

LEGISLATIVE COUNCIL BRIEF

Merchant Shipping (Prevention and Control of Pollution) Ordinance
(Chapter 413)

MERCHANT SHIPPING (PREVENTION OF POLLUTION BY SEWAGE) REGULATION

AND

MERCHANT SHIPPING (PREVENTION AND CONTROL OF POLLUTION) (FEES) REGULATION

INTRODUCTION

A This paper briefs Members on the Merchant Shipping (Prevention of Pollution by Sewage) Regulation (“the Sewage Regulation”), at Appendix A, made under Section 3(2) of the Merchant Shipping (Prevention and Control of Pollution) Ordinance (“the Ordinance”) to give effect to the requirements of Annex IV to the International Convention for the Prevention of Pollution from Ships (MARPOL) 73/78 (“Annex IV”), as revised, in the Hong Kong Special Administrative Region (HKSAR). In addition, at the meeting of the Executive Council on 4 January 2005, the Council ADVISED and the Chief Executive ORDERED that the Merchant Shipping (Prevention and Control of Pollution) B (Fees) Regulation (“the Fees Regulation”), at Appendix B, should be made to charge fees in relation to the surveying and certification services provided by Government surveyors when implementing Annex IV in the HKSAR.

BACKGROUND AND JUSTIFICATIONS

2. MARPOL is the main international convention governing prevention of pollution to marine environment by ships. Its six technical Annexes, namely, Annex I to Annex VI, cover the control of oil, noxious liquids in bulk, harmful substances in packaged form, sewage, garbage and air pollution respectively. Annexes I, II, III and V have already entered into force internationally and have been implemented in Hong Kong by regulations under the Ordinance.

3. Annex IV deals with prevention of pollution by sewage from ships. It requires ships engaged in international voyages which are of 400 gross tonnage or above, or of less than 400 gross tonnage which are certified to carry more than 15 persons, to be surveyed and to have on board an International Sewage Pollution Prevention (ISPP) Certificate issued by its flag Administration or organization recognized by the Administration. Existing ships will be required to comply with the provisions of Annex IV with effect from 27 September 2008. On 1 April 2004, the International Maritime Organization (IMO) adopted a revised text of Annex IV, which is expected to come into force internationally on 1 August 2005.

4. To keep in line with international standards and reinforce Hong Kong's status as an international maritime centre, we plan to implement Annex IV in the HKSAR and have notified the Central People's Government (CPG) accordingly. The CPG has raised no objection. In fact, the CPG, being a State Party to MARPOL, will also ratify Annex IV soon. To implement Annex IV in the HKSAR, we need to give effect to the new requirements through domestic legislation.

5. The Sewage Regulation will be applicable to Hong Kong registered ocean-going ships and to non-Hong Kong registered ocean-going ships within Hong Kong waters which are of 400 gross tonnage or above, or of less than 400 gross tonnage which are certified to carry more than 15 persons.

6. Marine Department as the responsible Administration for Hong Kong registered ships will provide survey services and issue ISPP Certificates to compliant Hong Kong registered ships. Upon request by any State Party to Annex IV, the Department will also provide the same services to their registered ships. It is Government policy to charge fees for services provided and the fees should in general be set at levels sufficient to recover the full cost of providing such services. To provide the necessary legal backing for the Director of Marine to charge fees on the ship operators for providing such services, it is necessary to make the Fees Regulation in parallel with the Sewage Regulation. In accordance with section 3(2A) of the Ordinance, the Fees Regulation shall be made by Chief Executive in Council.

7. In addition, Annex IV requires the Administration to have reception facilities in place to meet the needs of ships if the Administration applies the prohibition against the discharge of sewage in the waters under its jurisdiction. As the Sewage Regulation will prohibit applicable ships from discharging sewage in the waters of Hong Kong in accordance with Annex IV, collection services will be provided by private sector operators to transfer the collected sewage ashore to government-designated treatment plants for proper treatment and onward disposal. Marine Department will publish a notice to announce a list of sewage collectors for ocean-going ships.

8. In anticipation of the commencement of the Sewage Regulation and the Fees Regulation, we have notified the CPG of the progress in preparing for the implementation of Annex IV in the HKSAR. When all the necessary legislative procedures are completed, we will seek the assistance of the CPG to notify the IMO regarding the implementation of Annex IV in the HKSAR and specify the date on which Annex IV requirements will take effect in the HKSAR.

THE REGULATIONS

Sewage Regulation

9. The main provisions of the Sewage Regulation are –

- (a) to provide that Hong Kong ships to which the Sewage Regulation applies shall obtain an ISPP Certificate before they can be engaged in international voyages and set out the arrangements for obtaining ISPP Certificates;
- (b) to impose on the companies and masters of ships in respect of which ISPP Certificates have been issued certain duties in order to ensure that the ships in all respects remain fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment;
- (c) to stipulate restrictions on discharging sewage into the sea; and
- (d) to provide for offences and penalties for non-compliance with the Sewage Regulation.

Fees Regulation

10. The Fees Regulation will be applicable to services provided by the Government as prescribed in the Sewage Regulation. The levels of charges proposed in the Fees Regulation are same as those currently charged for similar services prescribed in the relevant parts of the Merchant Shipping (Fees) Regulations.

