subsidiary legislation made under the Ordinance.

7. A major amendment to the Ordinance is the addition of a new Part VA which prescribes compulsory requirements for local vessels to obtain third party risk insurance. Currently, third party risk insurance is only applicable to local ferries, launches and pleasure vessels. The new Part VA extends the scope of application of the compulsory requirements to all local certificated vessels (including cargo vessels and fishing vessels) except laid-up vessels and non-mechanical propelled vessels which do not exceed 4 metres in length overall.

8. The implementation of this compulsory third party risks insurance will be applied to local vessels by two stages. Details of the implementation, such as the statutory levels of insurance cover, approval as approved insurer and the requirements to keep records of insurance will be set out in the Merchant Shipping (Local Vessels) (Compulsory Third Party Risks Insurance) Regulation to be made in due course.

9. As for river trade vessels registered in the Mainland of China and Macau that ply to and from the waters of Hong Kong, they are not local certificated vessels. The requirement for them to take out compulsory third party insurance whilst they remain in the waters of Hong Kong will be set out in the Merchant Shipping (Local Vessels) (General) Regulation.

10. To facilitate scrutiny of the Bill and provide a complete picture of the new regulatory regime for local vessels, the Administration has provided us with the above two draft Regulations and 4 other pieces of subsidiary legislation for reference, i.e.

- (a) Merchant Shipping (Local Vessels) (Fees) Regulation;
- (b) Merchant Shipping (Local Vessels) (Safety and Survey) Regulation;
- (c) Merchant Shipping (Local Vessels) (Works) Regulation; and
- (d) Shipping and Port Control (Works) Regulation (Cap. 313 sub. leg.).

11. According to the Administration, these Regulations will be tabled for negative vetting after the Bill has been passed by the Legislative Council.

12. Part 3 are miscellaneous amendments to the Merchant Shipping Ordinance (Cap. 281), the Shipping and Port Control Ordinance (Cap. 313) and their subsidiary legislation. Some of the amendments proposed in this Part include:

- (a) empowering the Chief Executive in Council to make regulation to provide for the measures to be taken for the control and prevention of fire and protection of life and property;
- (b) clarifying and specifying the regulation-making powers of the Secretary for Economic Development and Labour and the Director of Marine;
- (c) amending the penal provision for entering or navigating within the Ngong Shuen Chau Naval Basin; and
- (d) controlling vessels in typhoon shelters.

13. Part 4 provides for consequential amendments to 9 Ordinances and 13 pieces of subsidiary legislation upon the enactment of the Ordinance and its subsidiary legislation.

14. This Bill, if passed by this Council, will come into operation on the same day appointed for the commencement of the Ordinance.

Public Consultation

15. The Administration has consulted the Provisional Local Vessels Advisory Committee which comprised representatives from the fishing industry, marine insurance industry, pleasure boat operations and other vessels operations and has obtained its support.

Consultation with LegCo Panel

16. On 27 January and 24 February 2003, and 7 December 2004, the Panel on Economic Services was consulted on, inter alia, the Administration's proposal to prescribe requirements for compulsory third party risks insurance for local vessels. Members have expressed concerns on several issues, including-

- (a) the need and justification for increasing the statutory levels of insurance;
- (b) the impact of the proposal on vessel owners, particularly the possible rise in insurance premium;
- (c) the types of vessels which would be exempted from the compulsory third party risks insurance requirements;
- (d) the outcome of the consultation with the local shipping industry; and
- (e) whether river trade vessels would be covered in the proposal and the related measures to facilitate local vessel owners to claim damages from river trade vessels owners.

17. At the meeting on 27 January 2003, the Panel was also briefed on the introduction of this Bill. The Panel urged the Administration to consult the relevant parties before introducing the Bill into the Legislative Council.

Conclusion

18. Members may wish to decide to form a Bills Committee to scrutinize the Bill in detail, in particular, the policy aspects of the compulsory third party insurance requirements.

Prepared by

HO Ying-chu, Anita
Assistant Legal Adviser
Legislative Council Secretariat
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