

政府總部  
運輸及房屋局

運輸科

香港中環交易廣場  
第二座三十八樓



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法律事務部  
助理法律顧問  
鄭潔儀女士

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鄭女士：

《燃油污染（法律責任及補償）條例草案》

二零零九年七月二日的來信收悉，你在來信中要求政府提供以下資料：(a) 條例草案如何實施《2001 年國際燃油污染損害民事責任公約》（《燃油公約》）；以及(b)把《燃油公約》的適用範圍延伸至香港的法律機制。

2. 隨函附上的表格已列出上述(a)項要求的資料。至於(b)項，根據《香港特別行政區基本法》第一百五十三條，中華人民共和國締結的國際協議，中央人民政府（中央政府）可根據香港特別行政區（香港特區）的情況和需要，在徵詢香港特區政府的意見後，決定是否適用於香港特區。中央政府已就《燃油公約》應否適用於香港特區一事徵詢香港特區政府的意見。我們原則上支持把《燃油公約》的適用範圍伸延至香港特區。如條例草案獲立法會通過，我們會在其他必需的預備工作辦妥後，要求中央政府根據公約第 13 條通知國際海事組織，把《燃油公約》的適用範圍伸延至香港。

運輸及房屋局局長

(黃國玲女士  代行)

副本送：

律政司（經辦人：許行嘉女士）

（經辦人：黃修賢女士）

（經辦人：陳惠芝女士）

（經辦人：梅基發先生）

海事處（經辦人：梁榮康先生）

二零零九年七月八日

# 《燃油污染(法律責任及補償)條例草案》

條次

參照燃油公約 / 國際海事組織  
決議的相關條目

## 第 1 部

### 導言

- |            |                     |
|------------|---------------------|
| 1. 簡稱及生效日期 | -                   |
| 2. 釋義      | 第 1 條,第 2 條及第 3(1)條 |
| 3. 條例的適用範圍 | 第 4(1)條及第 4(2)條     |

## 第 2 部

### 污染損害的法律責任

- |                   |  |
|-------------------|--|
| 4. 本部的適用範圍        | -  |
| 5. 船舶船東就污染損害的法律責任 | 第 3(1)條及第 1(9)條                                |
| 6. 船舶船東的共同及各別法律責任 | 第 3(2)條,第 3(4)條及第 5 條                          |
| 7. 第 5 條的法律責任的豁免  | 第 3(3)條及第 3(4)條                                |
| 8. 船舶船東的法律責任的限制   | 第 6 條  |
| 9. 船舶船東以外的人的法律責任  | 保護執行防止或減低油污措施人員之決議 (LEG/CONF.12/18)<br>(只備英文版) |

條次	參照燃油公約 / 國際海事組織 決議的相關條目
10. 第三者向承保人索償的權利	第 7(10)條
11. 船舶船東是否在第 5 條外為污染損害等承擔法律責任	第 3(5)條

### 第 3 部

#### 強制法律責任保險

12. 本部的適用範圍	第 7(1)條及第 7(15)條
13. 強制就污染損害的法律責任投保	第 7(1)條,第 7(9)條,第 7(11)條, 第 7(12)條及第 7(14)條
14. 船舶的船長於船舶上存放保險證書或指明證書的責任	第 7(5)條,第 7(11)條,第 7(12)條, 第 7(13)條及第 7(14)條
15. 申請保險證書等	-
16. 處長或獲授權人發出保險證書的權力等	第 7(2)條,第 7(3)條,第 7(4)條, 第 7(6)條及第 7(7)條
17. 取消和交出由處長或獲授權人發出的保險證書	第 7(7)條

### 第 4 部

#### 香港法院就強制執行申索及在香港強制執行其他 地方的法院的判決的司法管轄權等

18. 香港法院強制執行因在香港及任何其他《燃油公約》 適用地的污染損害而產生的申索的司法管轄權	第 9 條
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條次	參照燃油公約 / 國際海事組織 決議的相關條目
19. 《燃油公約》國接受法庭的司法管轄權	第 4(4)條
20. 法律程序的時限等	第 8 條
21. 強制執行外地判決	第 10 條
22. 局限可在香港強制執行的判決(香港法院的判決除外) 的數額	-

## 第 5 部

### 雜項

23. 處長可授予豁免	-
24. 就處長等的決定作出通知	-
25. 處長授權若干人士為獲授權人的權力	第 7(3)條
26. 處長委任任何人為執法人員的權力	-
27. 執法人員的權力	-
28. 提供虛假資料等	-
29. 上訴	-
30. 通知等的送達	-
31. 保留提起追索補償訴訟的權利	第 3(6)條
32. 法人團體所犯的罪行	-
33. 訂立規例的權力	-

條次

參照燃油公約 / 國際海事組織  
決議的相關條目

## 第 6 部

相應及相關修訂

《高等法院條例》

34. 原訟法庭的海事司法管轄權 -

《高等法院規則》

35. 適用範圍及釋義 -

36. 在本司法管轄權範圍外送達令狀 -

37. 扣押令 -

《外地判決(限制承認及強制執行)條例》

38. 違反爭議和解協議的外地判決 -

《油污處理(土地使用及徵用)條例》

39. 取代條文 -

《行政上訴委員會條例》

40. 修訂附表 -

INTERNATIONAL MARITIME ORGANIZATION



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INTERNATIONAL CONFERENCE ON  
LIABILITY AND COMPENSATION FOR  
BUNKER OIL POLLUTION DAMAGE, 2001