11. The main provisions of the Fees Regulation are –

- (a) to specify the levels of fees for services in relation to survey being carried out within and outside Hong Kong, and additional fees for carrying out services outside office hours; and
- (b) to specify the levels of fees for issue of certificates.

LEGISLATIVE TIMETABLE

12. Both Regulations will be gazetted on 14 January 2005 and tabled at the Legislative Council on 19 January 2005. Their implementation dates will be aligned with each other and be appointed by the Secretary for Economic Development and Labour to match CPG's implementation date of Annex IV.

IMPLICATIONS OF THE PROPOSALS

13. The proposals have little economic implication to ship operators as the additional cost for installing equipment, survey and certification is insignificant compared to their total operation cost. The proposals are in conformity with the Basic Law, including the provisions concerning human rights. The Regulations will not affect the binding effect of the Ordinance. They have no significant sustainability implications.

14. Although revenue will be generated from charging fees in respect of services provided by Government surveyors under the Regulations, the amount to be collected on cost recovery basis is expected to be very small because most ship operators would engage organization(s) recognized by the Director of Marine to carry out the necessary survey and certification work. Hence, the financial implication is negligible. The proposals have no productivity and civil service implications. Marine Department will absorb the additional work for implementing the requirements of the Regulations through its existing staff and resources.

15. The proposals have no adverse environmental implication. Although ships will be prohibited from discharging untreated sewage into Hong Kong waters when the Sewage Regulation enters into force, improvement to sea water quality will not be significant because the amount of sewage involved is very small.

16. Annex IV stipulates the international requirements in preventing pollution at sea by sewage discharged from ships. Failure to comply with such international requirements will not only damage the reputation of Hong Kong in keeping up with international standards in the prevention of pollution at sea, but also will adversely affect the well being of the Hong Kong shipping industry. A Hong Kong registered ship without an ISPP Certificate issued by the Hong Kong flag Administration may have difficulties and may be denied entry when attempting to enter the ports of any State Party to Annex IV.

PUBLIC CONSULTATION

17. The technical sub-committee of the Hong Kong Shipowners Association and the Shipping Consultative Committee were consulted in November and December 2002 respectively, and they raised no objection to

the proposals. The Legislative Council Panel on Economic Services was consulted in January 2004 and they supported the proposals.

PUBLICITY

18. A press release will be issued on 14 January 2005. A spokesman will be available to handle press enquiries.

ENQUIRIES

19. Any enquiries on this brief can be addressed to Mr Ronnie Law, Senior Surveyor/Maritime Policy of Marine Department (Tel: 2852 4604) or Mr H B Chan, Assistant Secretary of the Economic Development and Labour Bureau (Tel: 2121 2304).

Economic Development and Labour Bureau
12 January 2005

**MERCHANT SHIPPING (PREVENTION OF POLLUTION BY
SEWAGE) REGULATION**

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MERCHANT SHIPPING (PREVENTION OF POLLUTION BY SEWAGE) REGULATION

(Made under section 3(2) of the Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap. 413))

PART 1

GENERAL PROVISIONS

1. Commencement

This Regulation shall come into operation on a day to be appointed by the Secretary for Economic Development and Labour by notice published in the Gazette.

2. Interpretation

In this Regulation, unless the context otherwise requires –

“additional survey” (附加檢驗) means an additional survey referred to in section 26(1);

“Annex IV” (附件 IV) means the revised Annex IV to the Convention adopted by the International Maritime Organization by resolution MEPC.115(51), as from time to time revised or amended by the revision or amendment that applies to Hong Kong;

“company” (公司), in relation to a ship, means –

- (a) the owner of the ship; or
- (b) any other person who has assumed responsibility for the operation of the ship, and on assuming such responsibility has agreed to take over all the duties and responsibilities imposed in respect of the ship by the Convention;

“Convention” (《公約》) means the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating to that Convention;

“Convention country” (公約國) means a country which is a party to the Convention;

“from the nearest land” (距離最近陸地) –

- (a) in relation to all land other than the part of Australia mentioned in paragraph (b), means from the low-water line along the coast as marked on large-scale charts officially recognized by the coastal state;
- (b) in relation to the part of the North-eastern coast of Australia which lies between the points 11° 00’S, 142° 08’E and 24° 42’S, 153° 15’E, means from the straight lines joining consecutively the following points –
 - (i) 11° 00’S, 142° 08’E;
 - (ii) 10° 35’S, 141° 55’E;
 - (iii) 10° 00’S, 142° 00’E;
 - (iv) 9° 10’S, 143° 52’E;
 - (v) 9° 00’S, 144° 30’E;
 - (vi) 10° 41’S, 145° 00’E;
 - (vii) 13° 00’S, 145° 00’E;
 - (viii) 15° 00’S, 146° 00’E;
 - (ix) 17° 30’S, 147° 00’E;
 - (x) 21° 00’S, 152° 55’E;
 - (xi) 24° 30’S, 154° 00’E; and
 - (xii) 24° 42’S, 153° 15’E;

“Government surveyor” (政府驗船師) means the person appointed under section 4 to be a Government surveyor;

“holding tank” (集存艙) means a tank used for the collection and storage of sewage;

“Hong Kong ship” (香港船舶) means a ship registered under the Merchant Shipping (Registration) Ordinance (Cap. 415);

“initial survey” (初次檢驗) means an initial survey referred to in section 9(2)(a)(i);

“international voyage” (國際航程) means a voyage from a Convention country to a port outside that Convention country, or vice versa;

“ISPP Certificate” (國際防污水證書) means –

- (a) in relation to a Hong Kong ship –
 - (i) a sewage certificate;
 - (ii) an International Sewage Pollution Prevention Certificate issued by a recognized organization in conformity with Annex IV to the Convention; or
 - (iii) an International Sewage Pollution Prevention Certificate issued by any Convention country on behalf of the Director in respect of a Hong Kong ship in conformity with Annex IV to the Convention; or
- (b) in relation to a non-Hong Kong ship, an International Sewage Pollution Prevention Certificate issued in conformity with Annex IV to the Convention;

“non-Hong Kong ship” (非香港船舶) means a ship other than a Hong Kong ship;

“recognized organization” (認可機構) means an organization recognized under section 5;

“renewal survey” (續證檢驗) means a renewal survey referred to in section 9(2)(a)(ii);

“sewage” (污水) means –

- (a) drainage or other wastes from any form of toilet or urinal;
- (b) drainage from medical premises via wash basins, wash tubs or scuppers located in such premises;
- (c) drainage from spaces containing living animals; or

- (d) other waste waters when mixed with any drainage or wastes specified in paragraph (a), (b) or (c) or any combination of them;

“sewage certificate” (污水證書) means an International Sewage Pollution Prevention Certificate issued by the Director under section 9;

“surveyor” (驗船師) means –

- (a) a Government surveyor; or
- (b) a recognized organization.

3. Application and exemption

(1) Subject to subsections (2), (3) and (4), this Regulation applies to a ship that –

- (a) is engaged in international voyages;
- (b) is of 400 gross tonnage or above, or is of less than 400 gross tonnage but is certified to carry more than 15 persons; and
- (c) is –
 - (i) a Hong Kong ship wherever it may be; or
 - (ii) a non-Hong Kong ship within the waters of Hong Kong.

(2) This Regulation does not apply to a ship –

- (a) the building contract for which is placed before 27 September 2003, or in the absence of a building contract, the keel of which is laid, or which is at a similar stage of construction, before 27 September 2003; and
- (b) the delivery of which is before 27 September 2006.

(3) This Regulation does not apply to –

- (a) warships;
- (b) naval auxiliaries; and

(c) other ships owned or operated by a government and used only on government non-commercial service.

(4) The Director may exempt any ship or class or description of ships from any of the requirements of this Regulation on such conditions as he may specify and he may, subject to giving reasons, alter or cancel any exemption so granted.

(5) Subsection (2) expires at midnight on 26 September 2008.

4. Appointment of Government surveyors

The Director may appoint a person to be a Government surveyor for the purposes of this Regulation.

5. Director may recognize organizations to survey ships and issue and endorse certificates

- (1) The Director may recognize any organization for the purposes of –
- (a) carrying out surveys in respect of Hong Kong ships in conformity with Annex IV to the Convention;
 - (b) issuing International Sewage Pollution Prevention Certificates in respect of Hong Kong ships in conformity with that Annex; and
 - (c) making endorsements on ISPP Certificates issued in respect of Hong Kong ships in conformity with that Annex.

(2) For the purposes of this Regulation, an endorsement made on an ISPP Certificate by a recognized organization in conformity with Annex IV to the Convention has the same effect as an endorsement made by the Director under section 14.

6. Director may request Convention countries to survey ships and issue or endorse certificates

- (1) The Director may request any Convention country –

- (a) to carry out a survey in respect of a Hong Kong ship on his behalf in conformity with Annex IV to the Convention; and
- (b) to issue an International Sewage Pollution Prevention Certificate in respect of the ship, or to make an endorsement on the ISPP Certificate issued in respect of the ship, on his behalf in conformity with that Annex.

(2) For the purposes of this Regulation, an endorsement made on an ISPP Certificate by a Convention country on behalf of the Director in conformity with Annex IV to the Convention has the same effect as an endorsement made by the Director under section 14.

7. Equivalents

Where this Regulation requires that a particular fitting or equipment shall be fitted in a ship, the Director may allow any other fitting or equipment to be fitted in the ship if he is satisfied that such fitting or equipment is at least as effective as that required by this Regulation.

PART 2

PROHIBITION ON ENGAGING HONG KONG SHIPS IN INTERNATIONAL VOYAGES WITHOUT ISPP CERTIFICATES

8. Prohibition on engaging Hong Kong ships in international voyages without ISPP Certificates

A Hong Kong ship to which this Regulation applies shall not be engaged in international voyages unless there is in force in respect of the ship an ISPP Certificate.

PART 3

ISSUE OF INTERNATIONAL SEWAGE POLLUTION PREVENTION CERTIFICATES AND RELATED MATTERS

9. Applications for issue of International Sewage Pollution Prevention Certificates

(1) A company of a Hong Kong ship may apply to the Director for an International Sewage Pollution Prevention Certificate in respect of the ship. An application is to be accompanied by the prescribed fee in relation to the issue of the International Sewage Pollution Prevention Certificate.