LEG/CONF.12/18  
27 March 2001  
Original: ENGLISH

Agenda item 8

**ADOPTION OF THE FINAL ACT AND ANY INSTRUMENTS, RECOMMENDATIONS  
AND RESOLUTIONS RESULTING FROM THE WORK OF THE CONFERENCE**

**CONFERENCE RESOLUTIONS**

**Texts approved by the Conference**

**RESOLUTION ON LIMITATION OF LIABILITY**

THE CONFERENCE,

HAVING ADOPTED the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001 (hereinafter "the Convention"),

NOTING THAT article 6 of the Convention preserves the right of the shipowner to limit its liability under any applicable national or international regime,

REAFFIRMING that clear rights to limitation of liability are desirable, to enable the shipowner to take out effective insurance cover at reasonable cost,

BELIEVING that limitation amounts must be sufficiently high to permit the payment of full compensation for eligible claims in normal circumstances,

1. URGES all States that have not yet done so, to ratify, or accede to the Protocol of 1996 to amend the Convention on Limitation of Liability for Maritime Claims, 1976;
2. ENCOURAGES States Parties to the Convention on Limitation of Liability for Maritime Claims, 1976 to denounce that Convention with effect from the entry into force of the Protocol of 1996 to amend the Convention on Limitation of Liability for Maritime Claims, 1976 for those States Parties, or after a limited period of time;
3. ALSO ENCOURAGES States Parties to the International Convention for Unification of Certain Rules relating to the Limitation of Liability of Owners of Sea-Going Vessels, 1924 and the International Convention relating to Limitation of Liability of Owners of Sea-Going Ships, 1957 to denounce those Conventions with effect from the entry into force of the Protocol of 1996 to amend the Convention on Limitation of Liability for Maritime Claims, 1976 for those States Parties;
4. RECOMMENDS that States, when implementing the Convention in their national law, make clear which limitation of liability regime is applicable according to article 6 of the Convention.

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**RESOLUTION ON PROMOTION OF TECHNICAL CO-OPERATION**

THE CONFERENCE,

HAVING ADOPTED the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001 (hereinafter "the Convention"),

BEING AWARE that the comprehensive protection of the marine environment requires, *inter alia*, broad international co-operation to prevent, reduce and control marine pollution damage caused by ships, as well as the adoption of global measures to provide adequate, prompt and effective compensation for such damage,

RECOGNIZING that the provision and use of bunker oil is important for the operation or propulsion of ships, as the principal means of transportation of international trade, and is therefore widespread throughout the world,

RECOGNIZING ALSO that pollution damage caused by bunker oil may produce significant economic and environmental impact in all States, but especially in developing States that do not yet have adequate expertise, facilities and resources to prevent, reduce and control such pollution, and that such impact may, as a consequence, adversely affect the process of sustainable development in those States,

RECOGNIZING FURTHER that States Parties to the Convention will be called upon to make arrangements for the provision of adequate, prompt and effective compensation for pollution damage caused by bunker oil and to assume full responsibility for such arrangements,

BEING CONVINCED that the promotion of technical co-operation will expedite the implementation of the Convention by States, especially developing States,

NOTING WITH APPRECIATION that, through the adoption of resolution A.901(21), the Assembly of the International Maritime Organization (IMO):

- (a) affirmed that IMO's work in developing global maritime standards and in providing technical co-operation for their effective implementation and enforcement, can and does, contribute to sustainable development; and
- (b) decided that IMO's mission statement, in relation to technical co-operation, is to help developing countries improve their ability to comply with international rules and standards relating to maritime safety and the prevention and control of marine pollution, giving priority to technical assistance programmes that focus on human resource development, particularly through training and institutional capacity-building.

1. URGES all IMO Member States, in co-operation with IMO, other interested States, competent international or regional organizations and industry programmes, to promote and provide directly, or through IMO, support to States that request technical assistance for:

- (a) the assessment of the implications of ratifying, accepting, approving, or acceding to and complying with the Convention;
- (b) the development of national legislation to give effect to the Convention; and



- (c) the introduction of other measures for, and the training of personnel charged with, the effective implementation and enforcement of the Convention.
2. ALSO URGES all States to initiate action in connection with the above-mentioned technical measures without awaiting the entry into force of the Convention.

**RESOLUTION ON PROTECTION FOR PERSONS TAKING MEASURES TO  
PREVENT OR MINIMIZE THE EFFECTS OF OIL POLLUTION**

THE CONFERENCE,

HAVING ADOPTED the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001 (hereinafter “the Convention”),

NOTING that the Convention provides for the shipowner to be strictly liable for bunker oil pollution damage,

NOTING FURTHER that the Convention does not require States Parties to make provision in their implementing legislation excluding any person from liability;

RECOGNIZING that the International Convention on Civil Liability for Oil Pollution Damage, 1992 and the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996, contain provisions on protection for persons taking measures to prevent or minimize the effects of oil pollution,

BELIEVING that it is desirable to avoid any disincentive that could prevent prompt and effective action to minimize the effects of oil pollution,

1. URGES States, when implementing the Convention, to consider the need to introduce legal provision for protection for persons taking measures to prevent or minimize the effects of bunker oil pollution;
2. RECOMMENDS that persons taking reasonable measures to prevent or minimize the effects of oil pollution be exempt from liability unless the liability in question resulted from their personal act or omission, committed with the intent to cause damage, or recklessly and with knowledge that such damage would probably result;
3. RECOMMENDS FURTHER that States consider the provisions of article 7, paragraphs 5(a), (b), (d), (e) and (f) of the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996, as a model for their legislation.