(2) The Director shall not issue an International Sewage Pollution Prevention Certificate in respect of a Hong Kong ship unless the Director is satisfied –

- (a) where the ship –
 - (i) is one in respect of which an ISPP Certificate has never been issued, that an initial survey of the ship has been carried out in accordance with section 10;
or
 - (ii) is one in respect of which an ISPP Certificate has been issued, that a renewal survey of the ship has been carried out in accordance with section 10;
and
- (b) that, on the evidence of a declaration of survey forwarded to the Director under section 10(4), the structure, equipment, systems, fittings, arrangements and material of the ship comply with the requirements under the Schedule and the equipment and associated piping system are in good working order.

(3) An International Sewage Pollution Prevention Certificate issued under this section is valid for a period specified by the Director in accordance with section 12 or 17.

10. Initial surveys and renewal surveys

(1) An initial survey or renewal survey of a ship shall be carried out by a surveyor.

(2) An initial survey of a ship shall include a complete survey of the structure, equipment, systems, fittings, arrangements and material of the ship.

(3) A renewal survey of a ship shall, except where section 12(2) or (4)(b), 15, 16 or 17(2) is applicable, be carried out on a date not exceeding 5 years from the date of completion of the preceding initial survey or renewal survey, as may be applicable.

(4) If, after having carried out an initial survey or renewal survey in respect of a ship, the surveyor is satisfied that the structure, equipment, systems, fittings, arrangements and material of the ship comply with the requirements under the Schedule and the equipment and associated piping system are in good working order, he shall –

- (a) make a declaration of survey to the effect that he is so satisfied; and
- (b) forward the declaration of survey to the Director.

11. Form of sewage certificates

(1) The Director may specify the form of a sewage certificate.

(2) The form specified under subsection (1) shall correspond to the Form of Certificate set out in the Appendix to Annex IV to the Convention.

12. Duration of sewage certificates

(1) Subject to subsections (2) and (4), a sewage certificate issued as a result of an initial survey or renewal survey is valid for a period of not exceeding 5 years from the date of completion of the survey.

(2) If the renewal survey carried out in respect of a Hong Kong ship is completed within 3 months before the expiry date of the existing ISPP Certificate in force in respect of the ship, the new sewage certificate issued as a result of the survey is valid from the date of completion of the survey to a date not exceeding 5 years from the expiry date of the existing ISPP Certificate.

(3) If the renewal survey carried out in respect of a Hong Kong ship is completed more than 3 months before the expiry date of the existing ISPP Certificate in force in respect of the ship, the new sewage certificate issued as a result of the survey is valid from the date of completion of the survey to a date not exceeding 5 years from the date of completion of the survey.

(4) If the renewal survey carried out in respect of a Hong Kong ship is completed after the expiry date of the existing ISPP Certificate in force in respect of the ship, the new sewage certificate issued as a result of the survey –

- (a) subject to paragraph (b), is valid from the date of completion of the survey to a date not exceeding 5 years from the expiry date of the existing ISPP Certificate; or
- (b) where the Director considers appropriate, is valid from the date of completion of the survey to a date not exceeding 5 years from the date of completion of the survey.

13. Extension of period of validity

(1) If an ISPP Certificate issued in respect of a Hong Kong ship is valid for a period of less than 5 years, the Director may on the application of the company or the master of the ship extend the period of validity of the Certificate beyond the expiry date.

(2) Subsection (1) does not empower the Director to extend the period of validity of an ISPP Certificate in such a way that the Certificate will be valid for more than 5 years.

14. Extension of period of validity where new sewage certificates cannot be issued, etc. before expiry of existing ISPP Certificates

If, on an application for a sewage certificate, the Director is satisfied as to the matters set out in section 9(2)(a)(ii) and (b) but the new sewage certificate cannot be issued or placed on board the ship concerned before the expiry date of the existing ISPP Certificate in force in respect of the ship, the Director may –

- (a) extend the period of validity of the existing ISPP Certificate for a further period of not exceeding 5 months from the expiry date of the existing ISPP Certificate; and
- (b) endorse on the existing ISPP Certificate a statement to that effect.

15. Extension of period of validity where ships are not in ports in which ships are to be surveyed

(1) If an ISPP Certificate issued in respect of a Hong Kong ship expires when the ship is not in a port in which the ship is to be surveyed, the company or the master of the ship may apply to the Director for an extension of the period of validity of the Certificate.

(2) The Director shall not grant an extension of the period of validity of an ISPP Certificate unless –

- (a) it is for the purpose of allowing the ship to complete its voyage to a port in which the ship is to be surveyed; and
- (b) the Director considers that it is proper and reasonable to do so.

(3) Subject to subsection (4), the Director may, on granting an extension of the period of validity of an ISPP Certificate, extend the period of

validity of the Certificate for a period of not exceeding 3 months from the expiry date of the Certificate.

(4) If the period of validity of an ISPP Certificate has been extended under this section, the Certificate shall, notwithstanding such extension, expire when the ship completes its voyage to a port in which the ship is to be surveyed.

16. Extension of period of validity where ships are on short voyages

Where a Hong Kong ship in respect of which an ISPP Certificate has been issued is engaged in short voyages and the period of validity of the Certificate has not been extended under section 13(1) or 15(3), the Director may on the application of the company or the master of the ship extend the period of validity of the Certificate for a period of not exceeding 1 month from the expiry date of the Certificate.

17. Duration of new sewage certificates where period of validity is extended under section 15 or 16

(1) If the period of validity of an existing ISPP Certificate issued in respect of a ship has been extended under section 15 or 16, the new sewage certificate issued in respect of the ship as a result of a renewal survey is valid from the date of completion of the survey to a date not exceeding 5 years from the expiry date of the existing ISPP Certificate before the extension was granted.

(2) Notwithstanding subsection (1), where the Director considers appropriate, a new sewage certificate may be valid from the date of completion of the relevant survey to a date not exceeding 5 years from the date of completion of the survey.

18. Where ISPP Certificates cease to be valid

An ISPP Certificate issued in respect of a Hong Kong ship ceases to be valid –

- (a) if an additional survey of the ship is not carried out within the period specified by the Director under section 26(1);
- (b) if the ship is transferred to the registry of a place outside Hong Kong; or
- (c) if any alteration has been made, without the approval of the Director, to the structure, equipment, systems, fittings, arrangements or material of the ship covered by the initial or renewal survey leading to the issue, or additional survey leading to the endorsement, of the Certificate, other than an alteration that constitutes a direct replacement of such equipment or fittings.

19. Certified true copies of sewage certificates

The company of a Hong Kong ship in respect of which a sewage certificate has been issued may apply to the Director for the issue of a certified true copy of the certificate. An application is to be accompanied by the prescribed fee in relation to the issue of the certified true copy.

20. Alteration made to sewage certificates

(1) The company of a Hong Kong ship in respect of which a sewage certificate has been issued may request the Director to alter any particulars contained in the certificate.

(2) The Director may refuse to make the alteration requested if he considers the alteration to be made is material.

(3) If the Director agrees to make the alteration, he shall, upon receipt of the prescribed fee in relation to the alteration, alter the sewage certificate accordingly.

PART 4

DUTIES OF COMPANIES AND MASTERS, ADDITIONAL SURVEYS AND SUSPENSION OF VALIDITY OF ISPP CERTIFICATES, ETC.

21. Interpretation of Part 4

For the purposes of this Part, a serious accident occurs to a ship or there is a material defect in a ship if the accident or defect substantially affects –

- (a) the safety of the ship and persons on board the ship;
- (b) the ship to the extent that the ship is not fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment; or
- (c) the efficiency or completeness of the equipment of the ship –
 - (i) where the ship is a Hong Kong ship, set out in the Schedule;
 - (ii) where the ship is a non-Hong Kong ship, set out in the provisions of Annex IV to the Convention that are equivalent to the provisions of the Schedule.

22. Duty to keep ISPP Certificates on ships

An ISPP Certificate issued in respect of a ship shall be kept on board the ship and be available for inspection by a Government surveyor at all reasonable time.

23. Duty to maintain condition of ships

The condition of a Hong Kong ship in respect of which an ISPP Certificate has been issued, and its equipment, shall be maintained so as to comply with the requirements under the Schedule to ensure that the ship in all respects remains fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment.

24. Duty to report defects of ships, etc.

(1) Where a serious accident occurs to, or a material defect is discovered in, a ship in respect of which an ISPP Certificate has been issued, the company or the master of the ship –

- (a) shall immediately report the accident or defect to the Director; and
- (b) where the ship is a Hong Kong ship that is in a port of any Convention country, shall immediately report the accident or defect to the appropriate authority of that country.

(2) On receiving a report under subsection (1)(a), the Director may, where the ship concerned is a Hong Kong ship, cause an investigation to be initiated and determine whether a survey is necessary.

25. Actions against ships that are not fit to proceed to sea without presenting unreasonable threat of harm to marine environment, etc.

(1) If the Director has reasonable ground to believe that –

- (a) the condition of a ship in respect of which an ISPP Certificate has been issued, or its equipment, does not correspond substantially with the particulars contained in the Certificate; or
- (b) the condition of a ship in respect of which an ISPP Certificate has been issued is such that the ship is not fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment,

he may appoint a surveyor to carry out an investigation and report to him.

(2) Where the Director appoints a surveyor under subsection (1), the Director shall inform the company or the master of the ship concerned of the appointment.

(3) If, on receiving a report under subsection (1) concerning a Hong Kong ship, the Director is satisfied that –

- (a) the matter referred to in subsection (1)(a) or (b) is established; and
- (b) the corrective action which in the opinion of the surveyor is required has not been taken within the period specified by the surveyor or, in the absence of such a specified period, a reasonable period,

the Director may, by notice in writing to the company of the ship, suspend the validity of the ISPP Certificate issued in respect of the ship.

(4) On receiving a notice under subsection (3), the company of the ship concerned shall forthwith cause to be delivered to the Director the ISPP Certificate issued in respect of the ship.

(5) Where the validity of an ISPP Certificate issued in respect of a Hong Kong ship has been suspended under subsection (3), the company of the ship may, after the corrective action referred to in subsection (3)(b) has been taken in respect of the ship, apply to the Director for the restoration of the validity of the Certificate.

(6) On receiving an application for the restoration of the validity of an ISPP Certificate under subsection (5), the Director shall, if he is satisfied that the corrective action referred to in subsection (3)(b) has been taken in respect of the Hong Kong ship concerned after the suspension, restore the validity of the Certificate.

(7) Where the Director restores the validity of an ISPP Certificate under subsection (6), he shall notify the company of the Hong Kong ship concerned in writing of the restoration and return the Certificate to the company.

26. Additional surveys

- (1) If –

- (a) the Director has reasonable ground to believe that section 23 is not complied with in respect of a Hong Kong ship;
- (b) after an ISPP Certificate has been issued, or endorsed under subsection (4), in respect of a Hong Kong ship, any alteration has been made, with the approval of the Director, to the structure, equipment, systems, fittings, arrangements or material of the ship covered by the survey leading to the issue or endorsement of the Certificate;
- (c) the Director determines under section 24(2) that it is necessary to carry out a survey in respect of a Hong Kong ship;
- (d) the Director has reasonable ground to believe that, after an ISPP Certificate has been issued, or endorsed under subsection (4), in respect of a Hong Kong ship, important repairs or renewals have been made to the ship; or
- (e) the Director has reasonable ground to believe that a serious accident has occurred to a Hong Kong ship in respect of which an ISPP Certificate has been issued, or that there is a material defect in the ship,

the Director may require that an additional survey, either general or partial as the Director thinks fit, be carried out in respect of the ship by a surveyor within a reasonable period specified by the Director.

(2) Where the Director requires that an additional survey be carried out in respect of a Hong Kong ship under subsection (1), he shall inform the company or the master of the ship of the requirement.

(3) If, after having carried out an additional survey in respect of a Hong Kong ship, the surveyor is satisfied that –

- (a) the ship in all respects complies with the requirements under the Schedule; and

(b) the ship is fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment, he shall make a declaration of survey to the effect that he is so satisfied and forward the declaration of survey to the Director.

(4) If, on receiving a declaration of survey in respect of a Hong Kong ship under subsection (3), the Director is satisfied –

(a) that an additional survey in respect of the ship has been carried out; and

(b) that, on the evidence of the declaration of survey, the ship in all respects complies with the requirements under the Schedule and is fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment,

he shall cause to be endorsed on the ISPP Certificate issued in respect of the ship a statement to the effect that he is so satisfied.

27. Cancellation of ISPP Certificates

(1) The Director may, by notice in writing to the company of a Hong Kong ship, cancel an ISPP Certificate issued or endorsed in respect of the ship if he has reasonable ground to believe that the Certificate was issued or endorsed on the basis of false or erroneous information.

(2) The Director shall give reasons for cancelling an ISPP Certificate.

(3) On receiving a notice under subsection (1), the company of the ship concerned shall forthwith cause to be delivered to the Director the ISPP Certificate issued in respect of the ship.

PART 5
RESTRICTION ON DISCHARGE OF SEWAGE INTO
SEA

28. Restriction on discharge of sewage into sea

(1) No sewage may be discharged into the sea from a ship to which this Regulation applies unless –

- (a) in the case where the sewage is comminuted and disinfected, all of the following conditions are complied with –
 - (i) the ship is discharging the sewage using a system referred to in section 1(b) of the Schedule or a sewage comminuting and disinfecting system specified in the ISPP Certificate issued in respect of the ship, at a distance of more than 3 nautical miles from the nearest land;
 - (ii) the sewage that has been stored in holding tanks is not discharged instantaneously;
 - (iii) the effluent does not produce visible floating solids nor cause discoloration of the surrounding water; and
 - (iv) the ship is proceeding en route at not less than 4 knots;
- (b) in the case where the sewage is not comminuted or disinfected, all of the following conditions are complied with –
 - (i) the sewage is discharged at a distance of more than 12 nautical miles from the nearest land;
 - (ii) the sewage that has been stored in holding tanks is not discharged instantaneously;

- (iii) the effluent does not produce visible floating solids nor cause discoloration of the surrounding water; and
 - (iv) the ship is proceeding en route at not less than 4 knots; or
- (c) in the case where the ship has in operation a sewage treatment plant referred to in section 1(a) of the Schedule or a sewage treatment plant specified in the ISPP Certificate issued in respect of the ship –
- (i) the test results of the plant are laid down in the ISPP Certificate issued in respect of the ship; and
 - (ii) the effluent does not produce visible floating solids nor cause discoloration of the surrounding water.

(2) For the avoidance of doubt, when the sewage is mixed with wastes or waste water which is regulated by the other regulations under the Ordinance, those regulations shall be complied with in addition to this Regulation.

29. Exceptions to section 28

Section 28 does not apply if the discharge of sewage into the sea from a ship –

- (a) is necessary for the purpose of securing the safety of the ship and persons on board the ship or of saving life at sea;
- (b) results from damage to the ship or its equipment, provided that all reasonable steps had been taken before and after the occurrence of the damage for the purpose of preventing or minimizing the discharge of sewage; or
- (c) is made –
 - (i) in waters within the jurisdiction of another place;and

- (ii) in accordance with the law of that place.

PART 6

OFFENCES AND PENALTIES

30. Offences and penalties

(1) If section 8, 22, 23, 24(1) or 28(1) is contravened, the company and the master of the ship concerned each commits an offence and is liable –

- (a) on conviction upon indictment, to a fine at level 6;
- (b) on summary conviction, to a fine at level 3.

(2) If section 25(4) or 27(3) is contravened, the company of the ship concerned commits an offence and is liable –

- (a) on conviction upon indictment, to a fine at level 6;
- (b) on summary conviction, to a fine at level 3.

(3) If a person is charged under this section for contravening a provision of this Regulation, it is a defence of the person to show that he had taken all reasonable steps to ensure that the provision was complied with.

SCHEDULE

[ss. 9, 10, 21,
23, 26 & 28]

REQUIREMENTS FOR EQUIPMENTS, ETC.

1. The ship concerned shall be equipped with –

- (a) a sewage treatment plant which is in compliance with the International Effluent Standards for Sewage Treatment Plants and the Guidelines for Performance Tests for Sewage Treatment Plants with respect to Effluent Standards adopted by the International Maritime Organization by resolution MEPC.2(VI);

- (b) a sewage comminuting and disinfecting system fitted with facilities for the temporary storage of sewage when the ship is at a distance of not more than 3 nautical miles from the nearest land; or
- (c) a holding tank with a capacity or holding tanks with total capacity adequate to retain all the sewage produced on board the ship in any voyage that may be engaged by the ship until the sewage is discharged from the ship properly in accordance with section 28(1) of this Regulation. The holding tank shall have a means to indicate visually the amount of its content.

2. The ship concerned shall be equipped with a discharge manifold for connection to reception facilities for the discharge of sewage. The discharge manifold shall be located on the open deck of the ship with piping. This piping shall be fitted with a flange in accordance with the following dimensions –

Description	Dimension
Outside diameter	210 mm
Inner diameter	According to pipe outside diameter
Bolt circle diameter	170 mm
Slots in flange	4 holes, 18 mm in diameter, equidistantly placed on a bolt circle of 170 mm diameter, slotted to the flange periphery, the slot width to be 18 mm
Flange thickness	16 mm
Bolts and nuts: quantity and diameter	4 each of 16 mm in diameter and of suitable length

The flange shall be designed to accept pipes up to a maximum internal diameter of 100 mm and shall be of steel or other equivalent material having a flat face. This flange, together with a suitable gasket, shall be suitable for a service pressure of 600 kPa.

Secretary for Economic Development
and Labour

3 January 2005

Explanatory Note

The purpose of this Regulation is to give effect to Annex IV to the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating to that Convention. That Annex IV relates to the prevention of pollution of sea by sewage from ships.

2. Part 1 mainly sets out the scope of application of the Regulation and the powers of the Director of Marine (“the Director”) to appoint Government surveyors, recognize organizations for the purposes of issuing International Sewage Pollution Prevention Certificates (“ISPP Certificate”) and request a Convention country to issue ISPP Certificates on his behalf.
3. Part 2 provides that a Hong Kong ship to which the Regulation applies shall have an ISPP Certificate before the ship is engaged in international voyages.
4. Part 3 sets out the matters relating to the issue of ISPP Certificates by the Director, including survey requirements.

5. Part 4 sets out the duties of the companies and the masters of ships. It also sets out the actions that may be taken in order to ensure that the condition of a ship corresponds substantially with the particulars contained in its ISPP Certificate and the ship is fit to proceed to sea without presenting an unreasonable threat of harm to the marine environment.
6. Part 5 restricts the discharge of sewage into the sea from a ship and provides for exceptions to the restriction.
7. Part 6 sets out the offences under the Regulation and the penalties.
8. The Schedule sets out the details of the equipment that a ship has to be equipped with in order to satisfy certain requirements under the Regulation.

**MERCHANT SHIPPING (PREVENTION AND CONTROL OF
POLLUTION)(FEES) REGULATION**

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MERCHANT SHIPPING (PREVENTION AND CONTROL OF POLLUTION)(FEES) REGULATION

(Made by the Chief Executive in Council under section 3(2A) of the Merchant Shipping (Prevention and Control of Pollution) Ordinance (Cap. 413))

1. Commencement

This Regulation shall come into operation on the day appointed for the commencement of the Merchant Shipping (Prevention of Pollution by Sewage) Regulation (L.N. 7 of 2005).

2. Interpretation

In this Regulation, unless the context otherwise requires –

“Government surveyor” (政府驗船師) means the person appointed by the Director to be a Government surveyor under section 4 of the Merchant Shipping (Prevention of Pollution by Sewage) Regulation (L.N. 7 of 2005);
“office hours” (辦公時間) means the hours between 9 a.m. and 5 p.m. on Monday to Friday inclusive and between 9 a.m. and noon on Saturday (excluding general holidays).

3. Fees for services within Hong Kong

Where a service specified in Schedule 1 is carried out within Hong Kong by a Government surveyor, there shall be payable in respect of the service by each Government surveyor a fee of –

- (a) \$3,270 for the first hour or part hour; and
- (b) \$1,115 for each subsequent hour or part hour,

during which the service by the surveyor continues.

4. Fees for services outside Hong Kong

(1) Where a service specified in Schedule 1 is carried out outside Hong Kong by a Government surveyor sent from Hong Kong, there shall be payable in respect of the service by each Government surveyor –

- (a) a fee of \$7,645 for each period of 24 hours or part of it during which the surveyor is absent from Hong Kong on account of the service; and
- (b) a fee of such amount that is, in the opinion of the Director, equivalent to the travelling and subsistence expenses of the surveyor during the period the surveyor is so absent.

(2) The duration of a Government surveyor's absence from Hong Kong is calculated with reference to the time of departure from and arrival at Hong Kong.

5. Fees for services within and outside Hong Kong

If part of a service specified in Schedule 1 is carried out within Hong Kong by a Government surveyor, and part of the service is carried out outside Hong Kong by a Government surveyor sent from Hong Kong, the fee payable in respect of the service is the aggregate of –

- (a) the fee payable in respect of the part of the service carried out within Hong Kong by each Government surveyor, calculated in accordance with section 3; and
- (b) the fee payable in respect of the part of the service carried out outside Hong Kong by each Government surveyor, calculated in accordance with section 4.

6. Additional fees for services outside office hours

(1) Where a service specified in Schedule 1, or part of it, is carried out (whether within Hong Kong or not) by a Government surveyor outside office

hours on any date, there shall be payable, in addition to the appropriate fees payable under section 3, 4 or 5, in respect of the service, or the part of the service, by each Government surveyor outside office hours –

- (a) subject to paragraph (d), if that date is a weekday (other than a Saturday), a fee of –
 - (i) \$1,115 for each hour or part of it between 7 a.m. and 9 a.m. or between 5 p.m. and 7 p.m. during which the service, or the part of the service, by the surveyor continues; and
 - (ii) \$2,215 for each hour or part of it before 7 a.m. or after 7 p.m. during which the service, or the part of the service, by the surveyor continues;
- (b) subject to paragraph (d), if that date is a Saturday, a fee of –
 - (i) \$1,115 for each hour or part of it between 7 a.m. and 9 a.m. during which the service, or the part of the service, by the surveyor continues;
 - (ii) \$2,215 for each hour or part of it before 7 a.m. during which the service, or the part of the service, by the surveyor continues; and
 - (iii) \$3,270 for each hour or part of it between the hours from noon to midnight during which the service, or the part of the service, by the surveyor continues;
- (c) subject to paragraph (d), if that date is a Sunday, a fee of \$3,270 for each hour or part of it during which the service, or the part of the service, by the surveyor continues;
- (d) if that date falls on a calendar day that is a general holiday in Hong Kong, a fee of \$3,270 for each hour or part of it

during which the service, or the part of the service, by the surveyor continues.

(2) For the purposes of subsection (1), where a service, or part of it, is carried out in a place outside Hong Kong, a reference to any time or date in that subsection (except the reference to general holiday in subsection (1)(d)) is a reference to the time or date according to the local time in the place.

(3) Subsection (1) does not apply if 3 days' notice of the requirement for the service has been given to the Director by the person requesting the service, but the Director has caused the service to be carried out outside office hours.

7. Fees for issue of certificates, etc.

(1) The fee for the issue of a certificate specified in Schedule 2 is \$565.

(2) The fee for the issue of a certified true copy of a certificate specified in Schedule 2 is \$565.

(3) The fee for the making of any alteration to a certificate specified in Schedule 2 is \$565.

8. Fees where services not completed

(1) Where –

(a) at the request of any person, a service specified in Schedule 1 is carried out by a Government surveyor; and

(b) in consequence of the act of the person, the service is abandoned before it is completed,

the fee payable in respect of the service under this Regulation may be reduced at the discretion of the Director.

(2) In exercising the discretion under subsection (1), the Director shall have regard to the nature and extent of the work involved in the service.

9. Fees payable in advance

(1) Subject to subsection (2), a fee payable in respect of a service specified in Schedule 1, or a certificate specified in Schedule 2, under this Regulation shall be paid to the Director before the service is carried out or the certificate (or the certified true copy of the certificate) is issued or the certificate is altered.

(2) The Director may, in any particular case, permit the whole, or any part, of any fee payable under this Regulation to be paid in arrears, subject to such conditions as to security or time for payment as the Director thinks fit.

10. Services required for certain official purposes

(1) Notwithstanding sections 3, 4 and 6, no fee shall be payable in respect of any service specified in Schedule 1 that is carried out at the request of –

- (a) the Central People's Government; or
- (b) any department of the Government of Hong Kong,

for official purposes.

(2) Notwithstanding section 7(2), no fee shall be payable in respect of the issue of a certified true copy of a certificate specified in Schedule 2 that is issued at the request of –

- (a) the Central People's Government;
- (b) any department of the Government of Hong Kong; or
- (c) the representative of a government other than the Government of Hong Kong,

when the copy is required for official purposes.

SCHEDULE 1[ss. 3, 4, 5, 6,
8, 9 & 10]**SPECIFIED SERVICES**

1. An initial survey, renewal survey or additional survey within the meaning of the Merchant Shipping (Prevention of Pollution by Sewage) Regulation (L.N. 7 of 2005).

SCHEDULE 2

[ss. 7, 9 & 10]

SPECIFIED CERTIFICATES

1. An International Sewage Pollution Prevention Certificate issued by the Director under the Merchant Shipping (Prevention of Pollution by Sewage) Regulation (L.N. 7 of 2005).

Clerk to the Executive Council

COUNCIL CHAMBER

4 January 2005

Explanatory Note

The main purpose of this Regulation is to provide for the payment of fees in respect of –

- (a) surveys carried out under the Merchant Shipping (Prevention of Pollution by Sewage) Regulation (L.N. 7 of 2005)(sections 3, 4, 5 and 6); and
- (b) the issue of International Sewage Pollution Prevention Certificates by the Director of Marine under the Merchant Shipping (Prevention of Pollution by Sewage) Regulation (L.N. 7 of 2005)(section 7).